ESSO STANDARD EASTERN INC. (formerly Standard-Vacuum Oil Company),
Petitioner,

- versus -

C.T.A. CASE No. 1729

THE COMMISSIONER OF CUSTOMS,
Respondent.

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May 6/68

D E C I S I O N

Petitioner has appealed from the decision of respondent Commissioner of Customs affirming that of the Collector of Customs for the Port of Manila in Manila Protests Nos. 400, 401, 402, 403, 403-A, 404, 405, 406 and 407, denying petitioner's claim for refund in the total amount of ₱7,072.00 paid as special import tax on articles imported by it for use in its petroleum exploration concession during the first five years of the grant of the concession.

The facts are not in dispute, the same having been stipulated by the parties, as follows:

> 1. That the legal capacity and addresses of the parties are those alleged in paragraph 1 of the petition;
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> 2. That the petitioner is a duly authorized petroleum exploration concessionaire under the provisions of Republic Act No. 387, otherwise known as the Petroleum Act of 1949. As such concessionaire, it has its concession papers: Order-Extension of Exploration Concession Nos. 9, 10, 11, 12, 14, 15 and 16, dated September 10, 1959 (Exh. "A"); Petroleum Exploration Concession No. 9 (Exh. "A-1") and Petroleum Exploration Concession No. 10 (Exh. "A-2");

3. That during the first five(5) years following the grant of the petroleum exploration concessions, the petitioner imported equipment, materials and supplies which were used in said concessions and which are involved in the protests hereafter stated;

4. That petitioner's Protest No. 400, covered by Entry No. 052207, series of 1959 (Exh. "B-400"), liquidated under Voucher No. 07338, dated Feb. 9, 1960, involves the payment of special import tax in the amount of ₱1,250.00, as per Official Receipt dated Aug. 4, 1959 (Exh. "B-1-400"), on a shipment of four thousand (4,000) bags of Bentanite, imported by petitioner, covered by Bill of Lading No. YM-2 dated June 30, 1959, which arrived in Manila on July 10, 1959 on board the S/S "Shia-ei Maru", under Reg. No. 959;

5. That petitioner's Protest No. 401, covered by Entry No. 052513, series of 1959 (Exh. "B-401"), liquidated under Voucher No. 07339, dated Feb. 9, 1960, involves the payment of special import tax in the amount of ₱86.00 as per Official Receipt No. 17702, dated August 3, 1959 (Exh. "B-1-401"), on a shipment of eight (8) drums of drilling mud additives, imported by petitioner, covered by Bill of Lading No. 5 dated June 13, 1959, which arrived in Manila on July 27,1959 on board the S/S"Mandeville", under Reg. No.1035;

6. That petitioner's Protest No. 402, covered by Entry No. 057678, series of 1959 (Exh. "B-402"), liquidated under Voucher No. 07340, dated Feb. 9, 1960, involves the payment of special import tax in the amount of ₱133.00 as per Official Receipt No. 19705, dated Aug. 18, 1959 (Exh. "B-1-402"), on a shipment of one (1) box of pump parts, imported by petitioner, covered by Bill of Lading No. 9 dated July 3, 1959 which arrived in Manila on Aug. 9, 1959 on board the S/S "Fernglen", under Reg. No. 1110;

7. That petitioner's Protests Nos. 403 and 403-A, both covered by Entry No.051858, series of 1959(Exhs. "B-403" & "B-403-A"),liquidated under Voucher No. 07341,dated Feb. 9, 1960, involve the payment of special import tax in the amounts of ₱857.00 and ₱1,722.00, as per Official Receipt No. 17701, dated

Aug. 3, 1959 (Exh. "B-1-403") and Official Receipt No. 18207, dated Aug. 5, 1959 (Exh. "B-2-403-A"), respectively. Protest No. 403 involves a shipment of three (3) boxes of oil well drilling equipment, imported by petitioner, covered by Bill of Lading No. 5 dated June 13, 1959, which arrived in Manila on July 27, 1959 on board the S/S "Mandeville", under Reg. No. 1035, while Protest No. 403-A, involves a shipment of one (1) box of oil well drilling machinery parts, imported also by petitioner, covered by Bill of Lading No. 5 dated June 13, 1959, which arrived in Manila on July 27, 1959 on board the S/S "Mandeville", under Reg. No. 1035;

8. That petitioner's Protest No. 404, covered by Entry No. 064343, series of 1959 (Exh. "B-404"), liquidated under Voucher No. 07342, dated Feb. 9, 1960, involves the payment of special import tax in the amount of ₱194.00, as per Official Receipt No. 49586, dated Sept. 10, 1959 (Exh. "B-1-404"), on a shipment of one hundred (100) bags of Lignex, imported by petitioner, covered by Bill of Lading No. 27 dated July 22, 1959, which arrived in Manila on Aug. 12, 1959 on board the S/S "Sunnyville", under Reg. No. 1119;

9. That petitioner's Protest No. 405, covered by Entry No. 060599, series of 1959 (Exh. "B-405"), liquidated under Voucher No. 07343, dated Feb. 9, 1960, involves the payment of special import tax in the amount of ₱1,505.00, as per Official Receipt No. 20845, dated Aug. 28, 1959 (Exh. "B-1-405"), on a shipment of one (1) box of oil well drilling machinery, imported by petitioner, covered by Bill of Lading No. 5 dated July 10, 1959 which arrived in Manila on August 18, 1959 on board the S/S "Glenville", under Reg. No. 1158;

10. That petitioner's Protest No. 406, covered by Entry No. 065488, series of 1959 (Exh. "B-406"), liquidated under Voucher No. 07344, dated Feb. 9, 1960, involves the payment of special import tax in the amount of ₱132.00, as per Official Receipt No. 22523, dated Sept. 15, 1959 (Exh. "B-1-406"), on a shipment of one (1) box of oil well supplies, imported by petitioner, covered by Bill of Lading No. 4882 dated July 24, 1959, which arrived in Manila on Sept. 1, 1959 on board the S/S "Mallory Lykes", under Reg. No. 1273;

11. That petitioner's Protest No. 407, covered by Entry No. 046741, series of 1959 (Exh. "B-407"), liquidated under Voucher No. 07345, dated Feb. 9, 1960, involves the payment of special import tax in the amount of ₱1,393.00 as per Official Receipt No. 16696, dated July 23, 1959 (Exh. "B-1-407"), on a shipment of one thousand (1,000) bags of drilling mud additives, imported by petitioner, covered by Bill of Lading No. 24 dated June 5, 1959 which arrived in Manila on July 7, 1959 on board the S/S "Fernbay", under Reg. No. 945;

12, That, after hearing Protests Nos. 400, 401, 402, 403, 403-A, 404, 405, 406 and 407, the Acting Collector of Customs, Port of Manila, in a decision dated August 13, 1962, overruled petitioner's protests and denied refund of the special import tax, subject matter of said protests;

13. That petitioner appealed the decision of the Acting Collector of Customs, Port of Manila, to the respondent Commissioner of Customs who, in a decision dated December 14, 1965 and received by the petitioner on December 27, 1965, affirmed the decision of the first. Copy of the Commissioner's decision is attached and marked as Annex "A" to the petition.

The sole issue to be resolved in this case is whether or not "customs duties" should be deemed to include the "special import tax" imposed by Republic Act No. 1394, otherwise known as the Special Import Tax Law. If so, then petitioner is entitled to the refund of the special import tax paid on the equipment, materials and supplies imported by it and used in its petroleum concession, pursuant to Article 103 of Republic Act No. 387.

The issue herein involved is not new. In the case of Esso Standard Eastern, Inc. (Formerly Standard-Vacuum Refining Corp. [Phil.] vs. The Commissioner of Customs, CTA Case No. 1661, September 30, 1967, involving the same parties and identical question, this Court held:

> The language of Republic Act No. 1394 seems to leave no room for doubt that the law intends that the phrase "special import tax" is taken to include customs duties. Section 1 of Republic Act No. 1394 provides that "there shall be levied, collected and paid as special import tax on all goods, articles or products imported or brought into the Philippines, irrespective of source, x x x." And Section 4 of the same Act states that the "special import tax shall be paid by the importer to the Bureau of Customs in accordance with regulations to be promulgated by the Department of Finance and prior to the release of the imported goods, articles or products from customs custody." If we are to adhere, as we should, to the plain and obvious meaning of words in consonance with settled rules of interpretation, it seems clear that the special import tax is an impost or a charge on the importation or bringing into the Philippines of all goods, articles or products subject thereto, for the phrase "import tax on all goods, articles or products imported or brought into the Philippines" in explicit and unambiguous terms simply mean customs duties. It is hardly necessary to add that "customs duties are simply taxes assessed on merchandise imported from or exported to, a foreign country" (25 C.J.S. 140). And being a charge upon importation, the special import tax is essentially a customs duty, or at least partake of the character thereof (10 Words and Phrases, 744), because the legislature must be presumed to know the meaning of words, to have used the words advisedly and to have expressed its intent by the use of such words as are found in the statute (50 Am. Jur. 212).
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> This conclusion is bolstered by the fact that, just like customs duties, (a) the special import tax is to be paid by the importer of the goods, articles or products; (b) it is payable to the Bureau of Customs in accordance with the regulations of the Department of Finance; and (c) payment is to be made prior to release of the imported goods, articles or products from customs custody (See Sec. 4, <u>supra</u>). That the tax imposed by Republic Act No. 1394 is

designated as a "special import tax" does not make it less a tax on imported articles or customs duty.

Even more, a further examination of the other provisions of Republic Act No. 1394 confirms the view that the "special import tax" provided for therein is inherently a tax on importation and hence is a customs duty. The basis for computing the special import tax, which is prescribed under Section 3 of the said Act is as follows:

> SEC. 3. The value for assessment of the special import tax on goods, articles, or products shall be the price at which, at the time of exportation, those goods, articles or products or one of the same kind is offered for sale in the exporting country, in the usual wholesale quantities and in the ordinary course of trade excluding internal excise taxes to be remitted or rebated, plus ordinary expenses prior and incidental to the lading of such goods, articles or products on board the vessel at the port of export including taxes or duties, if any, and ordinary freight as well as ordinary insurance covering the transportation of such goods, articles or products to the port of entry.

This is the same as the basis for computing the amount of customs duty on importations, as provided in Section 201 of the Tariff and Customs Code, which reads:

> SEC. 201. Basis of Dutiable Value. - Whenever an imported article is subject to an *ad valorem* rate duty, the duty shall be assessed upon the market value or price at which, at the time of exportation, the same, like or similar article is freely offered for sale in the principal markets of the exporting country for exportation to the Philippines, in the usual wholesale quantities and in the ordinary course of trade (excluding internal excise taxes to be remitted or rebated), plus ordinary expenses prior and incidental to the

> lading of such article on board the vessel or air-craft at the port of export (including taxes or duties, if any) and freight paid as well as insurance premium paid covering the transportation of such article to the port of entry in the Philippines.

This similarity in phraseology in both laws can not lightly be disregarded for it is a well-settled principle in statutory construction that two statutes with a parallel scope, purpose and terminology should, each in its own field, have a like interpretation, unless in particular instances there is something peculiar in the question under consideration (50 Am. Jur. 343). The intention of the legislature to place the special import tax as similar to or the same with customs duty is therefore made more evident when it copied almost verbatim from Section 201 of the Tariff and Customs Code the provisions of Section 3 of Republic Act No. 1394.

Likewise, the historical background of the term "customs duty" as used in Article 103 of the Petroleum Act of 1949 is another index that the special import tax as used in the Special Import Tax Law is essentially a customs duty. The terms "duty" and "customs duty" used in the Laurel-Langley Agreement were also used in the Executive Agreement of 1946, entered into between the governments of the Philippines and the United States pursuant to the Philippine Trade Act of 1946. The Executive Agreement of 1946 as modified by the Laurel-Langley Agreement contemplated two concepts of "customs duty." Sections 4 and 5 of Article I thereof define the term "customs duty" or "duty" in a broad sense as to include "taxes, fees, charges, or exactions imposed on or in connection with importation x x x." This definition is carried over in the Laurel-Langley Agreement (See Secs. 4 and 5 of Article I thereof). The only difference between the difinition under the two agreements is that in the former Agreement (1946) there is the phrase "but does not include internal taxes or ordinary customs duty."

The other concept of "customs duty" used in both agreements is narrower in scope and specifically designated as "ordinary customs duty" (See Paragraph [d] of the Protocol to the Agreement of 1946). It will be noted that when the Agreements intended to convey the narrower concept of "duty", the term used is "ordinary customs duty" (See Pars. [1] and [2] of Article I of both Agree ments). When they intend to convey the broader concept, the two Agreements used the term "customs duty" or "duty" (See Pars. [3] and [4] of Article I of both Agreements). When Republic Act No. 387, otherwise known as the Petroleum Act of 1949, was enacted on June 18, 1949, the two concepts of "customs duty" discussed above were therefore well known to Congress. Consequently, when Article 103 of the Petroleum Act used the term "customs duty" it is evident that the law intended to include within its broad sweep the special import tax, because if Congress had in mind the narrower concept of customs duty it could have used the term "ordinary customs duty." It is already an established rule of statutory construction that in the enactment of a statute, earlier acts on the same subject are generally presumed to have been in the knowledge and view of the legislature which is regarded as having adopted the new statute in the light thereof and with reference thereto. A comparison of the prior law with the present is therefore considered helpful in the determination of the true intent of the legislature (50 Am. Jur. 354-356).

We are not unaware of the basic principle that exemptions from taxation are never presumed and should be expressed in explicit and unambiguous terms. But after an examination of the provisions of the law involved and the purpose behind its passage, we have reached the conclusion that the intention of Congress seems clear that the petitioner's exemption from the payment of customs duties on its importations of equipment, machinery-material, instruments, supplies and accessories during the first five years following the grant of its petroleum refining concession includes the special import tax payable under Republic Act No. 1394. In approving Republic Act No. 307, otherwise known as the Petroleum Act of 1949, Congress took the view, as expressed in the title of the law, that the ex-

> ploration, development, exploitation and utilization of the petroleum resources of the Philippines should be promoted and their conservation encouraged. Since the exploration and development of petroleum resources involve not only a tremendous amount of investment but also great risks, the Government deemed it fit to give petroleum concessionaires exemption from the payment of customs duties on importations of equipment, machinery-material, instruments, supplies and accessories during the first five years in order to give them a chance to start and establish themselves. At any rate, if they should turn out to be profitable, the Government will ultimately collect its taxes. Consequently, if the spirit of the law is to be followed and its intention fulfilled, the term "customs duty" found in Article 103 of Republic Act No. 307 should be given its broad meaning so as to include the special import tax for it is only by such an interpretation that the object of the law can be accomplished.

We find no compelling reason to deviate from the foregoing pronouncement.

WHEREFORE, the decision appealed from is hereby reversed, and respondent is ordered to refund to petitioner the amount of ₱7,072.00. Without pronouncement as to costs.

SO ORDERED.

Quezon City, May 6, 1968.

R M Umali
ROMAN M. UMALI
Presiding Judge

WE CONCUR:

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

Ramon L. Avanceña
RAMON L. AVANCEÑA
Associate Judge