

FIRST DIVISION

[G.R. No. 207843, July 15, 2015]

**COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS.
COURT OF TAX APPEALS (SECOND DIVISION) AND PETRON
CORPORATION, * RESPONDENTS.**

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for *certiorari*^[1] are the Resolutions dated February 13, 2013^[2] and May 8, 2013^[3] of the Court of Tax Appeals, Second Division (CTA) in CTA Case No. 8544 reversing and setting aside the earlier dismissal of the petition for review filed by private respondent Petron Corporation (Petron) in the said case on the bases of prematurity and lack of jurisdiction.

The Facts

Petron, which is engaged in the manufacture and marketing of petroleum products, imports alkylate as a raw material or blending component for the manufacture of ethanol-blended motor gasoline.^[4] For the period January 2009 to August 2011, as well as for the month of April 2012, Petron transacted an aggregate of 22 separate importations for which petitioner the Commissioner of Internal Revenue (CIR) issued Authorities to Release Imported Goods (ATRIGs), categorically stating that Petron's importation of alkylate is exempt from the payment of the excise tax because it was not among those articles enumerated as subject to excise tax under Title VI of Republic Act No. (RA) 8424,^[5] as amended, or the 1997 National Internal Revenue Code (NIRC). With respect, however, to Petron's alkylate importations covering the period September 2011 to June 2012 (excluding April 2012), the CIR inserted, without prior notice, a reservation for all ATRIGs issued,^[6] stating that:

This is without prejudice to the collection of the corresponding excise taxes, penalties and interest depending on the final resolution of the Office of the Commissioner on the issue of whether this item is subject to the excise taxes under the National Internal Revenue Code of 1997, as amended.^[7]

In June 2012, Petron imported 12,802,660 liters of alkylate and paid value-added tax (VAT) in the total amount of P41,657,533.00 as evidenced by Import Entry and Internal Revenue Declaration (IEIRD) No. SN 122406532. Based on the Final Computation, said importation was subjected by the Collector of Customs of Port Limay, Bataan, upon instructions of the Commissioner of Customs (COC), to excise taxes of P4.35 per liter, or in the aggregate amount of P55,691,571.00, and consequently, to an additional VAT of 12% on the imposed excise tax in the amount of P6,682,989.00.^[8] The imposition of the excise tax was supposedly premised on

Customs Memorandum Circular (CMC) No. 164-2012 dated July 18, 2012, implementing the Letter dated June 29, 2012 issued by the CIR, which states that:

[A]lkylate which is a product of distillation similar to that of naphta, is subject to excise tax under Section 148(e) of the National Internal Revenue Code (NIRC) of 1997.^[9]

In view of the CIR's assessment, Petron filed before the CTA a petition for review,^[10] docketed as CTA Case No. 8544, raising the issue of whether its importation of alkylate as a blending component is subject to excise tax as contemplated under Section 148 (e) of the NIRC.

On October 5, 2012, the CIR filed a motion to dismiss on the grounds of lack of jurisdiction and prematurity.^[11]

Initially, in a Resolution^[12] dated November 15, 2012, the CTA granted the CIR's motion and dismissed the case. However, on Petron's motion for reconsideration,^[13] it reversed its earlier disposition in a Resolution^[14] dated February 13, 2013, and eventually denied the CIR's motion for reconsideration^[15] therefrom in a Resolution^[16] dated May 8, 2013. In effect, the CTA gave due course to Petron's petition, finding that: (a) the controversy was not essentially for the determination of the constitutionality, legality or validity of a law, rule or regulation but a question on the propriety or soundness of the CIR's interpretation of Section 148 (e) of the NIRC which falls within the exclusive jurisdiction of the CTA under Section 4 thereof, particularly under the phrase "other matters arising under [the NIRC]";^[17] and (b) there are attending circumstances that exempt the case from the rule on non-exhaustion of administrative remedies, such as the great irreparable damage that may be suffered by Petron from the CIR's final assessment of excise tax on its importation.^[18]

Aggrieved, the CIR sought immediate recourse to the Court, through the instant petition, alleging that the CTA committed grave abuse of discretion when it assumed authority to take cognizance of the case despite its lack of jurisdiction to do so.^[19]

The Issue Before the Court

The core issue to be resolved is whether or not the CTA properly assumed jurisdiction over the petition assailing the imposition of excise tax on Petron's importation of alkylate based on Section 148 (e) of the NIRC.

The Court's Ruling

The petition is meritorious.

The CIR asserts that the interpretation of the subject tax provision, *i.e.*, Section 148 (e) of the NIRC, embodied in CMC No. 164-2012, is an exercise of her quasi-legislative function which is reviewable by the Secretary of Finance, whose decision, in turn, is appealable to the Office of the President and, ultimately, to the regular courts, and that only her quasi judicial functions or the authority to decide disputed assessments, refunds, penalties and the like are subject to the exclusive appellate

jurisdiction of the CTA.^[20] She likewise contends that the petition suffers from prematurity due to Petron's failure to exhaust all available remedies within the administrative level in accordance with the Tariff and Customs Code (TCC).^[21]

The CIR's position is well-grounded.

Section 4 of the NIRC confers upon the CIR both: (a) the power to interpret tax laws in the exercise of her quasi-legislative function; and (b) the power to decide tax cases in the exercise of her quasi-judicial function. It also delineates the jurisdictional authority to review the validity of the CIR's exercise of the said powers, thus:

SEC. 4. *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* - The **power to interpret** the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, **subject to review by the Secretary of Finance.**

The **power to decide disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, **subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.** (Emphases and underscoring supplied)

The CTA is a court of special jurisdiction, with power to review by appeal decisions involving tax disputes rendered by either the CIR or the COC. Conversely, it has no jurisdiction to determine the validity of a ruling issued by the CIR or the COC in the exercise of their quasi-legislative powers to interpret tax laws. These observations may be deduced from a reading of Section 7 of RA 1125,^[22] as amended by RA 9282,^[23] entitled "An Act Creating the Court of Tax Appeals," enumerating the cases over which the CTA may exercise its jurisdiction:

Sec. 7. *Jurisdiction.* - The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be

deemed a denial;

3. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;

4. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;

5. Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

6. Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code;

7. Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Section 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties.

b. Jurisdiction over cases involving criminal offenses as herein provided:

1. Exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs: Provided, however, That offenses or felonies mentioned in this paragraph where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (P1,000,000.00) or where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate. Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing

of such civil action separately from the criminal action will be recognized.

2. Exclusive appellate jurisdiction in criminal offenses:

a. Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax cases originally decided by them, in their respective territorial jurisdiction.

b. Over petitions for review of the judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in their respective jurisdiction.

c. Jurisdiction over tax collection cases as herein provided:

1. Exclusive original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties: *Provided, however,* That collection cases where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (P1,000,000.00) shall be tried by the proper Municipal Trial Court, Metropolitan Trial Court and Regional Trial Court.

2. Exclusive appellate jurisdiction in tax collection cases:

a. Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax collection cases originally decided by them, in their respective territorial jurisdiction.

b. Over petitions for review of the judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax collection cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in their respective jurisdiction. (Emphasis supplied)

In this case, Petron's tax liability was premised on the COC's issuance of CMC No. 164-2012, which gave effect to the CIR's June 29, 2012 Letter interpreting Section 148 (e) of the NIRC as to include alkylate among the articles subject to customs duties, hence, Petron's petition before the CTA ultimately challenging the legality and constitutionality of the CIR's aforesaid interpretation of a tax provision. In line with the foregoing discussion, however, the CIR correctly argues that the CTA had no jurisdiction to take cognizance of the petition as its resolution would necessarily involve a declaration of the validity or constitutionality of the CIR's interpretation of Section 148 (e) of the NIRC, which is subject to the exclusive review by the Secretary of Finance and ultimately by the regular courts. In *British American Tobacco v. Camacho*,^[24] the Court ruled that the CTA's jurisdiction to resolve tax