

ROMAN CATHOLIC ARCHBISHOP OF CEBU, PETITIONER, VS. THE COLLECTOR OF INTERNAL REVENUE, RESPONDENT.

G.R. No. L-16683. January 31, 1962

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

This petition was filed by the Roman Catholic Archbishop of Cebu to obtain review of a decision of the Court of Tax Appeals dismissing his appeal from the ruling of the Collector (now Commissioner) of Internal Revenue of February 1, 1958, for lack of jurisdiction, and affirming Income Tax Assessments Nos. 17-EC-00301-55 and 17-AC-600107-56 against said petitioner.

The facts are summarized in the decision appealed from as follows:

"The records show that on February 21, 1956, petitioner, in behalf of the Roman Catholic Church of Cebu, filed an income tax return for 1955, reporting a gross income of:

From sales or exchanges of capital assets P465.00

From rentals and royalties 8,969.90

From dividends received 922.00

TOTAL GROSS INCOME

P10,356.90

Petitioner claimed deductions for depreciation of the following:

Archbishop's Palace Building P4,477.65

Major Seminary 10,451.55

Minor Seminary 3,963.33

Furniture and Fixture 1,032.56

TOTAL

P19,898.09

On February 18, 1957, petitioner, in behalf of the Roman Catholic Church in Cebu, filed an income tax return for 1956, showing the following gross income:

From sales or exchanges of capital assets P2,090.00

From rentals and royalties 11,954.84

From dividends received 4311.58

TOTAL P18,356.42

Petitioner claimed deductions for depreciation of the following properties:

Archbishop's Palace Building P4,477.65

Major Seminary 10,451.55

Minor Seminary 3,936.33

Furniture & Fixtures

1,360.62

TOTAL

P20,226.15

On the theory that the gross incomes in 1955 and 1956 were realized independently of the use of the building, furniture and fixtures, respondent totally disallowed the deductions for depreciation, thereby determining against petitioner, on July 15, 1956 and March 30, 1957, income tax liabilities for 1955 and 1956 in the respective amounts of P1,825.00 and P2,493.00 (Exhibits "1-B" & "2-B", pp. 17 & 3, BIR rec.). On May 10 and 14, 1957, petitioner requested for the reconsideration of the determinations (Exhibits "G" & "H", pp. 15-16 & 12-13, BIR re.), which request were denied by respondent in a letter dated July 18, 1957, wherein he demanded the payment of P1,825.00 and P2,493.00, including 5% surcharge and 1% legal interest on the latter amount (Exhibit "3", pp. 18-23, BIR rec.). On August 28, 1957, petitioner requested for the reconsideration of the denial and the cancellation of the assessments (Exhibits "J", pp. 24-30, BIR rec.). On November 5, 1957, respondent denied this request for reconsideration and demanded the payment of P4,318.00, plus delinquency penalties incident to late payment (Exhibit "4", pp. 36-37, BIR rec.). Again, on November 23, 1957, petitioner requested for the reconsideration and cancellation of the assessments (Exhibit "K", pp. 38-44, BIR rec.), which request was denied on January 20, 1958, with a demand 'for the last time to pay the total sum of P4,318.00 plus delinquency penalties incident to late payment immediately upon receipt hereof in order that no drastic action may be taken by this office on the matter' (Exhibit "5", pp. 45-46, BIR rec.).

Meanwhile, on December 4, 1957, respondent issued a warrant of distraint and levy against the properties of the Roman Catholic Church of D. Jakosalem St., Cebu City, to satisfy the sums of P1,916.25 and P2,617.65 as deficiency income tax and surcharge due for 1955 and 1956.

On February 7, 1958, petitioner paid under protest the total amount of P5,201.52 as income tax for the years 1955 and 1956, including surcharge and interests. And on February 1, 1958, he filed before this Court his petition for review." (Annex "E", Petition, pp. 1-3)

The respondent Collector (now Commissioner) of Internal Revenue set up several defenses, one of which is that petitioner failed to file a claim for refund of the taxes paid as required by Section 306 of the Tax Code, which claim for refund is allegedly mandatory and a condition precedent to an action for the recovery of the taxes paid; and the Tax Court, convinced that the lack of a claim for refund was fatal to petitioner's appeal, dismissed the same for lack of jurisdiction to take cognizance thereof. From this ruling, the petitioner appealed to this Court.

We agree with petitioner that Section 7 of Republic Act No. 1125, creating the Court of Tax Appeals, in providing for appeals from—

"(1) 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 the law administered by the Bureau of Internal Revenue;"

allows an appeal from a decision of the Collector in cases involving "disputed assessments" as distinguished from cases involving "refunds of internal revenue taxes, fees or other charges, * * *"; that the present action involves a "disputed assessment", because from the time petitioner received Assessments Nos. 17-EC-00301-55 and 17-AC-600107-56 disallowing certain deductions claimed by him in his income tax returns for the years 1955 and 1956, he already protested and refused to pay the same, questioning the correctness and legality of such assessments; and that the petitioner paid the disputed assessments under protest before filing his petition for review with the Court a quo, only to forestall the sale of his properties that had been placed under distraint by the respondent Collector since December 4, 1957. To hold that the taxpayer has now lost the right to appeal from the ruling on the disputed assessment but must prosecute his appeal under section 306 of the Tax Code, which requires a taxpayer to file a claim for refund of the taxes paid as a condition precedent to his right to appeal, would in effect require of him to go through a useless and needless ceremony that would only delay the disposition of the case, for the Collector (now Commissioner) would certainly disallow the claim for refund in the same way as he disallowed the protest against the assessment. The law should not be interpreted as to result in absurdities.

Nevertheless, we find the dismissal of petitioner's appeal to be substantially correct, for the reason that said appeal was not taken within the thirty (30) day period prescribed by section 11 of Republic Act No. 1125. The petitioner has submitted not less than three (3) motions or requests for the reconsideration of his Tax Assessments Nos. 17-EC-00301-55 and 17-AC-600107-56. The first he submitted to the Regional Director, and it was denied on July 18, 1957; the second was on August 18, 1957, addressed to the Collector of Internal Revenue, and was denied by the latter on November 5, 1957, in a letter received by petitioner on November 21, 1957; and the third request was made on November 23, 1957, and again denied on January 20, 1958, notified to petitioner on February 1, 1958. All motions for reconsideration were premised on the same grounds, deduction of the depreciation of the buildings in question. The appeal to the Tax Court was filed only on February 19, 1958.

By these successive motions for reconsideration, the petitioner managed to delay the review of his case by the Tax Court for nearly two years. Such delays are plainly inimical to the general interest, ascertainment and collection of taxes being essential to the maintenance of the State. The decision by the Collector of Internal Revenue dated November 5, 1957, denying the second request for reconsideration of the assessment, was certainly reviewable by the Court of Tax Appeals. Hence, the 30-day appeal, period should be counted from November 21, 1957, when the taxpayer received copy of the Collector's ruling. The running of the period was not interrupted by the filing of the third request for reconsideration, because the latter did not advance new grounds not previously alleged, and was, therefore, merely pro forma. Therefore, petitioner's petition for review should have been lodged with the Tax Court not later than December 21, 1957, but it was actually filed only on February 1, 1958.

Our ruling here is in line with the doctrine laid down by us in *North Camarines Lumber Co. vs. Collector of Internal Revenue*, (109 Phil., 511), wherein we held:

"As the petitioner had consumed thirty-three days, its appeal was clearly filed out of time. It is argued, however, that in computing the 30-day period fixed in Section 11 of Republic Act No. 1125, the letter of the respondent Collector dated January 30, 1956, denying the second request for reconsideration, should be considered as the final decision contemplated in Section 7, and not the letter of demand dated August 30, 1955.

This contention is untenable. We cannot countenance the theory that would make the commencement of the

statutory 30-day period solely dependent on the will of the taxpayer and place the latter in a position to put off indefinitely and at his convenience the finality of a tax assessment. Such an absurd procedure would be detrimental to the interest of the Government, for 'taxes are the lifeblood of the government, and their prompt and certain availability an imperious need.' (Bull vs. U. S. 295, U. S. 247)."

In view of the foregoing, the dismissal of the petitioner's appeal by the Court of Tax Appeals is hereby affirmed. Costs against the petitioner.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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