
Title:

****Commissioner of Internal Revenue vs. Pascor Realty and Development Corporation, et al.****

Facts:

1. ****Investigation Authorization:**** BIR Commissioner Jose U. Ong authorized Revenue Officers under Letter of Authority No. 001198 to examine Pascor Realty and Development Corporation (PRDC) for years 1986, 1987, and 1988.
2. ****Assessment Recommendation:**** Examinations recommended issuance of assessments: P7,498,434.65 (1986) and P3,015,236.35 (1987).
3. ****Criminal Complaint:**** On March 1, 1995, the Commissioner filed a criminal complaint before the DOJ alleging tax evasion totaling P10,513,671.00.
4. ****Urgent Request:**** PRDC and officers filed for reconsideration/reinvestigation contesting the assessment on March 21, 1995.
5. ****Subpoena Issued:**** DOJ issued a subpoena to PRDC on March 23, 1995, about the complaint.
6. ****Reinvestigation Denied:**** On May 17, 1995, the Commissioner denied PRDC's request citing no formal assessment issuance.
7. ****CTA Petition:**** PRDC elevated the denial to the Court of Tax Appeals (CTA) on July 21, 1995.
8. ****Motion to Dismiss:**** The Commissioner filed a motion to dismiss with the CTA on the basis of no formal assessment, denied by the CTA on January 25, 1996.
9. ****Appeal to CA:**** The Commissioner filed a certiorari petition with the Court of Appeals against the CTA decision, which was dismissed on October 30, 1996.
10. ****Supreme Court Petition:**** The Commissioner filed a petition with the Supreme Court seeking to nullify the CA's decision.

Issues:

1. Can a criminal complaint for tax evasion be construed as an assessment?
2. Is an assessment necessary before instituting criminal charges for tax evasion?
3. Can the CTA take cognizance of a case in the absence of an assessment?

Court's Decision:

1. ****Assessment Definition:**** Affirmed that an assessment must be sent to and received by the taxpayer demanding payment within a specific period. The revenue officers' affidavit lacked these elements and did not constitute a valid assessment.
2. ****Criminal Complaint's Nature:**** Filing a criminal complaint does not substitute for a formal assessment. The court found the affidavit attached to the complaint insufficient to meet the statutory requirements of an assessment.
3. ****Necessity of Assessment:**** The Court clarified that according to Section 222 and Section 205 of the National Internal Revenue Code (NIRC), criminal proceedings could commence without an assessment in cases of fraudulent returns or failure to file returns. The simultaneous pursuit of civil and criminal remedies was permissible.
4. ****CTA Jurisdiction:**** Given no formal assessment was issued, the CTA had no jurisdiction to entertain the appeal filed by PRDC. The decision of the CTA to consider the affidavit accompanying the criminal complaint as constitutive of an assessment was deemed incorrect.

Doctrine:

1. ****Assessment Definition:**** An assessment in tax law must include a computation of tax liability, a demand for payment, and be served on the taxpayer. It marks the start of penalty and interest accrual.
2. ****Simultaneous Civil and Criminal Remedies:**** Under Section 222 and Section 205 of the NIRC, criminal charges can be filed without a preceding assessment in cases involving fraudulent returns or failures to file returns.

3. **Jurisdiction Over Tax Disputes:** Without a valid formal assessment, the Court of Tax Appeals (CTA) does not have the jurisdiction to entertain appeals disputing tax liabilities.

Class Notes:

1. **Elements of a Valid Tax Assessment:**

- Clear computation of tax liability.
- Demand for payment within a specified period.
- Proper service and receipt by the taxpayer.
- Penalty and interest begin to accrue post issuance.

2. **Sections of NIRC relevant to the case:**

- **Sec. 205:** Remedies for the collection of delinquent taxes.
- **Sec. 222:** Exceptions regarding the limitation of assessment and collection periods.
- **Sec. 228:** Requirements and processes for protesting an assessment.

3. **Relevant Case Law:**

- **Ungab v. Cusi:** Tax protests do not suspend criminal actions.
 - **Basilan Estates v. CIR:** Assessment details notification and time limitations as critical features.
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Historical Background:

In the 1990s, the Philippine tax system underwent rigorous scrutiny concurrent with economic reforms. The BIR sought to clamp down on tax evasion, seen as a major hindrance to revenue collection. This case exemplifies the increasing vigilance and proactive measures taken against tax evasion, including both civil and criminal proceedings against entities and individuals allegedly evading taxes. The decision highlights the judiciary's role in balancing taxpayer rights with the need for robust tax enforcement.
