

OPINION NO. 1105

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

TAX DIVISION

Samuel Meisel and Company, Inc. :
Petitioner :
v. : No. 2193
District of Columbia :

FILED

JUN 8 1973

Superior Court of the
District of Columbia
Tax Division

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The taxing authority of the District of Columbia assessed the petitioner, Samuel Meisel and Company, Inc., a personal property tax on a quantity of alcoholic beverages held in petitioner's warehouse in the District of Columbia. Petitioner paid the tax assessed, and appeals to this court from the denial of its claim of a refund.

FINDINGS OF FACT

1. Petitioner is a Maryland corporation with its principal District of Columbia office at 3325 V Street, N.E., Washington, D. C.
2. The tax in controversy is a personal property tax for the period April 1, 1972, to June 30, 1972, in the amount of \$2,251.73.
3. A notice of assessment was dated April 17, 1972. The tax was paid by petitioner on July 21, 1972.
4. Petitioner operates a bonded warehouse holding only imported alcoholic beverages for sale solely to foreign embassies, all of the goods of which are in the custody of a deputy collector of customs.

5. The tax in controversy was levied on the above-described inventory of imported alcoholic beverages.

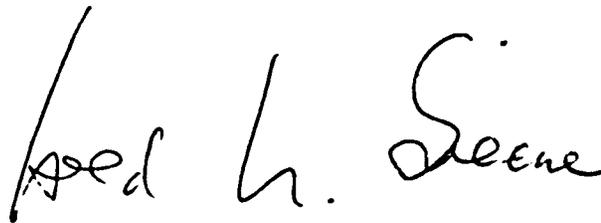
CONCLUSION OF LAW

This Court agrees with the position of the United States Court of Appeals in District of Columbia v. International Distributing Corp., 331 F.2d 817 (1964), in which the Court of Appeals affirmed a decision of the District of Columbia Tax Court holding imported alcoholic beverages stored in customs bonded warehouses for sale to foreign embassies to be exempt from District of Columbia sales taxes. The Court of Appeals adopted the Tax Court's conclusion that as long as the property in question remained in a bonded warehouse under the authority of 19 U.S.C. 1309 et seq., it did not become subject to the taxing authority of the District and it remained outside that authority when it was sold directly to foreign embassies. The respondent in the instant case has presented no basis either in fact or in law for stripping the petitioner's inventory of the immunity from local taxation conferred in International Distributing; certainly, the fact alone that the tax in question is a personal property tax rather than a sales tax cannot provide a distinction.

The Court is of the opinion, therefore, that petitioner's inventory, while stored in a customs bonded warehouse, enjoyed the immunity from "internal-revenue tax" conferred by 19 U.S.C. 1309, and that such immunity is broad enough to include the local personal property tax in question. Cf. National Distillers Products Corp. v.

City and Co. of San Francisco, 141 Cal.App.2d 651, 297 P.2d 61 (1956), cert. den. 352 U.S. 928. The withdrawal of the alcoholic beverages from petitioner's bonded warehouse for sale to foreign embassies was a transaction protected by statute from the imposition of local tax levies such as the tax the District seeks to collect here. Cf. 26 U.S.C. 5066(b). Petitioner's claim for a refund of the tax in question was incorrectly denied.

The Court therefore holds that a personal property tax for the period April 1, 1972, to June 30, 1972, in the amount of \$2,251.73, was erroneously assessed against and collected from petitioner. As the amount of the tax was admitted by respondent in its answer and is apparently not in controversy, decision will be entered for the petitioner ordering a refund in the amount of \$2,251.73 with interest at the rate of four per cent per annum from July 21, 1972, to the date of payment of the refund.



Harold H. Greene
Chief Judge

June 8, 1973