REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

SENECA TOBACCO PHILIPPINES, INC.
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9137

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, and
MANAHAN, *JJ.*

Promulgated:

JAN 3 1 2018 4:00 pm

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RESOLUTION

CASTAÑEDA, JR., *J.:*

For resolution is petitioner's "Motion for Reconsideration" of the September 20, 2017 Decision filed on October 9, 2017 with respondent's "Opposition (Re: Motion for Reconsideration)" filed on November 3, 2017.

The dispositive portion of the Decision dated September 20, 2017 states:

> "**WHEREFORE**, premises considered, the Petition for Review filed by petitioner Seneca Tobacco Philippines, Inc. on September 7, 2015, is **DENIED** for lack of merit.

SO ORDERED."

In its motion, petitioner moves that the September 20, 2017 Decision be reconsidered on the following grounds:

I. THE DEFINITION OF THE TERM "UNUSED" IS NOT LEGALLY SUBSTANTIATED.

a) THE WORD "UNUSED" SHOULD BE CONSTRUED FOR ITS INTENDED PURPOSE AND MEANING.

b) IN THE INTERPRETATION OF SEC. 204 (C)[1] OF THE NIRC, THE INHERENT PROCESS AND NATURE OF EXCISE TAXES SHOULD BE TAKEN INTO CONSIDERATION.

II. REVENUE REGULATION NOS. 07-2014 AND 08-2014 ARE INVALID IN SO FAR AS TO THEIR RETROACTIVE APPLICATION TO STAMPS BOUGHT BEFORE 01 APRIL 2015.

a) RR NOS. 07-2014[2] AND 8-2014[3] VIOLATE THE PRINCIPLE ON NON-RETROACTIVITY OF RULINGS PROVIDED UNDER SEC. 246 OF THE 1997 NIRC.

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[1] SEC. 204. Authority of the Commissioner to Compromise, Abate, and Refund or Credit Taxes. — The Commissioner may —

xxx xxx xxx

(C) Credit or refund taxes erroneously or illegally received or 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 credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty: *Provided, however*, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.

xxx xxx xxx" *(Emphasis Supplied)*

[2] SUBJECT : Prescribing the Affixture of Internal Revenue Stamps on Imported and Locally Manufactured Cigarettes and the Use of the Internal Revenue Stamp Integrated System (IRSIS) for the Ordering, Distribution and Monitoring Thereof.

[3] SUBJECT : Amending the Provisions of Revenue Regulations No. 7-2014, Specifically the Deadlines Prescribed under Section 13 Thereof.

b) RR NO. 07-2014, AS AMENDED BY RR No. 08-2014, DEPRIVED PETITIONER OF ITS PROPERTY WITHOUT DUE PROCESS OF LAW.

c) RR NO. 07-2014, AS AMENDED BY 08-2014, VIOLATES THE PRINCIPLE OF UNJUST ENRICHMENT.

Petitioner submits that the definition of the word "unused" should be taken for its intended purpose and just meaning, and not simply in its plain meaning; and that RR No. 08-2014, amending RR No. 07-2014, is invalid because (a) it applies retroactively to stamps bought before 01 April 2015; (b) it is an invalid deprivation of property without due process; and (c) it is violative of the principle of unjust enrichment.

On the other hand, respondent in its "Opposition (Re: Motion for Reconsideration)" states that petitioner is not entitled to refund, and that petitioner failed to prove that the stamps were unused. Respondent prays that the motion be denied for utter lack of merit.

After a careful review of the arguments raised by the parties, this Court finds no valid or cogent reason to deviate from our findings and conclusions reached in the September 20, 2017 Decision, thus, the motion is denied.

We reiterate that, "The burden of proof that the stamps purchased were unutilized is on the part of the petitioner. For failure to prove its claim, petitioner's claim for refund of the internal revenue stamps is denied."[4]

To recall, in the administrative claim for refund, petitioner asked respondent to redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction pursuant to Sec. 204 (C) of the 1997 NIRC.[5]

The Court maintains that the word "unused" in Section 204 (c) of 1997 NIRC is to be understood in its plain meaning.

"In construing words and phrases used in a statute, the general rule is that, in the absence of legislative intent to the

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[4] CTA Case 9137, September 20, 2017 Decision subject of this motion, p. 19.
[5] *Rollo*, p. 64.

contrary, they should be given their plain, ordinary and common usage meaning. The words should be read and considered in their natural, ordinary, commonly-accepted and most obvious signification, according to good and approved usage and without resorting to forced or subtle construction. Words are presumed to have been employed by the lawmaker in their ordinary and common use and acceptation."[6]

In this case, the use of internal revenue stamp strips are for affixture to the cigarettes to be imported as proof of payment of excise tax. Considering that the 500,000 internal revenue stamps were already affixed to the cigarettes and tobacco products of petitioner already imported in the Philippines, these internal revenue stamp strips do not fall under the category of "unused" stamps.

Anent the ground on non-retroactivity, We find no merit to the contentions of petitioner.

The principle is well entrenched that statutes, including administrative rules and regulations, operate prospectively only, unless the legislative intent to the contrary is manifest by express terms or by necessary implication.[7]

In this case, the intention to cover "all internal revenue stamps issued by the BIR before the effectivity of these Regulations" are expressed in the transitory provisions of RR No. 7-2014, which read:

> **SECTION 13. TRANSITORY PROVISIONS. —** The following transitory provisions shall be strictly observed:
>
> **(a)** Upon the effectivity of these Regulations, the BIR shall conduct stocktaking of all cigarettes held in possession in the Finished Goods warehouse (A-5 Account) of the local manufacturers. **With respect to imported cigarettes, the importers thereof shall submit a written report of inventory of all internal revenue stamps issued by the BIR before the effectivity of these Regulations using the format in Annex "A" hereof. The said inventory report shall be submitted to**

[6] *Spouses Alcazar v. Arante*, G.R. No. 177042, December 10, 2012, 687 SCRA 507, 518-519.
[7] *BPI Leasing Corp. v. Court of Appeals*, G.R. No. 127624, November 18, 2003, 416 SCRA 13.

the Chief, LT Excise Regulatory Division within fifteen (15) calendar days immediately after the effectivity of these Regulations.

(b) All concerned **importers** and local manufacturers of cigarettes **shall enroll with IRSIS and the orders for the NEW internal revenue stamps prescribed herein may be submitted for approval by the BIR not later than fifteen (15) before the effectivity of these Regulations.**

(c) No later than October 1, 2014, all locally manufactured packs of cigarettes shall be affixed with the internal revenue stamps prescribed by these Regulations.

(d) With respect to imported cigarettes, no importation and subsequent release of cigarette from the customshouse shall be allowed unless the new stamps shall have been affixed thereto effective January 1, 2015.

(e) Effective February 1, 2015, all cigarettes manufactured in the Philippines and/or imported in to the Philippines shall be affixed with the said stamps.

(f) The BIR shall upload the balances of the excise tax deposit/payments, including the balances of Product Replenishment Certificates, of all concerned taxpayers covered by these Regulations in the respective taxpayer ledger balances of IRSIS not later than five (5) days before the effectivity of these Regulations. *(Emphases Supplied).*

The deadlines in the transitory provisions of Section 13 of RR No. 7-2014 were amended by Section 2 of RR No. 8-2014 provides:

SEC. 2 AMENDATORY PROVISIONS. — The transitory provisions of Section 13 of RR No. 7-2014, more specifically the deadlines prescribed therein, are hereby amended and shall be read as follows: *ge*

"SEC. 13. TRANSITORY PROVISIONS. — The following transitory provisions shall be strictly observed:

(a) xxx

(b) xxx

(c) No later than **November 1, 2014,** all locally manufactured packs of cigarettes shall be affixed with the internal revenue stamps prescribed by these Regulations.

(d) xxx

(e) **Effective March 1, 2015, all locally manufactured cigarettes found in the market shall be affixed with the said stamps.**

No imported cigarettes shall be found in the market without the new stamps effective April 1, 2015; provided, however, that even prior to such date, imported cigarettes should bear either the old stamps or the new stamps.

(f) xxx"

Further amendment of the deadlines prescribed under Section 13 of RR No. 7-2014 were made in RR No. 9-2014,[8] as follows:

SEC. 2 AMENDATORY PROVISIONS. — The transitory provisions of Section 13 of RR No. 7-2014, more specifically the deadlines prescribed therein, are hereby amended and shall be read as follows:

"SEC. 13. TRANSITORY PROVISIONS. — The following transitory provisions shall be strictly observed:

(a) xxx

(b) xxx

(c) No later than **December 1, 2014,** all locally manufactured packs of cigarettes shall be affixed with the internal revenue stamps prescribed by these Regulations.

(d) xxx

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[8] SUBJECT : Further Amending the Provisions of Revenue Regulations No. 7-2014, Specifically the Deadlines Prescribed under Section 13 Thereof.

(e) Effective March 1, 2015, all locally manufactured cigarettes found in the market shall be affixed with the said stamps.

No imported cigarettes shall be found in the market without the new stamps effective April 1, 2015; provided, however, that even prior to such date, imported cigarettes should bear either the old stamps or the new stamps.

(f) xxx"

Based on the foregoing, importers of cigarettes "shall submit a written report of inventory of **all internal revenue stamps issued by the BIR before the effectivity of these Regulations** using the format in Annex "A" hereof" and "shall enroll with IRSIS and the orders for the NEW internal revenue stamps prescribed herein may be submitted for approval by the BIR not later than fifteen (15) [days] before the effectivity of these Regulations." In this case, petitioner failed to show that it has complied with those requirements. The categorical statements in the transitory provisions clearly show that internal revenue stamps issued prior to the effectivity of RR No. 7-2014 are covered, thus, the allegation of non-retroactivity of rulings is bereft of merit.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration on September 20, 2017 Decision is **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice