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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

BOTELHO SHIPPING CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 956

COMMISSIONER OF INTERNAL REVENUE
and COMMISSIONER OF CUSTOMS,
Respondents.

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

June 24, 1963

GENERAL SHIPPING CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 957

COMMISSIONER OF INTERNAL REVENUE
and COMMISSIONER OF CUSTOMS,
Respondents.

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

D E C I S I O N

The petitioners in the above entitled cases were required by the respondent Commissioner of Internal Revenue to pay compensating tax on vessels which they acquired from the Reparations Commission.

In C.T.A. No. 956, Botelho Shipping Corporation acquired from the Reparations Commission the ocean-going vessel "M/S Maria Roselle" for the price of ₱6,798,888.88 on which the compensating tax of ₱483,433.00 has been assessed against it. The purchase price is payable in ten equal annual installments of ₱717,333.49, bearing interest at 3% per annum, beginning August 31, 1962, and August 31 of every year thereafter until 1972. Until the whole purchase price is paid, title to the vessel is retained by the Reparations Commission.

In C.T.A. No. 957, General Shipping Co., Inc. acquired from the Reparations Commission the ocean-going vessel "M/S General Lim" for the price of ₱6,951,666.66 on which the compensating tax of ₱494,824.00 has been assessed against it. The purchase price is payable in ten equal annual installments of ₱723,132.68, bearing interest at 3% per annum, beginning September 30, 1962, and September 30 of every year thereafter until 1972. Likewise, title to the vessel is retained by the Reparations Commission until the whole purchase price is paid.

Petitioners contested the validity of the assessment but respondent Commissioner of Internal Revenue refused to reconsider the same, and threatened to collect the tax by distraint and levy; hence, petitioners appealed, at the same time requesting that respondents be restrained from collecting the tax pending final determination of their appeals. In its resolution of October 31, 1960, this Court issued a writ of preliminary injunction against respondents upon the filing of surety bonds to guarantee payment of the amounts assessed against petitioners.

While the cases were pending trial, Congress enacted Republic Act No. 3079, effective June 17, 1961, which amended Republic Act No. 1789 by providing, among other things, for exemption from compensating tax of reparations goods acquired from the Reparations Commission. While the amendatory Act provides that it shall take effect upon its approval, Section 20 thereof provides that any private party or end-user who had previously acquired reparations goods may apply for the renovation of his utilization contract with the Reparations Commission in order to avail himself of any provision of said Act which is more favorable to him than under the prior law. Accordingly, petitioners herein applied for the renovation of their utilization contracts with the Reparations Commission, after which they filed supplemental petitions for review.

The sole issue presented for our consideration is whether or not the vessels in question are subject to the compensating tax under Section 190 of the National Internal Revenue Code, as amended. The question is not new. In similar cases, involving substantially the same facts, it was held that vessels acquired from the Reparations Commission prior to the enactment of Republic Act No. 3079 are exempt from compensating tax if the purchaser complies with the provisions of Section 20 of said amendatory Act in regard to the renovation of his utilization contract and the assumption by him of all the new obligations provided for in said Act. Petitioners have complied with said conditions; therefore, we are of the opinion that they are entitled to the exemption.

> From the above quoted provisions of law (referring to Section 14 of Rep. Act No. 1789 and Sec. 20 of Rep. Act No. 3079), it appears that goods acquired by private parties from the Reparations Commission prior to the effectivity of Republic Act No. 3079 were subject to the

compensating tax and that goods acquired thereafter are exempt from said tax. However, with respect to goods acquired prior to the approval of said Act, Section 20 thereof provides that any private party or end-user may apply for the renovation of his utilization contract with the Reparations Commission in order to avail himself of any provision of said Act which is more favorable to him than has heretofore been granted "in like manner and to the same extent as an end-user filing his application after the approval of this amendatory Act." And the Reparations Commission is authorized to agree to such renovation "on condition that the end-user shall voluntarily assume all the new obligations provided for in this amendatory Act."

x x x

In providing that the favorable provisions of Republic Act No. 3079 shall be available to applicants for renovation of their utilization contracts, on condition that said applicants shall voluntarily assume all the new obligations provided in the new law, the law intends to place persons who acquired reparations goods before the enactment of the amendatory Act on the same footing as those who acquire reparations goods after its enactment. This is so because of the provision that once an application for renovation of a utilization contract has been approved, the favorable provisions of said Act shall be available to the applicant "in like manner and to the same extent as an end-user filing his application after the approval of this amendatory Act." To deny exemption from compensating tax to one whose utilization contract has been renovated, while granting the exemption to one who files an application for acquisition of reparations goods after the approval of the new law, would be contrary to the express mandate of the law that they both be subject to the same obligations and that they both enjoy the same privileges in like manner and to the same extent. It would be a manifest distortion of the literal meaning and purpose of the law. (Phil. Ace Lines, Inc. v. Com. of Int. Rev., C.T.A. Nos. 964 and 984, Jan. 25, 1963.)

DECISION -
C.T.A. CASES
NOS. 956 & 957

WHEREFORE, the decisions appealed from in both cases are hereby reversed, and the surety bonds filed to guarantee payment of the compensating tax in question are cancelled. No pronouncement as to costs.

SO ORDERED.

Manila, June 24, 1963.

ROMAN M. UMALI
Associate Judge

I CONCUR:

AUGUSTO M. LUCIANO
Associate Judge