

FIRST DIVISION

[G.R. NO. 146747, August 29, 2005]

**MANILA ELECTRIC COMPANY, PETITIONER, VS. IMPERIAL TEXTILE MILLS, INC.,
RESPONDENT.**

DECISION

CARPIO, J.:

The Case

This is a petition for review^[1] to set aside the Decision^[2] dated 14 November 2000 of the Court of Appeals ("appellate court") in CA-G.R. CV No. 49465. The appellate court affirmed the Decision^[3] dated 24 June 1994 issued by Branch 17 of the Regional Trial Court of Malolos, Bulacan ("trial court") in Civil Case No. 170-M-89. The trial court ruled that the interest charges imposed by Manila Electric Company ("Meralco") against Imperial Textile Mills, Inc. ("ITM") in the assignment of ITM's tax credit certificates are void. The trial court also ruled that Meralco's claims for differential billing for ITM's unregistered energy consumption are void.

The Facts

The facts as found by the appellate court are as follows:

ITM is a pioneer textile manufacturer which produces textiles and allied products, with its factory situated on a 20-hectare lot in Marilao, Bulacan. As a textile manufacturing exporter registered with the Board of Investment, it is entitled to tax refunds based on tax rebates as an incentive to a manufacturer of registered export products. In its operations, ITM uses electricity which is supplied by Meralco. Meralco accepts from its customers certificates of tax credits which it applies as payment for their electric bills.

On September 8, 1987, Meralco and ITM entered into an agreement whereby Meralco agreed to the proposal of ITM for the assignment of its tax credits in payment of its electric bills.

However, after the corresponding deeds of assignment had been signed, Meralco began sending conflicting statements of accounts to ITM. Meralco has applied a portion of the tax credits for the payment of supposed accumulated interest charges at the rate of 16.75% to 17.5% per annum, thereby diminishing the value of the assigned tax credits. ITM contested the payment of the interest charges. It insisted that Meralco should apply the tax credits to the payment of its accounts without any interest deduction charges.

On November 18, 1987, Meralco presented a "differential billing" to ITM in the amount of P2,531,500.45 corresponding to the "unregistered energy consumption" of ITM for the period of December 27, 1985 to November 18, 1987 as a result of ITM's alleged tampering with the metering device in its premises. Meralco claimed that "the current leads for all elements were found with pricked holes near the BCTs." ITM denied the charge of tampering. Nevertheless, Meralco proceeded to disconnect the power supply to ITM for its failure to pay the differential billing. ITM was thus constrained to make a fast arrangement with Meralco for the immediate restoration of electricity to keep the plant in operation. ITM paid the amount of P506,300.09 to Meralco under protest and undertook to pay the balance on installments of P226,218.88 per month.

On February 19, 1988, Meralco conducted another inspection and claimed to have discovered another instance of tampering. It demanded payment from ITM of a differential billing of P1,707,051.47 for the period January 22, 1986 to February 19, 1988, with a threat to disconnect ITM's electric service if the same was not paid. ITM again denied the charge of tampering. It blamed Meralco for not installing a single metering system in the ITM premises, as had been previously agreed in a court-approved compromise in another case, to obviate

charges of tampering.

On March 20, 1989, Meralco informed ITM that it had an outstanding bill in the amount of P6,929,001 which included interest charges and other charges for alleged violation of their contract.

Thereupon, ITM filed a complaint against Meralco for injunction, specific performance and damages, with a prayer for a temporary restraining order. It prayed that Meralco be ordered to return to ITM all interest deductions on its tax credits and to disregard the differential billings as without basis. It also asked for the award of damages and attorney's fees.^[4]

The Ruling of the Trial Court

On 24 May 1993, the trial court issued an order stating that the case is deemed submitted for decision for Meralco's failure to file its formal offer of evidence within the reglementary period prescribed in the 8 February 1993 order. On Meralco's motion for reconsideration, the trial court admitted Meralco's exhibits and offer of evidence in an order dated 8 June 1993. On 24 June 1994, the trial court decided in favor of ITM. The trial court held that:

WHEREFORE, judgment is hereby rendered in favor of [ITM] and against [Meralco] ordering the following:

- a. The interest charges unilaterally imposed by [Meralco] against [ITM] in the assignment of its tax credit certificates [are] hereby declared null and void for lack of legal basis. The amount of P3,814,816.61 imposed and collected by [Meralco] by way of interest charges shall be applied to future electrical bills of [ITM] in favor of [Meralco];
- b. The claim of [Meralco] for Differential Billing in the amount of P2,531,500.45 under Account No. 9496-1422-18 is hereby declared null and void for lack of legal and/or factual basis;
- c. The amount of deposit made by [ITM] under protest pursuant to a Promissory Note in the amount of P506,300.09 and such other deposits made in compliance therewith, shall be applied to the future electric bills of [ITM] in favor of [Meralco];
- d. The claim of [Meralco] for Differential Billing in the amount of P1,707,051.47 under Account No. 9496-1622-16 is likewise hereby declared null and void for want of legal and/or factual basis; and
- e. [Meralco] is hereby ordered to pay a reasonable amount of P50,000 as and for attorney's fees.

The counterclaim of Meralco is hereby dismissed for lack of legal and/or factual basis.

SO ORDERED.^[5]

Meralco filed its notice of appeal to the appellate court on 29 July 1994.

The Ruling of the Appellate Court

On 14 November 2000, after reviewing both parties' claims, the appellate court dismissed the appeal and affirmed the trial court's decision.^[6]

The appellate court found that there was nothing in the 8 September 1987 agreement between Meralco and ITM that imposed on ITM the obligation to pay interest charges on its electric bills. The appellate court summarized the agreement thus:

The agreement simply stipulates: *first*, that ITM will pay its electric bills regularly when they become due, and *second*, ITM's tax credits will be applied to its electric bills when the tax credits have already been assigned to Meralco and the corresponding deeds of assignment have been approved by all government agencies concerned.^[7]

The appellate court also found no basis to hold ITM liable for the payment of differential billings to Meralco. The appellate court found that:

The presence of pricked holes on the secondary lead wires near the BCTs (bushing current transformer), for lack of substantial evidence, cannot be imputed to ITM. Notably, Meralco inspectors have not found any shorting device in ITM's plant. The argument of Meralco that even without the presence of any shorting pin, the circumstance (meaning, the presence of the "pricked holes") nonetheless shows tampering for the purpose of preventing the accurate registration of electrical consumption, is purely conjectural. In fact, as testified to by Vicente Saria, a Meralco inspector, without a shorting device, the consumption would still be normal even if there are pricked holes on the lead wires.^[8]

In addition, the appellate court also observed that after Meralco inspected and corrected ITM's electric meters, there was even a reduction in ITM's recorded electric consumption.

Issues

Meralco states that the appellate court seriously erred in affirming the trial court's ruling that:

1. Meralco did not have basis to impose the subject "interest charges";
2. Meralco did not have basis to recover from ITM the P2,531,500.45 covered by the subject differential bill under Account No. 9496-1422-18;
3. Meralco did not have basis to recover from ITM the P1,707,051.47 covered by the subject differential bill under Account No. 9496-1622-16;
4. Meralco should apply ITM's P506,300.09 deposit to ITM's future electric bills; and
5. Meralco should pay ITM attorney's fees.^[9]

The Ruling of the Court

We find the appeal meritorious. While only questions of law may be raised in a petition for review under Rule 45 of the 1997 Rules of Civil Procedure, review of the lower courts' findings of fact may be granted under certain exceptions.^[10] One of the exceptions is when the judgment of the appellate court is premised on a misapprehension of facts.^[11] Another is when the findings of fact are premised on the supposed absence of evidence but is contradicted by the evidence on record.^[12] Also, this Court may review findings of fact when the conclusion of the appellate court manifestly overlooked certain facts not disputed by the parties and which, if properly considered, would justify a different conclusion.^[13]

Payment of Interest Charges

In its petition, Meralco argued that both the trial court and the appellate court misunderstood the meaning of the interest charges that Meralco imposed on ITM. Meralco denied that the interest charges were in payment by a debtor to a creditor for the use of money lent. Rather, Meralco claimed that the interest charges represent the penalty on Meralco's late payment of franchise taxes. Meralco alleged that ITM caused the delayed submission of the required documents to effect the assignment of ITM's tax credits to Meralco.

Meralco asserted that the Deeds of Assignment authorized the shifting to ITM of the burden of paying the interest charges on Meralco's late payment of franchise taxes. The Deeds of Assignment provide that:

xxx ASSIGNOR agrees to assign in favor of ASSIGNEE the aforesaid tax credit so as to fully utilize the value thereof against future franchise tax payables.^[14]

Meralco further asserted that ITM's acts show its acquiescence to the imposition of the interest charges. ITM protested payment of the interest charges only after a prolonged period elapsed. ITM even asked Meralco to waive the imposition of the interest charges. Meralco contended that ITM's acts should be construed as estoppel by laches, thus leading Meralco to believe that the imposition of interest charges was in accordance with the agreement between the parties.

We are not persuaded.

The Deeds of Assignment that ITM executed in favor of Meralco are uniform in wording, differing only as to the dates and the amount of tax credits assigned. The Deeds of Assignment provide that:

WHEREAS, in a letter offer dated xxx of the ASSIGNOR to the ASSIGNEE, the latter agreed to offset the value of the tax credit duly issued under the former's name against its current receivables accounts;

WHEREAS, by reason of its registration with the Board of Investment as a registered export producer, ASSIGNOR, is entitled to a refund or tax credit based on Tax Rebate under standard Rate imposed by law as an incentive for the manufacture of registered export products;

WHEREAS, on the following stated dates, ASSIGNOR was granted by the Board of Investments a total tax credit of xxx with the corresponding tax credit certificate numbers:

xxx

Photocopy of said tax credit certificates are attached and made a part hereof;

WHEREAS, ASSIGNOR warrants that said tax credits are genuine, valid and subsisting, and that it has no account and/or administrative case with any government revenue agency;

WHEREAS, ASSIGNOR waives all its rights to use the aforesaid Tax Credit Certificates enumerated above amounting to xxx issued by the Board of Investments and that ASSIGNOR agrees to assist ASSIGNEE in effecting the transfer/assignment by providing all the necessary documents required by the Board of Investments;

WHEREAS, in accordance with the understanding and agreement in connection with the **settlement of ASSIGNEE's current receivable account, ASSIGNOR agrees to assign in favor of ASSIGNEE the aforesaid tax credits so as to fully utilize the value thereof against future franchise tax payables.**

NOW, THEREFORE, for and in consideration of the foregoing premises and covenants herein contained, ASSIGNOR hereby assigns, transfers and conveys in favor of the ASSIGNEE that aforesaid tax credits mentioned above up to the amount of xxx stipulated; ASSIGNEE shall corresponding issue the appropriate credit note to ASSIGNOR to evidence timely settlement of its current account.^[15]

Under the Deed of Assignment, it is ITM's obligation to ensure that Meralco can utilize the full value of the tax credits assigned. There is nothing in the Deeds of Assignment which states that Meralco's current receivable account with ITM includes interest charges for Meralco's late payment of franchise taxes. ITM has no obligation to pay interest on Meralco's late payment of franchise taxes.

Meralco, through L. D. Torres, Vice President and Head of the Legal Services Department, wrote to Cesar Marcelo, ITM's Vice President for Finance, on ITM's request to pay its electric bills through assignment of tax credit certificates. The letter ("letter-agreement"), dated 8 September 1987, reads thus:

Mr. Cesar R. Marcelo
Vice President – Finance
Imperial Textile Mills, Inc.
Km 21 McArthur Hi-way
Marilao, Bulacan

Dear Mr. Marcelo:

This has reference to your letter dated August 5, 1987 requesting for the transfer of your Company's tax credits to the Manila Electric Company (MERALCO) as payment [for] electricity consumed.

Please be informed that upon representations made by your Mr. Robert Ong with MERALCO, we did not interpose any objection to your request on the condition that henceforth you will take care of your metering facilities to avoid the same being tampered with thereby preventing any loss of electric energy on the part of MERALCO in your Company's plants and premises. It is likewise understood that **you are to pay your electric bills regularly when the same**

are due and your tax credits will only be applied to your bills when these tax credits have been duly assigned to MERALCO and the deed of assignment have [sic] been approved by all government agencies concerned.

We have actually started working out the documentary requirements to effect the requested transfer but we will only release the same after receipt of your written confirmation that you are agreeable to the above-stated conditions. It is understood and agreed that you are duly authorized to execute this document and signify your conformity to this agreement.

We shall expect your early reply in this regard.

Very truly yours,
(signed)
L.D. TORRES
Vice President & Head
Legal Services Dept.

CONFORME:

IMPERIAL TEXTILE MILLS, INC.

By: (signed)
CESAR R. MARCELO

Vice President - Finance [16]

According to the letter-agreement, Meralco granted ITM's request to pay its electric bills thru assignment of tax credit certificates provided that: (1) ITM would take care of its metering facilities to avoid the same being tampered; (2) **ITM would pay its electric bills regularly when they become due; and (3) ITM's tax credits would be applied to its electric bills when the tax credits have already been assigned to Meralco and the corresponding deeds of assignment have been approved by all government agencies concerned.** Like the Deeds of Assignment, there is nothing in the letter-agreement which states that ITM would be held liable for Meralco's payment of interest charges for late payment of franchise taxes.

Meralco had a different interpretation of the reckoning point in determining the date of payment thru tax credits. Mr. Martinez, from Meralco's Tax & Tariff Section, explained Meralco's position regarding tax credits and interest charges during a meeting between Meralco and ITM on 7 February 1989. The purpose of the meeting was to reconcile ITM's account with Meralco's records. The pertinent portions of the minutes of the meeting read:

Mr. G.F. Martinez, of Tax & Tariff Section, informed the body that acceptance of Tax Credit Certificates (TCCs) thru the signing of Deed of Assignment by Meralco shall not mean an outright payment of ITM's electric bills. ***The reckoning point of determining the date of payment, thru Tax Credit transfers, of ITM's electric bills is the date of the actual application and utilization of duly transferred Tax Credits against Meralco's payment of franchise tax.***

He specified that ***the period of interest charges is reckoned from ten (10) days after presentation of the Statement of Account up to the date of utilization or application of Tax Credit Certificates (TCCs) against Meralco's payment of franchise tax which falls on the 20th day of every month, and not upon TCC's date of assignment/transfer in favor of Meralco.*** Mr. Martinez reasoned out that not all TCCs are approved by the government body on total face value. As a consequence, it is advisable that ITM transfer of duly approved TCCs in favor of Meralco be done five days before the 20th day of the month to give Tax & Tariff Section reasonable time for processing.

On the question why Meralco charges interest for late payment of GP customers, Mr. Martinez explained that NPC charges Meralco with interest for the latter's late payment. It is in the same breadth that Meralco deems reasonable to recover the interest cost. [17]

As of 20 March 1989, Meralco has charged ITM a total of P3,814,816.61 as interest charges for delay in the application of tax credits. [18] Meralco charged ITM interest at the rate of 14.50% to 18.00% per annum. [19] However, the letter-agreement and the deeds of assignment do not authorize Meralco to