

RICARDO S. SANTOS, PETITIONER AND APPELLANT, VS. HON. MARIANO NABLE, ETC., ET AL., RESPONDENTS AND APPELLEES.

G.R. No. L-12073. May 23, 1961

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ba2377bb9f49/>

DIZON, J.:

Appeal from the decision of the Court of Tax Appeals upholding the assessment and demand made by the Collector of Internal Revenue upon appellant for the payment of the sum of P3,292.04 as amusement tax deficiency for the period from January, 1947 to July, 1948, inclusive.

It appears that, based on the investigation made and report submitted by Assistant Revenue Agent, P. A. Cosare, the appellee, Collector of Internal Revenue issued against appellant, Ricardo S. Santos, as owner and operator of the Ace Theatre located in San Juan, Rizal, a deficiency assessment of P3,234.26, plus a compromise penalty of P850.00, or a total of P4,084.26.

In a letter dated December 10, 1948 appellant requested a reinvestigation of the matter, alleging that the report of Agent Cosare "may have overlooked all the receipts paid by him on the amusement tax basing all from his gross receipts". The reinvestigation was made but the result was that appellee issued an amended assessment dated July 28, 1949 for the slightly bigger total sum of P4,242.04. Details thereof are as follows:

" 3,465 P1.00

admissions

at

P0.16 P554.40

86,553 .75

"

"

.12 10,386.36

36,126 .50

"

"

.08 2,390.08

77 .80

"

"

.12 9.24

3,070 .60

"

"

.10 307.00

278 .40

"

"

.06 16.68

1,732 .30

"

"

.04 69.28

Total amount due for the period P14,233.04

Less: Total payments made 10,841.00

Deficiency amusement tax 3,392.04

Compromise penalty for failure to pay on time 800.00

Compromise penalty for using unregistered admission tickets 50.00

TOTAL

P4,242.04"

The matter remained unsettled until October 6, 1953 when appellant made another request for a reinvestigation. In his letter for that purpose he requested that he "be allowed to examine and verify the books taken from me by your agent, P. A. Cosare during his original investigation". On November 2 of the same year appellant also requested appellee in writing to have his case submitted to the Conference Staff of the Bureau of Internal Revenue, to give him an opportunity to "air my (his) objections", for the reason that the agent had not "proven his supposed findings as he cannot produce the books for my business which he took from me". The request was granted but during the hearing before the Conference Staff, appellant's books could not be produced by the Bureau of Internal Revenue, thus rendering it impossible for appellant to prove the errors allegedly committed by Agent Cosare in arriving at the figures stated in his report of April 22, 1949. The hearing proceeded without the missing books

which, as a matter of fact, have not yet been located to this date. Thereafter the Conference Staff recommended that the last assessment of P4,242.04 inclusive of penalties, be affirmed. On the basis of this recommendation appellee reiterated the disputed assessment and appellant was served with the corresponding demand for payment on August 9, 1955. On September 8 of the same year, he filed a petition for review with the Court of Tax Appeals, but after proper proceedings the latter rendered the decision appealed from affirming the assessment made by appellee "except as regards the compromise penalty of P850.00" over which said court declared itself without jurisdiction.

It is an admitted fact that the Bureau of Internal Revenue had taken possession of the books of appellant since the original investigation of the case and that the same were lost while in its possession. The record also discloses that the total tax liability demanded from appellant amounted to P14,333.04, of which he had paid the considerable sum of P10,841.00.

Upon the other hand—as far as the record discloses—when the first reinvestigation was made, appellant's books were not returned to him in order that he may use them to prove the inaccuracy of some of the findings of agent Cosare, and the reinvestigation consisted merely in Cosare going over the books again by himself. When during the hearing before the Conference Staff, the Bureau of Internal Revenue could not produce appellant's books when such production was demanded, the latter was virtually deprived of the opportunity to prove his case with the best possible evidence—his own books.

Appellee, however, claims that the report of agent Cosare was based on figures taken from appellant's own books showing the number of admission tickets sold, and the price of each; that appellant's requests for reinvestigation were in vague and general terms and should be construed merely as attempts to delay collection of the tax assessed; that he was given time and opportunity to produce copies of the lost books and records or secondary evidence thereof, but had failed to do so. All these contentions do not justify or explain the loss of the books in question nor are they sufficient to deny appellant the opportunity to prove his claim concerning the incorrectness of some of Cosare's findings, with the best evidence—as is generally required.

Appellee also contends that the assessment in question should be affirmed because, in the absence of clear proof of error, the presumption must be that official duty had been regularly performed and that the revenue agent concerned acted in good faith. As far as the good faith of the agent is concerned, there seems to be no question here. On the other hand, it does not seem fair to affirm the questioned assessment simply on the basis of the rebuttable presumption of regular performance of official duty, considering the fact that, by granting appellant's requests for reinvestigation, appellee himself had inferentially admitted that his petitions were not groundless. To this we must add too the consideration that appellant had already paid the considerable sum of P10,841.00 representing more than two thirds of the total assessment made against him. Apparently, at least, he was not acting in bad faith or merely attempting to delay payment when he asked for a reinvestigation of the assessment.

It is true—as appellee says in his brief—that a taxpayer who contests the correctness of an assessment has the burden of proving his contention. This, appellant was willing to do but, as already stated, he was deprived of the best means of doing it with the loss of his books. His only error, perhaps, was in not producing secondary evidence of their contents during the hearing before the Conference Staff.

In view of the circumstances disclosed by the record, we believe that, in equity, appellant should be given a last opportunity to prove—even with secondary evidence—his contention that, in some respects, the assessment against him is incorrect.

Wherefore, the decision appealed from is hereby set aside and the case is remanded to the Bureau of Internal Revenue for further proceedings in accordance with this decision.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, De Leon, and Natividad, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.