

THE INSULAR LIFE ASSURANCE CO., LTD., PETITIONER VS. THE COURT OF TAX APPEALS AND THE COMMISSIONER OF INTERNAL REVENUE, RESPONDENTS.

G.R. No. L-21257. April 30, 1968

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is an appeal from the decision of the Court of Tax Appeals, in CTA Case No. 1045, dismissing the petition for review of the presumed decision of the Commissioner of Internal Revenue who failed to act on petitioner's claim for refund of P34,667.22 representing overpayment of the income tax paid by petitioner Insular Life Assurance Co., Ltd. for the calendar year 1958. Petitioner claims that the overpayment was due to its having reported 100%, instead of only 25%, of the dividends received by it from domestic corporations liable to tax and from domestic corporations engaged in a new and necessary industry, as provided in Section 24(A) of the National Internal Revenue Code, known as the Tax Code, as amended.

Petitioner, a domestic life insurance company duly organized and existing under the laws of the Philippines, filed on March 31, 1959, its income tax return for the year 1958 wherein it reported in full, or 100%, the dividends it received from corporations liable to pay income tax under Chapter III, Title II of the Tax Code and from corporations engaged in new and necessary industries. Petitioner paid income tax amounting to "P148,650.00 based on the reported net income of P2,286,926.92 for 1958, computed as follows:

"GROSS INCOME:

- (a) From premium P
- (b) From rentals 710,622.83
- (c) From interest 1,809,643.57
- (d) From dividends received 759,864.15
- (e) From disposition of capital assets
- (f) From other sources

TOTAL GROSS INCOME P3,280,130.55

TOTAL DEDUCTIONS 993,203.63

Net Income P 2,286,926.92

Tax assessable:

Life insurance companies

6 and 1/2% P 148,650.25

TOTAL TAX DUE 148,650.25

Believing that it had committed an error in having reported 100%, instead of only 25%, of the dividends it received from domestic corporations, petitioner filed on July 21, 1960 an amended income tax return for the same calendar year showing that the income tax due was only P113,983.03, computed as follows:

GROSS INCOME:

(a) From premiums

(b) From rentals P 710,622.83

(c) From interest 1,809,643.57

(d) From dividends received 226,522.31

(e) From disposition of capital assets

(f) From other sources

TOTAL GROSS INCOME: P 2,746,788.71

TOTAL DEDUCTIONS: 993,203.63

Net Income P 1,753,585.08

Tax assessable:

Life insurance companies 6 1/2% P 113,983.03

TOTAL TAX DUE 113,983.03

Petitioner filed at the same time a claim for the refund of P34,667.22 as overpayment of the income tax for the year 1958.

The respondent Commissioner of Internal Revenue failed to act on petitioner's claim for refund, and presuming respondent Commissioner's inaction as a decision denying the claim, and in order to avoid the prescription of its cause of action, petitioner filed on May 2, 1961 a petition with the Court of Tax Appeals, praying that judgment be rendered ordering respondent Commissioner of Internal Revenue to refund petitioner the sum of P34,667.22 illegally collected as income tax for the year 1958, with interest at the legal rate from the date of the filing of the petition. After trial, the Court of Tax Appeals rendered its decision, dated April 16, 1963, holding that the law applicable to life insurance companies is paragraph (B) of Section 24 of the Tax Code, which, unlike paragraph (A) of same section, does not authorize the return of only 25% of the dividends, hence petitioner should report in full (100%) the dividends it received. The ratio decidendi of the Court of Tax Appeals follows:

“In a case analogous to the one at bar, this Court recently held that:

‘The law applicable to registered general co-partnership (*compañías colectivas*) and life insurance companies is Section 24 (B). It is to be noted that, unlike in the preceding subsection (A), no proviso authorizing the return of only 25% of dividends is appended to this subsection (B). Hence, under the law, petitioner corporation, being a domestic life insurance company, is required to return in full (100%) the dividends it received in 1958 from corporations liable to tax under Chapter III, Title II of the Tax Code or from domestic corporations engaged in new and necessary industries for purposes of income tax. (Italics supplied)’”[1]

The Court of Tax Appeals consequently dismissed the petition for review, with costs against the petitioner. From the decision of the Court of Tax Appeals, petitioner took the instant appeal, praying that said decision be reversed and the respondent Commissioner of Internal Revenue be ordered to refund the excess income tax paid.

The issue to be settled in the instant case is whether life insurance companies are entitled to return only 25% of their income from dividends under Section 24 of the National Internal Revenue Code, which, at the time of the filing of the action (i.e. under the 1957 amendment by Republic Act 1855), reads in part as follows:

“SEC. 24. Rate of Tax on Corporations.— (A) In general there shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding taxable year from all sources by every corporation organized in, or existing under the laws of the Philippines, no matter how created or organized, but not including duly registered general co-partnership (*compañías colectivas*’), domestic life insurance companies and foreign life insurance companies doing business in the Philippines, a tax upon such income equal to the sum of the following:

“Twenty per centum upon the amount by which such total net income does not exceed one hundred thousand pesos; and

“Twenty-eight per centum upon the amount by which such total net income exceeds one hundred thousand pesos; and a like tax shall be levied, assessed, collected and paid annually upon the total net income received in the preceding taxable year from all sources within the Philippines by every corporation organized, authorized, or existing under the laws of any foreign country: Provided, however, That Building and Loan Associations operating as such in accordance with sections one hundred and seventy-one to one hundred and ninety of the Corporation Law, as amended, as well as private educational institutions, shall pay a tax of twelve per centum and ten per centum, respectively, on their total net income: And provided, further, That in the case of dividends received by a domestic or resident foreign corporation from a domestic corporation liable to tax under this Chapter or from a domestic corporation engaged in a new and necessary industry, as defined under Republic Act Numbered Nine Hundred and one, only twenty-five per centum thereof shall be returnable for purposes of the tax imposed by this Section.

“(B) Rate of Tax on Life Insurance Companies.— There shall be levied, assessed, collected and paid annually from every insurance company organized in or existing under the laws of the Philippines, or foreign life insurance company authorized to carry on business in the Philippines, but not including purely cooperative companies or associations as defined in section two hundred and fifty-five of this Code, on the total investment income received by such company during the preceding taxable year from interest, dividends and rents from all sources, whether from or without the Philippines, a tax of six and one-half per centum upon such income: Provided, however, That foreign life insurance companies not doing business in the Philippines shall, on any investment income received by them from the Philippines, be subject to tax as any other foreign corporation “

It is the contention of petitioner that the proviso in Section 24 (A) regarding the returnable 25% dividends applies to it; whereas respondent Commissioner of Internal Revenue argues that it applies only to corporations other than

life insurance companies on the ground that the operation of a proviso should be confined to that clause or portion of the statute which directly precedes it in the statute, and hence it cannot apply to life insurance companies which are excluded from the operation of paragraph (A) of Section 24 but are governed by paragraph (B) of same section.

A similar issue was recently settled by this Court in the case of “Filipinas Life Assurance Co. vs. The Court of Tax Appeals and the Commissioner of Internal Revenue,” G.R. No. L-21258, promulgated on October 31, 1967, wherein We ruled that paragraph (A) of Section 24 of the Tax Code, which partly provides “That in the case of dividends received by a domestic or resident foreign corporation from a domestic corporation liable to tax under this Chapter or from a domestic corporation engaged in a new and necessary industry, as defined under Republic Act Numbered Nine Hundred and one, only twenty-five per centum thereof shall be returnable for purposes of the tax imposed by this Section.” is applicable to domestic life insurance company like the petitioner herein. In arriving at said ruling, this Court, through Mr. Justice Fred Ruiz Castro, made observations, among others as follows:

“Until 1957 there had been no question that the proviso on dividend exclusion applied to all domestic and resident foreign life insurance companies. The question arose when, by virtue of Republic Act 1855 (1957), the original provisions of section 24, with slight modifications, were made sub-section (A), while a new sub-section (B), entitled 'Rate of Tax on Life Insurance Companies,' was added. The result is that the proviso on dividend exclusion now appears to qualify only a part of section 24, making it doubtful whether after 1957 the income from dividends of domestic and resident foreign life insurance companies still enjoy exemption, although, as noted in passing, the proviso continues to speak of 'the tax imposed by this section' (not sub-section).

“However, a review of the circumstances which prompted the amendment of section 24 in 1957 shows no intention to withdraw from life insurance companies the exemption which theretofore had been enjoyed by them along with non-life insurance companies. To be sure, the 1957 amendment was intended for a two-fold purpose: first, to change the tax base from premium income to investment income and, second, to lower the tax on life insurance companies, in order to encourage their growth as well as their investment in the development of the national economy.

“Thus, the haphazard amendment of section 24 by several legislative acts — as a result of which the proviso on dividend exclusion is now found in sub-section (A) — makes reliance on its grammatical construction highly unsafe and unsound in arriving at its meaning. Since nothing in the history of the 1957 amendment or in the rationale of dividend exclusion indicates the contrary, we hold that domestic and resident foreign life insurance companies are entitled to the benefits of dividend exclusion, the position of the proviso allowing it notwithstanding. “[2]

ACCORDINGLY, the decision appealed from should be, as it is hereby, reversed, and respondent Commissioner of Internal Revenue is ordered to refund to petitioner the amount of P34,667.22 as excess income tax it paid for the year 1958. No pronouncement as to costs.

IT IS SO ORDERED.

Reyes, J.B.L., (Acting C.J.), Dizon, Makalintal, Bengzon, J.P., Sanchez, Ruiz Castro, Angeles and Fernando, JJ., concur.

Judgment reversed.

[1] Filipinas Life Assurance Company vs. Commissioner of Internal Revenue, C.T.A. Case No. 1046, February

15, 1963.

[2] Italics supplied

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