ANTONIO FRANCO,
Petitioner,

-versus- C.T.A. CASE No. 1750

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.
x- - - - - - - - - - - -x

File 2/5/67

D E C I S I O N

This is an appeal from the decision of respondent denying the claim of petitioner for refund of the sum of ₱1,908.00 representing compensating and/or advance sales tax paid on twenty-four (24) pieces of $20.00 U.S. gold coins imported abroad.

Petitioner, who is a numismatist, left for abroad on December 4, 1964, and while there acquired twenty-four (24) pieces of $20.00 U.S. gold coins. He entrusted the said gold coins to one Arnold Rosing, who was instructed to send the same to the former in Manila by registered mail.

On December 21, 1964, petitioner arrived in Manila. Subsequently, or on February 25 and 26, 1965, the gold coins sent to petitioner arrived in Manila by registered mail. The imported gold coins were exempted from duty by virtue of paragraphs 72.01 and 99.05 of the Tariff Code. However, said gold coins were not delivered to him by the customs authorities for failure to pay the internal revenue tax imposed thereon.

On March 5, 1965, petitioner sent a query to respondent as to whether or not an internal revenue tax is imposable on gold coins of foreign countries imported for "numismatic" or "commercial" purposes (Exh. 3). In reply to petitioner's query, respondent issued BIR Ruling No. 65.047 dated May 18, 1965 that "importation by mail of gold coins of foreign countries for numismatic and/or commercial purposes is subject to either 50% compensating or advance sales tax prescribed by Sections 190 and 183(b), in relation to Section 184(b), all of the Tax Code, depending upon whether the said coins are intended for personal collection or commercial purposes." (Exhs. 4 & B-1). Accordingly and in order to effect the release of the said gold coins from customs' custody, petitioner paid, on August 11, 1965, compensating tax in the amount of ₱1,908.00 (Exhs. H & B-1).

On September 15, 1965, petitioner, through counsel, protested the BIR ruling on the ground that said gold coins are still legal tender in the United States and, therefore, are not ordinary articles of commerce for tax purposes, and claimed the refund of the tax paid (Exh. I-1). In support of this contention, petitioner presented a letter of the Treasury Department of the United States, the pertinent portion of which reads as follows:

"Gold coinage was discontinued in the United States in 1933 and gold coins, except those of recognized special value to collectors, were withdrawn from circulation commencing in that year. By an amendment of the United States Gold Regulations in 1954, it was made lawful to hold gold coins made prior to 1933. None of the 1933 provisions calling in gold coins repealed the legal tender status of those permitted to be outstanding and there have been no United States court decisions which might tend to raise any doubt about the legal tender status given to United States gold coins by the Statute quoted above.

"United States gold coins continue to be received by the United States Treasury at their face value for exchange into other coins and currency and for payment of Federal taxes whenever offered for such purposes. Also, United States counterfeiting laws are applicable to such coins (United States v. Mock, 143 F. Supp. 661).

"Thus, insofar as the Statute cited above covers matters within the administration of the Treasury Department, the legal tender status of the coins about which you inquire, if genuine and lawfully issued, is recognized."

Respondent, in a letter of March 4, 1966, denied petitioner's protest and claim for refund, citing as authority the case of Commissioner of Customs vs. Caridad Capistrano (G.R. No. L-11075, June 30, 1960). From this decision, petitioner filed his appeal to this Court, claiming the refund of the tax paid.

We are aware that when U.S. dollars enter the country in the course of their circulation and are later transacted in the money market for exchange purposes, they are sold or exchanged at current rate, unencumbered by the compensating or the advance sales tax. It should be recalled however that while money in the country where it is current is both a measure of value and a medium of exchange, in other countries it is a commodity or merchandise bought or sold in the market, its value fluctuating like that of other commodities (Commissioner of Customs vs. Caridad Capistrano, G. R. No. L-11075, June 30, 1960; citing Richard vs. American Union Bank, 170 N.E. 532, 535, 69 A.L.R. 667). As a commodity, dollars have value because of their attribute as money but they also have value apart from such attributes. Thus, a gold coin is made of precious metal, and hence it has value of itself apart from its attributes as currency (Pirie vs. Chicago Title, etc., Co., 45 U.S., L. Ed. 1171). It may also have value as a numismatic piece. The coins in question avowedly entered Philippine soil not as circulating U.S. currency but for numismatic and commercial purposes; they were not imported as circulating money to be used in the money market or for exchange transactions but for their value apart from their attributes as currency. From all appearances the gold coins in question are similarly situated as coins fitted or mounted on brooches, stick pins, cuff links, bracelets, or other pieces of jewelry or trinkets. In the first as in the second instance, the coins enter the country as ordinary objects of commerce and not as current foreign money in circulation. Thus, the coins in question are perforce ordinary merchandise for tax purposes, subject to the compensating tax imposed by section 190 of the National Internal Revenue

Code on "commodities, goods, wares, or merchandise x x x" or the advance sales tax imposed by section 184(b) of the same code on "articles made of, or ornamented, mounted or fitted with, precious metals or imitation thereof x x x".

It is urged that as a commodity, a coin is unique, is a different specie from all other kinds of articles or commodities and the tax exemption is ingrained in its nature. Allegedly, this nature of coins is recognized by our Tariff Code that expressly exempts coins, whether foreign circulating legal tender or numismatic pieces or imported for commercial purposes, from any form of duty (paragraphs 72.01 and 99.05, Tariff Code). It is then suggested that the taxability of coins should be interpreted in the light of said tariff exemption. This manner of reasoning is predicated on gratuitous assumptions.

Although unique as articles of merchandise, coins are nevertheless articles of merchandise made of precious metal and since there is no express exemption in the National Internal Revenue Code for coins when they enter as an ordinary object of commerce and not as circulating foreign currency, they should be subject to internal revenue tax. The very fact that the Tariff Law expressly exempts coins from duties shows that the exemption is not ingrained in its nature as petitioner claims; were it so, there would have been no need for the exempting provisions in the Tariff Code. And the treatment of one commodity by the Tariff Code is not controlling in the interpretation of provisions of the National Internal Revenue Code. The two codes encompass different fields of taxation and as it has been held, an article may be free from duty but may still be subject to compensating tax (International Business Machine Corp. vs. Coll. of Int. Rev., 98 Phil. 595; Masbate Consolidated Mining Co. vs. Coll. of Int. Rev., 98 Phil. 441).

WHEREFORE, the respondent's decision denying the claim for refund of petitioner for taxes paid, is hereby affirmed, with costs against petitioner.

SO ORDERED.

Quezon City, February 25, 1967.

Ramon L. Avanceña
RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

R. M. Umali
ROMAN M. UMALI
Presiding Judge

Estanislao A. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge