

COLLECTOR OF INTERNAL REVENUE, PETITIONER, VS. ORLANDO V. CALSADO AND COURT OF TAX APPEALS, RESPONDENTS.*G. R. No. L-10293. February 27, 1959*

Ponente: PADILLA, J.

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This is an appeal under section 18, of paragraph 4, Republic Act No. 1125, by the Collector of Internal Revenue, from that part of the judgment rendered by the Court of Tax Appeals holding Orlando V. Calsado free from income tax liability for the year 1949.

The appellant refused to recognize the appellee as head of a family within the meaning of section 23 (b) of the National Internal Revenue Code (Commonwealth Act No. 466, as amended by Republic Act No. 590) and assessed his income tax liability for the years 1947 at P9.41, 1949 at P40.19, 1950 at P55 and 1951 at P19.67 (pp. 6, 29, record of the case; Exhibit 5). The appellee admitted his income tax liability for the years 1947 and 1951 in the respective amounts assessed but denied liability for the years 1949 and 1950 on the ground that, as an unmarried head of a family with a brother below 21 years old mainly dependent upon him for support, his exemptions are over and above his net income. He paid under protest the sum of P55. Thereafter he sought to recover the sum thus paid (Exhibits B, E & F). The appellant denied his request on the ground that the appellee did not actually maintain a house and exercise family control over his dependents, and insisted on collecting from him the unpaid sums assessed and penalties thereunder (Exhibit 5). He appealed to the Court of Tax Appeals. Upon an agreed statement of facts, the Court held that—

* * * the claim for refund of the sum of P55.00 as income tax for 1950 alleged to have been illegally and erroneously collected is hereby dismissed for lack of jurisdiction of this Court to entertain the same[.1]] With respect to the tax assessment of P40.10 for the year 1949, still uncollected and protested, the respondent's assessment therefor is hereby reversed and petitioner is hereby declared free from liability thereto. Without pronouncement as to costs.

The Collector of Internal Revenue has appealed. The Court of Tax Appeals found:

In the income tax return filed by the petitioner for the year 1949 (Exh. "2")» it appears that petitioner had a taxable net income of F2,339.50; and in his income tax return for the year 1950, (Exh. "3"), there appears a taxable net income of P2,892.00. The petitioner has a brother, Abelardo Calsado, then 19 years of age in 1949 and a sister, Angeles Calsado of legal age, both of whom lived with petitioner and were fully dependent on the latter for education and support during the taxable years 1949 and 1950. (Pars. 2 and 3, Stipulation of Facts). The tax assessment of P55.00 for 1950 has been paid under protest on May 15 and August 15, 1951, under Official Receipt, Nos. 90788 and 348042 respectively, and refund thereof has been requested on May 16, 1951, (Exhibit "F", and par. 8, Stipulation of Facts). Furthermore, the assessment for the year 1949, in the sum of P40.19 has also been contested by petitioner (Exhibit "A", par. 9, Stipulation of Facts).

The decision of the respondent regarding the claim for refund and the protest on the assessment (Exhibit "5") from which appeal has been taken is dated February 15, 1955, but it does not appear in the record nor has

evidence been adduced as to when petitioner received a copy of the said decision. However, we assume that the petitioner filed his petition for review within the 80-day period following the receipt of the said decision,

As provided¹ for by the Income Tax Law, the personal exemption then enforced in 1949 for an unmarried person was P1,000.00 and P2,000.00 (P2,500.00, see Republic Act No. 82) for a married person or head of a family and in the year 1950, the personal exemption allowed an unmarried person was P1,800.00, and for a married person or head of a family, P3,000.00.

* * * that during the taxable years 1949 and 1950, the petitioner had two dependents, one a minor brother and the other a sister, both being fully dependent upon him for support and education; that petitioner and his dependents rented a home for their residence in Pasay; that both dependents were jobless; that during 1949 and 1950, petitioner's father was earning a meager monthly salary of P110.00 and was in turn supporting his wife and two minor children, all of whom were likewise wholly dependent upon petitioner's father for support; that on account of the financial limitation of petitioner's father, the father seldom, if at all, sent money to his son and daughter in Manila living with petitioner; and that the petitioner having the means to do so out of his monthly income of P225.00, he undertook to provide the entire support of his brother and sister first above-mentioned, then under his control.

And it held—

* * * that under the facts as stated above, the petitioner is included within the term "head of a family" as contemplated in section 23, paragraph (b) of the Tax Code, as implemented by Revenue Regulations No. 2. We believe that the petitioner, under the circumstances was at least legally obliged to give support to his minor brother, in view of the financial inability of his parents to so provide support (Arts. 294, 295 and 299, Civil Code) and having actually maintained such support, placed the petitioner squarely within the purview of the aforecited provisions of the Tax Code. The petitioner is therefore entitled to claim the benefits of the corresponding personal exemption as "head of a family" for the years 1949 and 1950, with the result that considering these exemptions in relations of the income of petitioner as declared in his income tax returns (Exhs. "2" and "3"), the latter has no taxable income upon which an income tax liability may arise.

Section 23 (b) of the National Internal Revenue Code, as amended, defines the term "head of a family" as follows:

* * * For the purpose of this section, the term "head of a family" includes an unmarried man or woman with one or both parents, or one or more brothers or sisters, or one or more legitimate, recognized natural, or adopted children dependent upon him or her for their chief support where such brothers, sisters, or children are less than twenty-one years of age * * *.

For an unmarried individual to fall within the term "head of a family" under the aforequoted provision, it is enough that he has either of the following who is dependent upon him for his chief support: a father or mother or both, one or more brothers or sisters, one or more legitimate, recognized natural or adopted children, provided that such brother, sister or child is less than 21 years of age. The Court of Tax Appeals found "that during the taxable years 1949 and 1950, the petitioner (now appellee) had two dependents, one a minor brother and the other a sister, both being fully dependent upon him for support and education; * * *." The fact that his father is still alive and continues to exercise parental authority over his minor children is of no moment. All that the law requires in order that an unmarried individual may be considered as head of a family is that the relatives enumerated be dependent upon him for their chief support.

The judgment appealed from is affirmed, without pronouncement as to costs.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Condepcion, Reyes, J. B. L., and Endencia, concur.

[1]Section 306, Commonwealth Act No. 466.

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