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SECOND DIVISION

[G.R. No. L-23632. June 30, 1977]

ACTING COMMISSIONER OF CUSTOMS, *petitioner*, *vs.* **MANILA ELECTRIC COMPANY and COURT OF TAX APPEALS,** *respondents*.

SYLLABUS

TAXATION; TAX EXEMPTIONS; GENERALLY NOT FAVORED AND IF GRANTED MUST BE STRICTLY CONSTRUED AGAINST TAXPAYER; EXEMPTIONS; CASE AT BAR.— [T]his Court is committed to the principle that an exemption from taxation must be justified by words too clear to be misread. As set forth in *Commissioner of Internal Revenue v. Guerrero*: "From 1906, in *Catholic Church v. Hastings* to 1966, in *Esso Standard Eastern, Inc. v. Acting Commissioner of Customs*, it has been the constant and uniform holding that exemption from taxation is not favored and is never presumed, so that if granted it must be strictly construed against the taxpayer. Affirmatively put, the law frowns on exemption from taxation, hence, an exempting provision should be construed *strictissimi juris*." Such a ruling was reaffirmed in subsequent decisions. It does not mean, however, that petitioner should prevail, for as was unequivocally set forth in the leading case of *Republic Flour Mills v. Commissioner of Internal Revenue*, this court speaking through Justice J. B. L. Reyes: "It is true that in the construction of tax statutes tax exemptions (and deduction are of this nature) are not favored in the law, and are construed *strictissimi juris* against the taxpayer. However, it is equally a recognized principle that where the provision of the law is clear and unambiguous, so that there is no occasion for the court's seeking the legislative intent, the law must be taken as it is, devoid of judicial addition or subtraction.

APPEARANCES OF COUNSEL

Solicitor General Arturo A. Alafriz, Assistant Solicitor General Felicisimo R. Rosete and Solicitor Alejandro B. Afurong for petitioner.

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Ross, Selph, Salcedo, Del Rosario, Bito & Misa for private respondent.

DECISION

FERNANDO, *J*:

The reversal by respondent Court of Tax Appeals of a determination by the then Acting Commissioner of Customs, the late Norberto Romualdez, Jr., that private respondent Manila Electric Company was not exempt from the payment of the special import tax under Republic Act No. 1394[1] for shipment to it of insulating oil, respondent Court entertaining the contrary view,[2] led to this petition for review. The contention pressed in support of the petition is that as a tax exemption is to be construed strictly, the decision of the respondent Court, which assumed that insulating oil can be considered as insulators must be reversed and set aside. The appealed decision of respondent Court in the light of applicable authorities supplies the best refutation of such contention. It must be sustained.

The appealed decision[3] set forth that petitioner Manila Electric Co., nor private respondent, in appealing from a determination by the then Acting Commissioner of Customs, now petitioner, "claims that it is exempt from the special import tax not only by virtue of Section 6 of Republic Act No. 1394, which exempts from said tax equipment and spare parts for use in industries; but also under Paragraph 9, Part Two, of its franchise, which expressly exempts is insulators from all taxes of whatever kind and nature."[4] It then made reference to the franchise of private respondent Manila Electric Co.: "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),

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[1] Cf. Sec. 9 of Rep. Act No. 1394 (1955).

[2] The decision was penned by the then Judge Roman Umali.

[3] Annex C, Petition.

[4] *Ibid*, 1.

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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 the business under this franchise in the city and its suburbs: * * * 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."[5] It noted that the above "exempts it from all taxes of whatever nature, and by whatever authority, with respect to its insulators in consideration for the payment of the percentage tax on its gross earnings."[6]

The question then, according to such decision of respondent Court is: "Does the insulating oil in question come within the meaning of the term 'insulator?"[7] Then it went on: "Insulating oils are mineral oils of high di-electrics strength and high flash point employed in circuit breakers, switches, transformers and other electric apparatus. An oil with a flash point of 285°F and fire point of 310°F is considered safe. A clean, well-refined oil will have a minimum di-electric of 22,00 volts, but the presence of a slow as 0.01% water will reduce the di-electric strength drastically. The insulating oils, therefore, cannot be stored for long periods because of the danger of absorbing moisture. Impurities such as acids or alkalies also detract from the strength of the oil. Since insulating oils are used for cooling as well as for insulating, the viscosity should be low enough for free circulation, and they should not gum. (Materials Handbook by George J. Brady, 8th Edition 1956, pp. 421-423.) * * * "[8]

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[5] *Ibid*, 1-2.

[6] *Ibid*, 2.

[7] *Ibid*.

[8] *Ibid*, 2-3.

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The last portion of the appealed decision explained why the determination of the Acting Commissioner of Customs must be reversed: "There is no question that insulating oils of the type imported by petitioner are 'used for cooling as well as for insulating,' and when used in oil circuit breakers, they are 'required to maintain insulation between the contacts inside the tank and the tank itself.'* * * The decision appealed from not being in accordance with law, the same is hereby reversed. Respondent is ordered to refund to petitioner the sum of ₱995.00 within thirty days from the date this decision becomes final, without pronouncement as to costs."[9] It was therein made clear that private respondent was not liable for the payment of the special import tax under Republic Act No. 1394.

As noted at the outset, the decision speaks for itself. It cannot be stigmatized as suffering from any flaw that would call for its reversal.

1. It is to be admitted, as contended by petitioner, that this Court is committed to the principle that an exemption from taxation must be justified by words too clear to be misread. As set forth in *Commissioner of Internal Revenue v. Guerrero*:[10] "From 1906, in *Catholic Church v. Hastings* to 1966, in Esso *Standard Eastern, Inc. v. Acting Commissioner of Customs*, it has been the constant and uniform holding that exemption from taxation is not favored and is never presumed, so that if granted it must be strictly construed against the taxpayer. Affirmatively put, the law frowns on exemption from taxation, hence, an exempting provision should be construed *strictissimi juris*."[11] Such a ruling was reaffirmed in subsequent

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[9] *Ibid*, 3-4. While references was made to the franchise of private respondent, the decision was likewise made to rest on the language of Republic Act No. 1394.

[10] L-20812, September 22, 1967, 21 SCRA 180.

[11] *Ibid*, 183-184. *Catholic Church v. Hastings* in reported in 5 Phil. 701 (1906) and *Esso Standard Eastern, Inc. v. Acting Commissioner of Customs*, L-21841, October 28, 1966, in 18 SCRA 488. The opinion also

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decisions.[12] It does not mean, however, that petitioner should prevail, for as was unequivocally set forth in the leading case of *Republic Flour Mills v. Commissioner of Internal Revenue*,[13] this Court speaking through Justice J.B.L. Reyes. "It is true that in the construction of tax statutes tax exemptions (and deductions are of this nature) are not favored in the law, and are construed *strictissimi juris* against the taxpayer. However, it is equally a recognized principle that where the provision of the law is clear and unambiguous, so that there is no occasion for the court's seeking the legislative intent, the law must be taken as it is, devoid of judicial addition or subtraction. In this case, we find the provision of Section 186-A — 'whenever *a tax free product* is utilized, * * * — all encompassing to comprehend tax-free raw materials, even if imported. Where the law provided no qualification for the granting of the privilege, the court is not at liberty to supply any."[14] That is what was done by respondent Court of Tax Appeals. It showed fealty to this equally well-settled doctrine. It construed the statutory

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cited *Government v. Monte de Piedad*, 35 Phil. 42 (1916); *Asiatic Petroleum Co. vs. Llanes*, 49 Phil. 466 (1926); *House v. Posadas*, 53 Phil. 338 (1929); *Phil. Tel. and Tel. Co. vs. Collector*, 58 Phil. 639 (1933); *Greenfiled v. Meer*, 77 Phil. 394 (1946); *Collector of Internal Revenue v. Manila Jockey Club*, 98 Phil. 670 (1956); *Phil. Guaranty Co., Inc. v. Commissioner*, L-22074, September 6, 1965, 15 SCRA 1; and *Abad v. Court of Tax Appeals*, L-20834, October 19, 1966, 18 SCRA 374.

[12] Cf. *Commissioner of Internal Revenue v. Visayan Electric Co.*, L-22611, May 27, 1968, 23 S CRA 715; *E. Rodriguez v. Collector of Internal Revenue*, L-23041, July 31, 1969, 28 SCRA 1119, *Asturias Sugar Central v. Commissioner of Customs*, L-19337, Sept. 30, 1969, 29 SCRA 617; *Philippine Iron Mines v. Commissioner of Customs v. Philippine Acetylene Co.*, L-22443, May 29, 1971, 39 SCRA 70; *Davao Light and Power Co. v. Commissioner of Customs*, L-28739, March 29, 1972, 44 SCRA 122; *Wonder Mechanical Engineering Corp. v. Court of Tax Appeals*, L-22805, June 30, 1975, 64 SCRA 555; *Commissioner of Internal Revenue v. P. J. Kiener Co.*, L-24754, July 18, 1975, 65 SCRA 142; *Manila Electric Co. v. Vera*, L-29987, Oct. 22, 1975, 67 SCRA 351.

[13] L-25602, February 18, 1970 31 SCRA 520.

[14] *Ibid*, 527.

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provision as it is written. It is precluded, in the language of the Republic Flour Mills opinion, considering that the law is clear and ambiguous, to look further for any legislative intent, as "the law must be taken as it is, devoid of judicial addition or subtraction."[15] If there is an extended discussion of this point, it is due solely to the emphasis placed on the matter by petitioner.

2. Moreover, the decision of respondent Court under review finds support in *Balbas v. Domingo*.[16] Thus: "No other conclusion is possible in view of the well-settled principle that this Court is bound by the finding of facts of the Court of Tax Appeals, only questions of law being open to it for determination. As stated in another decision, 'only errors of law, and not rulings on the weight of evidence, are reviewable by this Court.' The facts then as above ascertained cannot be disturbed. In our latest decision, there is a categorical assertion that where the question is one of fact, it is no longer reviewable."[17] Such a doctrine is not of limited application. It is a recognition of the wide discretion enjoyed by the Court of Tax Appeals in construing tax statutes. So it was categorically held in *Alhambra Cigar and Cigarette Manufacturing Co. v. Commissioner of Internal Revenue*:[18] "Nor as a matter of principle is it advisable for this Court to set aside the conclusion reached by an agency such as the Court of Tax Appeals which is, by the very nature of its function, dedicated exclusively to the study and consideration of tax problems and has necessarily developed an expertize on the subject, unless, as did not happen here, there has been an

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[15] *Ibid.*

[16] L-19804, October 23, 1968, 21 SCRA 444.

[17] *Ibid*, 448. The opinion cited *Sanchez v. Commissioner of Customs*, 102 Phil. 37 (1957); *Castro v. Collector of Internal Revenue*, 114 Phil. 1032 (1962); *Commissioner of Internal Revenue v. Priscila Estate, Inc.*, L-18282, May 29, 1964, 11 SCRA 130; *Philippine Guaranty Co., Inc. v. Commissioner of Internal Revenue*, L-22074, Sept. 6, 1965, 15 SCRA 1; and *Republic v. Razon*, L-17462, May 29, 1967, 20 SCRA 234.

[18] L-23226, November 28, 1967, 21 SCRA 1111.

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abuse or improvident exercise of its authority."[19] That same approach was reflected in *Reyes v. Commissioner of Internal Revenue*,[20] *Chu Hoi Horn v. Court of Tax Appeals*,[21] *Vi Ve Chemical Products v. Commissioner of Customs*,[22] and *Nasiad v. Court of Tax Appeals*.[23] The Vi Ve decision has some relevance. There the stand of the state that the Court of Tax Appeals could rightfully determine that "'priopionic glycine' is the same as glutamic acid"[24] was considered as well within the authority of respondent Court. It would be an affront to the sense of fairness and of justice if in another case, respondent Court, in the exercise of its discretionary authority, after determining that insulating oil comes within the term insulator, is not be upheld.

WHEREFORE, the petition for review is dismissed. No costs.

Barredo, Antonio, and *Concepcion Jr., JJ.*, concur.

Aquino, J., in the result.

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[19] *Ibid*, 1118-1119.

[20] L-24020, July 29, 1968, 24 SCRA 198.

[21] L-22046, October 29, 1968, 25 SCRA 809.

[22] L-28693, September 30, 1974, 60 SCRA 52.

[23] L-29318, November 29, 1974, 61 SCRA 238.

[24] 60 SCRA 52, 59.