Republic of the Philippines
COURT OF TAX APPEALS
MANILA

PHILIPPINE PACKING CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 626

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x - - - - - - - - - - - x

D E C I S I O N

The petitioner is seeking the refund of the sum of ₱127,217.13, representing 50% of the specific tax paid on oils used by it in the operation of its machinery and equipment located in its processing plant at Bugo, Misamis Oriental, during the period from June 18, 1952 to June 18, 1957.

Petitioner has a pineapple plantation in Bukidnon. The pineapple fruits produced from its farm are processed and canned in its processing plant at Bugo, Misamis Oriental, and the finished articles are sold as canned pineapple products. The processing of its pineapple products is described as follows:

> "Pineapple fruits are harvested from the plants. After they are washed, peeled and sorted, then sliced, cubed, or crushed, the raw materials are placed in cans. The residual air is removed and heavy syrup, made up from a mixture of juice and sugar, is added. The cans are closed. Heat is applied to sterilize the contents, after which the cans are cooled rapidly. With respect to the canned pineapple juice, no sugar is added.

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> Unless preserved in tin cans, fresh pineapple fruits are very perishable and will not keep longer than two days." (Phil. Packing Corp. v. Coll. of Int. Rev., G. R. No. L-9040, Dec. 26, 1956.)

In the processing of its pineapple products from June 18, 1952 to June 18, 1957, petitioner consumed oils on which the sum of ₱254,434.26 was paid as specific tax under Section 142 of the National Internal Revenue Code, as amended. This section of the Revenue Code was amended by Republic Act No. 755, effective on June 18, 1952, which provides:

> "Whenever any of the oils mentioned above are, during the five years from June eighteen, nineteen hundred and fifty-two, used in agriculture, fifty per centum of the specific tax paid thereon shall be refunded by the Collector of Internal Revenue x x x."

Contending that it is entitled to the refund of 50% of the specific tax on the oils consumed by it from June 18, 1952 to June 18, 1957, as provided in Section 142 of the Revenue Code, as amended by Republic Act No. 755, petitioner filed with the Bureau of Internal Revenue a written claim for refund of 50% of the aforesaid sum of ₱254,434.26. The claim for refund was denied, hence this appeal.

The claim for refund of petitioner was denied by respondent on the following grounds:

> "x x x the aforesaid protest cannot be given due course for the reason that the packing, preserving and refining of pineapples grown by the said corporation is not comprehended in the term 'agricultural use' within the purview of the section 142 of the Tax Code.

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"The term 'agriculture' is construed as the 'act or science of cultivating the ground, especially in fields or large quantities, including the preservation of the soil, planting of seeds, the raising and harvesting of crops, and the rearing, feeding and management of livestock.' (Snythe v. Phoenix, 123 P. Ed. 1010, 1012, 63 Idaho 585)

"It will be noted from the above definition that the word 'agriculture' embraces two departments of labor, namely:

(a) the preservation of soil, planting of seeds, raising and harvesting of crops; in general the cultivation of plant;

(b) the rearing, feeding and management of livestock.

"The first category is what is correctly denoted as 'farming' which is a branch of agriculture. Accordingly, in-as-much as the raising and harvesting of pineapples of your client falls under the branch of 'farming', an examination of the extent and scope of the term is made in order to determine whether or not the term 'agriculture' in the particular department of 'farming' comprehends the packing, refining and preserving of pineapples.

"The term 'farming' denotes the operation, management, conservation, improvement, or maintenance of the farm or tools or equipments including <u>handling, drying, packing, grading or storing any agricultural or horticultural commodity in its unmanufactured state.</u> (Federal Tax Service, 36, 808, 38, 641-645) (underscoring ours) Consequently, in-as-much as the packing, refining and preserving pineapples by your client, the Philippine Packing Corporation, involves manufacturing process, the proviso of Section 142 of the Tax Code does not apply in your clients case and, therefore, cannot be used as an authority in the claim for refund." (Exh. 1, pp. 183-184, BIR records.)

The sole issue presented for our consideration is whether or not the oils in question used by petitioner in the operation of its machinery and equipment at Bugo, Misamis Oriental, were "used in agriculture" within the meaning of Section 142 of the Revenue Code, as amended by Republic Act No. 755, so as to entitle petitioner to the refund of 50% of the specific tax paid on said oils.

In Philippine Packing Corporation v. Collector of Internal Revenue, G. R. No. L-9040, December 26, 1956 (motion for reconsideration denied on January 22, 1957), it was held that the canned pineapple products produced by petitioner in its Bugo plant are agricultural products, although not in their original state. Said the Supreme Court:

> "The state has not shown that the canned products of appellant corporation have acquired, as a consequence of the processing to which they are subjected, any use to which the original fruit was not suited, or could not be devoted. It is practically admitted (and the Court may well take judicial cognizance thereof) that the nature, qualities and texture of the products are in no way altered, and <u>it distinctly remains an agricultural product</u>. Certainly the canned pineapples as compared to the original fruit have undergone less change than that found in the case of centrifugal sugar obtained from the sugar cane or of abaca fiber when compared with the raw plant stalks. And yet the state admits that the sugar from the cane is exempt from the tax under sec. 188(b) of the Internal Revenue Code." (Underscoring ours.)

If canned pineapple products produced by petitioner in its Bugo plant are agricultural products, it follows that the oils used in the operation of its machinery and equipment in said plant for the production of such agricultural products were used in agriculture within the meaning of Section 142 of the Revenue Code, as amended. Such being the case, petitioner is entitled to the refund of 50% of the specific tax paid on said oils.

The decision appealed from is reversed, and respondent is ordered to refund to petitioner the sum of ₱127,217.13, without pronoucement as to costs.

Manila, November 29, 1961.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge