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complaint against the employee has been dropped by the city fiscal is not binding and conclusive upon a labor tribunal (*National Labor Union, Inc. vs. Standard Vacuum Oil Company*, 73 Phil. 279).

An employee's acquittal in a criminal case does not preclude a finding by a labor tribunal that he has been guilty of acts inimical to the employer's interest (*Nat. Organization of Laborers and Employees vs. Roldan*, 95 Phil. 727; *Gatmaitan vs. MRR Co.*, 128 Phil. 208; *Phil. Education Co., Inc. vs. Union of Phil. Education Employees and CIR*, 107 Phil. 1003; *Dole Philippines, Inc. vs. National Labor Relations Commission*, G.R. No. 55413, July 25, 1983, 123 SCRA 673; *Philippine Geothermal, Inc. vs. National Labor Relations Commission*, G.R. Nos. 55249-50, October 19, 1982, 117 SCRA 692; *Philippine Long Distance Telephone Co. vs. NLRC*, G.R. No. 63191, April 30, 1984, 129 SCRA 163).

WHEREFORE, the decision of the National Labor Relations Commission is reversed and set aside. We affirm the decision of the Labor Arbiter. No costs.

SO ORDERED.

Makasiar (Chairman), *Abad Santos*, *Escolin*, and *Cuevas*, *JJ.*, concur.

Concepcion Jr., *J.*, took no part.

FIRST DIVISION

[G.R. No. L-27718. May 27, 1985]

INDUSTRIAL TEXTILES MANUFACTURING COMPANY OF THE PHILIPPINES, INC. (ITEMCOP), *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE and THE COURT OF TAX APPEALS,** *respondents.*

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[G.R. No. L-27768.May 27, 1985]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* **INDUSTRIAL TEXTILES MANUFACTURING COMPANY OF THE PHILIPPINES, INC. (ITEMCOP) and THE COURT OF TAX APPEALS,** *respondents.*

SYLLABUS

TAXATION; SALES; TAX; COST OF RAW MATERIALS IMPORTED TAX-FREE SHALL BE DEDUCTED.— In 1959, a local manufacturer of an essential item (such as jute bags) was subject to 7% sales tax on his gross sales, but to reduce his tax liability he could deduct the cost of raw materials from the gross sales, whether the raw materials be tax-paid or tax-free. The applicable law was Sec. 186-A of the Tax Code.Following the ruling in *Republic Flour Mills, Inc. vs. Commissioner of Internal Revenue*, 31 SCRA 520, we hold that the cost of raw materials imported tax-free in 1958 by ITEMCOP and used by it in the manufacture of jute bags which were sold in 1959 is deductible from its 1959 gross sales for the purpose of determining its 1959 sales tax liability. Under the quoted Section 186-A of the Tax Code, it does not matter that the raw materials are imported and not locally bought from a tax-exempt industry.

RESOLUTION

PLANA,* ***J.:***

As a new and necessary industry, Industrial Textiles Manufacturing Company of the Philippines, Inc. (ITEMCOP) enjoyed full tax exemption in 1957 and 1958. In 1959, the tax exemption was reduced to 90%. The company thereby became partially subject to the payment of sales tax on the jute bags manufactured and sold by it.

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* This resolution was penned by Justice Plana before he was on official leave on May 16, 1985 but reached the Office of the Chief Justice only on May 27, 1985.

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In 1959, a local manufacturer of an essential item (such as jute bags) was subject to 7% sales tax on his gross sales, but to reduce his tax liability he could deduct the cost of raw materials from the gross sales, whether the raw materials be tax-paid or tax-free. The applicable law was Sec. 186-A of the Tax Code:

"Sec. 186-A. Whenever a tax-free product is utilized in the manufacture or production of any article, in the determination of the value of such finished article, the value of such tax-free product shall be deducted." (Added by Sec. 5, Rep. Act No. 2025, effective June 22, 1957.)

In making its sales tax returns for 1959, ITEMCOP reported the sum of ₱10,395,208.25 as gross sales and deducted therefrom ₱4,764,391.44 representing the cost of raw materials used, to wit:

(1) raw materials imported in 1958 tax -free ----- - ₱939,687.31

(2) raw materials imported or bought locally in 1959 ---------- ₱3,824,704.13

The Bureau of Internal Revenue disallowed the deduction of item (1) on the ground that under Section 186-A of the Tax Code, only the cost of tax-free raw materials locally bought from a new and necessary industry could be deducted from gross sales, for sales tax purposes. With respect to item (2), the Bureau ruled that the actual cost of the raw materials purchased and used by ITEMCOP in 1959 was ₱3,524,240.18 rather than ₱3,824,704.13 as computed by the taxpayer. On appeal, the Court of Tax Appeals sustained the Bureau with respect to item (1) but upheld the taxpayer as regards item (2). Hence, the instant petition for review.

Following the ruling in *Republic Flour Mills, Inc. vs. Commissioner of Internal Revenue*, 31 SCRA 520, we hold that the cost of raw materials imported tax-free in 1958 by ITEMCOP and used by it in the manufacture of jute bags which were sold in 1959 is deductible from its 1959 gross sales for the purpose of determining its 1959 sales tax liability. Under the quoted Section 186-A of the Tax Code, it does not matter that the raw materials are imported and not locally bought from a tax-exempt industry.

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With respect to the question as to what was the actual cost of the raw materials imported in 1959 by ITEMCOP and used by it in the manufacture of jute bags sold in the same year, for the purpose of determining its sales tax liability, suffice it to say that the issue is one of fact and the finding thereon of the CTA, not having been shown to be unsupported by substantial evidence, must be left undisturbed.

Accordingly, in G.R. No. L-27718, the appealed decision is modified by allowing the deduction from petitioner's 1959 gross sales of the cost of raw materials imported by it tax-free in 1958 and used in the manufacture of jute bags which were sold in 1959; and in G.R. No. L-27768, the petition is dismissed.

SO ORDERED.

Teehankee (Chairman), *Melencio-Herrera*, *Relova*, *Gutierrez, Jr.*, *De la Fuente*, and *Alampay*, *JJ.*, concur.

SECOND DIVISION

[G.R. No. L-39388. May 27, 1985]

RAYMUNDO ERFE, *petitioner, vs.* **HON. WILHELMO C. FORTUN, as Presiding Judge of the Court of First Instance of Branch VIII, Third Judicial District, Dagupan City, ANGELES L. LEONOR, FLORENTINA L. BIACAN represented by ENCARNACION A. LAYGO, as their Attorney-in-Fact,** *respondents*.