REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Dec. 26, 1968

REPUBLIC FLOUR MILLS, INC.,
Petitioner,

versus

CTA CASE NO. 1928

COMMISSIONER OF CUSTOMS,
Respondent.

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DECISION

From the decision of respondent, affirming that of the Collector of Customs for the port of Manila, holding petitioner liable for wharfage dues in the sum of ₱2,626.00, the latter appealed to this Court.

Petitioner, a domestic corporation with place of business at Pioneer Street, Pasig, Rizal, is engaged in the manufacture of flour out of wheat grain imported from abroad. In the manufacture of flour out of imported wheat grain, bran and pollard are produced as by-products, which by-products are exported. In the month of November, 1966, petitioner exported wheat bran and pollard on which it paid the sum of ₱2,626.00 as wharfage dues. Subsequently, it filed a claim for refund of said amount contending that the exported bran and pollard were not "products of the Philippines" within the purview of Section 2802 of the Tariff and Customs Code, and, therefore, not subject to wharfage dues. On December 27, 1967, the Collector of Customs of Manila denied the claim for refund. On appeal to the Commissioner of Customs, the same was affirmed in a decision dated March 18, 1968.

The only issue in this case is whether or not the exported wheat bran and pollard are "products of the Philippines," and as such subject to wharfage dues under Section 2802 of the Tariff and Customs Code.

Petitioner's contention is anchored on the phrase "products of the Philippines" used in paragraph 1, of Section 2802 of the Tariff and Customs Code, which provides:

> SEC. 2802. Schedule of Dues.- There shall be levied, collected and paid on all articles imported or brought into the Philippines, and on products of the Philippines except coal, lumber, creosoted and other pressure treated materials as well as other minor forest products, cement, guano, natural rock asphalt, the minerals and ores of base metals (e.g., copper, lead, zinc, iron, chromite, manganese, magnesite and steel), and sugar molasses, exported from the Philippines, a charge of two pesos per gross metric ton as a fee for wharfage: Provided, That in the case of logs, or flitches twelve inches square or equivalent cross-sectional area, or over, a charge of sixty centavos per cubic meter shall be collected.

Petitioner contends that the wheat bran and pollard exported by it are not subject to wharfage dues under Section 2802 of the Tariff and Customs Code because they are not "products of the Philippines." It is alleged that the said term refers solely "to natural products of the Philippines whether exported in their original state or in another form after having undergone some manufacturing process."

The position taken by petitioner can hardly be sustained. As aptly stated by respondent in his decision:

> However, the term "product" is not limited to what is indigenous of a country but includes everything produced or manufactured therein. In the instant case, wheat grains were imported into the Philippines where they were manufactured into flour, bran and pollard. Whether or not the bran and pollard in question could be more appropriately classified as by-products, they were nevertheless the results of a process of manufacture undertaken in this country.
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> > "The word 'manufacture' is undoubtedly quite as appropriate a word to apply to articles which have been manufactured, and the expression 'manufactured products' would be equally more explicit, depending upon the precise meaning desired to be conveyed; but we think the word 'products' undoubtedly may properly be applied to and include manufactured articles, and, unless the contrary in some manner appears, that the

> expression in section 2 'being the products of Canada' describes and refers to wood pulp manufactured in Canada from pulp wood, without regard to the place or country where the wood grew and was cut.
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> "In G. A. 7172 (T.D. 31314), decided January 16, 1911, the Board of General Appraisers in a carefully considered opinion held - 'that where the raw material is produced in one country and the process of manufacture is conducted in another, an article subjected to such manufacture may be considered the product of the latter country.'" (U. S. vs. Castle, et al, [No. 1371], 5 USCCA, pp. 366, 368, 369.)

Examining the provision of Section 2802 of the Tariff and Customs Code, the term used therein is "products of the Philippines" and we find no indication of any intention to limit the meaning thereof to those manufactured from materials grown in this country.

There is no question that wheat bran and pollard produced as a consequence of the manufacture of flour out of wheat are by-products of flour. The term "by-products" refers to those materials which in the cultivation or manufacture of any given commodity remain over, and which can be brought to possess a market value of their own. (Phil. Manufacturing Co. v. Meer, 76 Phil. 436) In the processing or manufacture of an article, the by-products stand on the same footing as the principal product and are to be regarded as distinct and separate from the raw material. If the principal product, in this case, flour, is a "product of the Philippines" because the manufacture or processing was done in the Philippines, it follows that its by-products, bran and pollard, are also "products of the Philippines" within the meaning of Section 2802 of the Tariff and Customs Code.

Finding no error in the decision appealed from, the same is hereby affirmed, with costs against petitioner.

SO ORDERED.

Quezon City, December 26, 1968.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge