

WILSON & CO., INC. *v.* UNITED STATES.\*

## CERTIORARI TO THE COURT OF CLAIMS.

No. 23. Argued October 22, 23, 1940.—Decided November 18, 1940.

1. Claims to refunds by exporters of products upon which processing or floor stock taxes had been paid under the Agricultural Adjustment Act, *held* governed by § 601 (a) of the Revenue Act of 1936 (which reënacted § 17 (a) of the Agricultural Adjustment Act), where claimants disavow any attempt to proceed under Title VII of the Act. P. 105.
  2. Where, in the case of a claim for refund governed by § 601 (a) of the Revenue Act of 1936, the record does not show the ground of denial by the Commissioner of Internal Revenue, the Court of Claims is without jurisdiction to review the Commissioner's determination. Revenue Act of 1936, § 601 (e). P. 106.
- 90 Ct. Cls. 131; 30 F. Supp. 672, affirmed.

CERTIORARI, 309 U. S. 651, to review the dismissal of petitions in three cases for refunds of processing and floor taxes paid under the Agricultural Adjustment Act upon products subsequently exported.

*Mr. Dean G. Acheson*, with whom *Messrs. J. Harry Covington, Paul E. Shorb, and H. Thomas Austern* were on the brief, for petitioners.

*Mr. Warner W. Gardner*, with whom *Solicitor General Biddle, Assistant Attorney General Clark, and Mr. Sewall Key* were on the brief, for the United States.

MR. JUSTICE MURPHY delivered the opinion of the Court.

Petitioners are corporations engaged in the preparation, packing, and sale of meat products in foreign and domestic commerce. Between November 5, 1933 and

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\*Together with No. 24, *Wilson & Co., Inc., of Kansas v. United States*, and No. 25, *T. M. Sinclair & Co., Ltd. v. United States*, also on writs of certiorari, 309 U. S. 651, to the Court of Claims.

January 6, 1936 they exported to foreign countries large quantities of hog products with respect to which they paid processing taxes under § 9 (a) and floor stock taxes under § 16 (a) of the Agricultural Adjustment Act. 48 Stat. 31, 35, 40. Subsequent to exportation petitioners filed claims for refunds under § 17 (a). 48 Stat. 31, 40. The Commissioner of Internal Revenue denied all of the claims and suit in the Court of Claims followed. The United States thereupon moved to dismiss the petitions on the ground that the Court of Claims was without jurisdiction because of certain provisions of Title VII of the Revenue Act of 1936. 49 Stat. 1648, 1747-1755. The Court of Claims dismissed the actions for want of jurisdiction, on the ground, however, that § 601 (e) of Title IV of the Revenue Act of 1936, 49 Stat. 1648, 1740, prevented judicial review of the Commissioner's action. 30 F. Supp. 672. To resolve the conflict with *Cudahy Bros. Co. v. La Budde*, 92 F. 2d 937, and *Neuss, Hesslein & Co. v. United States*, 30 F. Supp. 595, we granted certiorari. 309 U. S. 651.

The single question presented is whether the Court of Claims was without jurisdiction of petitioners' suits. We hold that it was.

Title VII conditions payment of refunds upon proof that the claimant actually bore the burden of the tax sought to be refunded or that he unconditionally repaid it to his vendee who bore the burden. Since petitioners do not allege satisfaction of these conditions it is plain that they do not claim under Title VII. Indeed, they disown any attempt to bring their claims within its provisions.

Title IV provides for refunds to exporters of products upon which processing or floor stock taxes have been paid. It is true that § 17 (a) of the Agricultural Adjustment Act provided for these refunds before the Act was held unconstitutional in *United States v. Butler*, 297 U. S. 1.

Whether petitioners could still establish refund claims under that section if the act had never been invalidated is a question we need not consider. For whatever the effect of that decision on § 17 (a), Congress expressly made it a part of Title IV by reenacting it in § 601 (a). 49 Stat. 1648, 1739.<sup>1</sup> It follows that petitioners' claims, purportedly based on § 17 (a), must be governed by Title IV and the limitations it imposes.

Section 601 (e) of Title IV provides:

"The determination of the Commissioner of Internal Revenue with respect to any refund under this section shall be final and no court shall have jurisdiction to review such determination."

Petitioners contend that Congress intended to commit to the final determination of the Commissioner only "such matters as findings of fact, computations, and the like." Quite apart from the fact that in § 601 (d)<sup>2</sup> Congress uses virtually the quoted words in limiting review by administrative officers, we fail to see how the argument can aid petitioners here because the record does not show why their claims were denied. Since the record is silent on this point, such decisions as *United States v. Williams*, 278 U. S. 255, and *Silberschein v. United States*, 266 U. S. 221, are plainly distinguishable.

We hold that upon this record the determination of the Commissioner is final. Thus we see no occasion to narrow the effect of § 601 (e). The decision of the Court of Claims was correct and must be

*Affirmed.*

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<sup>1</sup>Sec. 601. (a) The provisions of sections . . . 17 (a) of the Agricultural Adjustment Act, as amended, are hereby reenacted but only for the purpose of allowing refunds in accordance therewith in cases where . . . the exportation . . . took place prior to January 6, 1936.

<sup>2</sup>Sec. 601. (d) In the absence of fraud, the findings of fact and the decision of the Commissioner of Internal Revenue upon the merits of any claim adjusted pursuant to this section and the mathematical calculation therein shall not be subject to review by any administrative or accounting officer, employee, or agent of the United States.