356 Phil. 1026

FIRST DIVISION

[G.R. No. 119786, September 22, 1998]

ATLAS CONSOLIDATED MINING AND DEVELOPMENT CORPORATION, PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, COURT OF TAX APPEALS AND COURT OF APPEALS, RESPONDENTS.

D E C I S I O N

PANGANIBAN, J.:

In *Davao Gulf Lumber Corporation v. Commissioner of Internal Revenue and Court of Appeals,*[1] the Court en banc unequivocally held that the tax refund under Republic Act No. 1435 is computed on the basis of the specific tax deemed paid under Sections 1 and 2 thereof, not on the increased rates actually paid under the 1977 NIRC. We adhere to such ruling.

The Case

Petitioner challenges, under Rule 45 of the Rules of Court, the March 30, 1995 Decision of the Court of Appeals[2] in CA-GR SP No. 34081, which affirmed the December 24, 1991 Decision[3] of the Court of Tax Appeals (CTA), which in turn denied the claim of the petitioner for refund/tax credit of 25 percent of the specific tax it actually paid for the petroleum products purchased for its mining operations.

The Facts

The antecedent facts are summarized by the Court of Appeals as follows:[4]

> "(1) Petitioner is a domestic corporation engaged in the business of mining copper from its mineral land and concessions in Toledo City, Cebu. During the periods under review, beginning from September 1974 through July 1983, petitioner purchased from its suppliers, Petrophil Corporation and Mobil Oil Philippines, referred to hereinafter respectively as Petrophil and Mobil Oil, quantities of manufactured oil and other fuels, like diesel and coco-diesel. It actually used these oils and fuels in its mining operations to run various items of machinery and equipment, motors and vehicles;
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> "(2) Petrophil and Mobil Oil paid the specific taxes imposed by Sections 153 and 156 (formerly Section 142 and 145) of the 1977 National Internal Revenue Code (NIRC) on all the oils and fuels they manufactured from which was drawn the quantity sold to the petitioner for use in its operations;
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> "(3) On June 14, 1956, Republic Act No. 1435, [An Act to Provide Means

for Increasing the Highway Discretionary Funds], granted in Section 5 thereof, a refund of 25% of the specific taxes paid on oil products used by miners and forest concessionaires in their operations, to wit:

'The proceeds of the additional tax on manufactured oils shall accrue to the road and bridges funds of the political subdivision for whose benefit the tax is collected; provided, however, that whenever any oils mentioned above are used by miners or forest concessionaires in their operations, twenty-five percentum (25%) of the specific tax paid thereon shall be refunded by the Collector of Internal Revenue upon submission of proof of actual use of oils 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 Works and 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 Act of 1953.'

"(4) Invoking Section 5 of Republic Act 1435, petitioner filed with the Court of Tax Appeals several petitions seeking the refund of 15% of specific taxes paid on oil products which it purchased and used in its mining operations at various times in the following amounts:

C.T.A. Case No.	Amount Claimed	Period Covered
2840	P 3,928,614.19	Sept. 1974 - June 1976
3091	10,311,887.34	May 1978 - Feb. 1980
3426	8,972,165.34	March 1980 - Dec. 1981
3696	11,220,895.07	Jan. 1982 - July 1983
	Total P34,433,563.94	

"(5) The aforecited cases were consolidated. On December 24, 1991, the Tax Court rendered a Decision denying the claims for refund on the basis of the Decision of the Supreme Court in Commissioner of Internal Revenue vs. Rio Tuba Nickel Mining Corporation and Court of Tax Appeals, G.R. Nos. 83583-84, September 30, 1991, wherein it was held that the refund privilege granted by Section 5 of R.A. 1435 was impliedly repealed with the issuance of Presidential Decree No. 711, which took effect on July 1, 1975, abolishing all special and fiduciary funds;

"(6) Petitioner appealed the Tax Court's Decision to this Court under CA-G.R. Sp. No. 27676, entitled "Atlas Consolidated Mining and Development Corp. vs. Commissioner of Internal Revenue and Court of Tax Appeals." On March 31, 1993, the Eleventh Division of this Court rendered a Decision setting aside the Tax Court's Decision and remanding the cases to the Tax Court for proper determination of the total amount of specific taxes paid and the corresponding tax refund or credit to which petitioner is entitled;

"(7) The decision of this Court was based on a Supreme Court Resolution dated March 25, 1992 and a Resolution dated June 15, 1992 modifying the Decision in Rio Tuba (supra), in that the refund privilege granted under Section 5 of R.A. 1435 was available up to 1985 since the Highway Special Fund was abolished only in 1986. Furthermore, said Resolutions ruled that the amount of specific taxes refundable should be computed on the basis of the rates of specific tax prescribed under Sections 1 and 2 of R.A. 1435 and not on the increased rates mandated under Sections 153 and 156 of the Tax Code:

"(8) Thus, this Court said:

'Thus, the respondent court's decision of December 24, 1991 should be SET ASIDE. The instant tax cases should be remanded to the respondent court for proper evaluation of the petitioner's evidence to determine the total amount of specific taxes and the 25% refund or tax credit based on the specific tax rates prescribed in Sections 1 and 2 of RA 1435 in view of the allegation of the petitioner in the instant petition that the respondent court failed to consider certain exhibits or cited wrong exhibits.' (underscoring ours)'

"(9) On April 29, 1993, an Entry of Judgment was issued in CA - G.R. SP No. 27676 stating that the Decision therein had already become final and executory;

"(10) On April 18, 1994, after hearing, the Tax Court issued a Resolution computing the 25% specific tax refund based on the rates of specific tax prescribed in Sections 1 and 2 of RA 1435 and came out with the following amounts refundable:

1) CTA Case No. 2840 - P208,129.57
2) CTA Case No. 3091 - 358,864.83
3) CTA Case No. 3426 - 270,369.02
4) CTA Case No. 3696 - 264,315.46
Total P1,101,678.88."

As earlier noted, the Court of Appeals affirmed the CTA Decision. Hence, this petition for review.[5]

The Ruling of the Court of Appeals

In affirming the Decision of the Court of Tax Appeals, Respondent Court relied on the *Supreme Court ruling in CIR v. Rio Tuba*[6] that the refund should be computed on the basis of the rates deemed paid under RA 1435, not on the increased rates actually paid under the NIRC. Respondent Court ruled:

"Moreover, the latest ruling of the Supreme Court on the matter is its Decision dated May 10, 1994 in Commissioner of Internal Revenue vs. Hon. Court of Appeals and Atlas Consolidated Mining and Development Corporation, G.R. No. 106913. This case also involves petitioner's claim for refund of 25% of specific taxes paid on oil products used in its mining

operations for the periods July-December 1976, January-December 1977 and January-May 1978, pursuant to Section 5 of R.A. 1435. The Supreme Court, applying Rio Tuba, held:

'We rule, therefore, that since [Atlas'] claims for refund cover specific taxes paid before 1985, it should be granted the refund based on the rates specified by Sections 1 and 2 of R.A. No. 1435 and not on the increased rates under Sections 153 and 156 of the Tax Code of 1977, provided the claims are not yet barred by prescription.'

"The case at bar is no different from Rio Tuba and the aforecited G.R. No. 106913. Hence, the instant petition is devoid of merit.

"Notably, therefore, the decision of the Supreme Court in Insular Lumber Co. vs. CTA (G.R. No. L-31057, 29 May 1981) and in Commissioner of Internal Revenue vs. Atlas Consolidated Mining and Development Corporation, et al. (G.R. No. 93631, 12 November 1990) have been superseded by the decision of the Supreme [C]ourt in Commissioner of Internal Revenue vs. Rio Tuba Nickel Mining Corp. and the Court of Tax Appeals and Atlas Consolidated Mining and Development Corp. (G.R. No. 106913, dated May 10, 1994)."[7]

The Issues

Petitioner argues that Respondent Court of Appeals committed the following errors:

I

"Upholding the Tax Court decision and failing to apply the Supreme Court's En Banc decision in Insular Lumber Co. vs. CTA, thereby making as basis for its decision the Supreme Court's decision sitting in a division, in the Rio Tuba case.

II

"Failing to apply the increase in rates imposed by succeeding amendatory laws, under which petitioner paid the specific taxes on manufactured oils and other fuels.

III

"Unnecessarily interpreting Section 5 of Republic Act No. 1435, contrary to established legal principles.

IV

"Failing to apply Sections 142 and 145 of the National Internal Revenue Code, as amended, making the decision contrary to existing law and jurisprudence, resulting [in] unfair, erroneous, arbitrary, inequitable and oppressive consequences."