REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

RURAL BANK OF CALINOG, INC.
Petitioner,

- versus - C.T.A. CASE NO. 2658

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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1/30/81

D E C I S I O N

Whether the amendatory provision of sub-section 24(d) introduced by Republic Act No. 5431 in the National Internal Revenue Code withdrew the tax exemption of rural banks under Section 14 of Republic Act No. 720, as amended, is the precise issue in this claim for tax refund by petitioner Rural Bank of Calinog, Inc. against respondent Commissioner of Internal Revenue.

Quoted are the incorporated sub-section and implementing regulation, respectively, as follows:

> "The provisions of existing special or general laws to the contrary notwithstanding, all corporate taxpayers not specifically exempt under Sections twenty-four (c)(1) and twenty-seven of this Code shall pay the rates provided in this section. All corporations, agencies or instrumentalities owned or controlled by the Government, including the Government Service Insurance System and the Social Security System but excluding educational institutions, shall pay such rate of tax upon their taxable net income as are imposed by this section upon associations or corporations engaged in a similar

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> business or industry." (Section 24(d), National Internal Revenue Code, as amended.)
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> "This is a new sub-section added to Section 24. This section subjects corporate taxpayers other than those exempted under sub-section (c)(1) of Section 24 and Section 27 to the corporate income tax regardless of the provisions of existing special or general laws in the contrary. By virtue of these new provisions, all corporations which under special laws are exempted from income tax are now subject to tax." (REvenue Memorandum Circular No. 41-68)

Petitioner corporation heretofore entitled to and privileged with tax exemption accorded under the provisions of Republic Act No. 720, as amended, filed pursuant to the provision of Section 24(d), supra, as implemented, its corporate income tax return covering the period of January 1, 1969 to June 20, 1969 (R.A. 5939 re-enacted the tax exemption of rural banks effective June 21, 1969), and paid the amount of ₱6,383.90 corresponding to the tax due. Petitioner deemed the payment erroneously and illegally collected by the respondent.

In seeking the refund therefor, petitioner contends that the tax exemption it used to avail and enjoy by virtue of Section 14 of R.A. No. 720, as amended, is contractual in nature, and could not have been withdrawn impliedly by R.A. 5431. The provision reads -

> "Sec. 14. All rural banks created and organized under the provisions of this Act with net assets not exceeding one million pesos excluding the counterpart capital subscribed and paid in by the government under Sections 7 and 8 of this Act, shall be exempt from the payment of all taxes, charges and fees of whatever nature and description." (R.A. No. 720 as amended by R.A. No. 1097, R.A. No. 3128 and R.A. No. 4106).

Respondent maintains that the amendatory provision of sub-section 24(d) of R.A. No. 5431, approved on June 27, 1968 and implemented by Revenue Memorandum Circular No. 41-68 dated November 15, 1968, repealed by clear and specific terms all inconsistent "special laws". Section 9 thereof thus provides:

> "All special laws, acts and parts thereof, which are inconsistent with the provisions of this Act are hereby amended or repealed." (R.A. No. 5431).

We think the statute is broader both in purpose and effect. The problem viewed solely as one of statutory construction without adverting to considerations of legislative power, we think the answer is not doubtful. The language of Section 24(d), supra, is not simply strung together with syntactical correctness but appears sufficiently plain and obvious as to cover all corporate taxpayers not specifically exempt under Section 24(c)(1) and Section 27 of the National Internal Revenue Code, as amended. The pellucidity of the intendment requires no further exegesis. As pointed out by the Supreme Court in the Philippine Oxygen and Acetylene Co. v. Central Bank of the Philippines case (L-23395, February 27, 1971, 37 SCRA 691), the first and fundamental duty of the Court is the application of the law according to its express terms, interpretation being called only when such literal application is impossible. It has to be as "We do not assume to pass judgment upon the wisdom of the legislature. Our duty is done when we ascertain that it has kept within its power." (Justice Holmes in Missouri, Kansas and Texas Ry Co v. May, 194 US Rep. 267, cited in Notable Opinions of Mr. Justice Cardozo). Short of uncritical leniency, we cannot say that any different conclusion ought to follow but to apply the law as we find it.

Likewise, we think it fair to presume that when the law-making body enacted the statute, it had full knowledge of prior existing laws and legislations on the subject of the statute and acted in accordance or with respect thereto. (Tamiani Trial Tours v. Lee, 194 So. 305; Manila Lodge No. 701 v. Court of Appeals, L-41061, September 30, 1976, 73 SCRA 163). And, when the amendatory R.A. 5431 provides that the "provisions of existing special or general laws to the contrary notwithstanding", the law-making power cannot be said to have intended the establishment of conflicting and hostile systems upon the same subject, or to leave in force provisions of a prior law by which the later will of the legislature may be thwarted and overthrown. Such result would render legislation a useless and idle ceremony, and subject the law to the reproach of uncertainty and unintelligibility." (See Separate Opinion of Justice John in Lichuaco v. Apostol, 44 Phil. 145, fn 3, citing Lewis' Sutherland Statutory Construction; Bagatsing v. Ramirez, 74 SCRA 313). The intendment of the amendment cannot be ascribed as mere quirky insights of the drafters.

Even if we were to entertain petitioner's proposition that its exemption grant can only be repealed in express terms, such elenchus will not necessarily yield the result desired. It does not need to be. No such rule prohibits repeal by implication of a special and specific Act by a general or broad one. (See 73 Am Jur 2d. 251; Bagatsing v. Ramirez, L-41631, December 17, 1976). Moreover, an implied repeal is nonetheless as effective as an express (State v. Herdon, 158 Fla. 115; Posadas vs. NCBNY, 80 L. Ed. 331), and stands upon the same footing as a direct or an express repeal.

(Beatrice v. Masslich, 108 Fed. 743, 47 C.C.A. 657). The constitution does not make the obviously impractical requirement that every Act shall recite all other Acts that its operation may incidentally affect either by way of repeal or modification. (Searight Estate, 163 Pa. St. 210, 29 Atl. 800).

Our view is not new. It has been expressed with more or less distinctness in the case of Koronadal Electric Light and Power Co. Inc. v. Commissioner of Internal Revenue (CTA Case No. 2600, June 26, 1979), which, perhaps, is not inappropriate to quote, insofar as pertinent, thus -

> "x x x x Section 24(d) was evidently meant to be applicable even to corporations enjoying income tax exemption before the enactment of R.A. 5431. Otherwise, there would have been no need for said exclusion. The resulting conclusion is that outside of these referred to in Sections 24(c)(1) and 27 of the Tax Code, all corporations whose liability for income tax was before governed by general laws or special statutes applicable to designated classes or groups of corporate entities, are now subject to the rates prescribed in R.A. 5431." (Excerpts from the Opinion of the Secretary (now Minister) of Justice contained in a 3rd indorsement to the Secretary (now Minister) of Finance dated March 28, 1969)

We conclude, and this is all that we need decide, that the absence of rural banks as among those excluded from the coverage of the broad scope of Section 24(d), supra, is not a legal legerdemain but a purposeful and deliberate choice. We see no reason in the present situation to graft further exception into it.

Again, we do not hesitate to apply, not that we are helplessly beholden, the rules, oft-quoted and well fortified with re-assuring precedents, i.e.: Exemptions are never presumed, the burden being on the claimant to establish clearly his rights thereto, and that an alleged grant of exemption will be strictly construed and cannot be made out of inference or implication but must be beyond reasonable doubt; have lost none of their validity in the case at bar. Since a refund undoubtedly partakes of a nature of an exemption, it cannot be allowed unless granted in the most explicit and categorical language. (Resins, Inc. v. Auditor General, L-17888, October 29, 1968, 25 SCRA 754). Petitioner has failed "to justify its exemption by words too plain to be mistaken and too categorical to be misinterpreted". (Reagan v. Commissioner of Internal Revenue, L-26379, December 27, 1969, 30 SCRA 969).

Although the reach of the issue on which we rest our decision makes it unnecessary for us to consider other questions argued, viz.: impairs the obligation of contract created by the exemption grant, and, as a consequence, negatives the growth of rural banking nurtured by the grant of special privilege and incentives, it may suffice to state, that -

First, we cannot share the pretense that the privilege of the petitioner under Section 14 of R.A. 720, as amended, partakes a valid contractual obligation and may not be impaired. It must be stated that even when an exemption is clearly granted, the grant is not necessarily a contract (East Wisconsin R. Co. v. Trempealean, 93 U.S. 595, 23 U.S. (L. ed.) 814), hence, revocable by the power which made the grant. And, a statute exempting corporations engaged in a certain business from taxation has none of the elements of a contract and corporations organized when such statute was in force has no redress if it is subsequently repealed. (Welch v. Cook, 97 U.S. 541, 24 U.S. (L. ed.) 112; East Saginaw Mfg. Co. v. East Saginaw, 19 Much. 259, 2 Am Rep 82, affirmed 13 Wall 373, 20 U.S. (L. ed.) 611; Pratt Institute v. New York, 183 NY 151, 25 NE 1119, 5 Ann Cas 198; 26 R.C.L. 304). It is well settled that an exemption granted from motives of state policy merely, confers no vested rights and is subject to modification and repeal in the legislative discretion. (2 Cooley Taxation 4th 1469). The tax exemption accorded petitioner rural bank does not constitute a contract but a "spontaneous concession by the legislature not connected with any service or duty imposed" which may be withdrawn at the pleasure of the state.

Second, it is too much of a stretch to hold that the withdrawal of the tax exemption would foreclose the growth and development of the rural bank or frustrate the sharply defined objectives of the law. The tax imposition sought to be reconsidered affects not alone the petitioner but all entities similarly situated including government owned or controlled corporations, agencies or instrumentalities which must bear a share of the common burden of taxation towards meeting the broader commitment of the nation's welfare and interest. It takes more than a tax exemption to attain any meaningful progress in the rural banking business.

We, therefore, hold that the respondent Commissioner of Internal Revenue contravened no law, and, in fact, none of his own rules and regulations in collecting the amount of ₱6,383.90 representing the income tax liability of petitioner Rural Bank of Calinog, Inc. Accordingly, petitioner is not entitled to a judgment of refund.

WHEREFORE, the petition for review is hereby dismissed with cost against petitioner.

SO ORDERED.

Quezon City, January 30, 1981.

ALEX Z. REYES
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge