

ST. STEPHEN'S ASSOCIATION AND ST. STEPHEN'S CHINESE GIRLS SCHOOL, PETITIONERS VS. THE COLLECTOR OF INTERNAL REVENUE, RESPONDENT.

G. R. No. L-11238. August 21, 1958

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

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

Petitioner St. Stephen's Association is a non-stock corporation organized under the laws of the Philippines for the purpose of supporting and maintaining school or schools wherein the arts, sciences, and other studies are taught to children of Chinese parentage and descent; while the other petitioner, the St. Stephen's Chinese Girls School, is a school maintained and supported by funds received from its co-petitioners, the St. Stephen's Association.

On January 21, 1950, the petitioner St. Stephen's Association turned over the amount of P9,252.48 to the St. Stephen's Chinese Girls School, and the transfer of funds was entered in the ledger and cash book of the School as a "donation" from the Association. Having come across the book entry in a routine inspection of the books of the School, an examiner of the Bureau of Internal Revenue reported the donation to the Collector and thereafter, the Collector of Internal Revenue sent petitioners his Assessment Notice No. GA—3008—50 dated October 15, 1954, demanding the payment of the amounts of P98.70 and P699.07 as donor's and donee's, gift taxes on the donation in question, including surcharges and interests.

On November 13, 1954, petitioners wrote the Collector a letter requesting the cancellation and withdrawal of the assessment notice in question on the ground that the amount of P9,252.48 was erroneously entered by the bookkeeper as a donation from the Association to the School, when the truth was that said amount was obtained by the former by means of small contributions from the public and allocated to the School for its maintenance. On April 21, 1955, petitioners received a letter from the Collector dated April 6, 1955, denying the request embodied in their letter of November 13, 1954, and insisting that the assessment in question be paid. On May 9, 1955, petitioners filed their reply to the Collector's letter of April 6, 1955, rebutting the arguments of the Collector in support of the assessment, and asking for its reconsideration. On July 25, 1955, petitioners received the letter of the Collector dated July 11, 1955, again denying their request that the assessment in question be cancelled and withdrawn, and stating in its last paragraph that:

"This decision becomes final thirty days after your receipt hereof unless an appeal is taken to the Court of Tax Appeals within the same period, in accordance with the provisions of Republic Act No. 1125."

Within thirty days from the receipt of the above letter, or on August 13, 1955, petitioners filed a petition for review with the respondent Court of Tax Appeals.

Issues having been joined in the respondent court, the case was tried on the merits and thereafter, the parties were asked to file their respective memoranda. Before they could do so, however, the court required the parties to submit arguments to show whether the petition for review was filed within the thirty-day period prescribed in Section 11 of Republic Act No. 1125. Petitioners filed a memorandum calling attention to the last paragraph of

the letter of the Collector of Internal Revenue of July 11, 1955; no memorandum was filed by the respondent Collector. On August 15, 1955, the respondent court promulgated a resolution dismissing the petition for lack of jurisdiction. The resolution was premised on the court's findings that the period for petitioners' appeal started to run from their receipt of the assessment notice in question; that said period was interrupted by the filing of petitioners' two requests for the cancellation of the assessment, but started to run again when said requests were denied; and that from November 12, 1954, when petitioners received the assessment notice, to August 13, 1955, when they filed their petition for review, deducting the time when their two requests for cancellation were pending with the respondent Collector, 37 days had elapsed and therefore, their petition was filed out of time and did not confer jurisdiction upon the respondent court. From this resolution of dismissal, petitioners appealed to this Court.

We find merit in the appeal.

In the first place, we believe the respondent court erred in holding that the assessment in question is the respondent Collector's decision or ruling appealable to it, and that consequently, the period of thirty days prescribed by section 11 of Republic Act No. 1125 within which petitioner should have appealed to the respondent court must be counted from its receipt of said assessment. Where a taxpayer questions an assessment and asks the Collector to reconsider or cancel the same because he (the taxpayer) believes he is not liable therefor, the assessment becomes a "disputed assessment" that the Collector must decide, and the taxpayer can appeal to the Court of Tax Appeals only upon receipt of the decision of the Collector on the disputed assessment, in accordance with paragraph (1) of section 7, Republic Act No. 1125, conferring appellate jurisdiction upon the Court of Tax Appeals to review "decisions of the Collector of Internal Revenue in cases involving disputed assessment * * *" (Italics supplied).

The period for appeal to the respondent court in this case must, therefore, be computed from the time petitioners received the decision of the respondent (Collector of Internal Revenue on the disputed assessment, and not from the time they received said assessment. The next question now is: which is the decision of the Collector on the disputed assessment—his letter of April 6, 1955, received by petitioners on April 21, 1955, denying their first request for the withdrawal and cancellation of the assessment; or his letter of July 11, 1955, received by petitioners on July 25, 1955, denying their second request that the assessment be cancelled and withdrawn, and stating that:

"This decision becomes final thirty days after your receipt hereof unless an appeal is taken to the Court of Tax Appeals within the same period, in accordance with the provision of Republic Act No. 1125."

From the above-quoted statement appearing in his letter of July 11, 1955, it is evident that the respondent Collector himself considered said letter as his final decision in the case, hence his warning that the same would become final in thirty days unless petitioners appealed to the Court of Tax Appeals within the same period. Prior to his letter-decision of July 11, 1955, then, the Collector must have held the matter under advisement and considered his preceding rulings as merely tentative in character, pending his final determination and resolution of the merits of the arguments of fact and law submitted by petitioners in support of their requests for the cancellation and withdrawal of the assessment. This must have been the reason why, in said letter-decision of July 11, 1955, the Collector included an express statement that said decision was to become final in thirty days unless appealed from within the same period; and it must also have been for this reason that, throughout the proceedings in the respondent court, the respondent Collector never claimed that petitioners' appeal was filed out of time, and it was the Tax Court that *motu proprio* dismissed the petition because it believed it was not filed within the period provided by Republic Act No. 1125.

Respondents assert that the Collector of Internal Revenue can not enlarge or extend the period for appeal under

section 11 of Republic Act No. 1125. This is not, however, a case where the respondent Collector had enlarged or extended the period for appeal to the respondent Court; this is simply a case where the Collector did not reach a final decision on the matter pending before him until July 11, 1955, when he released his letter-decision of the same date. Petitioners having filed their appeal on the 19th day from the receipt of this decision, their appeal was filed on time and the respondent Court erred in dismissing the same for lack of jurisdiction.

Wherefore, the resolution appealed from is reversed, and the records are ordered remanded to the respondent court for decision on the merits. Without costs. So Ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Endencia, and Felix, JJ., concur.

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