

CHU HOI HORN, PETITIONER, VS. HON. COURT OF TAX APPEALS AND COLLECTOR OF INTERNAL REVENUE, RESPONDENTS.

G.R. No. L-22046. October 29, 1968

Ponente: FERNANDO, J.

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FERNANDO, J.:

The Court of Tax Appeals manifests fidelity both to the letter and the spirit of the law when it appraises and evaluates the facts before it diligently and well so as to frustrate any attempt on the part of a taxpayer, or any taxpayer for that matter, under the prompting of self-interest, to reduce to the minimum, if it could be done to the vanishing point no doubt, his tax liability. This appeal, therefore, from its decision holding that petitioner's trans-actions in neon lights was one of sale rather than of lease and therefore taxable under the appropriate provision of the National Internal Revenue Code,[1] cannot possibly hope to succeed. The affirmance of the above is all the more called for in view of the authoritative command of *Advertising Associates v. Collector of Internal Revenue*,[2] to which the respondent Collector of Internal Revenue rightfully yielded obedience.

From an order of the other respondent, the Collector of Internal Revenue holding petitioner Chu Hoi Horn liable for the payment of the sum of P21,622.91, representing deficiency percentage tax on his sales of neon signs from 1951 to the second quarter of 1953, the above amount including surcharge and compromise, an appeal was taken to the respondent Court of Tax Appeals. From a decision of affirmance of respondent Court, excluding the amount imposed as compromise, the appeal was taken to us.

According to the decision of respondent Court of Tax Appeals, now under review: "The records show that on June 29, 1953, petitioner filed a written claim for refund of the sum of P1,696.95 with the Bureau of Internal Revenue alleging that for engaging in the business of leasing neon signs he was not liable for the fixed and percentage taxes as a contractor under Sections 182 and 191 of the National Internal Revenue Code and that he was merely a business agent subject to a fixed annual tax of P60.00 * * *. After investigation of the business operations of the petitioner, respondent found that petitioner was not actually leasing neon signs but was selling the same; hence, he assessed the deficiency sales tax mentioned above after deducting the amount of the percentage tax previously paid by petitioner as contractor under Section 191 of the Revenue Code." [3]

It was stated in the aforesaid decision of respondent Court of Tax Appeals that in holding petitioner liable, the respondent, Collector of Internal Revenue, relied greatly on the findings of his conference staff which conducted a hearing on the matter upon the request of petitioner himself. The memorandum submitted to respondent Collector likewise found favor with respondent Court of Tax Appeals, which did not neglect to review the other evidence of record in reaching the decision of affirmance, except the exclusion of the compromise penalty in the sum of P300.00.

The Court of Tax Appeals, to repeat, gave the seal of approval to such a conference report. It is easy to understand why. The liability of petitioner was made to rest on facts given due weight in such report which on its face carried then, and carries now, conviction. "While the taxpayer submitted certificates of the various customers wherein

they stated that, they were lessees of the neon signs installed by the taxpayer as their place of business, nonetheless, upon investigation conducted by an agent of this Office these customers stated that the neon signs were sold to them and that upon payment of the last installment, the said neon signs become their property. Among these customers are the Oregon Hotel, Far Eastern Surety & Insurance Company, Canada Cafe, and American Studio."[4]

A minute analysis of the agreements entered into between taxpayer and its various customers according to such report likewise revealed "that the term of the 'lease' corresponds with the number of installments of the 'rent' which would be required to total the stated value of the neon signs."[5] Again both respondent Collector of Internal Revenue and respondent Court of Tax Appeals were duly impressed by its significance. Nor did it escape the attention of such conference staff that the use of the word "install" in one of the contracts was quite indicative of the true intent of petitioner and its customers, namely, that it "was to be one of sale and [contemplated] transfer of ownership of the neon sign to the customer."[6]

Accordingly, such a report ended on this note: "The 'advance rental' paid upon signing of the agreement represents a substantial portion of the cost of the construction and installation which signifies that it represents advance payment on the cost of the neon sign. Furthermore, the total of all the payments during the term of the lease covers exactly the entire cost of construction and installation of the neon sign. If these 'rentals' are not for the account of the cost of the neon sign the contract would be scandalously immoral for being usurious and oppressive. These payments are evidently to cover the cost of the neon sign. It is obvious from these contracts that the intent of the parties was to have the total of the payments equal the construction and installation cost of the neon sign which is a strong indication that the real intent [was for] the neon sign to [go to] the 'lessee' upon the termination of the term of the alleged 'lease'."[7]

What other conclusion could therefore be derived from the above than the one reached by respondent Collector of Internal Revenue? After a careful review of the matter, the respondent, Court of Tax Appeals was "of the opinion that the foregoing findings and conclusions are fully supported by the evidence."[8] It entertained "no doubt in [its mind] that the neon signs made or constructed by petitioner for his customers were sold and not merely leased. This is further strengthened by the fact that a neon sign made specially for a customer is useless to any other person."[9]

What then could be more logical and reasonable than to uphold the action of respondent Collector of Internal Revenue considering that if a neon sign were "useless to any person other than the one for whom it was made, it is incredible that petitioner should merely lease it instead of selling it to the one for whom it was specially made."[10]

What other assumption could be entertained then other than that a resort to a lease agreement by petitioner should be viewed as an attempt to give the transaction a legal character it did not possess and thus reduce considerably its tax liability. Both respondent Court of Tax Appeals and respondent Collector of Internal Revenue so concluded and thus held petitioner liable for the tax to which under the law it was properly subjected.

In the appeal to us, four errors are assigned as having been committed by respondent Court of Tax Appeals, namely, that it should not consider the findings of the conference staff of the Collector of Internal Revenue as fully supported by the evidence; that the holding that there was a sale and not a lease of the neon signs was not in accordance with the agreements between petitioner and its customers which should not have been considered as having been devised to avoid the payment of taxes due; that petitioner should not have been held liable for the amount of P21,322.91 as deficiency tax plus surcharge, the compromise of P300.00 having been set aside; and that instead, it should have been granted a refund in the amount of P1,696.95.

The first two errors are factual in character. No further attention need be paid them. "This Court is bound by the finding of facts of the Court of Tax Appeals, especially so, where as here, the evidence in support thereof is more than substantial, only questions of law thus being left open to it for determination." [11]

Such an approach to problems of this character does not only have a legal basis but is dictated by the realities of the situation. A tribunal like the Court of Tax Appeals necessarily develops expertise, dealing as it does with one particular branch of the law; it can be relied upon, therefore, at least on factual matters to make full and judicious use of the knowledge that has acquired through such long years of experience. It is in a position to appreciate fully the manifold complexities usually associated with tax problems and thus to come up with the correct solutions. It has been the invariable policy of the Court therefore, not to substitute its discretion for that of respondent Court of Tax Appeals. Petitioner has not shown any reason why there should be a deviation from such a norm.

With the first two errors factual in character and therefore not calling for any further inquiry from us, it is apparent why the third and the fourth errors which would find fault with respondent Court of Tax Appeals in not refunding petitioner with the sum of P1,696.95 which it claims as overpayment and holding him liable for P21,322.91 would be equally devoid of substance.

Moreover, as noted at the outset of this decision, respondent Court of Tax Appeals, even if it were minded, could not refuse to submit to the dictates of our holding in *Advertising Associates, Inc. v. Collector of Internal Revenue*, [12] without a breach of the rule of law which bids inferior tribunals to apply in appropriate cases the legal principle as authoritatively determined by us.

It would not be inappropriate then to refer even if briefly to *Advertising Associates, Inc. v. Collector of Internal Revenue*. Petitioner there, as petitioner here, contended "that it is not a manufacturer but only a contractor of neon-tube signs for the reason that it makes neon-tube signs, electric signs, and electric advertising devices only by contract and by previous order of the party paying for the signs or devices; * * *." [13]

This Court in an opinion by Justice Montemayor, took note of the extensive arguments offered as to the meaning of manufacturer in an endeavor to show that it did not belong in such a category. The feeling of this Tribunal, however, was that there was "no need of seriously considering said authorities and arguments because the decisive point involved in the case is the meaning and purpose of [the then] section 185(k) of the Tax Code." [14]

What such a purpose is, was made clear in this wise: "From the time that the tax on neon-tube signs, electric signs, and electric advertising devices was imposed there had been no such neon-tube signs and electric devices mass-produced for sale to the public. And even at the present time petitioner admits that no such signs and devices are made or sold to the public except upon orders by the customers. This being the case, and if as contended by petitioner that its business of making manufacturing neon-tube signs, electric signs, and electric advertising devices does not come under section 185(k) of the Tax Code then one may ask what neon-tube signs, electric signs, and electric advertising devices does said section 185(k) tax? As the Tax Board aptly frames the question in the last part of this decision: 'If petitioner does not come within the purview of section 185(k) of the Tax Code, what neon-tube signs, electric signs, and electric advertising devices does Congress intend to tax?' The answer would be 'none'. In other words, Congress would be placed in the position of imposing a tax on something that did not exist and so will have performed a futile and useless legislative act." [15]

The opinion likewise quoted Sutherland on Statutory Construction, thus: "A statute is a solemn enactment of the state acting through its legislature and it must be assumed that this process achieves result. It cannot be presumed that the legislature would do a futile thing." [16]

Needless to say, the rationale of the above decision commends itself for acceptance, not only for its highly

realistic view but also for the sound and orthodox approach to the problem of construing tax statutes. It is readily apparent that if in a situation like the present, any other view would be entertained, then a legislative enactment in pursuance of the power to tax would be condemned as a mere exercise in futility. The controlling principle must ever be to promote, not to frustrate, the objective the law intends to achieve.

It is crystal clear therefore that on the above facts as found by respondent Court of Tax Appeals, which to repeat, we cannot alter, both authority and reason unite in the conclusion that petitioner, should not be allowed to escape liability.

WHEREFORE, the decision of respondent Court of Tax Appeals of September 16, 1963 is affirmed. With costs against petitioner Chu Hoi Horn.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Angeles, and Capistrano, JJ., concur.
Zaldivar, J., on official leave.

[1] Section 185(k).

[2] 97 Phil. 636 (1955).

[3] Decision of Respondent Court of Tax Appeals, Annex A of Brief for Petitioner, p. 63.

[4] Ibid, p. 66.

[5] Ibid, p. 66.

[6] Ibid, p. 68.

[7] Ibid, pp. 68-69.

[8] Ibid, p. 69.

[9] Ibid, p. 69.

[10] Ibid, p. 70.

[11] Alhambra Cigar & Cigarette Manufacturing Co. v. Commission of Internal Revenue, L-23226, November 28, 1967.

[12] 97 Phil. 636 (1955).

[13] Ibid, p. 638.

[14] Ibid, p. 639.

[15] Ibid, p. 640.

[16] Ibid, p. 640.

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