

THE COLLECTOR OF INTERNAL REVENUE, PETITIONER, VS. ELLEN WOOD McGRATH, RESPONDENT. ELLEN WOOD MCGRATH, PETITIONER, VS. COLLECTOR OF INTERNAL REVENUE AND COURT OF TAX APPEALS, RE...

G.R. Nos. L-12710 and L-12721. February 28, 1961

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal by the Collector of Internal Revenue in G. R. No. L-12710 from a decision of the Court of Tax Appeals, declaring the estate of Dora Anna Wood exempt from the payment of the inheritance tax, and by Ellen Wood McGrath administratrix of the estate of Dora Anna Wood, in G. R. No. L-12721 against the same decision of the Court of Tax Appeals, dismissing her claim of having been discharged from paying the taxes assessed by the Collector of Internal Revenue on the estate of the deceased.

On January 10, 1956, the Collector of Internal Revenue assessed against the estate of Dora Anna Wood, of which Ellen Wood McGrath is the administratrix, the following taxes, interests and surcharges:

"Estate tax

P19,182.20

1/2% int. on P12,260.74 from 1-22-64 to 12-22-65

1,400.99

Total

P20,572.19

Less amount paid

6,901.46

Amount still due

P13,670.73

Inheritance tax

P32,834.40

5% surcharge on P13.00

.65

1% int. from 4-22-54 to 1-22-56

2.73

1/2% int. on P32,841.40 from 4-22-54 to 12-22-55

5,284.14

Compromise for late payment

3.00

Amount due

P38,144.91

Total P49,815.64" (p. 12 ROA)

On March 9, 1956, upon petition of counsel for McGrath, the Collector of Internal Revenue, in answer to the objections of counsel for McGrath against the original assessment made by the Collector of Internal Revenue, rendered a final decision on the said subject, which reads as follows:

"In view thereof, you are requested to urge your client to pay the sum of P36,144.91 as inheritance tax and penalties, plus the corresponding interest from December 23, 1955 up to the date of payment in order that this case may be closed, without prejudice, however, to your filing of a request for refund in accordance with section 309 of the Tax Code in the event that the decision of the Court of Tax Appeals in the aforesaid Miller case is affirmed by the Supreme Court." (p. 15, ROA)

On April 2, 1956, Ellen Wood McGrath filed a petition for review with the Court of Tax Appeals, alleging that the assessment of the taxes made by the Collector of Internal Revenue on the estate of Dora Anna Wood are excessive and illegal, and praying for the refund of P13,670.73. Respondent Collector answered the petition alleging that Dora Anna Wood left properties worth P326,707.49, and asked, for the dismissal of the petition. Trial was held and on July 5, 1957, the Court of Tax Appeals rendered judgment declaring the estate of Dora Anna Wood exempt from the payment of the inheritance tax, but subject to the estate tax in the amount of P13,160.55, and as petitioner had already paid P20,572.19, the respondent Collector of Internal Revenue was ordered to refund to her the amount of P7,411.64, with interest from the date of the payment.

The Collector of Internal Revenue insists in his appeal before us that the Court of Tax Appeals erred in two principal respects, namely, (1) in holding that there exists reciprocity between the California and Philippine laws on the matter of the death tax on intangible personal property, (2) in holding that the estate of Dora Anna Wood is not liable for the payment of the inheritance tax, and (3) in ordering him to refund the amount of P7,411.04, with interest from the date of payment.

In holding that the estate of Dora Anna Wood is not liable for the payment of inheritance tax, the Court of Tax Appeals followed our decision in the case of *Lara vs. Collector of Internal Revenue*, C.T.A. Case No. 181, dated June 25, 1955; *Norton, et al. vs. Collector of Internal Revenue*, C. T. A. Case No. 73, January 12, 1956, and *Fisher vs. Collector of Internal Revenue*, Manila Civil Case No. 23029, September 26, 1956.

The above decisions were carefully considered by us in the cases of *The Collector of Internal Revenue vs. Fisher, et al.*, and *Fisher, et al., vs. The Collector of Internal Revenue et al.*, 110 Phil., 686, 61 Off. Gaz., [18] 2624 penned by Mr. Justice Barrera, and we have come to the conclusion that no reciprocity can be extended in the case of the estate of Dora Anna Wood because the law of California does not grant full exemption from the estate and inheritance taxes to Filipino residents, in that state. Here is what this Court declared in said case:

"Section 122 of our National Internal Revenue Code, in pertinent part, provides:

'* * * And, provided further, That no tax shall be collected under this Title in respect of intangible personal property (a) if the decedent at the time of his death was a resident of a foreign country which at the time of his death did not impose a transfer tax of death tax of any character in respect of intangible personal property of citizens of the Philippines not residing in that foreign country, or (b) if the laws of the foreign country of which the decedent was a resident at the time of his death allow a similar exemption from transfer taxes or death taxes of every character in respect of intangible personal property owned by citizens of the Philippines not residing in that foreign country.' (Italics supplied.)

"On the other hand, Section 13851 of the California Inheritance Tax Law, insofar as pertinent, reads:

'Sec. 13851. Intangibles of nonresident: Conditions. Intangible personal property is exempt from the tax imposed by this part if the decedent at the time of his death was a resident of a Territory or another State of the

United States or of a foreign state or country which then imposed a legacy, succession, or death tax in respect to intangible personal property of its own residents, but either:

'(a) Did not impose a legacy, succession, or death tax of any character in respect to intangible property of residents of this State, or

'(b) Had in its laws a reciprocal provision under which intangible personal property of a non-resident was exempt from legacy, succession or death taxes of every character if the Territory or other State of the United States or foreign state or country in which the non-resident resided allowed a similar exemption in respect to intangible personal property of residents of the Territory or State of the United States or foreign state or country of residence of the decedent.' (Id.)

"It is clear from both these quoted provisions that the reciprocity must be total, that is, with respect to transfer or death taxes of any and every character, in the case of the Philippine law, and to legacy, succession, or death tax of any and every character, in the case of the California law. Therefore, if any of the two states collects or imposes and does not exempt any transfer, death, legacy, or succession tax of any character, the reciprocity does not work. This is the underlying principle of the reciprocity clauses in both laws."

following the above-quoted decision, the judgment of the Court of Tax Appeals' should be reversed insofar as it exempts the estate of Dora Anna Wood from the inheritance tax assessed by the Collector of Internal Revenue against said estate. The inheritance tax as found by the Court of Tax Appeals is P24,041.96, and together with the 5 per cent surcharge and interest thereon, and the P20 compromise for late payment, amounts to a total of P29,612.15. There having been a payment of P6,249.26, the amount due on September 23, 1956 is hereby fixed at P23,362.79.

One procedural point must be considered in connection with the petition for review of the Collector of Internal Revenue, and this is the claim of the respondent that the Collector received the notice of the decision of the Court of Tax Appeals on July 19, 1957 and filed his notice of appeal only on August 15, 1957 and his petition for review with this Court on August 20, 1957, and that, therefore, said petition for review was filed after the 30-day period within which such a petition must be filed. Upon examining the record, we find that while it is true that the Collector of Internal Revenue himself received the decision of the Court, of Tax Appeals on July 19, 1957, the Office of the Solicitor General which represented the Collector, received the same decision on July 22, 1957. Decisions or orders in ordinary cases are to be notified to counsel, not to the parties themselves. The notice to the Collector of Internal Revenue, which was three days ahead of the notice to his lawyer, the Solicitor General, should not be considered as the period from which the petition for review must be considered filed with us. The objection to the appeal of the Collector of Internal Revenue, on the ground: that the petition for review was filed out of time, must therefore be overruled.

In her appeal petitioner McGrath claims that since the Collector of Internal Revenue accepted a check tendered by her in the amount of P6,901.46, "in full settlement of all death taxes due and payable," the Collector of Internal Revenue, after accepting said payment, can no longer collect the alleged deficiency taxes because the acceptance by the Collector of petitioner's tender of the above amount on February 2, 1955, constitutes a compromise on the obligation of the estate of the deceased Dora Anna Wood, which compromise extinguished petitioner's obligation to pay additional death taxes. We find no merit in this contention. It is true that the check for P6,901.46 forwarded to the Collector of Internal Revenue, on January 22, 1954, and which was received by him on February 2, 1954, was offered by counsel for the petitioner McGrath "in full settlement of estate tax due the above estate." The letter of acceptance of the amount made by the Collector of Internal Revenue on February 2, 1954 is to the effect that the amount should be accounted for as part payment of the estate tax due. There was, therefore, no agreement between the taxpayer and the Collector of Internal Revenue that the amount offered was to be accepted to

compromise a tax liability. Taxes are fixed by law and are not subject to contract between the taxpayer and the tax officer, except when there is an actual compromise, which in the case at bar does not exist. The acceptance of any amount by employees or officials, which does not constitute a full payment of the amount fixed by law, is no ground or reason for the claim for exemption by the taxpayer from liability for the remaining amount due under the law. Taxes are not subject to agreements between the taxpayer and the tax officer, and if any such agreements are made, they cannot serve to defeat or discharge the liability that the law fixes as the full amount of the tax. Furthermore, any error made by a tax official in the assessment or computation of taxes does not have the effect of relieving the taxpayer from the full amount of liability as fixed by law. Errors of tax officers or officials of the Government do not bind the Government or prejudice its rights to the taxes or dues collectible by it from its citizens. (*Canlubang Sugar Estate vs. Standard Alcohol Co. [Phil.], Inc.*, G. R. No. L-10887, April 16, 1958; *Philippine American Drug Co. vs. Collector of Internal Revenue, et al.*, 106 Phil., 161; 57 Off. Gaz., [21] 3915; *Teodore Lewin vs. Emilio Galang*, 109 Phil., 1045.)

In short, we find that the claim of release of the taxpayer because of the acceptance of an amount offered by the taxpayer, even if the taxpayer made the offer in full payment of the tax liability, which payment was not in pursuance of compromise under Section 309 of the National Internal Revenue Code, is without any merit and the same is hereby overruled.

It is next claimed that the failure of the Collector of Internal Revenue to make a revised assessment pursuant to Sections 96 and 97 of the National Internal Revenue Code relieves the administratrix from paying any deficiency in the inheritance taxes. We also find no merit in this contention. Section 97 of the National Internal Revenue Code, upon which the claim is founded, refers to the personal liability of an administratrix from any deficiency tax, not the liability of the estate under administration. Granting that the administratrix may not be personally liable, it does not follow therefrom that the estate under administration would also be free from liability.

In the last assignment of error, counsel for petitioner, McGrath claims that the estate is exempt from the payment of any deficiency tax because of the failure of the Collector to make the assessment of the deficiency death taxes and to demand their payment, in accordance with Section 94 of the National Internal Revenue Code. Section 94 of the National Internal Revenue Code applies to a case where there is no return filed or where one is filed but is false or fraudulent. In the case at bar there was a return and the same was not false or fraudulent. Hence the assessment indicated in Section 94 of the National Internal Revenue Code is not required. In any case, the assessment made in the letters of the respondent Collector, dated January 10, 1956 and March 9, 1956, are sufficiently clear and specific, and are a valid assessment of the taxes on the estate upon the facts and figures given by the counsel for petitioner McGrath. This assignment of error must also be dismissed for lack of merit.

Wherefore, in G. R. No. L-12710, the decision, of the Court of Tax Appeals is hereby reversed and the respondent Ellen Wood McGrath is required to pay P23,362.79. In G. R. No. L-12721, the appeal of Ellen Wood McGrath is dismissed. With costs in both instances against Ellen Wood McGrath.

Bengzon, Acting C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, and Dizon, JJ., concur.

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