

UNIVERSITY OF SANTO TOMAS, PETITIONER, VS. THE BOARD OF TAX APPEALS, RESPONDENT.

G. R. No. L-5701. June 23, 1953

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for certiorari and prohibition to enjoin the Board of Tax Appeals from hearing the petition filed with it by the University of Santo Tomas to review the decision of the Collector of Internal Revenue which assesses against it the sum of P574,811.41 as income tax on its net income for the fiscal years of 1946, 1947, 1948, 1949 and 1950 in pursuance of section 20 of Executive Order No. 401-A issued by the President on January 5, 1951.

Petitioner is a private non-stock corporation organized and operated exclusively for educational purposes.

On July 26, 1950, the Collector of Internal Revenue notified petitioner that its income as an educational institution was subject to income tax and that there was due from it the sum of P718,514.27 as income tax on its net income for the fiscal years of 1946 to 1950, plus 25 per cent surcharge thereon, under section 27 (e) of the National Internal Revenue Code, as amended by section 5 of Republic Act No. 82. This amount was later reduced to P574,811.41, after eliminating the 25 per cent surcharge.

By agreement reached with the Secretary of Finance, petitioner was allowed to pay said tax under protest in the following manner: P68,514.27 on or before August 31, 1950 and the balance in monthly installments of P15,000 each, without prejudice to bringing an action for the refund of whatever amount the court may decide provided a mortgage be executed by petitioner to secure the payment of said tax liability.

On August 31, 1950, petitioner paid under protest the amount of P68,514.27 and executed a real estate mortgage to secure the payments of the unpaid tax, as above stated.

On July 26, 1951, petitioner submitted to the Secretary of Finance a memorandum on the correct interpretation of section 27(e) of the National Internal Revenue Code in connection with its request for reconsideration of the decision of said Secretary holding petitioner subject to income tax on its income from tuition fees.

On February 29, 1952, petitioner received a letter from the Secretary of Finance giving it 30 days from receipt thereof within which to file a petition for review with the Board of Tax Appeals in accordance with the rules promulgated by said Board under Executive Order1 No. 401-A.

In compliance with the requirement contained in the letter referred to in the preceding paragraph, petitioner filed with respondent a petition for review on March 31, 1952, which was docketed as B. T. A. case No. 35. On the same date, petitioner filed a motion in said case No. 35 wherein, among other grounds, it questioned the jurisdiction of respondent to take cognizance of the petition for review because Executive Order No. 401-A under which it assumes to act is of doubtful validity in that it deprives the courts of first instance of their jurisdiction to act on cases involving the recovery of taxes illegally collected under section 306 of the National Internal Revenue

Code.

On April 18, 1952, respondent denied the motion and assumed jurisdiction over the case. Hence this petition for certiorari. The injunction requested was granted. The only issue posed by petitioner is whether Executive

Order No. 401-A issued by the President pursuant to the powers vested in him by Republic Act No. 422 is tainted with invalidity for the reason that, as claimed, it deprives the courts of first instance of their jurisdiction to take cognizance of cases involving recovery of taxes.

The pertinent provisions of Executive Order No. 401-A are:

"SEC. 8. The Board of Tax Appeals shall have exclusive jurisdiction to hear and decide administratively as hereinafter provided—

"(1) All appeals from decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue:

* * * * *

And section 20 of said Executive Order provides as follows:

"SEC. 20. No judicial proceeding against the Government involving matters arising under the National Internal Revenue Code, the Customs Law, or the Assessment Law shall be maintained except as herein provided, until and unless an appeal has been previously filed with the Board of Tax Appeals and disposed of in accordance with the provisions hereof.

"The party adversely affected by any ruling, order or decision of the Board of Tax Appeals may appeal therefrom to the Supreme Court by filing with the said Board a notice of appeal and with the Supreme Court a petition for review, within thirty days from the date he receives notice of said ruling, order or decision. If, within the aforesated period, he fails to perfect his appeal, the said ruling, order or decision shall become final and conclusive against him.

"If no decision is rendered by the Board within sixty days from the filing with said Board of an appeal from any ruling, order or decision of the Collector of Internal Revenue, the Commissioner of Customs, or of the provincial or city Board of Assessment Appeals concerned, the party adversely affected by said ruling, order or decision may file with said Board a notice of his intention to appeal to the Supreme Court, and if, within thirty days from the filing of said notice of intention to appeal, no decision has as yet been rendered by the Board, the aggrieved party may file directly with the Supreme Court an appeal from said ruling, order or decision, notwithstanding the foregoing provisions of this section."

On the other hand, section 306 of the National Internal Revenue Code provides:

"SEC. 306. Recovery of tax erroneously or illegally collected—No suit or proceeding shall be maintained in any court for the recovery of any national internal-revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Collector of Internal Revenue; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. In any case, no such suit or proceeding shall be begun after the expiration of two years from the date of payment of the tax or penalty."

It appears clearly from the provisions above quoted that the Board of Tax Appeals is given exclusive jurisdiction to hear and decide "all appeals from decisions of the Collector of Internal Revenue in cases involving disputed

assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue"; that no judicial proceeding shall be maintained unless an appeal has been previously filed with, and disposed of, by said Board; and that the party adversely affected by any ruling, order or decision of said Board may appeal to the Supreme Court within 30 days from notice, otherwise said ruling, order or decision shall become final and conclusive. Said provisions also enjoin that, if no decision is rendered by the Board within 60 days from the filing of the petition for review, the party adversely affected may file a notice of his intention to appeal to the Supreme Court, and if within 30 days no decision has as yet been rendered, the aggrieved party may directly appeal to the Supreme Court.

From the foregoing provisions, it is evident that Executive Order No. 401-A in effect deprives the courts of first instance of their jurisdiction in actions for recovery of taxes which is granted to them by section 306 of the National Internal Revenue Code. This is the only logical conclusion that can be drawn, for, under said section 306, petitioner could file an action in court for the recovery of the tax in question within the period therein provided, and yet, in view of the provisions of Executive Order No. 401-A, it cannot do so unless it first brings the matter before respondent whose decision is appealable to the Supreme Court, and if no appeal is taken, the decision becomes final and conclusive. It is evident that Executive Order No. 401-A has the effect of depriving the courts of first instance of their jurisdiction to act on internal revenue cases, as well as those arising under the customs law and assessment law.

Now, can the President exercise such power under Republic Act No. 422?

Republic Act No. 422 was enacted with the only purpose of giving to the President the authority "to reorganize within one year the different executive departments, bureaus, offices, agencies and other instrumentalities of the Government, including the corporations owned or controlled by it, * * * to promote simplicity, economy, and efficiency, and to improve the service in the transaction of the public business." The purpose of said Act is merely to effect a reorganization of the different bureaus, offices, agencies and instrumentalities of the executive branch of the government. The power so delegated is therefore limited in scope. It cannot be extended to other matters not embraced therein, nor are incidental thereto. To do so would be an encroachment on powers expressly lodged in Congress by our Constitution.

"The power conferred to make regulations for carrying a statute into effect must be exercised within the powers delegated, that is to say, must be confined to details for regulating the mode of proceeding to carry into effect the law as it has been enacted, and it cannot be extended to amending or adding to the requirements of the statute itself; but it is to be presumed that regulations adopted were to carry out only the provisions of the statute and not to embrace matters not covered, nor intended to be covered, thereby. Rules that operate to subvert the statute may not be framed under a delegation of power to the executive." (12 Corpus Juris, pp. 845-846.)

But Executive Order No. 401-A does not merely create the Board of Tax Appeals, which, as an instrumentality of the Department of Finance, may properly come within the purview of Republic Act No. 422, but goes as far as depriving the courts of first instance of their jurisdiction to act on internal revenue cases a matter which is foreign to it and which comes "within the exclusive province of Congress. This the Chief Executive cannot do, nor can that power be delegated by Congress, for under our Constitution, Congress alone has "the power to define, prescribe, and apportion the jurisdiction of the various courts" (Article VIII, section 2, Philippine Constitution).

We are therefore of the opinion that Executive Order No. 401-A is null and void in so far as it interferes with the jurisdiction of the courts of first instance in cases arising not only under the internal revenue law but also customs law and assessment law, but is valid with regard to the rest of its provisions in so far as they affect the

organization and administrative functions of the Board of Tax Appeals. More specifically, we hold that part IV of said Executive Order which refers to "Court Review of Board Decisions," is null and void.

Wherefore, petition is hereby granted, without costs.

Paras, C. J., Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo and Labrador, JJ., concur.

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