Supreme Court E-Library

SECOND DIVISION

[G.R. No. 90776. June 3, 1991]

PHILIPPINE PETROLEUM CORPORATION, *petitioner*, *vs.* **MUNICIPALITY OF PILILLA, RIZAL, Represented by MAYOR NICOMEDES F. PATENIA,** *respondent*.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; ADMINISTRATIVE REGULATIONS; MUST BE IN HARMONY WITH THE PROVISIONS OF LAW. —** Well-settled is the rule that administrative regulations must be in harmony with the provisions of the law. In case of discrepancy between the basic law and an implementing rule or regulation, the former prevails.

2. **TAXATION; TAX; TAX ON BUSINESS; DISTINCT FROM TAX ON THE ARTICLE ITSELF. —** A tax on business is distinct from a tax on the article itself.

3. **ID.; POWER TO TAX; LOCAL GOVERNMENT; ORDAINED BY THE CONSTITUTION. —** The exercise by local governments of the power to tax is ordained by the present Constitution.

4. **ID.; ID.; ID.; ID.; LIMITATION. —** Under Section 5, Article X of the 1987 Constitution, only guidelines and limitations that may be established by Congress can define and limit such power of local governments.

5. **ID.; ID.; WAIVER OF TAX MAY NOT BE EXERCISED BY A MUNICIPAL MAYOR; RATIONALE. —** The trial court did not err in holding that "since the power to tax includes the power to exempt thereof which is essentially a legislative prerogative, it follows that a municipal mayor who is an executive officer may not unilaterally withdraw such an expression of a policy thru the enactment of a tax." The waiver partakes of the nature of an exemption. It is an ancient rule that exemptions from taxation are construed in strictissimi juris against the taxpayer and liberally in favor of the taxing authority. Tax exemptions are looked upon with disfavor. Thus, in the absence of a clear and express exemption from the payment of said fees, the waiver cannot be recognized.

Supreme Court E-Library

6. ID.; LOCAL TAX CODE; COLLECTION OF LOCAL TAXES; PRESCRIPTIVE PERIOD PROVIDED BY THE CIVIL CODE. — However, since the Local Tax Code does not provide the prescriptive period for collection of local taxes, Article 1143 of the Civil Code applies. Said law provides that an action upon an obligation created by law prescribes within ten (10) years from the time the right of action accrues.

APPEARANCES OF COUNSEL

Quiason, Makalintal, Barot, Torres & Ibarra for petitioner.

D E C I S I O N

PARAS, *J.*:

This is a petition for *certiorari* seeking to annul and set aside: (a) the March 17, 1989 decision* of the Regional Trial Court, Branch 80, Tanay, Rizal in Civil Case No. 057-T entitled, "*Municipality of Pililla, Rizal, represented by Mayor Nicomedes F. Patenia vs. Philippine Petroleum Corporation*," (PPC for short) upholding the legality of the taxes, fees and charges being imposed in Pililla under Municipal Tax Ordinance No. 1 and directing the herein petitioner to pay the amount of said taxes, fees and charges due the respondent: and (b) the November 2, 1989 resolution of the same court denying petitioner's motion for reconsideration of the said decision.

The undisputed facts of the case are:

Petitioner, Philippine Petroleum Corporation (PPC for short) is a business enterprise engaged in the manufacture of lubricated oil basestock which is a petroleum product, with its refinery plant situated at Malaya, Pililla, Rizal, conducting its business activities within the territorial jurisdiction of the Municipality of Pililla, Rizal and is in continuous operation up to the present (*Rollo*, p. 60). PPC owns and maintains an oil refinery including forty-nine storage tanks for its petroleum products in Malaya, Pililla, Rizal (*Rollo*, p. 12).

---

* Penned by Judge Felipe Almazan.

Supreme Court E-Library

Under Section 142 of the National Internal Revenue Code of 1939, manufactured oils and other fuels are subject to specific tax.

On June 28, 1973, Presidential Decree No. 231, otherwise known as the Local Tax Code was issued by former President Ferdinand E. Marcos governing the exercise by provinces, cities, municipalities and *barrios* of their taxing and other revenue-raising powers. Sections 19 and 19 (a) thereof, provide among others, that the *municipality may impose taxes on business*, except on those for which fixed taxes are provided *on manufacturers, importers or producers of any article of commerce of whatever kind or nature*, including brewers, distillers, rectifiers, repackers, and compounders of liquors, distilled spirits and/or wines in accordance with the schedule listed therein.

The Secretary of Finance issued Provincial Circular No. 26-73 dated December 27, 1973, directed to all provincial, city and municipal treasurers to refrain from collecting any local tax imposed in old or new tax ordinances in the business of manufacturing, wholesaling, retailing, or dealing in petroleum products subject to the specific tax under the National Internal Revenue Code (*Rollo*, p. 76).

Likewise, Provincial Circular No. 26 A-73 dated January 9, 1973 was issued by the Secretary of Finance instructing all City Treasurers to refrain from collecting any local tax imposed in tax ordinances enacted before or after the effectivity of the Local Tax Code on July 1, 1973, on the businesses of manufacturing, wholesaling, retailing, or dealing in, petroleum products subject to the specific tax under the National Internal Revenue Code (*Rollo*, p. 79).

Respondent Municipality of Pililla, Rizal, through Municipal Council Resolution No. 25, S-1974 enacted Municipal Tax Ordinance No. 1, S-1974 otherwise known as "The Pililla Tax Code of 1974" on June 14, 1974, which took effect on July 1, 1974 (*Rollo*, pp. 181-182). Sections 9 and 10 of the said ordinance imposed a tax on business, except for those for which fixed

Supreme Court E-Library

taxes are provided in the Local Tax Code on manufacturers, importers, or producers of any article of commerce of whatever kind or nature, including brewers, distillers, rectifiers, repackers, and compounders of liquors, distilled spirits and/or wines in accordance with the schedule found in the Local Tax Code, as well as mayor's permit, sanitary inspection fee and storage permit fee for flammable, combustible or explosive substances (*Rollo*, pp. 183-187), while Section 139 of the disputed ordinance imposed *surcharges* and interests on unpaid taxes, fees or charges (*Ibid*., p. 193).

On March 30, 1974, Presidential Decree No. 426 was issued amending certain provisions of P.D. 231 but retaining Sections 19 and 19 (a) with adjusted rates and 22(b).

On April 13, 1974, P.D. 436 was promulgated increasing the specific tax on lubricating oils, gasoline, bunker fuel oil, diesel fuel oil and other similar petroleum products levied under Sections 142, 144 and 145 of the National Internal Revenue Code, as amended, and granting provinces, cities and municipalities certain shares in the specific tax on such products *in lieu of local taxes imposed on petroleum products*.

The questioned Municipal Tax Ordinance No. 1 was reviewed and approved by the Provincial Treasurer of Rizal on January 13, 1975 (*Rollo*, p. 143), but was not implemented and/or enforced by the Municipality of Pililla because of its having been suspended up to now in view of Provincial Circular Nos. 26-73 and 26 A-73.

Provincial Circular No. 6-77 dated March 13, 1977 was also issued directing all city and municipal treasurers to refrain from collecting the so-called storage fee on flammable or combustible materials imposed under the local tax ordinance of their respective locality, said fee partaking of the nature of a strictly revenue measure or service charge.

On June 3, 1977, P.D. 1158 otherwise known as the National Internal Revenue Code of 1977 was enacted, Section 153 of which specifically imposes specific tax on refined and manufactured mineral oils and motor fuels.

Supreme Court E-Library

Enforcing the provisions of the above-mentioned ordinance, the respondent filed a complaint on April 4, 1986 docketed as Civil Case No. 057-T against PPC for the collection of the business tax from 1979 to 1986; storage permit fees from 1975 to 1986; mayor's permit and sanitary inspection fees from 1975 to 1984. PPC, however, have already paid the last-named fees starting 1985 (*Rollo*, p. 74).

After PPC filed its answer, a pre-trial conference was held on August 24, 1988 where the parties thru their respective counsel, after coming up with certain admissions and stipulations agreed to the submission of the case for decision based on documentary evidence offered with their respective comments (*Rollo*, p. 41).

On March 17, 1987, the trial court rendered a decision against the petitioner, the dispositive part of which reads as follows:

"WHEREFORE, premises considered, this Court hereby renders judgment in favor of the plaintiffs as against the defendants thereby directing the defendants to 1) pay the plaintiffs the amount of ₱5,301,385.00 representing the Tax on Business due from the defendants under Sec. 9 (A) of the Municipal Tax Ordinance of the plaintiffs for the period from 1979 to 1983 inclusive plus such amount of tax that may accrue until final determination of case; 2) to pay storage permit fee in the amount of ₱3,321,730.00 due from the defendants under Sec. 10, par. z (13) (b) (1-c) of the Municipal Tax Ordinance of the plaintiffs for the period from 1975 to 1936 inclusive plus such amount of fee that may accrue until final determination of case; 3) to pay Mayor's Permit Fee due from the defendants under Sec. 10, par. (P)(2) of the Municipal Tax Ordinance of the plaintiffs from 1975 to 1984 inclusive in the amount of ₱12,120.00 plus such amount of fee that may accrue until final determination of the case; and 4) to pay sanitary inspection fee in the amount of ₱1,010.00 for the period from 1975 to 1984 plus such amount that may accrue until final determination of case and 5) to pay the costs of suit.

SO ORDERED." (*Rollo*, pp. 49-50)

PPC moved for reconsideration of the decision, but this was denied by the lower court in a resolution of November 2, 1989, hence, the instant petition.

Supreme Court E-Library

The Court resolved to give due course to the petition and required both parties to submit simultaneous memoranda (June 21, 1990 Resolution; *Rollo*, p. 305).

PPC assigns the following alleged errors:

1. THE RTC ERRED IN ORDERING THE PAYMENT OF THE BUSINESS TAX UNDER SECTION 9 (A) OF THE TAX ORDINANCE IN THE LIGHT OF PROVINCIAL CIRCULARS NOS. 26-73 AND 26 A-73;
2. THE RTC ERRED IN HOLDING THAT PETITIONER WAS LIABLE FOR THE PAYMENT OF STORAGE PERMIT FEE UNDER SECTION 10 Z (13) (b) (1-c) OF THE TAX ORDINANCE CONSIDERING THE ISSUANCE OF PROVINCIAL CIRCULAR NO. 6-77;
3. THE RTC ERRED IN FAILING TO HOLD THAT RESPONDENTS COMPUTATION OF TAX LIABILITY HAS ABSOLUTELY NO BASIS;
4. THE RTC ERRED IN ORDERING THE PAYMENT OF MAYOR'S PERMIT AND SANITARY INSPECTION FEES CONSIDERING THAT THE SAME HAS BEEN VALIDLY AND LEGALLY WAIVED BY THE MAYOR;
5. THE RTC ERRED IN FAILING TO HOLD THAT THE TAXES AND DUTIES NOT COLLECTED FROM PETITIONER PRIOR TO THE FIVE (5) YEAR PERIOD FROM THE FILING OF THIS CASE ON APRIL 4, 1986 HAS ALREADY PRESCRIBED.

The crucial issue in this case is whether or not petitioner PPC whose oil products are subject to specific tax under the NIRC, is still liable to pay (a) tax on business and (b) storage fees, considering Provincial Circular No. 6-77; and mayor's permit and sanitary inspection fee unto the respondent Municipality of Pililla, Rizal, based on Municipal Ordinance No. 1.

Petitioner PPC contends that: (a) Provincial Circular No. 26-73 declared as contrary to national economic policy the imposition of local taxes on the manufacture of petroleum products as they are already subject to specific tax under the National Internal Revenue Code; (b) the above declaration covers not only old tax ordinances but new ones, as well as those which

Supreme Court E-Library

may be enacted in the future; (c) both Provincial Circulars (PC) 26-73 and 26 A-73 are still effective, hence, unless and until revoked, any effort on the part of the respondent to collect the suspended tax on business from the petitioner would be illegal and unauthorized; and (d) Section 2 of P.D. 436 prohibits the imposition of local taxes on petroleum products.

PC No. 26-73 and PC No. 26 A-73 suspended the effectivity of local tax ordinances imposing a tax on business under Section 19 (a) of the Local Tax Code (P.D. No. 231), with regard to manufacturers, retailers, wholesalers or dealers in petroleum products subject to the specific tax under the National Internal Revenue Code (NIRC), in view of Section 22 (b) of the Code regarding non-imposition by municipalities of taxes on articles, subject to specific tax under the provisions of the NIRC.

There is no question that Pililla's Municipal Tax Ordinance No. 1 imposing the assailed taxes, fees and charges is valid especially Section 9 (A) which according to the trial court "was lifted *in toto* and/or is a literal reproduction of Section 19 (a) of the Local Tax Code as amended by P.D. No. 426." It conforms with the mandate of said law.

But P.D. No. 426 amending the Local Tax Code is deemed to have repealed Provincial Circulars Nos. 26-73 and 26 A-73 issued by the Secretary of Finance when Sections 19 and 19 (a), were carried over into P.D. No. 426 and no exemptions were given to manufacturers, wholesalers, retailers, or dealers in petroleum products.

Well-settled is the rule that administrative regulations must be in harmony with the provisions of the law. In case of discrepancy between the basic law and an implementing rule or regulation, the former prevails (*Shell Philippines, Inc. v. Central Bank of the Philippines*, 162 SCRA 628 [1988]).

As aptly held by the court *a quo*:

"Necessarily, there could not be any other logical conclusion than that the framers of P.D. No. 426 really and actually intended to terminate the effectivity and/or enforceability of Provincial Circulars

Supreme Court E-Library

Nos. 26-73 and 26 A-73 inasmuch as clearly these circulars are in contravention with Sec. 19 (a) of P.D. 426 — the amendatory law to P.D. No. 231. That intention to terminate is very apparent and in fact it is expressed in clear and unequivocal terms in the effectivity and repealing clause of P.D. 426 x x x."

Furthermore, while Section 2 of P.D. 436 prohibits the imposition of local taxes on petroleum products, said decree did not amend Sections 19 and 19 (a) of P.D. 231 as amended by P.D. 426, wherein the municipality is granted the right to levy taxes on business of manufacturers, importers, producers of any article of commerce of whatever kind or nature. A tax on business is distinct from a tax on the article itself. Thus, if the imposition of tax on business of manufacturers, *etc*. in petroleum products contravenes a declared national policy, it should have been expressly stated in P.D. No. 436.

The exercise by local governments of the power to tax is ordained by the present Constitution. To allow the continuous effectivity of the prohibition set forth in PC No. 26-73 (1) would be tantamount to restricting their power to tax by mere administrative issuances. Under Section 5, Article X of the 1987 Constitution, only guidelines and limitations that may be established by Congress can define and limit such power of local governments. Thus:

"Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy x x x."

Provincial Circular No. 6-77 enjoining all city and municipal treasurers to refrain from collecting the so-called storage fee on flammable or combustible materials imposed in the local tax ordinance of their respective locality frees petitioner PPC from the payment of storage permit fee.

The storage permit fee being imposed by Pililla's tax ordinance is a fee for the installation and keeping in storage of any flammable, combustible or explosive substances. Inasmuch as said storage makes use of tanks owned not by the municipality of Pililla, but

Supreme Court E-Library

by petitioner PPC, same is obviously not a charge for any service rendered by the municipality as what is envisioned in Section 37 of the same Code.

Section 10 (z) (13) of Pililla's Municipal Tax Ordinance No. 1 prescribing a permit fee is a permit fee allowed under Section 36 of the amended Code.

As to the authority of the mayor to waive payment of the mayor's permit and sanitary inspection fees, the trial court did not err in holding that "since the power to tax includes the power to exempt thereof which is essentially a legislative prerogative, it follows that a municipal mayor who is an executive officer may not unilaterally withdraw such an expression of a policy thru the enactment of a tax." The waiver partakes of the nature of an exemption. It is an ancient rule that exemptions from taxation are construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority (*Esso Standard Eastern, Inc. v. Acting Commissioner of Customs*, 18 SCRA 488 [1966]). Tax exemptions are looked upon with disfavor (*Western Minolco Corp. v. Commissioner of Internal Revenue*, 124 SCRA 121 [1983]). Thus, in the absence of a clear and express exemption from the payment of said fees, the waiver cannot be recognized. As already stated, it is the law-making body, and not an executive like the mayor, who can make an exemption. Under Section 36 of the Code, a permit fee like the mayor's permit, shall be required before any individual or juridical entity shall engage in any business or occupation under the provisions of the Code.

However, since the Local Tax Code does not provide the prescriptive period for collection of local taxes, Article 1143 of the Civil Code applies. Said law provides that an action upon an obligation created by law prescribes within ten (10) years from the time the right of action accrues. The Municipality of Pililla can therefore enforce the collection of the tax on business of petitioner PPC due from 1976 to 1986, and NOT the tax that had accrued prior to 1976.

Supreme Court E-Library

PREMISES CONSIDERED, with the MODIFICATION that business taxes accruing PRIOR to 1976 are not to be paid by PPC (because the same have prescribed) and that storage fees are not also to be paid by PPC (for the storage tanks are owned by PPC and not by the municipality, and therefore cannot be a charge for service by the municipality), the assailed DECISION is hereby AFFIRMED.

SO ORDERED.

Melencio-Herrera (Chairman), Padilla, and *Regalado, JJ.*, concur.

Sarmiento, J., on leave.

FIRST DIVISION

[G.R. No. 91901. June 3, 1991]

SPOUSES LEONCIO G. CIFRA and AURORA R. JONGCO-CIFRA, *petitioners, vs.* **COURT OF APPEALS and MANUEL G. YU CHUA,** *respondents.*

SYLLABUS

CIVIL LAW; CONTRACTS; INTERPRETATION OF; STIPULATION IN CASE AT BAR, LAW BETWEEN THE PARTIES.— A reading of the subject contract which the parties labeled as "Earnest money" shows that it is an agreement to sell the real property described therein for the amount of ₱1.1M with assumption of the ₱40,000.00 mortgage, by which ₱5,000.00 was paid upon signing of the agreement by private respondent to petitioner as earnest money, which is part of the consideration. The balance of the consideration shall be paid upon the removal of the tenant or occupant from the premises and upon the execution of the deed of absolute sale. In the addendum to the agreement it is stipulated that in case the buyer fails to purchase the property after the seller formally