Supreme Court E-Library

Clearly, the lower court erred in dismissing, on the ground of failure to state a cause of action, the complaint for damages for infringement of patent and unfair competition.

WHEREFORE, the appealed order of dismissal is hereby set aside and the complaint for damages for infringement of patent and unfair competition reinstated. Without pronouncement as to costs.

SO ORDERED.

*Barredo, (Chairman), Aquino, Guerrero** and *De Castro, JJ.*, concur.

EN BANC

[No. L-31057. May 29, 1981]

INSULAR LUMBER COMPANY, petitioner, *vs.* COURT OF TAX APPEALS and COMMISSIONER OF INTERNAL REVENUE, respondents.

[No. L-31137. May 29, 1981]

COMMISSIONER OF INTERNAL REVENUE, petitioner, *vs.* COURT OF TAX APPEALS and INSULAR LUMBER COMPANY, respondents.

SYNOPSIS

Pursuant to the provisions of Section 5 of Republic Act No. 1435 granting miners and forest concessionaires the right to partial refund of specific taxes paid for manufactured oils and fuels used in their operations, petitioner company, a duly licensed forest concessionaire, filed in December 1964 with the Commissioner of Internal Revenue a claim for such refund for oils it had used in its logging and sawmill operations covering periods from January 1963. Respondent Commissioner denied the claim on the ground that the privilege, which was limited to a period of five years from the date of effectivity of said Act, had already prescribed in 1961. On petition for review filed by petitioner in April 1965, the Court of Tax Appeals allowed

---

* Justice Juvenal K. Guerrero has been designated to sit in the Second Division in lieu of Justice Hermogenes Concepcion, Jr., who is on official leave.

Supreme Court E-Library

petitioner's claim only in so far as it pertained to oils it had used in its logging operations but excluding those used beyond the two-year prescriptive period for filing claims with the Court of Tax Appeals. Both the company and the Commissioner appealed from the decision, the latter further assailing the constitutionality of Republic Act No. 1435 for embracing more than one subject.

The Supreme Court held, (1) that the proviso in Section 5 of Republic Act No. 1435 which in effect is a partial exemption from the increased tax imposed by the Act is not a deviation from the general subject of the law which is to increase the Highway Special Fund through the imposition of increased specific taxes; (2) that the five-year limitation period for refund of specific taxes paid on oils provided for in Section 1 of said Act very apparently refers only to those used in agriculture and aviation; (3) that the operation of a sawmill is distinct from the operation of a forest concession; and (4) that although claims for refund should first be filed with the Commissioner of Internal Revenue, the subsequent appeal to the Court of Tax Appeals must be instituted within the two-year prescriptive period commencing from the occurrence of the supervening cause giving rise to the right of refund.

Decision affirmed.

SYLLABUS

1. CONSTITUTIONAL LAW; STATUTE MUST EMBRACE ONLY ONE SUBJECT; PURPOSE OF THE CONSTITUTIONAL REQUIREMENT; REPUBLIC ACT NO. 1435 MEETS CONSTITUTIONAL REQUIREMENT.— Article VI, Section 21(1) of the 1935 Constitution provides that "No bill which may be enacted unto a law shall embrace more than one subject which shall be expressed in the title of the bill." The primary purpose of the aforequoted constitutional provision is to prohibit duplicity in legislation the title of which might completely fail to apprise the legislators or the public of the nature, scope and consequences of the law or its operation. This does not seem to have been ignored in the passage of Republic Act No. 1435 since, as the records of the proceedings bear out, a full debate on precisely the issue of whether its title reflects its complete subject was held by Congress which passed it. Republic Act No. 1435 entitled "An Act to Provide Means for Increasing The Highway Special Fund" deals with only one subject and proclaims just one policy, namely, the necessity for increasing the Highway Special Fund through the imposition of an increased specific tax on manufactured oils. The proviso in Section 5 of the law

Supreme Court E-Library

is in effect a partial exemption from the imposed increased tax. Said proviso, which has reference to specific tax on oil and fuel is not a deviation from the general subject of the law.

2. ID.; PRESUMPTION OF CONSTITUTIONALITY OF STATUTES.— In deciding the constitutionality of a statute alleged to be defectively titled, every presumption favors the validity of the Act. As is true in cases presenting other constitutional issues, the courts avoid declaring an Act unconstitutional whenever possible. Where there is any doubt as to the insufficiency of either the title, or the Act, the legislation should be sustained.

3. COMMERCIAL LAW; TAXATION; REPUBLIC ACT NO. 1435; FIVE-YEAR LIMITATION PERIOD FOR PARTIAL REFUND OF SPECIFIC TAX PAID ON OILS USED IN AGRICULTURE AND AVIATION, NOT APPLICABLE TO MINERS AND LOGGERS.— It is very apparent from the provisions of Section 1 of Republic Act No. 1435 that the partial refund of specific tax paid for oils used in agriculture and aviation is limited to five years while there is no time limit in Section 5 for the partial refund of specific tax paid for oils used by miners and forest concessionaires. There is no basis for applying the limitation of the operative period provided for oils used in agriculture and aviation to the provision on the refund of miners and forest concessionares. It should be noted that Section 5 makes reference to subparagraphs 1 and 2 of Section 1 only for the purpose of prescribing the procedure for refund. This express reference cannot be expanded in scope to include the limitation of the period of refund. If the limitation of the period of refund of specific taxes paid on oil used in aviation and agriculture is intended to cover similar taxes paid on oil used by miners and forest concessionaires, there would have been no need of dealing with oil used in mining and forest concessions separately and Section 5 should very well have been included in Section 1 of Republic Act No. 1435, notwithstanding the different rate of exemption.

4. STATUTORY CONSTRUCTION; SEARCH FOR LEGISLATIVE INTENT NOT NECESSARY WHERE LAW IS CLEAR AND UNAMBIGUOUS.— Where the provision of the law is clear and unambiguous, so that there is no occasion for the court's seeking legislative intent, the law must be taken as it is, devoid of judicial addition or subtraction. In the case at bar, it is very clear from the language of Section 5 of Republic Act No. 1435 that only miners or forest concessionaires are given the privilege to claim the partial refund of specific taxes paid for oils and fuels used in their operations. Sawmill

Supreme Court E-Library

operators are excluded, because they need not be forest concessionaires, nor the latter, always are sawmill operators.

5. COMMERCIAL LAW; TAXATION; EXEMPTION THEREFROM IS NEVER PRESUMED.— The authorized partial refund of specific taxes paid on manufactured oils and fuels used by miners or forest concessionaires under Section 5 of Republic Act No. 1435 partakes of a nature of tax exemption and therefore it cannot be allowed unless granted in the most explicit and categorical language. Well-settled is the rule that exemption from taxation is never presumed. For tax exemption to be recognized, the grant must be clear and expressed; it cannot be made to rest on vague implications.

6. ID.; ID.; CLAIM FOR REFUND MUST BE INSTITUTED WITHIN TWO YEARS FROM DATE OF OCCURRENCE OF SUPERVENING CAUSE WHICH GAVE RISE TO RIGHT OF REFUND.— Claim for refund of taxes which were legally collected must be filed within the two-year prescriptive period commencing from the date of occurrence of supervening cause which gave rise to the right of refund. The claim for refund should first be filed with the Commissioner of Internal Revenue, and the subsequent appeal to the Court of Tax Appeals must be instituted, within the said two-year period. If, however, the Commissioner takes time in deciding the claim, and the period of two years is about to end, the suit or proceeding must be started in the Court of Tax Appeals before the end of the two-year period without awaiting the decision of the Commissioner. In the present case, it will be noted that although the claim for refund was filed with the Commissioner on December 22, 1964, the petition for review was filed by the Company only on April 29, 1965 praying for the refund of specific tax covering several periods starting from January 1, 1963. As found by respondent court, portions of the amount claimed by the Company were used during the period from January 1, 1963 to April 29, 1963. The Supreme Court is bound by said findings, the same being findings of fact. Following therefore, the ruling in Commissioner of Internal Revenue *vs.* Insular Lumber Company (21 SCRA 1235), the Company is not entitled to the claim for refund for oils used from January 1, 1963 to April 29, 1963, on the ground that the right to claim refund of the tax in question paid during the said periods has prescribed, the petition for review having been filed with the respondent court only on April 29, 1965, which was beyond the two-year prescriptive period provided for in Section 306 of the Tax Code.

Supreme Court E-Library

APPEARANCES OF COUNSEL

Sycip, Salazar Law Office for Insular Lumber Company.

The Solicitor General for the Commissioner of Internal Revenue.

DECISION

DE CASTRO, *J.*:

These two (2) cases are appeals by way of certiorari from the decision dated July 31, 1969 of the Court of Tax Appeals ordering the Commissioner of Internal Revenue to refund to the Insular Lumber Company the amount of ₱10,560.20 instead of ₱19,921.37, representing 25% of the specific tax paid on manufactured oil and motor fuel utilized by said company in the operation of its forest concession in the year 1963.

The undisputed facts of these cases are as follows:

Insular Lumber Company (Company for short), a corporation organized and existing under the laws of New York, U.S.A., and duly authorized to do business in the Philippines, is a licensed forest concessionaire. The Company purchased manufactured oil and motor fuel which it used in the operation of its forest concession, sawmill, planning mills, power units, vehicles, dry kilns, water pumps, lawn mowers, and in furnishing free water and light to its employees, on which specific tax was paid. On December 22, 1964 the Company filed with the Commissioner of Internal Revenue (Commissioner for short), a claim for refund of ₱19,921.37 representing 25% of the specific tax paid on the manufactured oil and fuel used in its operations pursuant to the provisions of Section 5, Republic Act No. 1435.[1] In a letter

[1] Section 5. The proceeds of the additional tax on manufactured oils shall accrue to the road and bridge 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 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 Article of 1953.

Supreme Court E-Library

dated February 11, 1965, received by the Company on March 31, 1965, the Commissioner denied the Company's claim for refund on the ground that the privilege of partial tax refund granted by Section 5 of Republic Act No. 1435 to those using oil in the operation of forest and mining concessions is limited to a period of five (5) years from June 14, 1956, the date of effectivity of said Act. Consequently, oil used in such concessions after June 14, 1961 is subject to the full tax prescribed in Section 142 of the National Internal Revenue Code.

Its claim having been denied, the Company filed a petition for review before the respondent court on April 29, 1965. After hearing, the Court of Tax Appeals ruled that the operation of a sawmill is distinct from the operation of a forest concession, hence, the refund provision of Section 5 of Republic Act No. 1435 allowing partial refund to forest and mining concessionaires cannot be extended to the operators of a sawmill. And out of the ₱19,921.37 claimed, representing the 25% of specific tax paid, respondent court found out that only the amount of ₱14,598.08 was paid on oil utilized in logging operations. Respondent court, however, did not allow the refund of the full amount of ₱14,598.08 because the Company's right to claim the refund of a portion thereof, particularly those paid during the period from January 1, 1963 to April 29, 1963 had already prescribed. Hence, the Company was credited the refund of ₱10,560.20 only. Both parties appealed from the decision of the Court of Tax Appeals.

In his appeal, the Commissioner assigns the following errors:

I

"THE COURT OF TAX APPEALS ERRED IN NOT HOLDING THAT THE FIRST PROVISO IN SECTION 5 OF REPUBLIC ACT NO. 1435 INVOKED BY INSULAR LUMBER COMPANY AS LEGAL BASIS FOR ITS CLAIM FOR TAX REFUND, IS NULL AND VOID FOR BEING UNCONSTITUTIONAL.

II

"THE COURT OF TAX APPEALS ERRED IN NOT HOLDING THAT THE PARTIAL EXEMPTION IN FAVOR OF MINERS AND FOREST CONCESSIONAIRES UNDER REPUBLIC ACT NO. 1435 IS LIMITED

Supreme Court E-Library

TO ONLY FIVE YEARS COUNTED FROM JUNE 14, 1956, THE DATE OF APPROVAL AND EFFECTIVITY OF THE SAID ACT.

III

"THE COURT OF TAX APPEALS ERRED IN NOT HOLDING THAT INSULAR LUMBER COMPANY USED THE OILS AND FUELS IN QUESTION AFTER THE EXEMPTION IN FAVOR OF MINERS AND FOREST CONCESSIONAIRES HAD ALREADY LAPSED OR EXPIRED AND HENCE, NO LONGER IN FORCE.

IV

"THE COURT OF TAX APPEALS ERRED IN HOLDING THAT INSULAR LUMBER COMPANY IS ENTITLED TO THE TAX REFUND OF ₱10,560.20."

On the other hand, the Company, as appellant, has also assigned the following errors:

I

"THE RESPONDENT COURT ERRED IN RULING THAT THE PETITIONER IS NOT ENTITLED TO CLAIM A PARTIAL REFUND OF THE SPECIFIC TAX PAID ON THE MANUFACTURED OILS USED IN THE OPERATION OF ITS SAWMILL.

II

"THE RESPONDENT COURT ERRED IN HOLDING THAT PETITIONER'S CLAIM FOR REFUND OF THE SPECIFIC TAX PAID ON MANUFACTURED OILS USED DURING THE PERIOD FROM 1 JANUARY 1963 TO 29 APRIL 1963 HAD ALREADY PRESCRIBED.

III

"THE RESPONDENT COURT ERRED IN ORDERING THE RESPONDENT COMMISSIONER TO REFUND TO THE PETITIONER ONLY THE SUM OF ₱10,560.20; INSTEAD, IT SHOULD HAVE ORDERED THE REFUND OF ₱19,921.37 AS CLAIMED BY THE PETITIONER."

Appeal by the Commissioner

In the first assignment of error, the Commissioner contends that the first proviso in Section 5 of Republic Act No. 1435 is unconstitutional. In claiming the unconstitutionality of the aforesaid section, the Commissioner anchored its argument on Article VI, Section 21(1) of the 1935 Constitution which provides:

Supreme Court E-Library

"No bill which may be enacted unto a law shall embrace more than one subject which shall be expressed in the title of the bill."

The title of R.A. No. 1435 is "An Act to Provide Means for Increasing The Highway Special Fund." The Commissioner contends that the subject of R.A. No. 1435 was to increase Highway Special Fund. However, Section 5 of the Act deals with another subject which is the partial exemption of miners and loggers. And this partial exemption on which the Company based its claim for refund is clearly not expressed in the title of the aforesaid Act. More importantly, Section 5 provides for a decrease rather than an increase of the Highway Special Fund.

We find no merit in the argument. Republic Act No. 1435 deals with only one subject and proclaims just one policy, namely, the necessity for increasing the Highway Special Fund through the imposition of an increased specific tax on manufactured oils. The proviso in Section 5 of the law is in effect a partial exemption from the imposed increased tax. Said proviso, which has reference to specific tax on oil and fuel, is not a deviation from the general subject of the law. The primary purpose of the aforequoted constitutional provision is to prohibit duplicity in legislation the title of which might completely fail to apprise the legislators or the public of the nature, scope and consequences of the law or its operation.[2] This does not seem to this Court to have been ignored in the passage of Republic Act No. 1435 since, as the records of its proceedings bear out, a full debate on precisely the issue of whether its title reflects its complete subject was held by Congress which passed it.[3] Furthermore, in deciding the constitutionality of a statute alleged to be defectively titled, every presumption favors the validity of the Act. As is true in cases presenting other constitutional issues, the courts avoid declaring an Act unconstitutional whenever possible. Where there is any doubt as to the insufficiency of either the title, or the Act, the

---

[2] Del Rosario *vs.* Commission on Elections, 35 SCRA 367; Alalayan *vs.* National Power Corporation, 24 SCRA 172; Lidasan *vs.* Commission on Elections, 21 SCRA 496.

[3] See Congressional Record, House of Representatives, Vol. III, No. 67, p. 2098.

Supreme Court E-Library

legislation should be sustained.[4] In the incident on hand, this Court does not even have any doubt.

As regards the second and third assignment of errors, the Commissioner contends that the five-year limitation period for partial refund of specific tax paid for oil and fuel used in agriculture and aviation provided in Section 1 of Republic Act No. 1435 is also applicable to Section 5 of said Act which grants partial refund of specific tax for oil used by miners or forest concessionaires. Such being the case, the Commissioner said that the tax exemption already expired on June 14, 1961.

The pertinent portion of Section 1 of Republic Act No. 1435 provides:

"Section 1. Section one hundred and forty-two of the National Internal Revenue Code, as amended, is further amended to read as follows:

"Section 142: Specific tax on manufactured oils and other fuels.— On refined and manufactured mineral oils and motor fuels, there shall be collected the following taxes:

"(a) x x x
"(b) x x x
"(c) x x x
"(d) x x x

"Whenever any of the oils mentioned above are, during the five years from June eighteen, nineteen hundred and fifty-two, used in agriculture and aviation, fifty per centum of the specific tax paid thereon shall be refunded by the Commissioner of Internal Revenue upon submission of the following:

"1. A sworn affidavit of the producer and two disinterested persons proving that the said oils were actually used in agriculture, or in lieu thereof.

"2. Should the producers belong to any producers' association or federation, duly registered with the Securities and Exchange Commission, the affidavit of the president of the association or federation, attesting to the fact that the oils were actually used in agriculture."

---

[4] Sutherland, Statutory Construction, Vol. I, p. 295.

Supreme Court E-Library

Section 5 on the other hand provides:

"Section 5. . . . 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 Commissioner 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 National Internal Revenue Code: . . . ."

Based on the aforequoted provisions, it is very apparent that the partial refund of specific tax paid for oils used in agriculture and aviation is limited to five years while there is no time limit for the partial refund of specific tax paid for oils used by miners and forest concessionaires. We find no basis in applying the limitation of the operative period provided for oils used in agriculture and aviation to the provision on the refund to miners and forest concessionaires. It should be noted that Section 5 makes reference to subparagraphs 1 and 2 of Section 1 only for the purpose of prescribing the procedure for refund. This express reference cannot be expanded in scope to include the limitation of the period of refund. If the limitation of the period of refund of specific taxes paid on oils used in aviation and agriculture is intended to cover similar taxes paid on oil used by miners and forest concessionaires, there would have been no need of dealing with oil used in mining and forest concessions separately and Section 5 should very well have been included in Section 1 of Republic Act No. 1435, notwithstanding the different rate of exemption.

Appeal by the Company

Anent the first assignment of error, the Company contends that by express provision of its timber license, it is required to "maintain a modern sawmill or sawmills of sufficient capacity." Clearly, the Company said, the operation of the sawmill is not merely incidental to the operation of the forest concession but is indispensable thereto, or forms part thereof. Within the framework of the terms and conditions of the timber license, the cutting of timber and the processing of the felled logs by the sawmill constitute one, continuous and integrated operation such that one cannot exist independently of the other. The Company

Supreme Court E-Library

also relies on Section 5 of Republic Act No. 1435 wherein it is provided that "whenever any oils . . . are used by miners or forest concessionaires in their *operations,* they shall be entitled to claim a refund of 25% of the specific tax paid on said oils." The Company believes that the word *operations* include all activities of forest concessionaires which are indispensable to, or required in, the exploitation of their forest concessions and not limited to purely logging operations.

We agree with respondent court that the operation of sawmill is distinct from the operation of a forest concession. By the very nature of their operations, they are entirely two different business ventures. It is very clear from the language of Section 5 that only miners or forest concessionaires are given the privilege to claim the partial refund. Sawmill operators are excluded, because they need not be forest concessionaires, nor the latter, always are sawmill operators.

Where the provision of the law is clear and unambiguous, so that there is no occasion for the court's seeking legislative intent, the law must be taken as it is, devoid of judicial addition or subtraction.[5] Furthermore, the authorized partial refund under said section partakes of a nature of a tax exemption and therefore it cannot be allowed unless granted in the most explicit and categorical language. Well-settled is the rule that exemption from taxation is never presumed. For tax exemption to be recognized, the grant must be clear and expressed; it cannot be made to rest on vague implications.[6]

As regards prescriptive period in claiming refund, it was ruled by respondent court that the Company's cause of action for a partial refund of the specific tax paid on the oils used during the

---

[5] Acting Commissioner of Customs *vs.* Manila Electric Company, 77 SCRA 473.

[6] Davao Light and Power Co., Inc. *vs.* Commissioner of Customs, 44 SCRA 129, citing Resins, Inc. *vs.* Auditor General, 25 SCRA 754, Asturias Sugar Central Inc. *vs.* Commissioner of Customs, 29 SCRA 617, Commissioner of Internal Revenue *vs.* Visayan Electric Co., 23 SCRA 715, Commissioner of Internal Revenue *vs.* Guerrero, 21 SCRA 180, Esso Standard Eastern Inc. *vs.* Acting Commissioner of Customs, 18 SCRA 488, Borja *vs.* Collector of Internal Revenue, 3 SCRA 590.

Supreme Court E-Library

period from January 1, 1963 to April 29, 1963, had already prescribed. In making such pronouncement, respondent court relied on the doctrine laid down by this Court in the case of Commissioner of Internal Revenue *vs.* Insular Lumber Company[7] where the same Company herein invoked the same Section 5 of Republic Act No. 1435 to claim partial refund on specific tax paid on manufactured oils and fuels. This court, in dismissing the Company's claim for refund on the ground of prescription, said that in those cases where the tax sought to be refunded was illegally or erroneously collected, the running of the two year prescriptive period provided for in Section 306[8] of the National Internal Revenue Code starts from the date the tax was paid. But when the tax is legally collected, as in the present case, the two-year prescriptive period commences to run from the date of occurrence of the supervening cause which gave rise to the right of refund. The supervening cause in cases of this nature is the date of use of manufactured oils and fuels. Thus, the Court said that when the supervening cause happened in 1958 but the claim for refund was filed with the Commissioner on February 23, 1961 and the petition for review was filed in the Court of Tax Appeals on February 17, 1962, both later dates being more than two years after 1958, the right to claim refund of the tax paid has prescribed.

We agree with the respondent court. This Court has consistently adhered to the rule that the claim for refund should first be filed with the Commissioner of Internal Revenue, and the subsequent appeal to the Court of Tax Appeals must be instituted, within the said two-year period. If, however, the Commissioner takes time in

---

[7] 21 SCRA 1235.

[8] "Sec. 306. 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 excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue; 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 begun after the expiration of two years from the date of payment of the tax or penalty."

Supreme Court E-Library

deciding the claim, and the period of two years is about to end, the suit or proceeding must be started in the Court of Tax Appeals before the end of the two-year period without awaiting the decision of the Commissioner.[9] In the present case, it will be noted that although the claim for refund was filed with the Commissioner on December 22, 1964, the petition for review was filed by the Company only on April 29, 1965 praying for the refund of specific tax covering several periods starting from January 1, 1963. As found by respondent court, portions of the amount claimed by the Company were used during the period from January 1, 1963 to April 29, 1963. This Court is bound by said findings, the same being findings of fact.[10] Following, therefore, the ruling in Commissioner of Internal Revenue *vs.* Insular Lumber Company, *supra,* We hold that the Company is not entitled to the claim for refund for the oils used from January 1, 1963 to April 29, 1963, on the ground that the right to claim refund of the tax in question paid during the said periods has prescribed, the petition for review having been filed with the respondent court only on April 29, 1965, which was beyond the two-year prescriptive period provided for in Section 306 of the Tax Code.

WHEREFORE, judgment is hereby rendered affirming the decision of the Court of Tax Appeals. No Costs.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Makasiar, Aquino, Concepcion Jr., Fernandez, Guerrero, Abad Santos and *Melencio-Herrera, JJ.,* concur.

---

[9] Commissioner of Internal Revenue *vs.* Victorias Milling Company, Inc., 22 SCRA 12; Collector *vs.* Court of Tax Appeals, 1 SCRA 87; Gibbs *vs.* Collector, 107 Phil. 232; College of Oral and Dental Surgery *vs.* Court of Tax Appeals, 102 Phil. 912; P.J. Kenner & Co., Ltd. *vs.* Court of Tax Appeals, 92 Phil. 945.

[10] Acting Commissioner of Customs *vs.* Manila Electric Co., supra; Chui Hoi Horn *vs.* Court of Tax Appeals, 25 SCRA 809; Alhambra Cigar & Cigarette Mfg. Co. *vs.* Commissioner of Internal Revenue, 21 SCRA 1111; Balbas *vs.* Domingo, 21 SCRA 444.