Supreme Court E-Library

they were present during the gambling game, had witnessed the shooting but did not recognize the shooter because of the darkness but that they were certain that it was not the accused. The court below aptly remarked on his point, "if they could not recognize the malefactor because of the darkness, how can they say also with certitude, that it was not the accused?"

In accordance with recent jurisprudence, starting with People *vs.* Pantoja, L-18793, 11 October 1968, 25 SCRA 468, the amount of indemnification to the heirs of the deceased should be increased to P12,000.00.

FOR THE FOREGOING REASONS, the appealed decision is hereby affirmed, with the sole modification that the indemnity to the heirs of Eduardo Lacson be in the amount of P12,000.00. Costs against accused-appellant.

Concepcion, C.J., Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, and *Villamor, JJ.,* concur.

Dizon and *Makasiar, JJ.,* are on official leave.

[G.R. No. L-23272. November 26, 1970]

JOSE F. ZAMORA (Golden Taxicab), *petitioner, vs.* THE COURT OF TAX APPEALS and THE COMMISSIONER OF INTERNAL REVENUE, *respondents.*

SYLLABUS

1. **TAXATION; ADVANCE SALES TAX; AUTOMOBILE PARTS AND ACCESSORIES; IMPORTATIONS BY END-USERS SUBJECT TO 50% COMPENSATING TAX.**— Importations of automobile parts and accessories as completely knocked down parts by end-users, like herein petitioner, are subject to compensating tax at the rate of 50% of the gross money value thereof, as prescribed in Section 184(a) in relation to Section 190 of the National Internal Revenue Code, and not the reduced 7% rate, as provided in Section 186 of the same Code, which may be availed of only by importers who are engaged in the manufacture or assembly of automobiles.

Supreme Court E-Library

2. ID.; ID.; ID.: SECTION 184 (a), IN RELATION TO SECTIONS 186 AND 190, CONSTRUED.— Although Section 190 of the National Internal Revenue Code does not distinguish whether or not the importer is an automobile manufacturer or assembler, it should be noted, however, that "parts and accessories of automobiles" are subject to the 7% rate, under Section 186, by virtue only of the first proviso in subdivision (a) of Section 184, which limits the application of said Section 186 to "parts and accessories of automobiles imported as replacements or as completely knocked down parts for the assembly of automobiles x x x." This qualification is in consonance with the spirit and letter of Section 186, which provides that the rate therein fixed shall be "paid by the manufacturer or producer." It is not intended for the end-user or consumer. There would have been no reason to insert the aforementioned qualification, and the same would not have been made, had the purpose of the proviso been to apply Section 186 to the importation of parts and accessories of automobiles as completely knocked down parts, regardless of whether or not the importer was an automobile manufacturer or assembler.

3. ID.; ID.; ID.; IMPORTATIONS BY AUTOMOBILE MANUFACTURERS OR ASSEMBLERS SUBJECT TO 7% SALES TAX ONLY; REASON.— The application of the 7% advance sales tax prescribed in Section 186 of the National Internal Revenue Code was limited only to importations made by those engaged in the manufacture and assembly of automobiles to encourage the establishment of factories or plants for the manufacture or assembly of automobiles in the Philippines, to increase job opportunities for local laborers and mechanics and reduce the drain on our dollar reserve resulting from the purchase of foreign-made automobiles.

4. ESTOPPEL; DOCTRINE NOT APPLICABLE AGAINST THE GOVERNMENT; ERRONEOUS ASSESSMENT OF COMPENSATING TAX.— The 7% compensating tax applied to previous similar importations of the petitioner is not and cannot be controlling in the case at bar. Well-settled is the rule that errors committed by public officers cannot be set up as estoppel against the Government or bar its future action in accordance with law.

Supreme Court E-Library

APPEARANCES OF COUNSEL

Antonio Barredo for petitioner.

Solicitor General Arturo A. Alafriz, Solicitor Alejandro B. Afurong and *Special Atty. Corazon T. Malate* for respondents.

DECISION

CONCEPCION, *C.J.*:

Appeal taken by petitioner Jose F. Zamora from a decision of the Court of Tax Appeals upholding an assessment made against him by the Commissioner of Internal Revenue—hereinafter referred to as Respondent — in the sum of P23,103.85, as deficiency compensating tax, and ordering him to pay the same, as well as from a resolution of said Court denying Petitioner's motion for reconsideration of the aforementioned decision.

It appears that, in February 1958, Petitioner, who owns and operates a fleet of taxicabs known as Golden Taxicab, imported fifteen (15) units of Ford Consul Sedan, in completely knocked down (CKD) parts, for the use of his company. The importation was released from customs' custody upon payment by Petitioner of 7% of the gross selling price or value of the imported parts, as compensating tax thereon, and the filing of a bond to guarantee the payment of deficiency tax, in the event the shipment is subject to a 50% compensating tax. Sometime later, Respondent notified the Petitioner that the rate imposable upon his importation is 50% and requested settlement of the deficiency tax on the shipment in question, in such amount as may be computed by the Bureau of Customs. A reconsideration of the action thus taken by Respondent having been denied, Petitioner appealed, on January 7, 1960, to the Court of Tax Appeals. During the pendency of such appeal, or on February 15, 1961, Respondent assessed and demanded from Petitioner the payment of P23,103.85, as deficiency compensating tax on the aforementioned shipment, computed at the rate of 50% of its aforementioned value. In due course, thereafter, said Court rendered its decision upholding the contested assessment and ordering Petitioner to pay the sum of P23,103.85, as deficiency

Supreme Court E-Library

compensating tax. His motion for reconsideration of said decision having been denied, Petitioner filed the present petition for review.

The only question for our determination is whether the rate of compensating tax applicable to the importation in question is 50 *per centum* of the gross money value thereof, as prescribed in Section 184(a) of the National Internal Revenue Code, or 7 *per centum* of said value, as provided in Section 186 of the same Code. At the time material to the case at bar, the pertinent parts of these sections read as follows:

"SEC. 184. *Percentage tax on sales of jewelry, automobiles, toilet preparations, and others.*— There shall be levied, assessed, and collected once only on every original sale, barter, exchange, or similar transaction for nominal or valuable considerations intended to transfer ownership of, or title to, the articles herein below enumerated a tax equivalent to 50% of the gross value in money of the articles so sold, bartered, exchanged or transferred, such tax to be paid by the manufacturer or producer: x x x.

"(a) Automobile chassis and bodies, the selling price of which does not exceed seven thousand pesos; *Provided,* That where the selling price of an automobile exceeds seven thousand pesos but does not exceed ten thousand pesos the same shall be taxed at the rate of seventy-five *per centum* of such selling price: *And provided, further,* That where the selling price of an automobile exceeds ten thousand pesos the same shall be taxed at the rate of one hundred *per centum* of such selling price. A sale of automobile shall, for the purpose of this section, be considered to be a sale of the chassis and of the body together with parts and accessories with which the same are usually equipped: *Provided, however,* That parts and accessories of automobiles imported as replacements or as completely knocked down parts as well as locally manufactured parts and accessories for the assembly of automobiles shall be subject to tax under Section one hundred and eighty-six: *And provided, further,* That the total cost of such materials or parts on which tax has already been paid under Section one hundred and eighty-six, as duly established, shall be deductible from the gross selling price or gross value in money of the assembled or manufactured articles: x x x."

"SEC. 186. *Percentage tax on sales of other articles.*— There shall be levied, assessed and collected once only on every original sale,

Supreme Court E-Library

barter, exchange, and similar transaction either for nominal or valuable considerations, intended to transfer ownership of, or title to, the articles not enumerated in Sections one hundred and eighty-four and one hundred and eighty-five, a tax equivalent to seven *per centum* of the gross selling price or gross value in money of the articles so sold, bartered, exchanged, or transferred, such tax to be paid by the manufacturer or producer: *Provided,* That where the articles subject to tax under this section are manufactured out of materials likewise subject to tax under this section and Section one hundred and eighty-nine, the total cost of such materials, as duly established, shall be deductible from the gross selling price or gross value in money of such manufactured articles. x x x."

It is urged that the theory of Respondent, adopted by the Court of Tax Appeals—to the effect that, insofar as automobile parts and accessories are concerned, the rate of 7 *per centum* prescribed in Section 186 applies only to importers engaged in the manufacture or assembly of automobiles—is untenable, because importations similar to those involved in the present case, made by the Petitioner in the past, had uniformly been subjected to said rate, and because, in making the importation in dispute, he had relied on General Circular No. V-208 of the then Bureau of Internal Revenue, dated May 24, 1956, which is of the following tenor:

"GENERAL CIRCULAR NO. V-*208*

"To all internal revenue officers and others concerned:

"For the information and guidance of all internal revenue officers and others concerned, there is quoted hereunder an opinion of the Secretary of Finance contained in his letter to this Office dated May 24, 1956, regarding the advance sales tax collectible on importations of automobile, whether already assembled or chassis and bodies ready for mounting under Sections 184 and 186 of the National Internal Revenue Code, as follows:

> 'With reference to my letter to you dated February 24, 1956, regarding the advanced sales taxes which are applicable to imported automobiles, I wish to clarify and reiterate my view that importations of assembled automobiles for resale as well as importations of chassis and bodies ready for mounting, are subject to the advanced sales taxes prescribed under Sections 184 and 185 of the Tax Code.

Supreme Court E-Library

'It should be carefully noted that this refers to importations of automobiles already assembled and chassis and bodies ready for mounting. This does not refer to importations of parts and accessories for replacement or maintenance of automobiles or CKD component parts for the manufacture of automobiles. Such parts and accessories of automobiles are imported as raw materials and not as automobiles, and are consequently subject only to 7% sales tax under Section 186 of the Tax Code. The importation of automobile chassis and/or bodies ready for mounting, however, is to be considered as importation of automobiles and not of parts and accessories as may be inferred from Section 184(a) of the Tax Code.

'For the purposes of this letter, chassis and bodies may be defined as follows:

'(1) Chassis as applied to a motor car means: 'The rectangular metal framework, as distinguished from its body and seats, but including its accessories for propulsion, as the tanks, motor, etc., and general running gear.' (Kansas City Automobile School Co. *vs.* Holcker Elberg Mfg. Co., No. 182 S.W. 759, 761).

'(2) Body as applied to a motor car means: 'The metal shell, interior trim, seats, cowl, hood, fenders, grille, doors, windows and windshield, etc.'

'When a car is manufactured out of imported materials (parts and accessories), it shall be subject to the quarterly sales tax prescribed under either Section 184 or Section 185 of the Tax Code, after proper deductions have been allowed for the total cost of the parts and accessories on which sales tax had already been paid.

'Importations of automobiles, whether already assembled or chassis and bodies ready for mounting, come under Sections 184 and 185. Importations of automobile parts and accessories and CKD component parts come under Section 186.

'Please be guided accordingly in the implementation of my letter referred to above.'

"In view of the aforequoted opinion of the Secretary of Finance, imported automobiles, whether already assembled or chassis and bodies ready for mounting, shall be subject to the advance sales tax prescribed by Sections 184 and 185 of the National Internal Revenue

Supreme Court E-Library

Code based on the landed cost thereof, plus the corresponding mark up established by Section 183 (B) of the same Code. However, importations of automobile parts and accessories for replacement or maintenance of automobiles of CKD component parts for the manufacture of automobiles shall be subject to the advance sales tax prescribed by Section 186 of the National Internal Revenue Code based on the landed cost thereof, plus the 25% mark-up established by Section 183 (B) of the same Code. When a car is manufactured out of imported materials (parts and accessories), the gross selling price of the manufactured car, after proper deductions shall have been allowed for the total cost of the parts and accessories on which the advance sales tax has already been paid, shall be subject to the rate of the tax prescribed by Sections 184 and 185 of the National Internal Revenue Code.

" x x x x x x x x x."

This circular does not, however, bear out Petitioner's pretense. Indeed, as explicitly stated in the circular:

"x x x I wish to clarify and reiterate my view that importations of assembled automobiles for resale as well as importations of chassis and bodies ready for mounting, are subject to the advanced sales taxes prescribed under Sections 184 and 185 of the Tax Code.

"It should be carefully noted that this refers to importations of automobiles already assembled and chassis and bodies ready for mounting. This does *not* refer to importations of parts and accessories or CKD component parts *for the manufacture of automobiles*. x x x."

" x x x (I)mportations of automobile parts and accessories for replacement or maintenance of automobiles of CKD component parts *for the manufacture of automobiles* shall be subject to the *advance sales tax prescribed by Section 186* of the National Internal Revenue Code *based on the landed cost thereof,* plus the 25% mark-up established by Section 183(B) of the same Code."[1]

It is not contended by Petitioner that the shipment in question has been imported "for the manufacture of automobiles." Accordingly, he was not justified in relying upon the circular in support of his contention.

---

[1] Italics ours.

Supreme Court E-Library

Upon the other hand, in his opinion No. 44, Series of 1963, the Secretary of Justice expressed the following view:

"The Bureau of Internal Revenue holds the view that the reduced 7% sales tax rate may be availed of *only by car assemblers and manufacturers* who import parts and accessories *for the purpose of assembling cars* and that where the said parts and accessories are imported by one who is *not* an assembler or manufacturer the tax that should be paid is the usual rate of *50%*, but where the importer is also the end-user, as in the instant case, the tax due is the *compensating* and *not* the advance sales tax. On the other hand, the Muñoz (Hi) Motors, Inc., asserts that the importation in question should be entitled to the reduced tax rate of 7% on the ground that it comes within the purview of the underscored proviso of Section 184(a) there being an importation of completely knocked-down parts intended for the assembly of automobiles.

"After an examination of the above-quoted provisions, we have come to the conclusion that the view of the Bureau of Internal Revenue is the *correct* one. According to the first paragraph of Section 184 'such tax to [shall] be paid by the *manufacturer or producer.*' Hence, the reduced tax payable pursuant to the proviso under consideration of paragraph (a) of the same section should be deemed to have been provided *for the benefit of the said 'manufacturer or producer.'*

"This view finds ample support in the conference report, quoted below, of the committee which prepared House Bill No. 5809 (now Republic Act No. 1612):

> 'Report consolidates into one paragraph all provisions covering tax on automobile chassis and bodies, so as to avoid confusion in the manner and rate of taxing locally-assembled cars. With that, Mr. President, there has been confusion in the manner of imposing tax on assembled cars here. The spare parts were made to pay taxes, and when the assembled cars were sold, a luxury tax is imposed on the assembled cars, so that in effect, the *industry* is paying two kinds of taxes. With this conference report, *we consolidated all these provisions, so that the tax paid on spare parts are deductible when these parts are assembled into finished cars. Otherwise, the assembling industry here would be paying two kinds of taxes,* which is contrary to the basic philosophy of our taxation system; and second, with that kind of double taxation, these cars would have to be sold at exhorbitant prices. x x x' (Senate Congressional Record, July 11, 1956, p. 305; Italics supplied.)'

Supreme Court E-Library

"It is quite evident that it was the legislative purpose to do away with the practice then prevalent in taxing twice locally assembled cars. A tax was collected initially on the spare parts and accessories, and another on the assembled car when it was sold. Pursuant to the amendment, the tax paid on the spare parts and accessories would be 'deductible when these parts are assembled into finished cars.' *End-users who are not car assemblers or manufacturers do not fall within the purview of this amendment since they would be required to pay only the tax assessable on the CKD parts and accessories.*

"Besides, the interpretation urged by the Muñoz (Hi) Motors, Inc., would result in gross inequality in the taxation of the same article. A car locally manufactured from spare parts and accessories imported by one who is not an assembler or manufacturer, would be subject only to the 7% tax and no more. On the other hand, if the spare parts were imported by an assembler or manufacturer, besides being subject to the 7% tax, the difference in value between the spare parts and the finished product would still be subject to the regular rate of tax, 50% or more, as the case may be. This is a situation which could not have been within the legislative contemplation. Furthermore, *this would indirectly open the door to circumvention of the law by the simple expedient of making it appear that the end-user, and not the assembler or manufacturer, is the importer of the spare parts and accessories.*

"It is stated that during the era of import and exchange controls the Central Bank limited the importation of CKD units to car assemblers and did not allow their importation by ordinary importers and end-users. (See Letter of Munoz (Hi) Motors, Inc. to the BIR, dated July 18, 1962.) This bolsters the conclusion that *the reduced tax rate of 7% may be availed of only by importers who are car assemblers or manufacturers.* Republic Act No. 1612 was passed during this time of controls and statutes should be construed in the light of contemporary events existing at the time of their passage and not in the light of subsequent events. (See 82 CJS 739-743; 50 Am. Jur. 276-277.)"[2]

It is argued that Section 190 of the National Internal Revenue Code "does not make a distinction between an importer who is a manufacturer or car assembler and an importer who is not a manufacturer or assembler." However, "parts and accessories of automobiles" are subject to the 7% rate, under Section 186,

[2] Italics ours.

Supreme Court E-Library

by virtue only of the first proviso in subdivision (a) of Section 184, which limits the application of said Section 186 to "parts and accessories of automobiles imported as replacements or as completely knocked down parts *for the assembly of automobiles* x x x ." Indeed, this qualification is in consonance with the spirit and letter of Section 186, which provides that the rate therein fixed shall be "paid by the *manufacturer or producer*." In other words, it is not intended for the end-user or consumer. There would have been no reason to insert the aforementioned qualification, and the same would not have been made, had the purpose of the proviso been to apply Section 186 to the importation of parts and accessories of automobiles as completely knocked down parts, regardless of whether or not the importer was an automobile manufacturer or assembler. The view taken in the appealed decision is further bolstered up by the subsequent proviso, in Section 184 (a), to the effect that "the total cost of such materials or parts *on which tax has already been paid under Section one hundred and eighty-six* x x x shall be deductible from the gross selling price or gross value in money of the *assembled* or *manufactured* articles x x x."

Then, too, it is not difficult to understand why the application of the 7 *per centum* rate was limited only to importations made by those engaged in the manufacture and assembly of automobiles — the Government wanted to encourage the establishment of factories or plants for the manufacture or assembly of automobiles in the Philippines, to increase job opportunities for local laborers and mechanics and reduce the drain or our dollar reserve resulting from the purchase of foreign-made automobiles.

Needless to say, the 7% compensating tax applied to previous similar importations of the Petitioner is not and cannot be controlling in the case at bar. Well-settled is the rule that errors committed by public officers can not be set up as estoppel

Supreme Court E-Library

against the Government or bar its future action in accordance with law.[3]

WHEREFORE, the appealed decision is hereby affirmed, with costs against Petitioner herein.

IT IS SO ORDERED.

Reyes, J.B.L., Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee and *Villamor, JJ.*, concur.
Barredo, J., took no part.
Dizon and *Makasiar, JJ.*, are on leave.

[G.R. No. L-24902. November 26, 1970]

THE PHILIPPINE BRITISH ASSURANCE CO., INC., *petitioner, vs.* LINO MANGUNE, MACARIO CAPILI, ALFREDO RIVERA, ERNESTO MANGUNE, PABLO LEYBA, DESIDERIO AZUELA, JOSE MAGALLANES, ISABELO VALERIO, LEOPOLDO VILLEGAS, MARCIANO DE LA CRUZ, FERNANDO PEGA, SY KAP PRINTING PRESS and THE HON. PEDRO PELAEZ, HEARING OFFICER OF THE REGIONAL OFFICE NO. 4 OF THE WORKMEN'S COMPENSATION COMMISSION, *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; WORKMEN'S COMPENSATION

---

[3] Government *v.* Monte de Piedad, 35 Phil. 728; Pineda *v.* Court of First Instance, 52 Phil. 803; Estate of de la Viña *v.* Government, 65 Phil. 262; Cu Unjieng *v.* Board of Tax Appeals, 100 Phil. 1; Hilado *v.* Collector of Internal Revenue, 100 Phil. 288, 295; Canlubang *v.* Standard Alcohol Co., L-10887, April 16, 1958; Genato *v.* Court of Tax Appeals, 104 Phil. 615, 621; Philippine American Drug Co. *v.* Collector of Internal Revenue, 106 Phil. 161, 167-168; Lewin *v.* Galang, 60 O.G. 7366; Visayan Cebu Terminal Co. *v.* Commissioner of Internal Revenue, L-19530 & L-19444, Feb. 27, 1965.