REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

BORDEN INTERNATIONAL PHILS., INC.,
Petitioner,

-versus -

C.T.A. CASES NOS. 4169 & 4329

THE HONORABLE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

4/14/94

D E C I S I O N

This is an appeal from the denial by the respondent of the protest filed by petitioner covering various deficiency assessments for specific and annual fixed taxes, surcharges and interest covering the period 1982 and 1984 in the total amount of P654,311.37 for CTA Case No. 4169, and another deficiency specific tax assessments, surcharges and interest covering 1983 and 1984 taxable years in the total amount of P3,028,549.08 for CTA Case No. 4329.

During the period from 1982 to 1984, petitioner made importations of "methanol" to be used as raw material for its main business of manufacturing resin adhesives. Petitioner paid advance sales tax for all the importations involved and not specific tax. For which reason, respondent issued two assessments assessing petitioner for the difference in the tax rate. Consequently, on September 26, 1985 respondent issued Demand Letter No. 002-85 received by the petitioner on January 15, 1986 demanding payment of deficiency specific tax in the amount of P629,311.37 inclusive of surcharge and P25,000.00 for importer's privilege tax, inclusive of surcharge or a total amount of P654,311.37.

Again on January 27, 1988, respondent issued another assessment bearing No. FAS-4-84-88-00488 in the amount of P3,028,509.08 inclusive of surcharge. Both assessments were protested by petitioner on January 20, 1986 and February 26, 1988, respectively. In a letter dated March 29, 1987 but received by petitioner on May 30, 1987, respondent denied petitioner's protest covering the P654,311.37 assessment. Likewise, in a letter dated December 26, 1988 but received by petitioner on December 29, 1989, through its external auditor, Joaquin Cunanan & Co., respondent denied the protest. Hence, the instant petition for review.

There is no dispute as to the aforementioned facts. The issue raised before this court is whether or not "methanol" falls under the term "solvents" as mentioned under Section 153(f) of the National Internal Revenue Code, therefore, subject to specific tax.

Petitioner alleged that the advance sales tax it paid pursuant to Section 193(b) in relation to Section 199(a) of the Tax Code is the appropriate tax because "methanol" is not a "solvent" as contemplated under Section 153(f) of the same Code. Methanol is neither "mineral" or "oil" derivative and following the rule in statutory construction on *noscitur a sociis* and/or *ejusdem generis* the said product does not belong to the same class of products enumerated under Section 153.

Respondent, on the other hand, believed that the article is solvent because it is derived from mineral oil like all other products enumerated in the said Section 153.

In the resolution of the issue of this case, we have to consider first whether "methanol" being also a solvent will fall under Section 153(f) of the National Internal Revenue Code. We agree with the petitioner that pursuant to the generally accepted principles of *noscitur a sociis* and *ejusdem generis*, the term "solvent" should be understood within the context of the class or enumeration that goes with it in the particular provision of law. Section 153 is very clear that it covers only "refined and manufactured mineral oils and motor fuels" and all other products enumerated like kerosene, lubricating oils, naptha, gasoline, denatured alcohol for motive power, processed gas, thinner, liquified petroleum gas, diesel fuel, asphalt, grease, waxes and aviation turbo jet fuel belong to the same class. Solvents mentioned in subletter (f) together with thinner should likewise be understood to be within the same class. Solvents as used in the law should not be understood in their ordinary meaning but should be understood in its technical sense, otherwise, even water may fall under this category which is clearly not the intention of the law. At this point, even the respondent agrees with this interpretation but insisted that the methanol subject of this case is a solvent manufactured out of mineral oil or petroleum based.

The National Internal Revenue Code failed to provide us with sufficient guidelines how we will classify "methanol". Considering that the "methanol" subject of this case is imported, the provision of the Tariff and Customs Code is the best source of guidelines for the proper classification of the product "methanol".

The Tariff law is generally divided into schedules, the latter into chapters and further subdivided into tariff headings. Thus, Schedule I pertains to Live Animals, Schedule II to Vegetable Products and so forth. Mineral Products is under Schedule V and Products of Chemical and Allied Industries under Schedule VI.

Refined and manufactured mineral oils and motor fuels are found on Chapter 27 of Schedule V. Note that the said chapter includes all the products mentioned in Section 153 of the National Internal Revenue Code including some known solvents like Benzole, Toluole, Xylole, Napthalene, Phenols and low aromatic solvents (Tariff Heading Nos. 2707.10, 2707.20, 2707.30, 2707.40, 2707.60 and

2710.0030.)[1] However, "methanol" or "methyl alcohol" is not one of those enumerated in the said Chapter 27 but is found under Chapter 29, Organic Chemicals, of Schedule VI. More specifically it is Tariff Heading No. 29.04B, as Acyclic Alcohols and their Halogenated, Sulphonated, Nitrated or Nitrosated Derivatives. This is now Tariff Heading No. 29.05 under the Tariff and Customs Code of 1991 with the same classification.

In fact, one of the particular shipments involved (Exhibit I-3) covered by C. Itoh Invoice No. EB0208B dated September 12, 1984 was classified by the Bureau of Customs as organic chemical under Tariff Heading No. 29.04 at 30% tariff rate of duty (Exhibit I-4). Had this been classified as mineral oil under Tariff Heading No. 27.07 where most of the solvents derived from mineral oils are classified, the tariff rate will only be 10% duty. We do not believe that the law intends to have a multiple classification of the same article or product and more so to classify the same as to fall under a different category depending upon which imposes the higher rate more favorable to the

---

[1] Exhibit "G-10"; Philippine Standard Commodity Classification, National Economic and Development Authority 1983, p. 176; *Harmonized Commodity Description* and Coding System, Tariff and Customs Code, 1991 p. 75.

government. To adopt the stand of the respondent that "methanol" should be classified as mineral oil derivative for the purpose of imposing specific tax will have this effect.

Bearing in mind that laws imposing tax is construed strongly against the taxing authority and in favor of the citizen, because burdens are not to be imposed nor presumed to be imposed beyond what the statutes expressly and clearly declare[2]/, there is no other alternative for the court but to cancel the assessments issued by the respondent.

WHEREFORE, in view of all the foregoing, the Court hereby orders the cancellation of the two assessments in the amount of P654,311.37 and P3,028,549.08 issued by respondent, without pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, April 14, 1994.

ERNESTO D. ACOSTA
Presiding Judge

---

[2]/ **Manila Railroad Co. vs. Collector of Customs, 52** Phil 950.

WE CONCUR:

MANUEL K. GRUBA
Associate Judge

RAMON O. DE VEYRA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals