

ANTONIO A. RODRIGUEZ, ETC., PLAINTIFF AND APPELLANT, VS. S. BLAQUERA, ETC., DEFENDANT AND APPELLEE.

G.R. No. L-13941. September 30, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

An appeal from an order of the Court of First Instance of Manila, dismissing this case without costs.

Section 292 of Commonwealth Act No. 466, as amended by Republic Act No. 84, imposes upon holders of firearms the duty to pay an initial license fee of P15 and an annual fee of P10 for each firearm. However, the annual fee is reduced to P5.00 for each firearm, in the case of "bona fide and active members of duly organized gun clubs and accredited by the Provost Marshal General" (now Chief of the Philippine Constabulary). Under date of January 3, 1953, the Commissioner of Internal Revenue caused to be published General Circular No. V-148, addressed to "all city, provincial and deputy provincial treasurers and others concerned", stating:

"* * * that bona fide and active members of duly organized gun clubs and accredited by the Provost Marshal General (now Chief, of Constabulary) shall pay an initial fee of fifteen pesos and an annual fee of five pesos for each firearm held on license except caliber .22 revolver or rifle.

"Mere membership in a gun club, however, does not, as a matter of right, entitle the member to the reduced rates prescribed by law. The gun club of which the licensee is member must be accredited by the Chief of Constabulary and, according to the opinion of the said official, it is further requisite that the firearm covered by the license of the member must be of the target model in order that he may be entitled to the reduced rates prescribed in section 292 of the National Internal Revenue Code. Target Model firearm? are those with barrels measuring six (6) inches or more and all pistols and revolvers have target models with the exception of .45 caliber automatic pistol. A member of a gun club who owns or possesses firearms which are not of the target models, except caliber .22 firearms, is, therefore, subject to the regular firearms fees.

"Strict compliance with the provisions of this circular is desired."

Contending that this ruling is not warranted by the aforementioned statute, plaintiff, as manager of the Philippine Rifle and Pistol Association, Inc., which is said to be a gun club duly accredited by the Provost Marshal General, some of whose members have allegedly paid under protest the regular annual fee of P10 and demanded from the Collector of Internal Revenue the reimbursement of the sum of P5.00 to no avail, instituted this action in the Court of First Instance of Manila on December 19, 1955, for the nullification of the aforementioned circular and the refund of the amounts thus collected in excess of the annual fee of P5.00 which is claimed to be the only sum due from them.

Defendant Collector of Internal Revenue (now Commissioner of Internal Revenue) having moved to dismiss the complaint for lack of cause of action and want of jurisdiction, the lower court ordered plaintiff to amend the complaint, which plaintiff did, by eliminating¹ his prayer for refund. This notwithstanding, defendant reiterated his aforementioned motion to dismiss, as regards the amended complaint, whereupon said court forwarded the

case to the Court of Tax Appeals. Subsequently, however, the latter remanded the case to the Court of First Instance of Manila, upon the ground that it (the Court of Tax Appeals) has no jurisdiction to hear and decide the case on the merits.

Upon being required by the Court of First Instance to answer the amended complaint, defendant pleaded, *inter alia*, that the case is within the exclusive jurisdiction of the Court of Tax Appeals. Thereafter, plaintiff filed a supplemental complaint, which was admitted without any objection, alleging therein that General Circular No. V-148 had been revoked by General Circular No. V-199, dated November 26, 1955, and that the latter is not in accord with Republic Act No. 84—without saying in what respect—and praying that it be, likewise, annulled. When the case was finally called for hearing on February 7, 1958, defendant invited attention to the issue of jurisdiction raised in his answer. This particular question was set for hearing on March 8, 1958, and soon later, or on March 19, 1958, the court issued an order dismissing the case, upon the ground that the same amounts to an appeal from a decision of the Collector of Internal Revenue, which is within the exclusive jurisdiction of the Court of Tax Appeals; that plaintiff's cause of action no longer exists, in view of the revocation of General Circular No. V-148; and that plaintiff seeks to determine a liability under the National Internal Revenue Code, which is not a proper subject for declaratory relief (*National Dental Supply Co. vs. Meer*, 90 Phil., 265). Hence this appeal by the plaintiff, who maintains that:

"1. The lower court erred in concluding and declaring that the action of the plaintiff-appellant constitutes an appeal from a ruling of the Collector of Internal Revenue and had no jurisdiction over the subject matter of the action.

"2. The lower court erred in concluding that the action of the plaintiff-appellee is in the nature of an action for declaratory relief and that the Bureau of Internal Revenue circulars in question cannot be proper subject matter for declaratory relief.

"3. The lower court erred in declaring that the cause of action of the plaintiff-appellant no longer existed.

"4. The lower court erred in ordering the dismissal of the plaintiff-appellant's case."

Plaintiff maintains that this is not an appeal from a ruling of the Collector of Internal Revenue, but merely an attempt to nullify General Circular No. V-148, which does not adjudicate or settle any controversy, and that, accordingly, this case is not within the jurisdiction of the Court of Tax Appeals.

We find no merit in this pretense. General Circular No. V-148 directs the officers charged with the collection of taxes and license fees to adhere strictly to the interpretation given by the defendant to the statutory provision above mentioned, as set forth in the circular. The same incorporates, therefore, a decision of the Collector of Internal Revenue (now Commissioner of Internal Revenue) on the manner of enforcement of said statute, the administration of which is entrusted by law to the Bureau of Internal Revenue. As such, it comes within the purview of Republic Act No. 1125, section 7 of which provides that the Court of Tax Appeals "shall exercise exclusive appellate jurisdiction to review by appeal * * * decisions of the Collector of Internal Revenue in * * * matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue." Besides, it is plain from plaintiff's original complaint that one of its main purposes was to secure an order for the refund of the sums collected in excess of the amount he claims to be due by way of annual fee from the gun club members, regardless of the class of firearms they have. Although the prayer for reimbursement has been eliminated from his amended complaint, it is only too obvious that the nullification of General Circular No. V-148 is merely a step preparatory to a claim for refund.

Again the main purpose of plaintiff herein is to determine the validity of Circulars Nos. V-148 and V-199, in the light of the statute adverted to above, and to secure a declaration of the rights and duties of gun club members

under said statute. Obviously, therefore, this is an action for a declaratory relief which is explicitly prohibited by Act No. 3736, as amended by Republic Act No. 55, and held in *National Dental Supply Co. vs. Meer*, 90 Phil., 265. *Ollada vs. Court of Tax Appeals* (99 Phil., 604; 52 Off. Gaz. [10] 4667) cited by appellant, involved a case of unfair competition, which is not in point.

In view of the foregoing, the order appealed from is hereby affirmed, with costs against plaintiff-appellant. It is so ordered.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

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