

FIRST DIVISION

[G.R. No. 122605, April 30, 2001]

**SEA-LAND SERVICE, INC., PETITIONER, VS. COURT OF APPEALS
AND COMMISSIONER OF INTERNAL REVENUE, RESPONDENTS.**

DECISION

PARDO, J.:

The Case

Appeal *via certiorari* from the decision of the Court of Appeals affirming *in toto* that of the Court of Tax Appeals which denied petitioner's claim for tax credit or refund of income tax paid on its gross Philippine billings for taxable year 1984, in the amount of P870,093.12.^[1]

The Facts

The facts, as found by the Court of Appeals, are as follows:

"Sea-Land Service Incorporated (SEA-LAND), an American international shipping company licensed by the Securities and Exchange Commission to do business in the Philippines entered into a contract with the United States Government to transport military household goods and effects of U. S. military personnel assigned to the Subic Naval Base.

"From the aforesaid contract, SEA-LAND derived an income for the taxable year 1984 amounting to P58,006,207.54. During the taxable year in question, SEA-LAND filed with the Bureau of Internal Revenue (BIR) the corresponding corporate Income Tax Return (ITR) and paid the income tax due thereon of 1.5% as required in Section 25 (a) (2) of the National Internal Revenue Code (NIRC) in relation to Article 9 of the RP-US Tax Treaty, amounting to P870,093.12.

"Claiming that it paid the aforementioned income tax by mistake, a written claim for refund was filed with the BIR on 15 April 1987. However, before the said claim for refund could be acted upon by public respondent Commissioner of Internal Revenue, petitioner-appellant filed a petition for review with the CTA docketed as CTA Case No. 4149, to judicially pursue its claim for refund and to stop the running of the two-year prescriptive period under the then Section 243 of the NIRC.

"On 21 February 1995, CTA rendered its decision denying SEA-LAND's claim for refund of the income tax it paid in 1984."^[2]

On March 30, 1995, petitioner appealed the decision of the Court of Tax Appeals to the Court of Appeals.^[3]

After due proceedings, on October 26, 1995, the Court of Appeals promulgated its decision dismissing the appeal and affirming *in toto* the decision of the Court of Tax Appeals.^[4]

Hence, this petition.^[5]

The Issue

The issue raised is whether or not the income that petitioner derived from services in transporting the household goods and effects of U. S. military personnel falls within the tax exemption provided in Article XII, paragraph 4 of the RP-US Military Bases Agreement.

The Court's Ruling

We deny the petition.

The RP-US Military Bases Agreement provides:

"No national of the United States, or corporation organized under the laws of the United States, resident in the United States, shall be liable to pay income tax in the Philippines in respect of any profits derived under a contract made in the United States with the government of the United States in connection with the construction, maintenance, operation and defense of the bases, or any tax in the nature of a license in respect of any service or work for the United States in connection with the construction, maintenance, operation and defense of the bases."^[6]

Petitioner Sea-Land Service, Inc. a US shipping company licensed to do business in the Philippines earned income during taxable year 1984 amounting to P58,006,207.54, and paid income tax thereon of 1.5% amounting to P870,093.12.

The question is whether petitioner is exempted from the payment of income tax on its revenue earned from the transport or shipment of household goods and effects of US personnel assigned at Subic Naval Base.

"Laws granting exemption from tax are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing power. Taxation is the rule and exemption is the exception."^[7] The law "does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words *too* plain to be mistaken and *too* categorical to be misinterpreted."^[8]

Under Article XII (4) of the RP-US Military Bases Agreement, the Philippine Government agreed to exempt from payment of Philippine income tax nationals of the United States, or corporations organized under the laws of the United States,