801 Phil. 806

THIRD DIVISION

[G.R. No. 195876, December 05, 2016]

PILIPINAS SHELL PETROLEUM CORPORATION, PETITIONER, V. COMMISSIONER OF CUSTOMS, RESPONDENT.

DECISION

PEREZ, J.:

Before the Court is a Petition for Review on *Certiorari* seeking to reverse and set aside the 13 May 2010 Decision[1] and the 22 February 2011 Resolution[2] rendered by the Court of Tax Appeals (CTA) Former *En Banc* in C.T.A. EB No. 472 which dismissed petitioner's petition, and accordingly affirmed with modification as to the additional imposition of legal interest the 19 June 2008 Decision[3] of the CTA Former First Division (CTA in Division) ordering petitioner to pay the amount of P936,899,883.90, representing the total dutiable value of its 1996 crude oil importation, which was considered as abandoned in favor of the government by operation of law.

The Facts

The factual antecedents of the case are as follows:

On 16 April 1996, Republic Act (R.A.) No. 8180,[4] otherwise known as the "Downstream Oil Industry Deregulation Act of 1996" took effect. It provides, among others, for the reduction of the tariff duty on imported crude oil from ten percent (10%) to three percent (3%). The particular provision of which is hereunder quoted as follows:

> **Section 5.** ***Liberalization of Downstream Oil Industry and Tariff Treatment***. - x x x
>
> b) Any law to the contrary notwithstanding and starting with the effectivity of this Act, tariff shall be imposed and collected on imported crude oil at the rate of three percent (3%) and imported refined petroleum products at the rate of seven percent (7%), except fuel oil and LPG, the rate for which shall be the same as that for imported crude oil *Provided*, That beginning on January 1, 2004 the tariff rate on imported crude oil and refined petroleum products shall be the same: *Provided, further*, That this provision may be amended only by an Act of Congress.

Prior to its effectivity, petitioner's importation of 1,979,674.85 U.S. barrels of Arab Light Crude Oil, thru the *Ex MT Lanistels*, arrived on 7 April 1996 nine (9) days earlier than the effectivity of the liberalization provision. Within a period of three days thereafter, or specifically on 10 April 1996, said shipment was unloaded from the carrying vessels docked at a wharf owned and operated by petitioner, to its oil tanks located at Batangas City.

Subsequently, petitioner filed the Import Entry and Internal Revenue Declaration and paid the import duty of said shipment in the amount of P11,231,081.00 on 23 May 1996.

More than four (4) years later or on 1 August 2000, petitioner received a demand letter[5] dated 27 July 2000 from the Bureau of Customs (BOC), through the District Collector of Batangas, assessing it to pay the deficiency customs duties in the amount of P120,162,991.00 due from the aforementioned crude oil importation, representing the difference between the amount allegedly due (at the old rate often percent (10%) or before the effectivity of R.A. No. 8180) and the actual amount of duties paid by petitioner (on the rate of 3%).

Petitioner protested the assessment on 14 August 2000,[6] to which the District Collector of the BOC replied on 4 September 2000[7] reiterating his demand for the payment of said deficiency customs duties.

On 11 October 2000,[8] petitioner appealed the 4 September 2000 decision of the District Collector of the BOC to the respondent and requested for the cancellation of the assessment for the same customs duties.

However, on 29 October 2001,[9] five years after petitioner paid the allegedly deficient import duty' it received by telefax from the respondent a demand letter for the payment of the amount of P936,899,885.90, representing the dutiable value of its 1996 crude oil importation which had been allegedly abandoned in favor of the government by operation of law. Respondent stated that Import Entry No. 683-96 covering the subject importation had been irregularly filed and accepted beyond the thirty-day (30) period prescribed by law. Petitioner protested the aforesaid demand letter on 7 November 2001[10] for lack of factual and legal basis, and on the ground of prescription.

Seeking clarification as to what course of action the BOC is taking, and reiterating its position that the respondent's demand letters dated 29 October 2001 and 27 July 2000 have no legal basis, petitioner sent a letter to the Director of Legal Service of the BOC on 3 December 2001 for said purpose.

On 28 December 2001,[11] BOC Deputy Commissioner Gil A. Valera sent petitioner a letter which stated that the latter had not responded to the respondent's 29 October 2001 demand letter and demanded payment of the amount of P936,899,885.90, under threat to hold delivery of petitioner's subsequent shipments, pursuant to Section 1508[12] of the Tariff and Customs Code of the Philippines (TCCP),[13] and to file a civil complaint against petitioner.

In reply thereto, petitioner sent a letter dated 4 January 2002[14] to the BOC Deputy Commissioner and expressed that it had already responded to the aforesaid demand letter through the letters dated 7 November 2001 and 3 December 2001 sent to respondent and to the Director of Legal Service of the BOC, respectively.

On 11 April 2002, the BOC filed a civil case for collection of sum of money against petitioner, together with Caltex Philippines, Inc. as co-party therein, docketed as Civil Case No. 02103239, before Branch XXV, Regional Trial Court (RTC), of the City of Manila.[15]

Consequently, on 27 May 2002, petitioner filed with the Court of Tax Appeals (CTA) a Petition for Review, raffled to the Former First Division (CTA in Division), and docketed as C.T.A. Case No. 6485, upon consideration that the civil complaint filed in the RTC of Manila was the final decision of the BOC on its protest.[16]

Respondent filed on 2 August 2002 a motion to dismiss the said petition raising lack of jurisdiction and failure to state a cause of action as its grounds, which the CTA in Division denied in the Resolution dated 17 January 2003. Likewise, respondent's motion for reconsideration filed on 14 February 2003 was denied on its 16 June 2003 Resolution.[17]

Subsequently, respondent, through the Office of the Solicitor General, filed on 13 August 2003 before the Court of Appeals (CA) a Petition for Certiorari and Prohibition with Prayer for the Issuance of a Temporary Restraining Order and Writ of Preliminary Injunction, docketed as CA-G.R. SP No. 78563, praying for the reversal and setting aside of the CTA in Division's Resolutions dated 17 January 2003 and 16 June 2003.[18]

In the interim, respondent filed his Answer to the petition in C.T.A. Case No. 6485 on 20 October 2003 which reiterated the lack of jurisdiction and failure to state a cause of action. Thereafter, trial on the merits ensued.

On 15 February 2007, the Former First Division of the CA dismissed respondent's petition in CA-G.R. SP No. 78563. Similarly, respondent's motion for reconsideration of the 15 February 2007 Decision was denied in its 24 July 2007 Resolution.[19]

The Ruling of the CTA in Division

In a Decision dated 19 June 2008[20], the CTA in Division ruled to dismiss the Petition for Review on C.T.A. Case No. 6485 for lack of merit and accordingly ordered petitioner to pay the entire amount of P936,899,883.90[21] representing the total dutiable value of the subject shipment of Arab Light Crude Oil on the ground of implied abandonment pursuant to Sections 1801 and 1802 of the TCCP.

Relevant thereto, the CTA in Division made the following factual and legal findings: (a) that petitioner filed the specified entry form (Import Entry and Internal Revenue Declaration) beyond the 30-day period prescribed under Section 1301 of the TCCP; [22] (b) that for failure to file within the aforesaid 30-day period, the subject importation was deemed abandoned in favor of the government in accordance with Sections 1801 and 1802 of the TCCP;[23] (c) that petitioner's excuses in the delay of filing its Import Entry and Internal Revenue Declaration were implausible[24]; (d) that since the government became the owner of the subject shipment by operation of law, petitioner has no right to withdraw the same and should be held liable to pay for the total dutiable value of said shipment computed at the time the importation was withdrawn from the carrying vessel pursuant to Section 204 of the TCCP;[25] (e) that there was fraud in the present case considering that "the District Collector, in conspiracy with the officials of Caltex and Shell acted without authority or [with] abused (sic) [of] authority by giving undue benefits to the importers by allowing the processing, payment and subsequent release of the shipments to the damage and prejudice of the government who, under the law is already the owner of the shipments x x x;" thus, prescription under Section 1603 of the TCCP does not apply herein;[26] and (f) that the findings of facts of administrative bodies charged with

their specific field of expertise, are afforded great weight by the courts; and in the absence of substantial showing that such findings are made from an erroneous estimation of the evidence presented, they are conclusive, and in the interest of stability of the government structure, should not be disturbed.[27]

On 24 February 2009, the CTA in Division denied petitioner's Motion for Reconsideration for lack of merit citing Section 5(b),[28] Rule 6 of the 2005 Revised Rules of the CTA, as sole legal basis in considering the Memorandum dated 2 February 2001 issued by the Customs Intelligence & Investigation Service, Investigation & Prosecution Division (CIIS-IPD) of the BOC as evidence to establish fraud, and the case of *Chevron Phils., Inc. v. Commissioner of the Bureau of Customs*,[29] as the jurisprudential foundation therein.[30]

Aggrieved, petitioner appealed to the CTA Former *En Banc* by filing a Petition for Review on 31 March 2009, under Section 3(b), Rule 8 of the 2005 Revised Rules of the CTA, as amended, in relation to Rule 43 of the 1997 Rules of Civil Procedure, as amended, docketed as C.T.A. EB No. 472.

The Ruling of the CTA Former En Banc

In the 13 May 2010 Decision[31], the CTA Former *En Banc* affirmed the CTA in Division's ruling pertaining to the implied abandonment caused by petitioner's failure to file the Import Entry and Internal Revenue Declaration within the 30-day period, and transfer of ownership by operation of law to the government of the subject shipment in accordance with Sections 1801 and 1802, in relation to Section 13.01, of the TCCP, and with the pronouncements made in the *Chevron* case. Notably however, the *ponente* of the assailed Decision declared therein that the existence of fraud is not controlling in the case at bench and would not actually affect petitioner's liability to pay the dutiable value of its imported crude oil, pertinent portion of which are quoted hereunder for ready reference, to wit:

> **As regards the issue on the existence of fraud, it should be emphasized that fraud is not controlling in this case. Even in the absence of fraud, petitioner Shell is still liable for the payment of the dutiable value by operation of law.** The liability of petitioner Shell for the payment of the dutiable value of its imported crude oil arose from the moment it appropriated for itself the said importation, which were already a property of the government by operation of law. **Absence of fraud in this case would not exclude petitioner Shell from the coverage of *Sections 1801 and 1802* of the *TCCP*.**[32] (Emphasis supplied)

Furthermore, citing the case of *Eastern Shipping Lines, Inc. v. Court of Appeals and Mercantile Insurance Company, Inc.*,[33] the CTA Former *En Banc* imposed an additional legal interest of six percent (6%) *per annum* on the total dutiable value of P936,899,883.90, accruing from the date said decision was promulgated until its finality; and afterwards, an interest rate of twelve percent (12%) *per annum* shall be applied until its full satisfaction.[34]

Not satisfied, petitioner filed a motion for reconsideration thereof which was denied in the assailed Resolution dated 22 February 2011.

Consequently, this Petition for Review wherein petitioner seeks the reversal and setting aside of the aforementioned Decision and Resolution dated 13 May 2010 and 22 February 2011, respectively, and accordingly prays that a decision be rendered finding: (a) that petitioner has already paid the proper duties on its importation and therefore not liable anymore; and (b) that petitioner is not deemed to have abandoned its subject shipment; or, in the alternative, (c) that respondent's attempt to collect is devoid of any legal and factual basis considering that the right to collect against petitioner relating to its subject shipment has already prescribed.

In support of its petition, petitioner posits the following assigned errors:

I

THE CTA FORMER *EN BANC* ERRED WHEN IT HELD IN THE QUESTIONED DECISION THAT PETITIONER PSPC IS DEEMED TO HAVE IMPLIEDLY ABANDONED THE SUBJECT SHIPMENT AND, THUS, IS LIABLE FOR THE ENTIRE VALUE OF THE SUBJECT SHIPMENT, PLUS INTEREST, DESPITE THE FACT THAT SUCH CLAIM, IF ANY AT ALL, HAS ALREADY PRESCRIBED, ESPECIALLY BECAUSE PETITIONER PSPC DID NOT COMMIT ANY FRAUD.

II

THE CTA FORMER *EN BANC* ERRED WHEN IT FAILED TO RECOGNIZE THAT THE GOVERNMENT DID NOT SUFFER ANY DAMAGE OR REVENUE LOSS SINCE ALL TARIFF DUTIES IMPOSABLE ON THE SUBJECT SHIPMENT WERE ALREADY PAID TO THE GOVERNMENT, SUCH THAT TO ALLOW RESPONDENT COMMISSIONER TO RECOVER THE ENTIRE VALUE OF THE SUBJECT SHIPMENT WOULD BE CONFISCATORY AND AMOUNT TO UNJUST ENRICHMENT ON THE PART OF THE GOVERNMENT.

III

THE CTA FORMER *EN BANC* ERRED WHEN IT CONSIDERED THE SUBJECT SHIPMENT AS IMPLIEDLY ABANDONED, DEPRIVING PETITIONER PSPC OF ITS RIGHT TO DUE PROCESS AND EQUAL PROTECTION OF THE LAW, CONSIDERING:

A. RESPONDENT COMMISSIONER DID NOT OBSERVE THE DUE NOTICE REQUIREMENT UNDER SECTION 1801 OF THE TCCP OR COMPLIED WITH THE RULES THAT BOC HAD PROMULGATED, WHICH DUE NOTICE IS MANDATORY IN THE ABSENCE OF FRAUD AS HELD IN THE CHEVRON CASE.

B. THE DUE NOTICE REQUIRED UNDER SECTION 1801 OF THE TCCP ACTUALLY REFERS TO THE NOTICE TO FILE ENTRY FOR IMPORTED ARTICLES AND NOT THE ARRIVAL THEREOF.

C. PETITIONER PSPC'S ADVANCE FILING OF ITS IED WHICH, BY LAW, ALREADY CONSTITUTES A VALID AND EFFECTIVE IMPORT ENTRY FORM, AND ITS CLEAR ACTUATIONS SHOWED AN INTENTION NOT TO ABANDON THE SUBJECT SHIPMENT ESPECIALLY SINCE IT HAD ALREADY FULLY PAID THE TARIFF DUTY DUE ON THE SHIPMENT IN