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Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

PILAR TANJUATCO,
Petitioner,

Oct. 31, 1964

- versus - C.T.A. CASE NO. 1246

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 ₱5,118.28, representing the alleged excess compensating tax due on a Chevrolet (Impala) car with accessories which she imported sometime in 1960.

The facts, as stated in the memorandum for petitioner, is as follows:

> The car, a Chevrolet Impala, subject-matter of this petition, was bought by petitioner from the Val Strough Chevrolet Company of Oakland, California, U.S.A., on December 20, 1959, as evidenced by the invoices, Exhs. A, A-1, A-2 and A-3. Exh. A shows the amount of $2,168.00, the price of the car, Exh. A-1 shows the amount of $58.00 as price for a push-button radio, A-2 the amount of $167.00, the price of a powerglide transmission and A-3 the amount of $300.00 for one air-conditioner, or a total of $3,143.00 as the price of said car and its accessories.
>
> The said car was registered by petitioner in the United States as evidenced by Exhs. B and B-1 and she used the same from February 25, 1960 to May 31 of the same year before sending it to the Philippines. Petitioner personally loaded said car aboard the Dña Alicia on May 31, 1960 as evidenced by Exhs. E and E-1.
>
> Upon arrival in this country, petitioner was required to pay as compensating tax thereon the total amount of ₱12,699.81,

the computation thereof appearing in the Statements and Receipts of Duties, Informal Entry No. 77608 dated June 29, 1960, Exhs. C and C-1. The said amount of compensating tax was paid by her under protest, for which petitioner filed with the Collector of Customs a request for refund x x x. (Pages 1-2, Memorandum for Petitioner.)

The compensating tax of ₱12,699.81 was computed by respondent as follows:

Retail value of car and accessories in U.S. -	$3,629.73
Value in Phil. currency at the rate of ₱3.20 per $1.00 ------------	₱11,615.136
Special import tax -------	988.258
Surcharge --------------	25.00
Wharfage ---------------	3.00
Stamps -----------------	3.00
Arrastre and brokerage ---	65.42
Landed cost ------------	₱12,699.814
Compensating tax at the rate of 100% of the landed cost ----------------	₱12,699.81

On the other hand, petitioner claims that the compensating tax should be computed on the basis of the actual import invoice value of the car, plus expenses, which should be converted into Philippine currency at the rate of ₱2.00 for every $1.00, as shown below:

Invoice value of car and accessories, plus freight -------------	$ 3,448.51
Value in Phil. currency at the rate of ₱2.00 per $1.00 -----------	₱ 6,897.02
Special import tax ------	588.09
Surcharge --------------	25.00
Wharfage --------------	3.00
Stamps ---------------	3.00
Arrastre and brokerage --	65.42
Landed cost -----------	₱ 7,581.53

Compensating tax at the
rate of 100% of the land-
ed cost ------------------ ₱ 7,581.53[1]

Pursuant to the above computation, petitioner claims she made an overpayment of the sum of ₱5,118.28, the difference between the amount of ₱12,699.81 which she paid under protest and the sum of ₱7,581.53 which she claims is the correct amount of compensating tax on said car.

In this appeal, petitioner has raised two issues, namely: (1) whether or not it is proper to consider the blue book value of the car, instead of the invoice value, for purposes of determining the landed cost or the taxable value of the car, and (2) whether or not the value of the car and its accessories, plus transportation expenses, which was paid for in dollars should be converted into its equivalent value in Philippine currency at the rate of ₱3.20 per one dollar, or at the rate of two to one. In addition to these two issues, respondent has raised the issue of the jurisdiction of this Court to entertain the appeal on the ground that one of the items forming part of the landed cost is the special import tax, the question concerning which is still pending in the Bureau of Customs.

In connection with the issue of the jurisdiction of this Court, it is enough to state that peti-

[1]The rate of compensating tax should be 75% of the landed cost, pursuant to Sec. 190 in relation to Sec. 184 of the Revenue Code.

tioner has not raised any issue in this appeal concerning the special import tax. A similar question was recently resolved by us to the effect that where no issue is raised with respect to the validity of the collection of customs duty in relation to the assessment of a national internal revenue tax on imported articles, the fact that the determination of the legality of the customs duty is still pending in the Bureau of Customs will not affect the right of the taxpayer to appeal to this Court as regards the correctness of the assessment and collection of the internal revenue tax on such imported articles.

> In this appeal, the sole issue raised by petitioner is the correctness of the amount of the advance sales tax as determined by the Commissioner of Internal Revenue. It is true that customs duty is an item forming part of the landed cost of an imported article, but as long as the Commissioner has considered the amount of customs duty actually paid, the right of the taxpayer to claim a refund of excess advance sales tax may not be defeated by the claim that the question in regard to the amount of such duty has not yet been finally determined in an appropriate proceeding in the Bureau of Customs. We are, therefore, of the opinion that this Court has jurisdiction over the case. (The Coca-Cola Export Corp. v. Com. of Int. Rev., C.T.A. No. 759, June 27, 1964.)

As regards the question relating to the determination of the landed cost of the car, Section 190 of the Revenue Code provides that the compensating tax on imported articles payable by importers shall be based on "the total value thereof at the time they are received by such persons, including freight, postage, insurance, commission and all similar charges." The total value of the car and its accessories when acquired by petitioner was $3,448.51 as shown by the invoices issued by the dealer in Oakland, California. On the other hand, respondent claims that the value of the car and its accessories, for purposes of the compensating tax should be the blue book value. It appears that the blue book value given to the car is the same as the retail selling price as shown in the invoices without discount. However, petitioner was given a discount, and it is not disputed that the discount was given in due course of trade. We are, therefore, of the opinion that the actual purchase price of the car and its accessories is the value which should be taken into account in determining the taxable landed cost of the car. (See Miguel Fortich Celdran v. Com. of Customs and Com. of Int. Rev., C.T.A. No. 1209, July 18, 1964.)

Petitioner contends that the dollar value of the car and its transportation expenses should be converted into its Philippine equivalent at the rate of ₱2.00 for every $1.00, and not at the rate of ₱3.20 for every $1.00. Section 204 of the Tariff and Customs Code provides:

> Sec. 204. Rate of Exchange.- For the assessment and collection of import duty upon imported articles and for other purposes, the value and prices thereof quoted in foreign currency shall be converted into the currency of the Philippines at the current rate of exchange or value specified or published, from time to time, by the Central Bank of the Philippines.

It is not denied that the rate of exchange of the dollar at the time the car in question was imported was ₱3.20 for every $1.00. We are, therefore, of the opinion that, pursuant to Section 204 of the Tariff and Customs Code quoted above, the acquisition cost and transportation expenses of said car in dollars must be converted into its equivalent value in Philippine currency at the rate of ₱3.20 to $1.00. (See Miguel Fortich Celdran v. Com. of Customs, supra.)

In line with the foregoing opinion, we find that petitioner made an overpayment of the compensating tax on the car in question in the sum of ₱579.90, computed as follows:

Invoice value of car and accessories, plus freight ----------------	$ 3,448.51
Value in Philippine currency at the rate of ₱3.20 to $1.00 ---------------	₱11,035.232
Special import tax --------	988.258
Surcharge ----------------	25.00
Wharfage -----------------	3.00
Stamps ------------------	3.00
Arrastre and brokerage ---	65.42
Total value --------------	₱12,119.91
Compensating tax paid under protest ------------	₱12,699.81
Compensating tax due ------	12,119.91
Overpayment --------------	₱ 579.90

WHEREFORE, respondent is hereby ordered to refund to petitioner the sum of ₱579.90, without pronouncement as to costs.

SO ORDERED.

Quezon City, October 31, 1964.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge