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**NWPC LAW GAZETTE**

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*NWPC Case No. E-13-001*

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**6. EXTENSION OF EXEMPTION**

**NWPC Case No. E-13-001**

21 February 2013

[Case No. W.O. RBVII –16-2011-AE-005]

IN RE: APPLICATION FOR EXEMPTION FROM WAGE  
ORDER NO RBVII-16

SHEMBERG BIOTECH CORPORATION, Applicant Appellant.

*Wage Order; Application For Exemption; Non-extendible Period Of One Exemption; Rationale For Allowing A One Year Exemption-* The exemption period cannot be extended since the maximum period of exemption that may be granted under a particular Wage Order is one (1) year only, which is non-extendible pursuant to Section 5.A, NWPC Guidelines No. 02, Series of 2007 (NWPC Amended Rules on Exemption). The Supreme Court has already made an unequivocal ruling on the non-extendible feature of the one-year period of exemption (Cheng Ban Yek & Co. Inc. vs. NWPC, et al., G.R. No. 112216, December 6, 1996; Philippine Wallboard Corporation v. NWPC et. al GR No. 132162, January 26, 2000). In the latter case, the Supreme Court declared that the rationale for allowing a one-year exemption from the coverage of the wage orders is precisely to afford the parties affected thereby, more than sufficient time to cope with adverse financial conditions and make the necessary adjustments in order to comply with the mandated wage increases. To allow the petitioner to escape their obligation is tantamount to a judicial imprimatur of an attempt to evade the mandate of the wage order in question.

*Same; Same, Protection To Labor.* - In Fuentes, et al vs. NLRC, et al, 266 SCRA 24 (1997), the Supreme Court declared that the State is bound under the Constitution to afford full protection to labor and when conflicting interests of labor and

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capital are to be weighed on the scales of social justice, the heavier influence of the latter should be counterbalanced with sympathy and compassion the law accords the less privileged working man.

*Same; Same; Wages Not Covered By Court's Stay Order.* - The matter of wages being a legitimate expense in the ordinary course of business, is not covered by Stay Order issued by the Court. Rule 3, Section 7 (d) of the 2008 Rules of Procedure on Corporate Rehabilitation provides that the Stay Order issued by the Court prohibiting the debtor from making any payment of its liabilities excepted therefrom the payment in full of all administrative expenses incurred after the issuance of the stay order. Likewise, Rule 2, Section 1 of the same Rules of Procedure on Corporate Rehabilitation defines Administrative Expenses as referring to (a) reasonable and necessary expenses that are incurred in connection with the filing of the petition; (b) expenses incurred in the ordinary course of business after the issuance of the stay order, excluding interest payable to the creditors for loans and credit accommodations existing at the time of the issuance of the stay order, and (c) other expenses that are authorized under this Rules. The Stay Order shall be effective from the date of its issuance until the approval of the rehabilitation plan or the dismissal of the petition (Section 9, Rule III, 2008 Rules of Procedure on Corporate Rehabilitation). The Decision of the Regional Trial Court, Branch 11, Cebu City dated 22 April 2002 approving the rehabilitation plan of the Applicant-Appellant and its Order dated 30 March 2009 on the Final Receiver's Report did not prohibit the payment of wages to the Applicant-Appellant's workers.

### **FACTS:**

Applicant-Appellant filed with the Board an exemption application from compliance with Wage Order No. RBVII-16 as a

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distressed establishment under corporate rehabilitation. Applicant-Appellant having submitted the required documents, the Board granted the former a full one (1) year exemption effective 22 September 2011 until 21 September 2012. Before the 1 year exemption grant ended, Applicant-Appellant filed a request for an extension of the 1 year exemption period on the ground of being still under corporate rehabilitation but the Board denied the request for lack of legal basis. The Board likewise denied the Applicant-appellant's motion for reconsideration for lack of merit.

Hence, Applicant-Appellant filed an appeal.

### **ISSUES:**

1. WHETHER OR NOT THE APPLICANT-APPELLANT IS ENTITLED TO AN EXTENSION OF THE FULL ONE (1) YEAR PERIOD OF EXEMPTION.
  
2. WHETHER OR NOT THE BOARD ERRED IN DENYING THE REQUEST FOR EXTENSION OF THE EXEMPTION PERIOD CONSIDERING THAT THE APPLICANT-APPELLANT HAS ALLEGEDLY REGISTERED CAPITAL DEFICIENCY.

### **HELD:**

Appeal denied.

On the first issue, the Commission ruled that the exemption period cannot be extended since the maximum period of exemption that may be granted under a particular Wage Order is one (1) year only, which is non-extendible pursuant to Section 5.A, NWPC

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Guidelines No. 02, Series of 2007 (NWPC Amended Rules on Exemption).

The Supreme Court has already made an unequivocal ruling on the non-extendible feature of the one-year period of exemption (Cheng Ban Yek & Co. Inc. vs. NWPC, et al., G.R. No. 112216, December 6, 1996; Philippine Wallboard Corporation v. NWPC et. al GR No. 132162, January 26, 2000). In the latter case, the Supreme Court declared that the rationale for allowing a one-year exemption from the coverage of the wage orders is precisely to afford the parties affected thereby, more than sufficient time to cope with adverse financial conditions and make the necessary adjustments in order to comply with the mandated wage increases. To allow the petitioner to escape their obligation is tantamount to a judicial imprimatur of an attempt to evade the mandate of the wage order in question.

In *Fuentes, et al vs. NLRC, et al*, 266 SCRA 24 (1997), the Supreme Court declared that the State is bound under the Constitution to afford full protection to labor and when conflicting interests of labor and capital are to be weighed on the scales of social justice, the heavier influence of the latter should be counterbalanced with sympathy and compassion the law accords the less privileged working man.

The matter of wages being a legitimate expense in the ordinary course of business, is not covered by Stay Order issued by the Court. Rule 3, Section 7 (d) of the 2008 Rules of Procedure on Corporate Rehabilitation provides that the Stay Order issued by the Court prohibiting the debtor from making any payment of its liabilities excepted therefrom the payment in full of all administrative expenses incurred after the issuance of the stay order. Likewise, Rule 2, Section 1 of the same Rules of Procedure on Corporate Rehabilitation defines Administrative Expenses as

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referring to (a) reasonable and necessary expenses that are incurred in connection with the filing of the petition; (b) expenses incurred in the ordinary course of business after the issuance of the stay order, excluding interest payable to the creditors for loans and credit accommodations existing at the time of the issuance of the stay order, and (c) other expenses that are authorized under this Rules. The Stay Order shall be effective from the date of its issuance until the approval of the rehabilitation plan or the dismissal of the petition (Section 9, Rule III, 2008 Rules of Procedure on Corporate Rehabilitation). The Decision of the Regional Trial Court, Branch 11, Cebu City dated 22 April 2002 approving the rehabilitation plan of the Applicant-Appellant and its Order dated 30 March 2009 on the Final Receiver's Report did not prohibit the payment of wages to the Applicant-Appellant's workers.

On the last issue, the Board did not err in denying the request for an extension of the one (1) year grant of exemption as it merely followed the NWPC Amended Rules on Exemption with regard to the maximum period of exemption being only one (1) year.

Applicant-Appellant invoked the general principle of equity which regards the spirit and not the letter, the intent and not the form, the substance rather than the literal meaning to prevail. Let it be emphasized that when the law is clear, there is no room for interpretation but only implementation. In *Republic Flour Mills, Inc. v. Commissioner of Customs*, G.R. No. 28464, May 31, 1971, 39 SCRA 269; *Commissioner of Internal Revenue v. Limpan Investment Corp.*, G.R. No. 28571, July 31, 1970, 34 SCRA 148 [1970]; *Quijano v. DBP*, G.R. 26419, Oct. 16, 1970, 35 SCRA 270; *Ramos v. CA*, G.R. No. 53766, Oct. 30, 1981, 108 SCRA 728, the Supreme Court ruled that a statute, being the will of the legislature, should be applied in exactly the way the legislature has expressed

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itself clearly in the law. The clear, unambiguous and unequivocal language of a statute precludes the court from construing it and gives it no discretion but to apply the law. Further, in *Pascual v. Pascual-Bautista*, 207 SCRA 561 [1992]; *Fagel Tabin Agricultural Corp. v. Jacinto*, 203 SCRA 189 [1991]; *People v. Amigo*, 67 SCAD 28, 252 SCRA 43 [1996], the Supreme Court also declared that it is an elementary rule in statutory construction that when the words and phrases of the statute are clear and unequivocal, their meaning must be determined from the language employed and the statute must be taken to mean exactly what it says. The courts may not speculate as to the probable intent of the legislature apart from the words. When the law is clear, it is not susceptible of interpretation. It must be applied regardless of who may be affected, even if it may be harsh or onerous.

The Board's Resolutions dated 11 October 2012 and 20 December 2012, respectively are AFFIRMED.

*Lagunzad III (Chairman Designate), Balisacan (Vice-Chairman), Bagtas (Commissioner) voted to deny the appeal.*

*Floro, Rondain (Commissioners) abstained.*

*Diwa (Commissioner) In the result of Corporate Rehabilitation Order and Law.*

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