REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PHILIPPINE LONG DISTANCE
TELEPHONE COMPANY,
Petitioner,

- versus -

C.T.A. CASE NO. 5178

THE HONORABLE COMMISSIONER
OF INTERNAL REVENUE,
Respondent.

Promulgated:
FEB 18 1998

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DECISION

This is a petition for review seeking for the refund and/or tax credit of the sum of P280,552,286.00 representing alleged erroneously paid compensating taxes, advance sales taxes, value-added taxes and other taxes for the period covering October 1992 to May 1994.

Petitioner is a corporation duly organized and existing under Philippine laws and is a grantee of a legislative franchise under Republic Act No. 7082 "xxx to carry on the business of providing basic and enhanced telecommunications services in and between provinces, cities and municipalities in the Philippines and between the Philippines and other countries and territories xxx".

Section 12 of Republic Act No. 7082, among other things, defines the taxes which the petitioner shall be liable to pay, as well as those which it is exempt from paying. The pertinent portion thereof provides:

> "Section 12. The grantee, its successors or assigns shall be liable to pay the same taxes on their real estate, buildings, and personal property, exclusive of this franchise, as other persons or corporations are now or hereafter may be required by law to pay.

94

> In addition thereto, the grantee, its successors or assigns shall pay a franchise tax equivalent to three percent (3%) of all gross receipts of the telephone or other telecommunications business transacted under this franchise by the grantee, its successors or assigns, and the said percentage shall be in lieu of all taxes on this franchise or earnings thereof. Provided, That the grantee, its successors or assigns shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto."

In the course of its business of maintaining and operating the aforesaid franchise, herein petitioner purchased and imported various equipment, machineries and spare parts from October 1, 1992 up to May 31, 1994. Consequently, it paid taxes on these importations to the Bureau of Internal Revenue (BIR) totalling One Hundred Sixty Four Million Five Hundred Ten Thousand Nine Hundred Fifty Three Pesos (P164,510,953.00), computed as follows:

Compensating Tax	P126,713,037.00	(Exhibit "A-2")
Advance Sales Tax	12,460,219.00	(Exhibit "A-21")
Other BIR Taxes	25,337,697.00	(Exhibit "A-35"
	P 164,510,953.00	(Exhibit "A")

In addition to the above-mentioned taxes, the petitioner likewise paid value-added taxes (VAT) on similar importations for the period covering March 1, 1994 to May 31, 1994 in the amount of One Hundred Sixteen Million Forty One Thousand Three Hundred Thirty Three Pesos (P 116,041,333.00) (Exhibit "C-2").

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Petitioner then sought a confirmatory ruling from the BIR regarding its tax exemption and on April 19, 1994, the BIR issued Ruling No. UN-140-94 (Exhibit "F"), pertinent portions of which read as follows:

> "The "in lieu of all taxes" provision under Section 12 of RA 7082 clearly exempts PLDT from all taxes including the 10% value-added (VAT) prescribed by Section 101 (a) of the same Code on its importations of equipment, machineries and spare parts necessary in the conduct of its business covered by the franchise, except the aforementioned enumerated taxes for which PLDT is expressly made liable. "x x x"
>
> "In view thereof, this Office confirms your opinion, as it hereby holds that PLDT, is exempt from VAT on its importation of equipment, machineries and spare parts, including but not limited to cellular phones, needed in its franchise operations."

On the basis of this ruling, petitioner filed on December 2, 1994 with the BIR a claim for the refund of the above-mentioned taxes (Exhibit "E"). There having been no action taken by the respondent and to forestall the running of the prescriptive period, the instant petition was instituted on December 16, 1994.

In her answer, respondent alleged, by way of special and affirmative defenses, that:

> "4. The instant petition states no cause of action as it does not allege the date when the tax sought to be refunded was paid (Manufacturer's Bank and Trust Company, as Trustee for General Trust Plans vs. the Commissioner of Internal

98

Revenue, C.T.A. Case No. 1657, November 19, 1985);

5. In an action for refund and/or tax credit, the taxpayer has the burden of showing that the taxes paid were erroneously collected and failure to sustain this burden is fatal to the action for refund and/or tax credit;

6. Claims for refund are construed strictly against claimants since they are in the nature of tax exemption. It cannot be allowed unless granted in the most explicit and categorical language (Manila Electric Co. vs. Commissioner of Internal Revenue, 47 SCRA 351);

7. Assuming that petitioner is entitled to the tax refund, its right to file a judicial action for the refund and/or tax credit of the alleged value added taxes paid before December 16, 1992 has already prescribed."

The issue to be resolved is whether or not petitioner, whose franchise under RA 7082 expressly provides that the payment of the franchise tax of three per cent (3%) of the gross receipts shall be in lieu of all taxes, is exempt from paying the compensating tax, advance sales tax, value added tax, and other BIR taxes on its importation of equipment, machineries, and spare parts for the use of its telecommunication system.

We rule in favor of the petitioner.

The facts of this case are substantially similar to those of **CTA Case No. 5106 entitled Philippine Long Distance Telephone Company v. The Hon. Commissioner of Internal Revenue** decided on December 18, 1995, except

97

that the latter case is a petition for the issuance of tax credit only for erroneously paid value-added tax.

In the said case, this Court ruled that the same petitioner PLDT is entitled to tax credit of erroneously paid value-added tax. The pertinent portions of our ruling therein are quoted hereunder:

> "Petitioner contended that the phrase "in lieu of all taxes" covers the exemption from the payment of the VAT on its purchases of imported equipments, machineries and spare parts on account of its paying the 3% franchise tax. This was intensified by BIR Ruling No. UN-140-94, dated April 19, 1994, which specifically confirms the opinion of petitioner on this aspect covering its VAT exemption. Thus, it states "(t)he 'in lieu of all taxes' provision under Section 12 of R.A. 7082 clearly exempts PLDT from all taxes including the 10% value-added tax (VAT) prescribed by Section 101 (a) of the same Code on its importations of equipment, machineries and spare parts necessary in the conduct of its business covered by the franchise, except the aforementioned enumerated taxes for which PLDT is expressly made liable." Moreover, the above ruling has likewise been confirmed by the Department of Finance thru Acting Secretary Romeo L. Bernardo on January 5, 1995 addressed to petitioner, xxx"
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> xxx xxx xxx
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> "The phrase "in lieu of" means instead of, in place of, or in substitution for (Black v. Barnes, 46 P.2d 625, 626, 142 Kan. 381, Rutherland v. Oroville-Wyandotte Irr. Dist.,22 P.2d 505, 218 Cal. 242, Words and Phrases, Vol. 21, p. 472). It does not mean "in addition to" (Glassman Const. Co. v. Baltimore Brick Co., 246 Md.478, 228 A.2d 472, 474 Black's Law Dictionary, 6th ed., 1990, p. 707). The "in lieu of" implies the

98

existence of something for which a substitution is being made. Thus, the "in lieu of all other taxes" means that none other than the tax specified, however described, can be demanded. It limits the liability to the specific tax (State of Tennessee v. Bank of Commerce, 53 F. 735,736, Words and Phrases, Vol. 21, p. 474). Thus the phrase "in lieu of all taxes" has the effect of exempting from taxation the VAT (which is covered under the general term "taxes" under Section 12 of R.A. 7082) on the purchases of imported equipments, machineries and spare parts made by petitioner by virtue of its paying of the 3% Franchise Tax pursuant to Section 117 of the NIRC and Section 12 of R.A. 7082. The rationale or purpose for the exemption from all other taxes except the income tax and the real property tax granted on petitioner upon the payment of the 3% Franchise Tax is that such exemption is part of the inducement for the acceptance of the franchise and the rendition of public service by the grantee" (Province of Misamis Oriental v. Cagayan Electric Power and Light Company, Inc., G.R. No. 45355, January 12, 1990, 181 SCRA 38).

Furthermore, there is nothing in the provisions of Section 12 of R.A. 7082 which can be construed as expressly excepting petitioner from the exemption to the VAT similar to the proviso on income tax and real property taxes. The only tax imposable on petitioner is the 3% Franchise Tax, the income tax and the real property tax. Otherwise, the law could very well have provided that petitioner should and is still liable to the VAT. It is an elementary rule in statutory construction that the exceptions in the law will not be enlarged beyond the actual signification of the words used or extended beyond the limits which the words themselves actually set (De Jesus v. City of Manila, 29 Phil. 73).

Moreover, the rulings issued by the BIR and the Department of Finance are in order. Their interpretation finds

99

> justification in the exempting clause of Section 12 of R.A. 7082. These rulings have never been revoked by another ruling. It was only during the memorandum stage that respondent invoke (sic) that the government is not estopped by the errors or mistakes of its officials or employees. For all intents and legal purpose the rulings issued by the BIR and the Department of Finance exempting petitioner from the payment of taxes and duties on the importation of equipments, machineries and spare parts to be used in the operation of its business pursuant to its franchise is correct. We are therefore convinced that petitioner is in effect exempt from the VAT on its importation of equipment, machineries and spare parts by virtue of the exempting clause as provided for by its franchise."

While we ruled in the said case that petitioner is entitled to tax credit for erroneously paid value-added tax, our pronouncement in the said decision is not limited to petitioner's exemption from payment of taxes other than franchise tax, income tax and real property tax. Otherwise stated, the petitioner is exempt from paying not only value-added tax but also compensating tax, advance sales tax and other BIR taxes because its franchise expressly made it liable to pay only the three kinds of taxes mentioned earlier. Moreover, We agree with the petitioner in its memorandum that effective January 1, 1988, when Executive Order 273 introduced the Value-added Tax System, it replaced, among others, the numerous privilege taxes, the advance sales tax and compensating tax on importations. These taxes were

100

clearly erroneously collected by the Bureau of Customs during the period October 1, 1992 to May 31, 1994.

It bears emphasis, though, that herein petitioner filed its claim for refund with the BIR on December 2, 1994 and subsequently filed this petition for review on December 16, 1994, thus, only taxes paid on or after December 16, 1992 which is the reckoning date of the two-year period prescribed by Sections 204 and 230 of the Tax Code within which to file a claim may be the proper subject for refund. Sections 204 and 230 are granted hereunder, thus:

> "Sec. 204. The Commissioner may credit or refund taxes erroneously or illegally received, penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No <u>credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner claim for credit or refund within two years after the payment of the tax or penalty.</u>
>
> Sec. 230. No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained,

101

> whether or not such penalty, or sum has been paid under protest or duress.
>
> In any case, <u>no such suit or proceeding shall be begun after the expiration of two years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment:</u> Provided, however, That the Commissioner may, even without a written claim therefor, refund or credit any tax , where on face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." (Underscoring supplied)

This Court has noted that petitioner has included in its claim receipts covering the period prior to December 16, 1992, thus, prescribed and barred from recovery. In conclusion, We find that the petitioner is entitled to the reduced amount of P223,265,276.00 after excluding from the final computation those taxes that were paid prior to December 16, 1992 as they fall outside the two-year prescriptive period for claiming for a refund as provided by law. The computation of the refundable amount is summarized as follows:

COMPENSATING TAX

Total amount claimed			₱126,713,037.00
Less:			
a) Amount already prescribed:			
Month	Exh.	Amount	
October 1992	B-318 to B-325	₱24,915,352.00	
November 1992	B-313 to B-317	11,225,530.00	
December 1992	B-310	1,874,250.00	
Total		₱38,015,132.00	
b) Waived by petitioner (Exh. B-216)		₱ 1,440,874.00	39,456,006.00
Amount refundable			₱ 87,257,031.00

102

ADVANCE SALES TAX

Total amount claimed			P 12,460,219.00
Less amount already prescribed:			
Month	Exh.	Amount	
October 1992	B-195 to B-196	P 813,941.00	
November 1992	B-188 to B-194	3,525,566.00	
December 1992	B-183 to B-186	704,321.00	5,043,828.00
Amount refundable			P 7,416,391.00

OTHER BIR TAXES

Total amount claimed			P 25,337,697.00
Less amount already prescribed:			
Month	Exh.	Amount	
October 1992	B-115 to B-118	P10,460,465.00	
November 1992	B-104 to B-114	706,340.00	
December 1992	B-100	20,935.00	11,187,740.00
Amount refundable			P14,149,957.00

VALUE ADDED TAX

Total amount claimed		P116,041,333.00
Less amount waived by petitioner (unaccounted receipts)		
	Amount	
Exh. D-41	P1,440,874.00	
Exh. D-111	79,281.00	
Exh. D-113	79,281.00	1,599,436.00
Amount refundable		P114,441,897.00

TOTAL AMOUNT REFUNDABLE	P223,265,276.00

WHEREFORE, in view of all the foregoing, this Court finds the instant petition meritorious and in accordance with law. Accordingly, respondent is hereby ordered to **REFUND** or to **ISSUE** in favor of petitioner a Tax Credit Certificate in the reduced amount of P223,265,276.00 representing erroneously paid value-added taxes.

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compensating taxes, advance sales taxes and other BIR taxes on its importation of equipments, machineries and spare parts for the period covering the taxable years 1992 to 1994.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

I Concur:

ERNESTO D. ACOSTA
Presiding Judge

(Dissenting)
AMANCIO Q. SAGA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals

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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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THE HONORABLE COMMISSIONER
OF INTERNAL REVENUE,
Respondent.

Promulgated:
FEB 18 1998

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DISSENTING OPINION

With due respect to the opinion of the majority, I record my dissent. I believe that the petitioner is not entitled to the refund and/or tax credit it seeks.

It is a settled rule of statutory construction that tax exemptions are construed liberally against the taxing authority, and strictly against the taxpayer. Thus, in the case of La Carlota Sugar Central vs. Jimenez[1], the Supreme Court said: " we have to bear in mind likewise that when the issue is whether or not the exemption from a tax imposed by law is applicable, the rule is that the exempting provision is to be construed liberally in favor of the taxing authority and strictly against exemption from tax liability, the result being that statutory provisions for the refund of taxes are strictly construed in favor of the State and against the taxpayer." The rationale for the said principle is founded on the recognition that taxes are the lifeblood of a government, and that all revenue collected is utilized to deliver basic services to the people. A tax exemption

1G.R. #L-12436, May 31, 1961, (2 SCRA 295).

105

necessarily deprives the government of the much needed funds, thus, the strict interpretation.

Pursuant to the 1987 Constitution[2], no less than the concurrence of the majority of the members of Congress is required in order to pass a law granting tax exemption. Such requirement guarantees that tax exemptions shall not be granted indiscriminately.

It is imperative therefore that one who claims tax exemption must be able to point to a specific provision in law which grants the exemption. However, such is not the situation in the case at bar.

The petitioner anchors its claim for refund on section 12 of Republic Act 7082 (RA 7082), the pertinent portion of which provides:

> "Section 12. The grantee, its successors or assigns shall be liable to pay the same taxes on their real estate, buildings, and personal property, exclusive of this franchise, as other persons are now or hereafter may be required by law to pay. In addition thereto, the grantee, its successors or assigns shall pay a franchise tax equivalent to three percent (3%) of all gross receipts of the telephone or other telecommunications business transacted under this franchise by the grantee, its successors or assigns, and the said percentage shall be <u>in lieu of all taxes</u> on this franchise or earnings thereof. Provided, That the grantee, its successors or assigns shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed. In which case the amendment or

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2Article VI, section 28(4).

106

> repeal shall be applicable thereto." (emphasis provided)

Petitioner contends that the phrase "in lieu of all taxes" contained in the aforesaid section of its legislative franchise grants it exemption from value-added tax, compensating tax and advanced sales tax on its importation of equipment, machineries and spare parts for the use of its telecommunication system.

The scope of the phrase "in lieu of all taxes" will determine whether the petitioner is entitled to the tax refund prayed for.

Pursuant to BIR Ruling 069-79, the scope of the phrase "in lieu of all taxes" has been limited to exemption from direct taxes only and not indirect taxes. The pertinent portion of the said ruling provides:

> "In reply, I have the honor to inform you that "every subcontractor, whether domestic or foreign entering into a contract with a service contractor engaged in petroleum operations in the Philippines shall be liable to a final income tax equivalent to eight percent (8%) of its gross income derived from such contract, such tax *to be in lieu of any and all taxes, whether national or local*. xxx" (Underscoring ours: Section 1, PD No. 1354). Such being the case, the subcontractor is exempt from the (3%) contractor's tax prescribed in Section 205 of the Tax Code on the said income derived from the contract with the service contractor.
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> However, said subcontractor is not exempt from the payment of specific tax on petroleum products which are passed on to him by the suppliers of the petroleum products. <u>The exemption of said subcontractor under PD No. 1354, applies only to such taxes for which the subcontractor himself would otherwise be directly liable</u>. Consequently, the

107

> subcontractor cannot claim exemption from the specific taxes on petroleum products for the reason that the same are taxes directly payable by the manufacturers thereof. The fact that the taxes may ultimately be shifted to or passed on to the subcontractor will not convert the same as taxes on the subcontractor for the purposes of exemption." (emphasis supplied)

BIR Ruling 070-86 reiterates the same principle:

> "In reply, please be informed that under Section 13 of PD No. 15, as amended, the Cultural Center of the Philippines which includes the Folk Arts Theater, is "exempt from all forms of taxation". The scope of this tax exemption privilege is that it covers only taxes for which it is *directly* liable and not on taxes which are only shifted to it." (emphasis supplied)

In the case of MERALCO v. Vera[3], the Supreme Court pointed out that the phrase "in lieu of all taxes" was not so broad and sweeping as to encompass compensating tax:

> "The ending clause of paragraph 9 providing in effect that the percentage tax imposed upon petitioner shall be in lieu of "all taxes and assessments of whatever nature and by whatsoever authority" cannot be said to have granted it exemption from payment of compensating tax. The phrase "all taxes and assessments of whatsoever nature and by whatsoever authority" is not so broad and sweeping, as petitioner would have Us think, as to include the tax in question because there is an immediately succeeding phrase which limits the scope of exemption to taxes and assessments "upon the privileges, earnings, income and poles, wires, transformers, and insulators of the grantee."

The above bears relevance to the case at bar. While section 12 of petitioner's franchise does contain the

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3G.R. #23847, October 22, 1975, (67 SCRA 352).

108

phrase "in lieu of all taxes", it is immediately followed by the words "on this franchise or earnings thereof". Moreover, the next sentence provides that the grantee, its successors or assigns shall continue to be liable for all income taxes payable under Title II of the National Internal Revenue Code. Just as in the case of MERALCO vs. Vera, the phrase "in lieu of all taxes" as applied to the matter at hand, is not so broad and sweeping as to include exemption from the value-added tax on importations, compensating tax and advance sales tax.

In CTA Case No. 5106 entitled Philippine Long Distance Company vs. The Honorable Commissioner of Internal Revenue, decided on December 18, 1995, the Court opined that:

> "The only tax imposable on petitioner is the 3% Franchise Tax, the income tax and real property taxes. Otherwise the law could have very well provided that petitioner should and is still liable to the VAT. It is an elementary rule in statutory construction that the exemptions in the law will not be enlarged beyond the actual signification of the words used or extended beyond the limits which the words themselves actually set."

I concur with the pronouncement in the above case that exceptions in law should not be enlarged beyond the actual signification of the words used. However, the case at bar does not deal with the usual, run of the mill exceptions found in the law, what is involved is a tax exemption. For purposes of statutory construction, tax

109

exemptions are treated differently as tax exemptions are construed liberally in favor of the taxing authority and strictly against the taxpayer.

Based on the foregoing, the phrase "in lieu of all taxes" has generally been taken to cover exemption from direct taxes only. In order for indirect taxes to be included in the exemption, the law must specifically state that such indirect taxes are included in the exemption. This interpretation is in accordance with the rule in statutory construction that tax exemptions are to be strictly construed against the taxpayer.

At this juncture, it would be wise to point out the distinction between a direct tax and an indirect tax. "A direct tax is a tax for which a taxpayer is directly liable on the transaction or business it engages in. On the other hand, indirect taxes are primarily paid by persons who can shift the burden upon someone else."[4]

The petitioner claims exemption from the value-added tax, compensating tax and advance sales tax, all of which are not in the nature of direct taxes. It is an accepted principle of taxation that value-added tax is an indirect tax, which may be shifted or passed on. The value-added tax on importation of goods is in the character of an excise tax as it is imposed on the privilege of importing goods. A compensating tax partakes of the nature of an

4Ibid. p. 791.

110

excise tax as well and this is echoed in the case of MERALCO vs. Vera[5] where the Supreme Court declared:

> "It is a well-settled rule or principle in taxation that a compensating tax is not a property tax but is an excise tax. Generally stated, an excise tax is one that is imposed on the performance of an act, the engaging in an occupation, or the enjoyment of a privilege. A tax levied upon a property because of its ownership is a direct tax, whereas one levied upon property because of its use is an excise duty. Thus, where a tax which is not on the property as such, is upon certain kinds of property, having reference to their origin and their intended use, that is an excise tax.
>
> The compensating tax being imposed upon petitioner herein, MERALCO, is an impost on its use of imported articles and is <u>not in the nature of a direct tax</u> on the articles themselves, the latter tax falling within the exemption. Thus, in International Business Machine Corporation vs. Collector of Internal Revenue, 1956, 98 Philippine Reports, 595 593, which involved the collection of a compensating tax from the plaintiff-petitioner on business machines imported by it, this Court stated in unequivocal terms that "it is not the act of importation that is taxed under section 190 but the use of imported goods not subjected to a sales tax" because the "compensating tax was expressly designed as a substitute to make up or compensate for the revenue lost to the government through the avoidance of sales taxes by means of direct purchases abroad." (emphasis supplied)

On the other hand, an advance sales tax is evidently an indirect tax because the person who imports goods for sale or raw materials to be processed into merchandise. can shift or pass on the tax by subsequently adding the

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5supra, note 3.

111

tax to the selling price of the imported article or finished product.

Section 12 of the petitioner's legislative franchise states that the 3% franchise tax shall be in lieu of all taxes on the franchise or its earnings. However, the 10% value-added tax imposed on importations is not a tax on the franchise or its earnings, but as stated above, is an excise tax levied on the privilege of importing articles. The value-added tax on importations is imposed on all taxpayers who import goods regardless of whether the goods will eventually be sold, bartered, exchanged or utilized for personal consumption.[6] "The value-added tax on importation replaces the "advance sales tax" payable by regular importers who import articles for sale or as raw materials in the manufacture of finished articles for sale and the "compensating tax" payable by all persons who import, whether in the course of trade of business or not, articles for their own use or consumption. The rationale for compensating tax applies likewise to the value-added tax on importation of goods for non-business use. The purpose is to place persons purchasing from merchants in the Philippines on a more or less equal basis for tax purposes with those who buy directly from foreign countries. The theory is that the former bears

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6Unless such importation is an exempt transaction under section 103 of the Tax Code.

117

the burden of the local sales tax because it is shifted to them as part of the selling price of the local merchants while the latter do not. The tax also places casual importers on equal footing with established merchants who pay sales tax on articles imported by them and other taxes.[7]

Since the value-added tax is not a tax on the franchise or its earnings, and the value-added tax on importation of goods replaces the compensating tax and advance sales tax under the old Tax Code, the petitioner is not exempt from the payment of the said taxes.

Petition denied.

AMANCIO Q. SAGA
Associate Judge

7de Leon, Hector, The National Internal Revenue Code Annotated, 5th ed. Rex Printingg Company, Inc, 1994, citing the Report of the Tax Commission, Vol. 2 p. 205 and Panay Electric Company vs. Commissioner, G.R. #L-6753, July 30, 1955.