Supreme Court E-Library

SECOND DIVISION

[G.R. No. 122213. July 28, 2005]

CDCP MINING CORPORATION, *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE and THE COURT OF APPEALS,** *respondents.*

SYLLABUS

1. TAXATION; 1977 NATIONAL INTERNAL REVENUE CODE (NIRC); TAX REFUND; WOULD NOT APPLY FOR THE COMPUTATION OF THE REFUNDS DUE UNDER SECTION 5 OF REPUBLIC ACT NO. 1435. — CDCP's claim that the amendments to the 1977 NIRC under E.O. No. 672 should apply as well necessarily collapses with the application of the entrenched rule that the 1977 NIRC would not apply in the first place for the computation of the refunds due under Section 5 of R.A. No. 1435. *Stare decisis et non quieta movere.* . . . [U]nder the doctrine of *stare decisis*, once a point of law has been established by the court, that point of law will, generally, be followed by the same court and by all courts of lower rank in subsequent cases where the same legal issue is raised. *Stare decisis* proceeds from the first principle of justice that, absent powerful countervailing considerations, like cases ought to be decided alike.

2. ID.; ID.; ID.; NO REASONABLE BASIS TO THE PRIOR CLAIM FOR REFUND WITH THE NEW INCREASED RATES. — Of course, it is not unheard of for the Court, after studied deliberation, to reverse precedents. But there is no strong impetus to engage in such a reversal through this present petition. It is obvious that the original and unaltered intent of R.A. No. 1435 is to allow refunds based on the rates of specific taxes specified therein, and not on rates which may have been set later including those established two decades hence. If there was legislative intent to allow the subject refunds based on the rates as subsequently amended, then this would have been enforced or provided for in the subsequent statutes that did increase the rates, such as the 1977 NIRC. But since the later laws are silent on the applicability of the new higher rates to the previously enacted statutory refund,

Supreme Court E-Library

it follows that there is no reasonable basis to the prior claim for refund with the new increased rates. The statutory premises being as they are, it would be presumptuous and even absurd to ascribe legislative forethought to the makers of R.A. No. 1435 to warrant the purported legislative intent to allow the refund of taxes paid with rates set in that law, enacted in 1956, using future higher rates as basis for the refund.

APPEARANCES OF COUNSEL

Villaraza & Cruz for petitioner.

D E C I S I O N

TINGA, *J.*:

This petition for review, concerning a claim for tax refund, assails a *Decision* rendered by the Court of Appeals Former First Division[1] dated 9 November 1994, which modified a *Decision*[2] dated 9 August 1994 of the Court of Tax Appeals (CTA). Significantly, the Court of Appeals' *Decision* was assailed in two separate petitions for review. The first, filed by Commissioner of Internal Revenue (Commissioner), was docketed as G.R. No. 122161, while the second, lodged by herein petitioner CDCP Mining Corporation (CDCP), was docketed as G.R. No. 122213.

In a *Decision*[3] dated 1 February 1999 in G.R. No. 122161 in consolidation with G.R. No. 120991,[4] the Court's First Division

---

[1] Penned by Justice B. Pardo, concurred in by Justices J. Torres and C. Ibay-Somera. Justices Pardo and Torres were subsequently appointed to the Supreme Court, but have since retired.

[2] Penned by Associate Judge M. Gruba, concurred in by Presiding Judge E. Acosta and R. de Veyra.

[3] Penned by Justice A. Martinez, concurred in by Chief Justice H. Davide, Jr., *J.* Melo, and S. Kapunan. Justice B. Pardo, author of the assailed decision while sitting in the Court of Appeals, took no part in the resolution of this case by the First Division of which he was a member; 362 Phil. 75 (1999).

[4] *Sirawai Plywood & Lumber Co., Inc. v. Court of Appeals and Commissioner of Internal Revenue*. The petition in this case involved a different factual background but presented the same legal issues as in G.R. No. 122161.

Supreme Court E-Library

granted the Commissioner's petition in G.R. No. 122161, set aside the aforementioned Court of Appeals *Decision*, and reinstated the CTA's *Decision*. The judgment in G.R. No. 122161 thus affirmed the CTA's ruling that CDCP was entitled to a tax refund of Thirty Eight Thousand Four Hundred Sixty One Pesos and Eighty Six Centavos (₱38,461.86). Said ruling, which had long become final, is wildly disparate from CDCP's present claim that it is entitled to a tax refund of Three Million Two Hundred Twenty Six Thousand Eight Hundred Nine Pesos and Fifteen Centavos (₱3,226,809.15)

The parties have not filed any pleading since 1996, or one year before the promulgation of the *Decision* in G.R. No. 122161. Neither have they made the Court aware of any reason that the present petition is moot, though it takes no great stretch of imagination to assume their inaction was precisely due to the resolution of their conflicting claims by virtue of the *Decision* in G.R. No. 122161. Nonetheless, a brief ruling on the merits in this case would suffice, consistent with our *Decision* in G.R. No. 122161, which after all was but an affirmation of a long-standing doctrine applied by this Court in resolution of the legal question involved.

We can refer to the *Decision* in G.R. No. 122161 for a summation of the factual background of this case.

"During the period from July 1, 1980 to June 30, 1982, [CDCP] purchased from Mobil Oil Philippines, Inc. and Caltex (Philippines), Inc. quantities of manufactured mineral oil, motor fuel, diesel and fuel oil, which [CDCP] used exclusively in the expoitation (*sic*) and operation of its mining concession.

On September 06, 1982, [CDCP] filed with the Commissioner of Internal Revenue, a claim for refund in the amount of ₱9,962,299.71, representing 25% of the specific taxes collected on refined and manufactured mineral oil, motor fuel and diesel fuel that [CDCP] utilized in its operations as mining concessionaire, totalling (*sic*) ₱39,849,198.47.

As there was no immediate action on the claim, to toll the prescriptive period, on October 08, 1982, [CDCP] filed with the Court of Tax Appeals (CTA), a petition for review of the presumed decision of the Commissioner denying such claim.

Supreme Court E-Library

On January 2, 1984, the Commissioner of Internal Revenue actually denied [CDCP's] claim for refund.

After due trial, on August 09, 1994, the Court of Tax Appeals rendered a decision granting [CDCP's] claim for refund only in the amount of ₱38,461.86, without interest. The tax court ruled that [CDCP] is entitled to a refund of the specific taxes that it paid during the period September 23, 1980 to June 30, 1982, prior to which the claim had prescribed, but at the rates specified under Sections 1 and 2 of R.A. No. 1435, without interest."

The dispositive portion of the Court of Tax Appeals (CTA) decision reads:

> "WHEREFORE, the respondent Commissioner of Internal Revenue is hereby ordered to refund in favor of petitioner CDCP Mining Corporation, the sum of ₱38,461.86 without interest, equivalent to 25% partial refund of specific taxes paid on its purchases of gasoline, oils and lubricants, diesel, fuel oils, and kerosene pursuant to the provision of Section 5 of Republic Act No. 1435, in relation to Section 142 (b) and (c) of the National Internal Revenue Code and Section 145 as prescribed under Sections 1 and 2 of R.A. 1435.
>
> "No pronouncements as to costs."

[CDCP] filed a petition for review before the CA, which on November 9, 1994, rendered a decision modifying that of the CTA, to wit:

> "WHEREFORE, the Court MODIFIES the appealed decision of the Court of Tax Appeals, and orders the Commissioner of Internal Revenue to refund to petitioner . . . CDCP Mining Corporation the amount of ₱1,598,675.25, without interest, equivalent to 25% refund of specific taxes paid on its purchases during the period September 23, 1980 to June 30, 1982, of manufactured oil and other fuel and diesel fuel oil, pursuant to Section 5 of Republic Act No. 1435, in relation to Sections 153 and 156 of the Tax Code."[5]

---

[5] *Commissioner of Internal Revenue v. Court of Appeals, supra* note 3 at 77-78.

Supreme Court E-Library

A brief explanation of the statutory predicates is in order. Republic Act (R.A.) No. 1435,[6] particularly Sections 1 and 2 thereof, introduced amendments to the 1939 Tax Code on the rates of specific taxes on manufactured oils, fuels, and diesel fuel oil.[7] At the same time, Section 5 of the same law, which was invoked by CDCP, provided that whenever miners or forest concessionaires used those manufactured oils, fuels and diesel fuel oils in their operations, they were entitled to a refund of twenty-five percent (25%) of the specific tax paid thereon upon submission of proof of actual use.[8]

Both the CTA and the Court of Appeals held that CDCP was entitled to such twenty-five percent (25%) refund on the specific taxes paid for the manufactured oils it had used for the period beginning 23 September 1980 until June 30, 1982. However, the variance between the decisions of both courts lies in whether the twenty-five percent (25%) refund should be computed based on the specific tax rates as prescribed in Sections 1 and 2 of R.A. No. 1435, or on the rates as prescribed

---

[6] "An Act to Provide Means for Increasing the Highway Special Fund."

[7] See Sections 1 & 2, Rep. Act No. 1435.

[8] Section 5 of Rep. Act No. 1435 reads in full:

"The proceeds of the additional tax on the manufactured oils shall accrue to the road and bridges funds of the political subdivision for whose benefits the tax is collected; Provided, however, that whenever any oils mentioned above are used by miners or forest concessionaires in their operations, twenty-five *per centum* of the specific tax PAID THEREON shall be refunded by the Collector of Internal Revenue upon submission of proof of actual use of oils and under similar conditions enumerated in subparagraphs one and two of Section one hereof, amending Section one hundred forty-two of the Internal Revenue Code; Provided, further, that no new road shall be constructed unless the routes or location thereof shall have been approved by the Commissioner of Public Works and Highways after a determination that such road can be made part of an integral and articulated route in the Philippine Highway System, as required in section twenty-six of the Philippine Highway Act of 1953." (Italics supplied)

See also *Insular Lumber Co. v. CTA*, 192 Phil. 221, 225 (1981).

Supreme Court E-Library

under Sections 153 and 156 of the National Internal Revenue Code of 1977 (1977 NIRC), the law prevailing at the time of the actual use by CDCP of the manufactured oils. The CTA had based the computation of the refundable amount on the rates under Sections 1 and 2 of R.A. No. 1435, while the appellate court applied the provisions of the 1977 NIRC, thus accounting for the substantial disparity in the amounts ordered refunded by the two courts.

The *Decision* in G.R. No. 122161 does not narrate the exact arguments raised therein by the Commissioner, but we can presume that they are similar to what he asserts in his *Comment* in the instant petition. Here, he argues that the increased rates of specific tax pursuant to the 1977 NIRC cannot apply to CDCP's claim for refund under R.A. No. 1435, as such would run contrary to the doctrine laid down by this Court in *CIR v. Rio Tuba Nickel Mining Corp.*[9] The Court ruled therein that the basis for the refund should be "the amount deemed paid under Sections 1 and 2 of R.A. No. 1435," or in effect, the rate as prescribed under the 1939 Tax Code.[10]

On the other hand, CDCP in this present petition assails the appellate court's *Decision* on a wholly different reason. CDCP proceeds from the premise that the Court of Appeals correctly applied the provisions of the 1977 NIRC in ascertaining the basis for the refund due to CDCP. However, it points out that the rates of specific tax on manufactured oils under the 1977 NIRC were increased effective 21 March 1981 by Executive Order (E.O.) No. 262 issued by then President Marcos. According to CDCP, the error of the Court of Appeals consists of its failure to take into account the amendatory E.O. No. 262, and applying only one set of rates for the period in question, 1 July 1980 to June 30, 1982. CDCP argues that while the

---

[9] G.R. Nos. 83583-84, 25 March 1992, 207 SCRA 549, 552-553, modifying the Court's earlier decision in the same case dated 20 September 1991, 202 SCRA 137.

[10] *Id.*

Supreme Court E-Library

Court of Appeals' computation was correct for the period 23 September 1980 up to 20 March 1981, it failed to utilize the new rates under E.O. No. 262 in computing the refund due for the manufactured oils purchased for the period of 21 March 1981 up to 30 June 1982.

The present petition's lack of merit owes to the mistaken notion that the 1977 NIRC applies at all to the computation of the refund under R.A. No. 1435.

Our *Decision* in G.R. No. 122161 rejected the proposition that the higher rates under the 1977 NIRC is applicable, and hinged this conclusion on settled jurisprudence. To grant the petition would entail reversing not only our *Decision* in G.R. No. 122161, but a judicial precedent long entrenched by *stare decisis*. We quote from our ruling in G.R. No. 122161:

> The issue raised herein had already been settled by the Court *en banc's* ruling laid down in the recent case of *Davao Gulf Lumber Corporation v. CIR and CA,* where the Court said that there is no "expression of a legislative will (in R.A. 1435) authorizing a refund based on the higher rates claimed by petitioner." Although that case was not cited by the parties, it being newly promulgated at the time of the submission of their respective memorandum, yet a scrutiny of the relevant jurisprudence discussed therein and those cited by the parties in this case are the same. Said cases include: *Insular Lumber, Co. v. CTA; CIR v. Rio Tuba Nickel Mining Corporation and CTA* and the resolution modifying it; the two Atlas cases of *CIR v. Atlas Consolidated Mining and Development Corp., et al.,* and *CIR v. CA and Atlas Consolidated Mining and Development Corp., et al.* Applicable herein is the pronouncement in said *Davao Gulf,* to wit:
>
> > "When the law itself does not explicitly provide that a refund under R.A. No. 1435 may be based on higher rates which were non-existent at the time of its enactment, this Court cannot presume otherwise, [*sic*] A legislative lacuna cannot be filled by judicial fiat."
>
> Equally relevant herein is the following analysis in *Davao Gulf* with respect to the allegedly conflicting decision in the cases cited above:

Supreme Court E-Library

"Neither *Insular Lumber Co.* nor the first *Atlas* case ruled on the issue of whether the refund privilege under Section 5 should be computed based on the specific tax paid under Sections 1 and 2 of R.A. No. 1435, regardless of what was actually paid under the increased rates. *Rio Tuba* and the second Atlas case did.

"*Insular Lumber Co.* decided a claim for refund on specific tax paid on petroleum products purchased in the year 1963, when the increased rates under the NIRC of 1977 were not yet in effect. Thus the issue now before us did not exist at the time, since the applicable rates were still those prescribed under Sections 1 and 2 of R.A. No. 1435.

"On the other hand, the issue raised in the Atlas case was whether the claimant was entitled to the refund under Section 5, notwithstanding its failure to pay any additional tax under a municipal or city ordinance. Although Atlas purchased petroleum products in the years 1976-1978 when the rates had already been changed, the Court did not decide or make any pronouncement on the issue in that case.

"Clearly, it is impossible for these two decisions to clash with our pronouncement in *Rio Tuba* and the second *Atlas* case, in which we ruled that the refund granted be computed on the basis of the amounts deemed paid under Sections 1 and 2 of R.A. No. 1435. In this light, we find no basis for petitioner's invocation of the constitutional proscription that no doctrine or principle of law laid down by the Court in a decision rendered *en banc* or in division may be modified or reversed except by the Court sitting *en banc.*

"Finally, petitioner asserts that 'equity and justice demand that the computation of the tax refunds be based on' actual amounts paid under Sections 153 and 156 of the NIRC.' We disagree. According to an eminent authority on taxation, 'there is no tax exemption solely on the ground of equity.'"

At the risk of being tautological, nothing in Section 5 of R.A. 1435 was it provided that the *rate of refund* shall be based on the increased rates under Section 153.[11]

---

[11] *Commissioner of Internal Revenue v. Court of Appeals, supra* note 3 at 84-86.

Supreme Court E-Library

CDCP's claim that the amendments to the 1977 NIRC under E.O. No. 672 should apply as well necessarily collapses with the application of the entrenched rule that the 1977 NIRC would not apply in the first place for the computation of the refunds due under Section 5 of R.A. No. 1435. *Stare decisis et non quieta movere.*[12]

> . . . [U]nder the doctrine of *stare decisis*, once a point of law has been established by the court, that point of law will, generally, be followed by the same court and by all courts of lower rank in subsequent cases where the same legal issue is raised. *Stare decisis* proceeds from the first principle of justice that, absent powerful countervailing considerations, like cases ought to be decided alike.[13]

Had a contrary rule been adopted by this Court acknowledging instead that the basis for the twenty-five percent refund be the specific tax rates in force at the time of the actual use of the manufactured oils, then this petition may have acquired merit. After all, CDCP's present arguments are consistent with the thrust of the appellate court's decision that the specific taxes actually paid by CDCP based on the rates prevailing at the time of the purchase should form the basis of the refund. Perhaps the Court of Appeals' failure to apply the new rates amending the 1977 NIRC arose from some oversight, but at any rate, the Court has already unequivocally ruled that the appellate court erred in applying the 1977 NIRC in the first place.

Of course, it is not unheard of for the Court, after studied deliberation, to reverse precedents.[14] But there is no strong impetus to engage in such a reversal through this present petition.

---

[12] Follow past precedents and do not disturb what has been settled.

[13] *Ayala Corp. v. Rosa-Diana Realty Corp.*, G.R. No. 134284, 1 December 2000, 346 SCRA 663, 671, citing 5 AM JUR 2d, Appellate Review §599.

[14] See, *e.g.*, *Urbano v. Chavez*, G.R. Nos. 87977 & 88578, 19 March 1990, 183 SCRA 347. "The principle of *stare decisis* notwithstanding, it is well-settled that a doctrine which should be abandoned or modified should be abandoned or modified accordingly. After all, more important than anything else is that this Court should be right." *Id.* at 358.

Supreme Court E-Library

It is obvious that the original and unaltered intent of R.A. No. 1435 is to allow refunds based on the rates of specific taxes specified therein, and not on rates which may have been set later including those established two decades hence. If there was legislative intent to allow the subject refunds based on the rates as subsequently amended, then this would have been enforced or provided for in the subsequent statutes that did increase the rates, such as the 1977 NIRC. But since the later laws are silent on the applicability of the new higher rates to the previously enacted statutory refund, it follows that there is no reasonable basis to the prior claim for refund with the new increased rates. The statutory premises being as they are, it would be presumptuous and even absurd to ascribe legislative forethought to the makers of R.A. No. 1435 to warrant the purported legislative intent to allow the refund of taxes paid with rates set in that law, enacted in 1956, using future higher rates as basis for the refund.

WHEREFORE, the Petition is *DENIED* for lack of merit. Costs against petitioner.

SO ORDERED.

Puno (Chairman), Austria-Martinez, Callejo, Sr., and *Chico-Nazario, JJ.,* concur.