



Republic of the Philippines
OFFICE OF THE PRESIDENT
COOPERATIVE DEVELOPMENT AUTHORITY
5th Flr Ben-lor Bldg., 1184 Quezon Ave., Quezon City

19 January 1994

MEMORANDUM CIRCULAR **94-002**

F O R : THE BOARD OF ADMINISTRATORS
Area Extension Directors
Executive Committee Members

F R O M : CANDELARIO L. VERZOSA, JR.
Executive Director

R E : Supreme Court Decision

Attached herewith is a copy of a Supreme Court decision in the case of Associated Contractors Multi-Purpose Cooperative v. Honorable Ramon V. del Rosario, in his capacity as Secretary of Finance. The pertinent rulings are as follows:

- a. It is not the province of this [Supreme] Court to be a trier of facts and it cannot assume that role especially in a special civil action for certiorari where the legal inquiry is limited to questions of jurisdiction.
- b. Claims for tax exemption are strictly construed against the claimants.

The said ruling, although against the cooperatives, underscores the position of administrative agencies in the exercise of their discretionary powers.

Said decision may be reproduced by the Area Extension Offices for the information of the cooperatives within their respective jurisdictions.


CANDELARIO L. VERZOSA, JR.
Executive Director

Republic of the Philippines
SUPREME COURT
Manila

September 20, 1993

Gentlemen

Quoted hereunder for your information is a resolution of the Court En Banc dated September 14, 1993 :

"GR. No. 107368 (Associated Contractors Multi-Purpose Cooperative, Inc. [ACMPCI] vs. Honorable Ramon del Rosario, in his capacity as Secretary of Finance.) – This is a petition for certiorari under Rule 65 assailing as grave abuse of discretion of the public respondent to grant petitioner's request for duty and tax exemption of its importation of particle board, glass and cement.

Petitioner is a cooperative registered with the Cooperative Development Authority (CDA).¹ It imported the following items: 200,000 sheets of particle board; (2) 120,000 square meters of glass; and, (3) 200,000 bags of Portland/Pozzolan cement. The Board of Investment, Department of Trade and Industry certified that the items were not locally available.² Petitioner applied to the CDA for duty and tax exemption of the above importation and its application was endorsed to the Department of Finance for favorable consideration.³ On August 12, 1992, public respondent denied the request on the ground that petitioner transacts business with the public and that "x x x the subject articles are neither machineries, equipment nor spare parts as defined under DOF-CDA Joint Circular No. 1-90 implementing Article 62(1) of RA 6938 x x x."⁴ This ruling was reiterated on October 5, 1992 in a 3rd Indorsement where it was stressed "... in respect to importations of cooperatives, the provisions of Article 62(1) and not Article 61 of RA 6938 should apply."

In this petition, petitioner urges:

"13. Petitioner firmly believes that their case does not squarely fall under aforesaid provision of law, for the following reasons:

- "a. Petitioner deals or transacts business absolutely with members and NOT WITH BOTH MEMBERS and NON-MEMBERS, as required in aforesaid provision;
- "b. Subject importation of petitioner is not within the enumeration of items/shipment provided for in aforesaid provision."

We find no merit in the petition.

Article 63 of R.A. 6938 which was relied upon by the public respondent in denying petitioner's request for exemption provides:

¹ Per Registration No. F-624-059 issued on June 11, 1992.

² July 8, 1992 Certification, Annex "C" of Petition.

³ Annex "B", Petition.

⁴ The 'Indorsement' was issued by Antonio P. Belicena, Assistant Secretary, Revenue Operations

"Article 62. Tax and Other Exemptions. - Cooperatives transacting business with both members and non-members shall not be subject to tax on their transactions to members. Notwithstanding the provisions of any law or regulation to the contrary, such cooperatives dealing with non-members shall enjoy the following tax exemptions:

"(1) Cooperatives with accumulated reserves and undivided net savings of not more than Ten Million Pesos (P10,000,000.00) shall be exempt from all national, city, provincial, municipal or barangay taxes of whatever name or nature. Such cooperatives shall be exempt from customs duties, advance sales or compensating taxes on their importation of machineries, equipment and spare parts not available locally as certified by the Department of Trade and Industry. All tax-free importations shall not be transferred to any person until after five (5) years, otherwise, the cooperative and the transferee or assignee shall be solidarily liable to pay twice the amount of the tax and/or duties thereon."

Petitioner contends that the above provision does not apply to it because it is a cooperative that does not transact business with non-members. Clearly, petitioner is asking Us to reverse a contrary finding of fact of the public respondent. It is not the province of this Court to be a trier of facts and it cannot assume that role especially in a special civil action for certiorari where the legal inquiry is limited to questions of jurisdiction. Moreover, claims for tax exemptions are strictly construed against the claimants and the records before Us do not show that in denying petitioner's claim, public respondent committed grave abuse of discretion.

In view whereof, the petition for certiorari is DENIED due course.

Very truly yours,

(Sgd.) LUZVIMINDA D. PUNO
Clerk of Court