

**2. ESTABLISHMENT UNDER CORPORATE
REHABILITATION**

NWPC Case No. E-11-003

09 November 2011

[Case No. NCR-W.O.-15-D(58)]

IN RE: APPLICATION FOR EXEMPTION FROM WAGE
ORDER NO. NCR-15

PHILIPPINE TELEGRAPH & TELEPHONE CORPORATION
(PTTC), Applicant-Appellant.

Wage Order; Application for Exemption; Distressed Establishment Under Corporate Rehabilitation; Criteria For Exemption. - For the exemptible category of Establishments Under Corporation Rehabilitation only an Order from a court of competent jurisdiction is required as proof of distressed condition. Section 6, Rule IV of 2000 Interim Rules of Procedure on Corporate Rehabilitation refers to Stay Order whereby a petitioner company is placed under a corporate receiver. Even the Amended Rules on Exemption defined establishment under corporate rehabilitation as one placed under a rehabilitation receiver by a court of competent jurisdiction.

Same; Same; Late Filing of MR ; Demands For Substantial Justice And Fair Play Should Brushed Aside Technicalities. - While we concur with the findings of the Board that the motion for reconsideration of PTTC was filed out of time, we are of the view that PTTC upon application already complied with the criteria and the requisite supporting document for the exemptible category of establishment under corporate rehabilitation. The demands of

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substantial justice and fair play dictate that the Board should have brushed aside technicalities and considered the Court's Stay Order being the only requirement to determine the distressed condition of the company. At the outset, we stress that the Board had the opportunity to correct its erroneous Decision in the motion for reconsideration but it did not.

Same; Same; Violation of Due Process Where The Disapproval of Exemption Application Has No Basis With The evidence On Record. - The Board violated the due process clause enshrined in the Constitution as the Board's disapproval has no basis with the evidence on record (Court's Stay Order) being for the approval of the application. The Board did not consider the Stay Order of the Court. Rather, it relied on the absence of Audited Financial Statements, the latter not being required for application under corporate rehabilitation.

In *Ang Tibay vs. Court of Industrial Relations*, G. R. No. L-46496, February 27, 1940, the Supreme Court laid down the cardinal primary requirements of due process, among others, to wit: Not only must there be some evidence to support a finding or conclusion (*City of Manila vs. Agustin*, G.R. No. 45844, promulgated November 29, 1937, XXXVI O. G. 1335), but the evidence must be "substantial." (*Washington, Virginia and Maryland Coach Co. v. National Labor Relations Board*, 301 U.S. 142, 147, 57 S. Ct. 648, 650, 81 Law. ed. 965.) It means such relevant evidence as a reasonable mind accept as adequate to support a conclusion." (*Appalachian Electric Power v. National Labor Relations Board*, 4 Cir., 93 F. 2d 985, 989; *National Labor Relations Board v. Thompson Products*, 6 Cir., 97 F. 2d 13, 15; *Ballston-Stillwater Knitting Co. v. National Labor Relations Board*, 2 Cir., 98 F. 2d 758, 760.); and that the decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected (*Interstate Commerce*

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Commission vs. L. & N. R. Co., 227 U.S. 88, 33 S. Ct. 185, 57 Law. ed. 431.)

Same; Same; Appeal Belatedly Filed May Still Be Given Due Course By The Commission. - Appeal belatedly filed may still be given due course by the Commission. In *Villa v. Lazaro*, 189 SCRA 34, the Supreme Court ruled that violation of any of the cardinal requirements of due process in administrative proceedings renders any judgment or order issued therein null and void, could never become final and could be attacked in any appropriate proceedings. The Supreme Court also held that the relaxation or suspension of procedural rules or the exemption of a case from their operation is warranted only by compelling reasons or when the purpose of justice requires it. (*Asia United Bank vs. Goodland Company, Inc.*, G.R. No. 188051, November 22, 2010; *Maralit vs. Philippine National Bank*, G.R. No. 163788, August 24, 2009; *B.E. San Diego Inc. vs. CA*, 218 SCRA 446). Moreover, in *Colgate-Palmolive Philippines, Inc. v. Ople*, G.R. No. 73681, June 1988 it declared that the grant of the exemption with the relaxation of the usually strict enforcement of the technical requirements of law is consistent with the policy and mandate of Department of Labor to equally protect and respect not only workers but also the management and/or employer's side. The law in protecting the rights of workers, authorizes neither oppression nor self-destruction of employer consistent with the State policy of bridging the gap between the underprivileged working man and the more affluent employers, the balance in favor of the workingman should be tilted without being blind to the concomitant right of the employer to the protection of his property. (*Gelmart Industries Phils. V. NLRC*, G.R. No. 55668, August 10, 1989)

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FACTS:

PTTC filed with the Board an exemption application as a distressed establishment under corporate rehabilitation from Wage Order No. NCR-15. Among the supporting document submitted was a certified true copy of the Stay Order dated 21 August 2009 issued by RTC-Branch 66, Makati City relative to its corporate rehabilitation. The Board disapproved the application for failure of PTTC to submit its 2008 and 2009 audited financial statements. It likewise denied PTTC's motion for reconsideration for having been filed out of time.

Hence, PTTC filed a Manifestation (treated as an Appeal) together with a copy of the Court Order dated 01 April 2011 issued by RTC-Branch 66, Makati City, approving its Rehabilitation Plan.

ISSUES:

1. WHETHER OR NOT PTTC WAS QUALIFIED FOR EXEMPTION UPON APPLICATION UNDER WAGE ORDER NO. NCR-15.
2. WHETHER OR NOT THE MOTION FOR RECONSIDERATION WAS FILED OUT OF TIME.
3. WHETHER OR NOT THERE WAS A VIOLATION OF SUBSTANTIVE DUE PROCESS .
4. WHETHER OR NOT THE MANIFESTATION TREATED AS APPEAL FILED OUT OF TIME MAY STILL BE GIVEN DUE COURSE BY THE COMMISSION.

HELD:

Appeal granted.

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On the first issue, the Commission ruled that for the exemptible category of Establishments Under Corporation Rehabilitation only an Order from a court of competent jurisdiction is required as proof of distressed condition. Section 6, Rule IV of 2000 Interim Rules of Procedure on Corporate Rehabilitation refers to Stay Order whereby a petitioner company is placed under a corporate receiver. Even the Amended Rules on Exemption defined establishment under corporate rehabilitation as one placed under a rehabilitation receiver by a court of competent jurisdiction. Thus, the Commission rules that PTTC was eligible for exemption as a distressed establishment under corporate rehabilitation upon application having submitted a court's Stay Order being the only requirement to determine the distressed condition of the company.

The purpose of wage exemption is to help financially distressed companies meet their labor costs without endangering the existence or viability of the firm upon which both management and labor depend for a living. (RCPI v. NWPC, et. al., G.R. No. 93044, March 26, 1992).

Even the Supreme Court described a company placed under rehabilitation as distressed company. (Tyson's Super Concrete Inc., et. al. vs. Court of Appeals, et. al., G.R. No. 140081, June 23, 2005; Ruby Industrial Corp. and Benhar International Inc. vs. Court of Appeals, et. al., G.R. No. 124185-87, January 20, 1998).

On the second issue, the Commission declared that while it concurred with the findings of the Board that the motion for reconsideration of PTTC was filed out of time, they viewed that PTTC upon application already complied with the criteria and the requisite supporting document for the exemptible category of establishment under corporate rehabilitation. The demands of substantial justice and fair play dictate that the Board should have brushed aside technicalities and considered the Court's Stay Order

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being the only requirement to determine the distressed condition of the company. At the outset, we stress that the Board had the opportunity to correct its erroneous Decision in the motion for reconsideration but it did not.

On the third issue, it ruled that the Board violated the due process clause enshrined in the Constitution as the Board's disapproval has no basis with the evidence on record (Court's Stay Order) being for the approval of the application. The Board did not consider the Stay Order of the Court. Rather, it relied on the absence of Audited Financial Statements, the latter not being required for application under corporate rehabilitation.

In *Ang Tibay vs. Court of Industrial Relations*, G. R. No. L-46496, February 27, 1940, the Supreme Court laid down the cardinal primary requirements of due process, among others, to wit: Not only must there be some evidence to support a finding or conclusion (*City of Manila vs. Agustin*, G.R. No. 45844, promulgated November 29, 1937, XXXVI O. G. 1335), but the evidence must be "substantial." (*Washington, Virginia and Maryland Coach Co. v. National Labor Relations Board*, 301 U.S. 142, 147, 57 S. Ct. 648, 650, 81 Law. ed. 965.) It means such relevant evidence as a reasonable mind accept as adequate to support a conclusion." (*Appalachian Electric Power v. National Labor Relations Board*, 4 Cir., 93 F. 2d 985, 989; *National Labor Relations Board v. Thompson Products*, 6 Cir., 97 F. 2d 13, 15; *Ballston-Stillwater Knitting Co. v. National Labor Relations Board*, 2 Cir., 98 F. 2d 758, 760.); and that the decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected (*Interstate Commerce Commission vs. L. & N. R. Co.*, 227 U.S. 88, 33 S. Ct. 185, 57 Law. ed. 431.)

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On the fourth issue, the Commission viewed that the appeal belatedly filed by PTTC may still be given due course by it. In *Villa v. Lazaro*, 189 SCRA 34, the Supreme Court ruled that violation of any of the cardinal requirements of due process in administrative proceedings renders any judgment or order issued therein null and void, could never become final and could be attacked in any appropriate proceedings. The Supreme Court also held that the relaxation or suspension of procedural rules or the exemption of a case from their operation is warranted only by compelling reasons or when the purpose of justice requires it. (*Asia United Bank vs. Goodland Company, Inc.*, G.R. No. 188051, November 22, 2010; *Maralit vs. Philippine National Bank*, G.R. No. 163788, August 24, 2009; *B.E. San Diego Inc. vs. CA*, 218 SCRA 446). Moreover, in *Colgate-Palmolive Philippines, Inc. v. Ople*, G.R. No. 73681, June 1988 it declared that the grant of the exemption with the relaxation of the usually strict enforcement of the technical requirements of law is consistent with the policy and mandate of Department of Labor to equally protect and respect not only workers but also the management and/or employer's side. The law in protecting the rights of workers, authorizes neither oppression nor self-destruction of employer consistent with the State policy of bridging the gap between the underprivileged working man and the more affluent employers, the balance in favor of the workingman should be tilted without being blind to the concomitant right of the employer to the protection of his property. (*Gelmart Industries Phils. V. NLRC*, G.R. No. 55668, August 10, 1989)

PTTC was granted exemption under W.O. No. NCR-15 for the period from July 1, 2010 to June 30, 2011. Decision and Resolution of the Board dated 26 November 2010 and 11 February 2011 were reversed and set aside.

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Trasmonte (Chairman Designate), Floro, Rondain (Commissioners), Lagunzad III (Member) voted to grant the appeal.

Paderanga (Vice-Chairman), Bagtas (Commissioner), took no part.

Diwa, (Commissioner), dissented.

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