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SECOND DIVISION

[G.R. No. 234531. July 10, 2019]

AGUSAN WOOD INDUSTRIES, INC., *petitioner, vs.* **SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES,** *respondent.*

SYLLABUS

1. **POLITICAL LAW; PRESIDENTIAL DECREE NO. 705 (REVISED FORESTRY CODE); FOREST MANAGEMENT BUREAU UNDER THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR) HAS JURISDICTION AS REGARDS COLLECTION AND INVOICING OF FOREST CHARGES, EVEN IF THE LATTER IS CONSIDERED AS INTERNAL REVENUE TAXES.—** [W]hile considered as internal revenue taxes, the jurisdiction as regards collection and invoicing of forest charges is vested upon the Forest Management Bureau under the DENR. This is supported by E.O. No. 273 itself as it was stated that the transfer was implemented for tax administration purposes only, particularly tax collection. x x x Accurately, what E.O. No. 273 removed from the 1977 NIRC and shifted to the Revised Forestry Code involves provisions pertaining to mere tax collection, namely: (a) mode of measuring forest products, invoicing, and collection of charges thereon; and (b) mode of measuring different forest charges. Alternatively put, the reforms introduced are for tax administration only, deputizing certain agencies to collect certain taxes. Subsequent amendment to the 1977 NIRC, which is the 1997 NIRC, retained this transfer. Verily, the transfer of the entire chapter on charges on forest products to the Revised Forestry Code, as well as the duties and responsibilities of the BIR to the DENR did not, in any way, change the nature of forest charges as internal revenue taxes.

2. **TAXATION; 1997 NATIONAL INTERNAL REVENUE CODE; COMMISSIONER OF INTERNAL REVENUE; HAS JURISDICTION OVER CLAIMS FOR TAX CREDIT OR REFUND, WHICH MUST BE FILED WITHIN TWO (2) YEARS FROM THE DATE OF PAYMENT OF THE TAX OR PENALTY;**

Supreme Court E-Library

CASE AT BAR.— Considering that only tax collection and invoicing of forest charges were deputized to the Forest Management Bureau under the DENR, other tax administration matters, such as refund and credit, pertinent rules under 1997 NIRC are applicable. x x x Under the law, to file a claim for tax credit or refund, it is necessary that: (a) a written notice be filed with the Commissioner; and (b) said written notice be filed within two years from the date of payment of the tax. Notably, the above provisions also set a two-year prescriptive period, reckoned from date of payment of the tax or penalty, for the filing of a claim of refund or tax credit. Notably too, both provisions apply only to instances of erroneous payment or illegal collection of internal revenue taxes. To reiterate settled jurisprudence, tax refunds or credits – just like tax exemptions – are strictly construed against taxpayers, the latter have the burden to prove strict compliance with the conditions for the grant of the tax refund or credit. In this case, AWII paid for forest charges on December 29, 1995. However, its claim for refund and/or tax credit for erroneous payment was filed only on October 29, 1998 before the DENR Secretary. Not only was the claim filed out of time, but also it was lodged before the wrong agency. As it stands, AWII failed to discharge the burden of proving strict compliance. Hence, its claim for refund and/or tax credit is forever barred.

APPEARANCES OF COUNSEL

Joseph Cohon for petitioner.
The Solicitor General for respondent.

D E C I S I O N

REYES, J. JR., *J.*:

Before us is a Petition for Review on *Certiorari,* which seeks to assail the Decision[1] dated February 28, 2017 and the

[1] Penned by Associate Justice Carmelita Salandanan Manahan, with Associate Justices Japar B. Dimaampao and Franchito N. Diamante, concurring; *rollo*, pp. 40-54.

Supreme Court E-Library

Resolution[2] dated October 3, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 138003, which affirmed the ruling of the Office of the President (OP) in OP Case No. 10-C-123.[3]

The Relevant Antecedents

In 1995, petitioner Agusan Wood Industries, Inc. (AWII) was able to cut a total of 5,891 cubic meters of logs from its concession area in Agusan del Sur. Accordingly, it paid ₱6,459,523.45 as forest charges for the retrieval of the logs on December 29, 1995.[4]

However, AWII failed to retrieve the cut logs prior to and even after the expiration of its Timber License Agreement despite payment of the forest charges. It appears that AWII assigned its right to collect the refunds and/or tax credit of the forest charges it previously paid to its sister company, International Timber Corporation (ITC).[5]

AWII was originally granted an authority to haul and dispose of the mentioned cut-prior volume per Clearance dated January 17, 1996, giving AWII one month to dispose the same. However, AWII's authority expired without any log/volume or part thereof being hauled or transported from the cutting area to the depository area or log pond.[6]

Another authority to haul and dispose, covering 2,945 cubic meters or 50% of the subject total reported cut-prior volume, was granted to AWII on September 11, 1997.[7]

In a Certification dated April 15, 1998, the Department of Environment and Natural Resources (DENR)-Community

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[2] *Id*. at 56-58.

[3] *Id*. at 74-80.

[4] *Id*. at 74.

[5] *Id*.

[6] *Id*. at 74-75.

[7] *Id*. at 75.

Supreme Court E-Library

Environment and Natural Resources stated that AWII was able to haul/transport 78.98 cubic meters only out of the latest authorized volume.[8]

On October 29, 1998, AWII requested for the refund and/or tax credit of the forest charges for the 5,890.41 cubic meters of logs cut from their logging area amounting to ₱6,459,523.45 before the DENR-Regional Executive Director (RED), Region 13, CARAGA, Butuan City.[9]

In a Memorandum Order[10] dated October 28, 1999, the DENR-RED ruled that as there was no pertinent regulation that may be made applicable to tax credit of forest charges; the request falls under the discretionary power of the DENR Secretary.

As a consequence, AWII requested for a refund and/or tax credit of the subject forest charges with the DENR Secretary. It asserted that the forest charges it paid was subject to the condition that prior cut logs were hauled, retrieved, or removed from the concession area; and failing which, it is entitled to refund and/or tax credit.[11]

The request, however, was denied in a Letter Order dated April 3, 2000.[12]

On May 9, 2000, AWII sought reconsideration of the Letter Order dated April 3, 2000, denying the request for refund and/or tax credit in its favor or to its sister company, ITC as assignee.[13]

In a Letter Order[14] dated September 8, 2000, the DENR Secretary reconsidered its previous Order and granted the refund

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[8] *Id*.

[9] *Id*.

[10] *Id*. at 87-88.

[11] *Supra* note 7.

[12] *Id*.

[13] *Id*.

[14] *Id*. at 91-92.

Supreme Court E-Library

and/or tax credit amounting to ₱6,459,523.45, citing Section 6 of DENR Administrative Order No. 80, Series of 1987. In granting the refund, the DENR Secretary construed that forest charges are due and should be paid as a matter of course the moment the cut logs were removed from the cutting area. However, when the forest products are not removed from the cutting area, as in this case, it necessarily follows that forest charges do not become due and demandable, and, thus, there is no obligation on the part of the Timber License Agreement holder or licensee to pay forest charges for prior cut logs not removed from the cutting area.[15]

AWII then requested for the implementation of the aforementioned Letter Order, but the same was denied in a Letter Order dated May 16, 2005. The dispositive portion of which reads:

> In view of the above premises, the request for refund and its assignment to Industrial Timber Corporation is denied on the following grounds:
>
> 1. That there is no law or rule that entitles AWII for a refund of forest charges upon its failure to haul the cut logs; and
>
> 2. There is no appropriation for refund of forest charges that were already remitted to the national treasury.[16]

Several motions for reconsideration were filed by AWII, but were ultimately denied by the DENR Secretary in a Letter Order dated February 10, 2010.[17]

As it failed to obtain favorable relief, AWII filed an appeal before the OP.

In a Decision[18] dated May 21, 2014, the OP denied the appeal. Among others, the OP maintained that it is not within the

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[15] *Id*. at 92.

[16] *Id*. at 76.

[17] *Id*.

[18] *Supra* note 3.

Supreme Court E-Library

jurisdiction of the DENR Secretary to authorize tax refund and/or tax credit.

The *fallo* thereof reads:

> WHEREFORE, premises considered, the appeal of Agusan Wood Industries, Inc. is hereby DENIED for lack of merit. The Order dated 10 February 2010 issued by then DENR Acting Secretary Eleazar P. Quinto is hereby AFFIRMED.
>
> SO ORDERED.[19]

The motion for reconsideration filed by AWII was similarly denied in a Resolution[20] dated October 21, 2014.

Insisting that it is the DENR Secretary who has the authority to grant refund and/or tax credit the forest charges, AWII filed an appeal before the CA.

The CA, in the assailed Decision[21] dated February 28, 2017, dismissed the petition for lack of merit. In ruling so, the CA explained that the authority to grant credit lies with the Commissioner of Internal Revenue (CIR) considering that forest charges are internal revenue taxes. The CA likewise declared that as the 1997 National Internal Revenue Code (NIRC) applies, the right of AWII to file for a claim for refund and/or tax credit prescribed for not having been made within the reglementary period. The dispositive portion provides:

> WHEREFORE, in the light of the foregoing, the instant Petition for Review is DISMISSED for lack of merit. The May 21, 2014 Decision and October 21, 2014 Resolution of the Office of the President in O.P. Case No. 10-C-123 are AFFIRMED.
>
> SO ORDERED.[22]

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[19] *Id*. at 80.

[20] *Id*. at 81-82.

[21] *Supra* note 1.

[22] *Id*. at 53.

Supreme Court E-Library

AWII filed a Motion for Reconsideration which was denied in the assailed Resolution[23] dated October 3, 2017.

Hence, this petition.

The Issue

AWII essentially contends that forest charges are not internal revenue taxes; hence, its act of filing for a claim for refund and/or tax credit with the DENR Secretary, and not with the CIR, is proper.

The Court's Ruling

The Forestry Reform Code of the Philippines or Presidential Decree No. 389, Series of 1974 (P.D. No. 389) was enacted to codify forestry laws in the Philippines, including the imposition of forest charges. Shortly thereafter, the Revised Forestry Code of the Philippines (Revised Forestry Code) or P.D. No. 705, Series of 1975 (P.D. No. 705) amended P.D. No. 389. The latter specifically recognized forest charges as taxes and imposed the responsibility of collecting and invoicing the same upon the Bureau of Internal Revenue (BIR), to wit:

> H.
> UTILIZATION AND MANAGEMENT
>
> SEC. 68 – Measuring of Forest Products and Invoicing and Collection of Charges Thereon. – The duties incident to the measuring of forest products shall be discharged by the Forest Management Bureau under regulations of the Department of Environment and Natural Resources. The Invoicing and Collection of the charges thereon shall be done by the Forest Management Bureau under regulations approved by the Secretary of Environment and Natural Resources.

On the other hand, the nature of forest charges as internal revenue taxes was affirmed in the 1977 NIRC, which considered the same as one of the "Miscellaneous Taxes" and thereby devoted a whole chapter for it.

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[23] *Supra* note 2.

Supreme Court E-Library

Subsequently, the 1977 NIRC was practically overhauled by Executive Order No. 273, Series of 1987 (E.O. No. 273). Among others, the whole chapter pertaining to forest charges was effectively transferred to the Revised Forestry Code, thus:

> SEC. 22. x x x
>
> The entire provisions of Chapter V, Title VIII of the National Internal Revenue Code governing the charges on forest products, including Section 297 of the same Code are hereby transferred to and shall form part of Presidential Decree No. 705, as amended, otherwise known as the Revised Forestry Code of the Philippines. All references to the Bureau of Internal Revenue, Commissioner of Internal Revenue and Ministry of Finance in the said Chapter V shall henceforth refer to the Forest Management Bureau, Director of Forest Management Bureau and Secretary of Environment and Natural Resources, respectively.

With the amendments introduced by E.O. No. 273, the responsibility of collecting forest charges, as well as the invoicing thereof, was transferred from the BIR to the Forest Management Bureau. Also, references to the CIR and the Department of Finance now refer to the Director of the Forest Management Bureau and the Secretary of Environment and Natural Resources, respectively.

This transfer of responsibility was further echoed in Republic Act No. 7161, to wit:

> SEC. 1. x x x
>
> All references to the Bureau of Internal Revenue, Commissioner of Internal Revenue, and Ministry of Finance in Sections 230 to 238 of the National Internal Revenue Code of 1977 shall hereafter refer to the Forest Management Bureau, Director of the Forest Management Bureau, and Secretary of Environment and Natural Resources, respectively.

Thus, while considered as internal revenue taxes, the jurisdiction as regards collection and invoicing of forest charges is vested upon the Forest Management Bureau under the DENR. This is supported by E.O. No. 273 itself as it was stated that the

Supreme Court E-Library

transfer was implemented for tax administration purposes only, particularly tax collection, to wit:

> WHEREAS, it is also necessary to amend, revise and renumber the provisions of the National Internal Revenue Code and to **transfer the collection of certain taxes as a consequence of this and previous amendments in order to strengthen and improve tax administration and facilitate compliance thereof.** (Emphasis supplied)

Accurately, what E.O. No. 273 removed from the 1977 NIRC and shifted to the Revised Forestry Code involves provisions pertaining to mere tax collection, namely: (a) mode of measuring forest products, invoicing, and collection of charges thereon; and (b) mode of measuring different forest charges.

Alternatively put, the reforms introduced are for tax administration only, deputizing certain agencies to collect certain taxes.

Subsequent amendment to the 1977 NIRC, which is the 1997 NIRC, retained this transfer.

Verily, the transfer of the entire chapter on charges on forest products to the Revised Forestry Code, as well as the duties and responsibilities of the BIR to the DENR did not, in any way, change the nature of forest charges as internal revenue taxes.

Also, noteworthy is the fact that as early as the 1904 Internal Revenue Law, forest charges was treated as one of the sources of internal revenue.[24] Subsequent amendments, such as the

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[24] Sec. 25. The following sources of revenue shall be included in the internal revenue for the Philippine Islands, and the taxes imposed shall be collected by the Collector of Internal Revenue x x x and the revenue obtained therefrom shall be devoted to the support of the several provinces and of the Insular and municipal governments in the manner in this Act provided:

x x x x x x x x x

11. Tax on forestry products.

x x x x x x x x x

Supreme Court E-Library

Internal Revenue Law of 1914[25] and Tax Code of 1939[26] retained this classification.

Even the case of *Cordero v. Conda*[27] clarified this matter, *viz.*:

> By law, forest charges have always been categorized as internal revenue taxes — for all purposes. Our statute books say so.
>
> We start with the Tax Code. Forest charges appear below the heading "TITLE VIII — MISCELLANEOUS TAXES", under Chapter V, along with such others as tax on banks (Chapter I), taxes on receipts of insurance companies (Chapter II), franchise tax (Chapter III), and amusement taxes (Chapter IV). And Section 18 of the same Code, includes "charges on forest products" in the list of those that "are deemed to be national internal revenue taxes[.]" x x x
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> [F]orest charges are internal revenue taxes, whether one labels them taxes on property, or excise taxes, *i.e.*, taxes upon the privilege of cutting and carting away timber and forest products. And they fall under the philosophy of taxation — to support the general services of government. They go into the general fund.

Considering that only tax collection and invoicing of forest charges were deputized to the Forest Management Bureau under the DENR, other tax administration matters, such as refund

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[25] Art. I. — Sources of internal revenue.

Sec. 21. Sources of taxes. — The following taxes, fees, and charges in the nature of tax are deemed to be internal revenue taxes:

x x x x x x x x x

(f) **Charges for forest products[.]** (Emphasis supplied)

[26] Sec. 18. *Sources of Revenue*. – The following taxes, fees, and charges are deemed to be national internal revenue taxes:

x x x x x x x x x

(g) Miscellaneous taxes; fees and charges, namely, taxes on banks, and insurance companies, franchise taxes, taxes on amusements, **charges on forest products**, fees for sealing weights and measures, firearms license fees, radio registration fees, tobacco inspection fees, and water rentals. (Emphasis supplied)

[27] 124 Phil. 926, 933 and 937-938 (1966).

Supreme Court E-Library

and credit, pertinent rules under 1997 NIRC are applicable, to wit:

SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*– The Commissioner may:

x x x x x x x x x

(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.

x x x x x x x x x

SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* – No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however*, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.

Under the law, to file a claim for tax credit or refund, it is necessary that: (a) a written notice be filed with the Commissioner; and (b) said written notice be filed within two years from the

Supreme Court E-Library

date of payment of the tax. Notably, the above provisions also set a two-year prescriptive period, reckoned from date of payment of the tax or penalty, for the filing of a claim of refund or tax credit. Notably too, both provisions apply only to instances of erroneous payment or illegal collection of internal revenue taxes.[28]

To reiterate settled jurisprudence, tax refunds or credits — just like tax exemptions — are strictly construed against taxpayers, the latter have the burden to prove strict compliance with the conditions for the grant of the tax refund or credit.[29]

In this case, AWII paid for forest charges on December 29, 1995. However, its claim for refund and/or tax credit for erroneous payment was filed only on October 29, 1998 before the DENR Secretary. Not only was the claim filed out of time, but also it was lodged before the wrong agency. As it stands, AWII failed to discharge the burden of proving strict compliance. Hence, its claim for refund and/or tax credit is forever barred.[30]

WHEREFORE, premises considered, the instant petition is hereby **DENIED**. Accordingly, the Decision dated February 28, 2017 and the Resolution dated October 3, 2017 of the Court of Appeals in CA-G.R. SP No. 138003 are **AFFIRMED *in toto***.

SO ORDERED.

Carpio, S.A.J. (*Chairperson*), *Perlas-Bernabe, Caguioa*, and *Lazaro-Javier, JJ.*, concur.

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[28] *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.*, 646 Phil. 710, 725 (2010).

[29] *Applied Food Ingredients Company, Inc. v. Commissioner of Internal Revenue*, 720 Phil. 782, 789 (2013).

[30] *CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue*, G.R. No. 197526, July 26, 2017, 832 SCRA 589, 606-607.