Republic of the Philippines
COURT OF TAX APPEALS
Manila

August 18, 1964

MANILA ELECTRIC COMPANY,
Petitioner,

- versus -

C.T.A. CASE NO. 1347

ACTING COMMISSIONER OF CUSTOMS,
Respondent.

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

D E C I S I O N

This is an appeal from the decision of the respondent Commissioner of Customs denying the claim of the petitioner for refund of the sum of ₱1,158.00 as customs duty on a shipment of 34 boxes of storage battery with acid for use in petitioner's transformers.

Petitioner claims exemption from the payment of customs duty on said batteries under Paragraph 9, Part Two, of its franchise, which reads as follows:

> Par. 9. The grantee shall be liable to pay the same taxes upon its real estate, buildings, plant (not including poles, wires, transformers, and insulators), machinery and personal property as other persons are or may be hereafter required by law to pay. In consideration of Part Two of the franchise herein granted, to wit, the right to build and maintain in the City of Manila and its suburbs a plant for the conveying and furnishing of electric current for light, heat, and power, and to charge for the same, the grantee shall pay to the City of Manila two and one-half per centum of the gross earnings received from its business under this franchise in the city and its suburbs: PROVIDED, That two and one-half per centum of the gross earnings received from the business of the line to Malabon shall be paid to the Province of Rizal. Said percentage shall be due and payable at

> the times stated in paragraph nineteen of Part One hereof, and after an audit, like that provided in paragraph twenty of Part One hereof, and shall be in lieu of all taxes and assessments of whatsoever nature, and by whatsoever authority upon the privileges, earnings, income, franchise, and poles, wires, transformers, and insulators of the grantee, from which taxes and assessments the grantee is hereby expressly exempted. (Par. 6, Petition; Par. 1, Answer). (See pp. 25-26, C.T.A. records.)

The franchise of petitioner provides for its exemption from "all taxes and assessments of whatsoever nature, and by whatsoever authority" on its transformers. It is alleged that the said storage batteries with acid are essential and indispensable parts of petitioner's distribution transformers, and for this reason they are exempt from all taxes, including customs duties. On the other hand, respondent claims that storage batteries are not transformers; hence, the exemption provision of its franchise does not apply.

We agree with respondent. The franchise of petitioner exempts it from all taxes on its transformers. Storage batteries are not transformers. It is true that storage batteries are essential for the operation of transformers, but this does not make the exemption provision applicable to transformers also applicable to storage batteries. Tires are essential for the operation of an automobile. However, where automobile tires are imported independ-

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ently of an automobile, they cannot be taxed at the same rate as an automobile, unless expressly so provided by law. J

The decision appealed from being in accordance with law, the same is hereby affirmed, with costs against petitioner.

SO ORDERED.

Manila, August 18, 1964.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge