

JESUS SACRED HEART COLLEGE, PLAINTIFF AND APPELLEE, VS. COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND APPELLANT.

G.R. No. L-6807. May 24, 1954

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal taken by defendant, Collector of Internal Revenue, from a decision of the Court of First Instance of Manila sentencing him to refund to plaintiff, Jesus Sacred Heart College, the sum of P2,241.86, assessed by the former, and paid by the latter, by way of income tax for the years 1947, 1948 and 1949. The parties have stipulated:

"1. That the Jesus Sacred Heart College is an educational organization authorized to operate and existing in Lucena, Quezon, and offering to the public elementary, secondary and collegiate courses;

"2. That according to its income tax returns, plaintiff realized net incomes from tuition and other fees in carrying on its educational activity in the amounts of P5,659.07; P3,743.82; and P3,572.74 for the years 1947, 1948 and 1949 respectively;

"3. That the amount of P2,241.86, computed below, was paid by the plaintiff to the defendant on August 13, 1951 as its income tax and penalties for the net incomes stated in paragraph 2 hereof, and compromise for late filing of its income tax returns for said years:

1947 tax due as per return P679.09

25% surcharge 169.77

5% surcharge 42.44

1% monthly interest from 1/10/51 to 8/13/51 60.27

Compromise for late filing of return 20.00

Total P971.57

1948 tax due as per return P449.26

25% surcharge 112.32

5% surcharge 28.08

1% monthly interest from 1/10/51 to 8/13/51 39.87

Total P649.53

1949 tax due as per return P428.73

25% surcharge 107.18

5% surcharge 26.08

1% monthly interest from 1/10/51 to 1/13/51 38.05

Compromise for late filing of return 20.00

Total P620.76

"4. That a claim for refund of said amount of P2,241.86 was duly filed on August 16, 1951 by the plaintiff with the defendant but the claim was denied on August 24, 1951;

"5. That the assessment notices for the deficiency income tax for the years 1947, 1948 and 1949 were forwarded by the defendant to the plaintiff on or about December 15, 1950, the letter enclosing the said notices was dated December 12, 1950, and the notices were dated December 6, 1950:

"6. That the only question to be resolved in this case is whether the net income from tuition and other fees collected and received by the plaintiff as an educational institution from its students in carrying on its educational activity under the conditions specified in paragraphs 1, 2 and 3 hereof is subject to income tax under the provisions of section 24 of the National Internal Revenue Code, notwithstanding the provisions of section 27(e) thereof, as amended by Republic Act No. 82, quoted hereunder:

'SEC. 27. Exemption from tax on corporation,—The following organizations shall not be taxed under this Title in respect to income received by them as such—

* * * * *

(e) Corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, cultural, or educational purposes, or for the rehabilitation of veterans no part of the net income of which inures to the benefit of any private stockholder or individual: Provided, however, That the income of whatever kind and character from any of its properties, real or personal, or from any activity conducted for profit regardless of the disposition made of such income, shall be liable to the tax imposed under this Code.' (Record) on Appeal, pp. 6-9.)

Plaintiff appellee maintains, and the lower court held, that it is exempt from taxation under the first part of said paragraph (e), whereas defendant-appellant asserts that the income in question was derived from an "activity conducted for profit," and that, accordingly, it is taxable under the proviso of the same paragraph. In support of this contention, defendant says in his brief:

"An interpretation which would place income from educational activities within the term income from any activity conducted for profit would not render the provision exempting educational institutions from taxation nugatory. 'As there are not a few schools which are not conducted for profit, the exemption would not be rendered useless with respect thereto. Only those schools conducted for profit would be subject to tax and it stands to reason that being profit-making institutions, they should really be taxed. If non-sectarian schools and colleges which realize profits are not exempted from levy, there would be no plausible reason for exempting from tax sectarian schools and colleges which are run for profit. And the argument that, because the profits realized by Catholic Schools and Colleges are invested in the expansion and improvement of said schools and not distributed among stockholders, they should be free from income tax falls to the ground in view of the last clause in the proviso: 'regardless of the disposition made of such income'. (Excerpt from Op. No. 78).

"The fact that the Congress of the Philippines found it necessary to add the phrase 'any activity conducted for profit' unmistakably points to the intention to tax income from activities conducted for profit which possibly

might not be embraced by the proviso in the old law which taxes only income from properties, real or personal.

It is clear from the foregoing that if the educational activity is conducted for profit, it is subject to tax. A study of pertinent cases (*Institute of Holy Angels vs. Bonder*, 74 A, 251; *Borough vs. State*, 115 A. 344) in the United States shows that the underlying criterion upon which the courts appear to rely most heavily is whether the institution in question gives to the public at large substantially more than it received 'as a public work or service to the state, without expectation of remuneration.' A subsidiary consideration is whether tuition charges are fixed so as to evince a purpose to make a profit over and above the cost of tuition. *Institute of Holy Angels, vs. Bender*, N. J. Sup. Ct., 1909, 79 N. J. L. 34, 74 A. 251; *Mayor of Princeton, etc. vs. State Board*, N. J. Sup. Ct. 1921, 96 N. J. L. 334, 115 A, 342. Another point of view was that of inquiring as to whether the objects of the school were fundamentally charitable or philanthropic. *Dwights School of Englewood vs. State Board, etc.* N. J. Sup. Ct. 1935, 114 N. J. L. 594, 177 A. 875, 876 and cases cited (Excerpt from Op. No. 78).

"In the following illustrative cases are applied the above criterion:

'(1) In a case where a school claimed exemption from taxation on the ground that it was not realizing profits over and above the cost of operation the court held that said school was nevertheless conducted for profit, it being shown that the fees charged were very considerable. 'The fact that it may not from time to time result in profitable operation is beside the question. It has a commercial aspect. The amount of the fees charged indicates that it is commercial.' (*Bancroft Schort vs. State Board of Taxes and Assessment*, 160 A .390).

'(2) The fact that a private school was organized under a statute providing for the organization of non-profit organizations and that it had no income but tuition fees was held not to be indicative of whether the school is, in fact, a corporation or not for profit. The fact of whether it made a profit or showed a deficit is immaterial. (*Miami Beach vs. Tomlinson*, 196 So. 608).

'(3) And a private academy charging tuition was held not exempt from taxation as fundamentally philanthropic or charitable in purpose, notwithstanding a declaration and provisions thereof in its by-laws. (*Carteret Academy vs. State*, 133 A. 886).

"One idea stands out from the array of authorities examined. Actual realization of profits is immaterial; what is important is the presence of the purpose to make a profit over and above the cost of instruction (*Eider vs. Trenton*, 19 A. 24; *Institute of Holy Angels vs. Bender*, 74 A. 251; *Princeton vs. State*, 115 A. 342)." (Appellant's brief, pp. 11-14.)

At the outset, we note that appellant has not even tried to demonstrate either "that the fees charged are very considerable" or that "the amount of the fees charged indicates that it is commercial." Neither has he shown "the presence of the purpose to make a profit over and above the cost of instruction." At any rate, this standard can not be applied in the interpretation of the legal provision under consideration, for the following reasons, namely:

- Section 27 (e) of the National Internal Revenue Code, as amended by Republic Act No. 82 (section 5), exempts from taxation the "net income" of corporations "organized and operated exclusively for * * * educational purposes * * * no part of the net income of which inures to the benefit of any private stockholder or individual," and it is conceded that plaintiff corporation belongs to this class. To hold that an educational Institution is subject to income tax whenever it is so administered as to reasonably assure that it will not incur in deficit, is to nullify and defeat the aforementioned exemption. Indeed, the effect, in general, of the interpretation advocated by appellant would be to deny the exemption whenever there is net income, contrary to the tenor of said section 27 (e) which positively exempts from taxation those corporations or associations which, otherwise, would be subject thereto, because of the existence of said net income.

Needless to say, every responsible organization must be so run as to, at least insure its existence, by operating within the limits of its own resources, especially its regular income. In other words, it should always strive,

whenever possible, to have a surplus. Upon the other hand, appellant's pretense would limit the benefits of the exemption, under said section 27 (e), to institutions which do not hope, or propose, to have such surplus. Under this view, the exemption would apply only to schools which are on the verge of bankruptcy, for—unlike the United States, where a substantial number of institutions of learning are dependent upon voluntary contributions and still enjoy economic stability, such as Harvard, the trust fund of which has been steadily increasing with the years—there are, and there have always been, very few educational enterprises in the Philippines which are supported by donations, and these organizations usually have a very precarious existence. The final result of appellant's contention, if adopted, would be to discourage the establishment of colleges in the Philippines, which is precisely the opposite of the objective consistently sought by our laws.

Again, the amount of fees charged by a school, college or university depends, ultimately, upon the policy of a given administration, at a 'particular time. It is not conclusive of the purpose of the institution. Otherwise, such purpose would vary with the particular persons in charge of the administration of the organization.

At any rate, the main evidence of the purpose of a corporation should be its articles of incorporation and by-laws, for such purpose is required by statute to be stated in the articles of incorporation (Sec. 6, Act No. 1459), and the by-laws outline the administrative organization of the corporation (Sec. 20 and 21 of Act No. 1459, as amended), which, in turn, is supposed to insure or facilitate the accomplishment of said purpose. In the case of plaintiff herein, its amended articles of incorporation provide:

"That the purposes for which said corporation is formed are the instruction and education of young girls."
(Record of Exhibits, p. 26.)

Moreover, article 21 of its by-laws states:

"This corporation is a non-profit corporation. All income shall be devoted to the maintenance, improvement and expenses of the College. No part of its net income shall inure to the benefit of private individuals." (Record of Exhibits, p. 35.)

Considering, furthermore, that pursuant to article 8 of said by-laws, only religious members of the corporation denominated "Hijas de la Caridad de San Vicente de Paul en Filipinas" are qualified for admission as members of the plaintiff corporation and that there is not even the slightest intimation that it does not adhere to the provisions of its articles of incorporation and by-laws, it is apparent that said plaintiff is neither organized nor operated "for profit."

- The cases cited by appellant are not in point. None of those cases involved income tax. Except the case of Miami Beach College Corp. vs. Tomlinson, 196 So. 608 (see page 21 appellee's brief), which referred to a license tax, all of the other cases dealt with Assessment taxes on lands and buildings. The latter cases, however, are particularly inapplicable to the Philippines, in view of the constitutional mandate to the effect that "all lands, building and improvements used exclusively for religious, charitable or educational purposes shall be exempt from taxation. (Art. VI, sec. 22, par. 3, of the Constitution.)

More important still, the law applied in the cases relied upon by appellant exempted from taxation only such educational institutions as were established for charitable or philanthropic purposes. Consequently, the amount of fees charged or the intent to collect more than the cost of operation or instruction was material to the determination of such purpose. Upon the other hand, under section 27 (e) of our National Internal Revenue Code, as amended, an institution operated exclusively for educational purposes need not have, in addition thereto, a charitable or philanthropic character, to be exempt from taxation, provided only that no part of its net income "inures to the benefit of any private stockholder or individual."

Lastly, the history of the legal provision under consideration does not bear out the theory of appellant herein. Section II, subdivision G (a), of the Act of Congress of the United States of 1913, contained the following exemption from taxation:

"* * * That nothing in this section shall apply to labor, agricultural or horticultural organizations, or to mutual savings banks not having a capital stock represented by shares, or to fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing¹ for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations and dependents of such members, nor to domestic building and loan associations, nor to cemetery companies, organized and operated exclusively for the mutual benefit of their members, nor to any corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual, nor to business leagues, nor to chambers of commerce or boards of trade, not organized for profit or no part of the net income of which inures to the benefit of the private stockholder or individual; nor to any civil league or organization not organized for profit, but operated exclusively for the promotion of social welfare." (9 Public Laws, p. 516; italics supplied.)

Later on (March 7, 1919), Act No. 2833 of the Philippine Legislature, in reproducing the exemption in favor of corporations or associations organized and operated exclusively for religious, charitable, scientific or educational purposes (section 11 [a], Sixth paragraph) added thereto a proviso reading:

"* * * Provided, however, That the income of whatever kind and character from any of its properties, real or personal, except income expressly exempted by this Law, shall be liable to the tax imposed under this chapter." (14 Public Laws, p. 232.)

It should be noted that in dealing with institutions organized and operated exclusively for educational purposes, the profit motive was disregarded, on condition that the net income does not inure to the benefit of any private stockholder or individual, whereas, chambers of commerce or boards of trade, as well as civic leagues, were exempted only if "not organized for profit."

Subsequently (June 15, 1939), Commonwealth Act No. 466 amended the clause "no part of the net income of which inures to the benefit of any private stockholder or individual," so as to read: "no part of the net income of which is distributed to any private stockholder or individual."

As thus amended, section 27 (f) of said Act provided:

Sec. 27. Exemptions from tax on corporations.—The following organizations shall not be taxed under this Title in respect to income received by them as such—

"(f) Corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, cultural, or educational purposes, no part of the net income of which is distributed to any private stockholder or individual: Provided, however, That the income of whatever kind and character from any of its properties, real or personal, except income expressly exempted by this title, shall be liable to the tax imposed under this Code."

On October 29, 1946, this provision was amended by Republic Act No. 82 (section 5), so as to become paragraph (e) of said section 27 of the National Internal Revenue Code, which we quote:

"(e) Corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, cultural, or educational purposes, or for the rehabilitation of veterans no part of the net income of which inures to the benefit of any private stockholder or individual: Provided, however, That the income of whatever kind and character from any of its properties, real or personal, or from any activity conducted for profit, regardless of the disposition made of such income, shall be liable to the tax imposed under this Code."

It will be noted that four (4) changes were introduced by this act of Congress of the Philippines namely:

- (1) It increased the exempt class, by including therein corporations or associations organized and operated exclusively "for the rehabilitation of veterans";
- (2) It reverted to the phraseology of the original act of Congress of 1913, by providing that the corporations or associations therein enumerated shall be exempt if no part of the net income thereof "inures to the benefit of"—instead of "is distributed to"—any private stockholder or individual ;
- (3) It clarified the meaning of the proviso, by declaring that the income therein mentioned shall be taxable "regardless of the disposition made of such income"; and
- (4) It inserted in the proviso an additional limitation to the exemption established in the first part of paragraph (e) by excluding from said exemption the income of the aforementioned corporations or associations derived "from any activity conducted for profit."

This fourth amendment was not, however, a part of the bill (H. No. 729) introduced in the House of Representatives. Referring to the first three amendments, the explanatory note of said bill said:

"Amendment of provisions granting exemption in favor of religious, charitable, scientific, athletic, cultural, or educational organizations or institutions.—The present law (section 27[f], National Internal Revenue Code) exempts the organizations if no part of their net income 'is distributed to any private stockholder or individual.' This provision has been authoritatively construed as exempting such organization or association from the payment of the income tax for any year in which no dividends are distributed to stockholders. The present law as so construed, therefore, makes it possible for a corporation to avoid the payment of income tax by simply desisting from declaring a dividend during any given year, notwithstanding the fact that it may have earned a very substantial amount of income in that year. Furthermore, if the corporation desires to distribute dividends, it could effect the distribution during a taxable year in which it expects to suffer a loss, or derive only a small income, thus making it possible for such corporation to entirely avoid the payment of the income tax availing of the loophole in the law to suit its advantage. Under the proposed amendment, the above-mentioned corporations and associations will pay income tax on their profits in any year although no dividends are declared for such year.

"It is also proposed to clarify the provisions of this paragraph by inserting the words 'regardless of the disposition made of such income' in order to make it clear that the income of whatever kind and character of said organizations from any of their properties, real or personal, will be subject to income tax. It is obvious that an organization which derives income from rentals or investments of its properties should be made to pay the income tax in the same manner as to other corporations or individuals. The government affords protection to the owner of property and it is proper that the said owner should be made to contribute to the cost of government by paying a tax on the income from such property.

"It is proposed to include among the exempt organizations any association organized for the rehabilitation of war veterans. The formation of such associations should be encouraged, considering that a great number of our war veterans are in dire need of relief and rehabilitation."

The fourth amendment was mentioned for the first time in the report of the conference committee, which is couched in the following language:

"The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to H. No. 729, entitled:

'An Act to amend sections twenty-one, twenty-two, twenty-four, twenty-seven, twenty-nine, thirty, thirty-four, fifty-three, fifty-four, and to repeal subsection (u) of section eighty-four of Commonwealth Act Numbered Four hundred and sixty-six, as amended,'

having met, after full and free conference have agreed to recommend and do recommend to their respective Houses, as follows:

"The Committee of Conference on the Part of the House of Representatives regrets to state that it cannot accept the amendments of the Senate to sections 1, 2, and 9 of H. Bill 729. However, it is willing to accept the following amendments of the Senate:

"1. In section 5, page 7, line 6, before the word 'REGARDLESS' insert the words 'OR FROM ANY ACTIVITY CONDUCTED FOR PROFIT'

"2. In section 7, page 8, line 20, strike out the word 'or'; same page, same section, line 30, strike the words 'or the'

Respectfully submitted:

"Conferees on the Part of the Senate

(Sgd.) MELECIO ARRANZ

(Sgd.) M. JESUS CUENCO

(Sgd.) CARLOS P. GARCIA

"Conferees on the Part of the House of Representatives

(Sgd.) MODESTO FORMILLEZA

(Sgd.) TORIBIO P. PEREZ

(Sgd.) CIPRIANO PRIMICIAS"

(Appellees brief, pp. 11-12.)

There is no other official record concerning the amendment in question. However, we find in the record a deposition—which was introduced in evidence as Exhibit A-1—of Senator M. Jesus Cuenco, a member of said conference committee, for the Senate, and sponsor of the bill on the floor thereof. The pertinent parts of said deposition are quoted hereunder:

"Las palabras 'or from any activity conducted for profit' fueron insertadas durante las deliberaciones que hubo en el comite de conferencia. Era general y unanime la opinion tanto de los representantes que formaban parte del comite de conferencia, como por parte de los senadores miembros del COMITE DE CONFERENCIA DE PARTE del senado, de eximir del pago de 'income tax' los ingresos, si los mismos no fueran repartidos entre los socios o accionistas; pero todos convinieron de que los ingresos de centros docentes organizados por accionistas que recibieran dividendos y utilidades de los colegios deberian pagar 'income tax'. Se hablo de que las matriculas, los ingresos de laboratorio, juegos atleticos, etcetera, debian ser exentos de 'income tax'; pero los ingresos provenientes de actividades completamente ajenas o no esencialmente relacionadas con los fines educadonales de cada colegio, tales ingresos deberian estar sujetos a 'income tax'.

"P. Al hablar de la exencion de 'income tax' para los colegios que cobran matriculas, derechos de laboratorio,

derechos 'for athletic purposes' usted empleo la palabra 'etcetera', quiere Vd. decir que estan incluidos en esa palabra 'etcetera' los derechos por la expedicion de titulos o no?

"R.

Todo lo que se pagase por titulos deberia ser exento tambien, lo cual teniamos en nuestra mente cuando hemos aprobado la insercion de las palabras 'or from any activity conducted for profits'; no estaban incluidos dentro de esta frase que acabo de leer las matriculas, los ingresos de laboratorio, los ingresos por atletismo, porque si las matriculas, los ingresos de laboratorio, lo que se paga por la expedieion de titulos estuviesen sujetos a 'income tax', entonces se cometeria un absurdo de no eximir de cualquier impuesto de 'income tax' todos los centros docentes privados aunque no fueran operados en beneficio de los socios o accionistas. Los Senadores y Representantes que componian el comite de conferencia no podian jamas atentar contra el progreso del pais sujetando a impuestos de 'income tax' los ingresos por matricula, porque entonces ningun colegio podria mantenerse, equivaldria sancionar el cobro de impuestos de todos los centros docentes privados, lo cual es absurdo y completamente contrario no solamente al precedente establecido en este pais sino a todas las practicas generales, continuas en Estados Unidos, de proteger la propagacion de la cultura, civilizacion y progreso. Se hace mas patente esa necesidad si se considers que en Filipinas la ensennanza superior, principalmente la academica, se ha dado no solamente en la Universidad de Filipinas, sino sobre las universidades y colegios donde se educan cuando menos, 80 o 90%, los que buscan instruccion academica o superior.

"Esta frase 'or from any activity conducted for profit' se inserto porque un colegio o una universidad podria tener ingresos no absolutamente esenciales para la ensenanza: tales, por ejemplo, en el caso de la Universidad de Santo Tomae. La Universidad tiene un hospital, este hospital recibe enfermos de pago; si esta frase 'or from any activity conducted for profit' no se hubiera insertado, seria discutible si los ingresos que recibia el hospital provenientes de enfermos de pago podrian sujetarse a impuestos de 'income tax' o no. Pero con la insercion de la frase 'or from any activity conducted for profit' se hizo evidente que dichos ingresos estan sujetos a 'income tax'. Podria darse el caso que el colegio o la universidad tuviera departamento de artes y oficios en el cual se fabrican muebles, y estos muebles se vendian al publico, naturalmente si dicha frase no se hubiera insertado, las ganancias por la venta de esos muebles no estarian sujetos a 'income tax'; pero con la insercion que hemos hecho no cabe duda ninguna de que tales ganancias deberian pagar 'income tax'.

* * * * *

"P. Cuando ha hablado de la Universidad de Santo Tomas que tiene un hospital, no cree Vd, que es una actividad esencial dicho hospital para el funcionamiento del colegio de medicina de dicha universidad?

* * * * *

"R. Si el hospital se limita a recibir enfermos pobres, mi contestacipn seria afirmativa; pero considerando que el hospital tiene cuartos de pago, y a los mismos generalmente van enfermos de buena posicion social economica, lo que se paga por estos enfermos debe estar sujeto a 'income tax', y es una de las razones que hemos tenido para insertar las palabras o frase 'or from any activity conducted for profit'.

"P. Cree Vd. que en la palabra 'etcetera' que Vd. empleo antes estan incluidos los derechos que se cobran por el uso de la bibliotect (library)?

"R. Deberan de estar exentos.

"P. Cree Vd. que en dicha palabra 'etcetera' estan incluidos tambien los derechos que se cobran por internos en un dormitorio de la universidad o por la escuela?

"R. Si lo que se paga por estos internos representa unicamente los gastos necesarios, si, estan incluidos.

"P. Si los colegios tuvieran ingresos solo de matricula y derechos de laboratorio y derecho de 'athletics' o jttogos atleticos, y por todo o que Vd. incluye en la palabra 'etcetera' tuvieran que pagar. impuestos de 'income tax' por dichos ingresos como pretende el Gobierno, ademas de estar inclufdos por Vd. en la frase 'or from any activity conducted for profits', podria Vd. decir que otros ingresos de tales colegios quedarian exentos de 'income tax', no obstante lo que dice la ley en terminos generales en la seccion 27 (e) de que quedan exentos de pago de 'income tax' toda corporacion o asociacion organizada y operada exclusivamente por motivos de religion, caridad, ciencia o educacion?

* * * * *

"R. No quedaria ningun ingreso libre de impuestos. Entonces la exencidn prevista por la ley serfa una letra muerta, seria una redundancia. Por otro lado yo no puedo concebir que haya otros ingresos que podrfan quedar exentos de impuesto de 'income tax' (Pages 4-7, Record of Exhibits; italics supplied.)

* * * * *

"P. Cuando se fijo Vd. por primera vez de la inclusion de dicha frase 'or from any activity conducted for profit'?

"R. Como yo habia dicho antes esta frase se inserto durante la deliberacion de los comites de conferencia nombrados, uno por parte del Senado, y otro por parte de la Camara.

"P. Recuerda Vd. el miembro del Comité de Conferencia que era responsable de dicha frase?

"R. Como yo habia dicho antes, los senadores y representantes que eran miembros de los comites de conferencia eran unanimes en su sentir de que las matrknadas, los ingresos de laboratorio, juegos atlSticos, etc, fueran exentos de 'income tax' si el coligio no fuera organizado para beneficio de los socios o accionistas; pero como podria darse el caso de que ademas de las matriculas, ingresos de laboratorio, ingresos por titulos, un centro docente podria tener algunas actividades que pudieran rendir ganancias, asi es que se inserto" la frase 'or from any activity conducted for profit'.

* * * * *

"P. No cree Vd. que la insercion de dicha frase es superflua, teniendo en cuenta que antes de la enmienda de la seccion 27 (e) (antes /) delCodigo de Impuestos, los ingresos de las corporaciones o asociaciones mencionadas en la ley provenientes del ejercicio de las actividades que eran estrictamente religiosas, caritativas, educacionales, etc. no estaban sujetos a 'income tax'?

"Sr. Cuenco: A simple vista parece casi superflua; pero considerando que una institucion educacional podria tener ingresos provenientes de cualquiera actividad 'for profit', la frase tiene razon de ser. En el caso, por ejemplo, de la Universidad de Santo Tomas, esta universidad tiene una imprenta, al menos, anteriormente, no eolamente imprimia todo lo que fuese de uso exclusivo para la universidad y relacionado con sus fines educacionales, sino tambien recibia trabajos de imprenta del publico. Si la frase en controversia no se hubiera insertado no cabria duda alguna de que los trabajos de impresion recibidos por la imprenta de la universidad de cualquiera persona, trabajos que devengan ganancias, no podrfan estar sujetos a impuesto.

* * * * *

"P. Eecuerda Vd. si al tiempo cuando se inserto esta frase en el proyecto en discusion algun miembro de dichos comites haya considerado que alguna cantidad despues de deducidos todos los gastos de la cantidad cobrada por matricula, etc., deberian considerarse sujeta a impuesto?

"R. Los miembros de los comites tanto por parte del Senado como por parte de la Camara eran contestes en su sentir de que toda matricula debe estar exenta del pago de 'income tax'. El exceso que Vd. cree que puede haber entre los ingresos y los gastos necesarios, no podria ser considerados por el comite, porque si los ingresos y los gastos se equiparan, no habria necesidad de consignar ninguna exencion porque entonces no habria ninguna ganancia que tasar.

"P. Pero ha tenido en cuenta el comite la posibilidad de aue hubiera un ingreso neto despues del cobro de matricula, despues de pagados los gastos?

"R. Deseo advertir que todos los miembros del comite tenian una actitud liberal hacia los centros docentes privados, y nunca paso por nuestra mente crear cualquier impuesto que tendiera obstaculizar sus actividades culturales y educativas. Asi es que tratar de imponer 'income tax' sobre las matriculas bajo el pretexto de que los ingresos ascienden a una cantidad mayor que los gastos, seria establecer una legislacion no de proteccion sino de persecucion; considerando que las leyes que tenemos en cuanto a impuestos, principalmente el impuesto que estamos considerando, tiene su fuente en las legislaciones sobre impuestos vigentes en Estados Unidos: no creo yo que haya alguna legislacion en Estados Unidos que grave impuestos sobre matriculas, si estas representan una cantidad mayor que los gastos de la institucion.

"P. Usted ha mencionado de que estos impuestos de 'income tax' sobre matricula vendria a constituir una persecucion contra los colegios, no es verdad que si se hiciera otra cosa vendria a favorecer tales instituciones, teniendo en cuenta el ingreso neto que deberia estar sujeto a 'income tax' de acuerdo con la provision de la Constitucion de que todo impuesto debe ser uniforme? En realidad bajo la Constitucion las propiedades de estas instituciones estan ya exentas del pago de impuesto?

"R. Siento tener que disentir. Creo que uno de los fines del Estado es propulsar la cultura. El Gobierno no tiene derecho a colocar un centro docente bajo el mismo nivel que una empresa absolutamnte utilitaria. La obligacion del Estado de propulsar la cultura, la propagacion de la ciencia y arte le obliga a colocar los eentros docentes privados bajo un piano mas elevado. Esta obligation del Gobierno en Filipinas es tanto mas imperative si se considera que sin estas instituciones privadas el 90% de los filipinos no podrian tener ninguna cultura academica: asi es que nosotros jamas hemos tenido la in tendon de discutir si el total de los ingresos provenientes de matrfculas representan una cantidad mayor o menor que los gastos necesarios de un colegio.

"P. No es verdad que cuando el comite estaba deliberando la frase en cuestion el comite sabia que alguhas instituciones privadas tenian ganancias enormes que despues se habian dedicado a comprar mas equipos y a la construccion de nuevos edificios asi es que el comite considero propio imponer impuestos sobre sus ingresos?

"R.

Antes de la aprobacion del bill en cuestion, llamo la atencion del Congreso de Filipinas de que instituciones privadas organizadas como 'stock corporations' rendian ganancias, y que estas ganancias iban en beneficio de los socios o accionistas: de ahi la enmienda consistente en suprimir las palabras 'is distributed' y sustituirlas con las palabras 'inures to the benefit of any stockholders' o individuos. No hay nada escandaloso si la Universidad de Santo Tomas por tener muchos alumnos, y por obtener grandes ingresos procedentes de matrfculas levantara otros colegioe, como el colegio de ingenieria; que mal habria si una institucion puramente cultural y educativa se ensanchara y pudiera prestar un servicio mayor al pais?

"No veo nada malo que un centro docente privado dedicado a fines puramente educacionales y cientificos y no en beneficio de cualquier individuo particular, construyera mas edificios para poder cumplir mejor los fines por los cuales la institucion se ha establecido.

"P. No es verdad que el intento de la ley era imponer impuestos sobre aquellas instituciones que tienen grandes ganancias o ingresos, y que por eso se enmendo la ley anadiendose: regardless of the disposition made by said institution"?

"R. El caso es distinto, porque antiguamente estaban exentos de impuestos no solamente los ingresos de los centros docentes relacionados estrictamente con la enseñanza, sino tambien se exinrian los ingresos de esas instituciones que provienen de actos completamente mercantiles o economicos." (Pages 7—11, *idem.*)

It is clear from the foregoing not only that Congress had no intention of taxing matriculation, laboratory, library, athletic and graduation fees and other fees of similar nature, essential to, or necessarily connected with, the educational purposes of an institution of learning, but, also, that the legislative department positively intended such fees to be exempt from taxation. Hence, viewed from any angle, the contention of appellant herein cannot be sustained.

Wherefore, the decision appealed from is hereby affirmed, without special pronouncement as to costs.

Pablo, Bengzon, Montemayor, Reyes, A., Jugo, Bautista Angelo, and Labrador, JJ., concur.

Paras, C. J., concurs in the result.

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