

COLLECTOR OF INTERNAL REVENUE, PETITIONER, VS. J. C. YUSECO AND THE COURT OF TAX APPEALS, RESPONDENTS. D E C I S I O N

G. R. No. L-12518. October 28, 1961

Ponente: PADILLA, J.

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PADILLA, J.:

[, 28 October 1961]

The Collector of Internal Revenue seeks a review under section 18, Republic Act No. 1125, and prays for the setting aside of the judgment rendered by the Court of Tax Appeals on 25 March 1957, in C.T.A. Case No. 217, the dispositive part of which is, as follows:

Wherefore, pursuant to section 51 (d) of the National Internal Revenue Code, judgment is hereby rendered declaring the warrant of distraint and levy issued by respondent on January 20, 1955 to effect collection of the "amount of P2,447.30 as income tax for the year 1946 plus 5 per cent surcharge and the 1 percent monthly interest from August 16, 1953" allegedly due from petitioner, is hereby declared null and void and of no legal force and effect and respondent is hereby directed to return to petitioner the properties seized from the latter under said warrant. The respondent Collector of Internal Revenue is likewise enjoined from taking any further proceeding to effect by summary methods the collection, of the alleged income taxes assessed against petitioner J. C. Yuseco in the sums of P134.14 and P2,447.30 for the years 1945 and 1946, respectively. Without pronouncement as to costs. (Appendix N)

and the resolution entered by the same Court on 17 June 1957 denying his motion for reconsideration (Appendix P).

The facts, which are not disputed, are, as summarized by the Court, as follows:

The facts established in this case show that petitioner did not file income tax returns for the Calendar years 1945 and 1946. This fact having come to the knowledge of revenue examiners, they accordingly made income tax returns for petitioner upon which respondent on August 20, 1948, assessed against and demanded from petitioner the sums of P134.14 and P7,563.28 representing alleged income taxes and corresponding surcharges for the years 1945 and 1946. On September 1, 1948, petitioner wrote the respondent, requesting that he be informed as to how the assessments were arrived at. In reply thereto, respondent in a letter dated September 17, 1948 furnished the information sought and at the same time demanded the payment of the aforesaid assessments. On October 4, 1948, petitioner asked that he be given an opportunity to present his side of the matter. However, respondent on December 18, 1948, denied reconsideration of the assessment and reiterated his demand upon petitioner for payment thereof which was followed with another demand on June 29, 1949. On July 28, 1949, petitioner once more requested for a reinvestigation of the case but the same was denied by respondent in his letter dated February 7, 1951 wherein he repeated his demand for payment. On April 3, 1951, petitioner renewed his request for reinvestigation and nothing was heard of the matter, for almost three years thereafter.

On January 6, 1953, respondent issued a warrant of distraint and levy upon petitioner's properties which,

however, was not executed. On January 16, 1953, petitioner sought the withdrawal and/or reconsideration of said warrant. Meanwhile, on July 2, 1953, respondent issued a revised assessment notice which reduced the original assessment for the 1946 income tax to P2,447.30, including surcharge. On July 18, 1953, petitioner asked that he be informed of the action upon his petition for reinvestigation. This request was reiterated in his letter of August 18, 1953 wherein he acknowledged receipt of the modified assessment for the 1946 income tax. On September 1, 1953, respondent wrote petitioner demanding from the latter payment of the said sum of P2,447.30 as income tax for the year 1946 plus penalties incident to delinquency, and reiterating the demand for the unrevised income tax assessment for 1945 in the sum of P134.14, but respondent did not take any further action thereafter to effect collection of the assessment.

On January 20, 1955, respondent again issued a warrant of distraint and levy on the properties of petitioner, this time only to effect collection of the said sum of P2,447.30 as income tax for 1946. The distraint being still enforce, petitioner on December 12, 1955 filed his petition for prohibition with this Court.

The petitioner Collector of Internal Revenue assails the jurisdiction of the respondent Court of Tax Appeals to take cognizance of the respondent taxpayer's petition that seeks to enjoin him (the petitioner) from collecting: his income taxes due for the years 1945 and 1946 and surcharges by Nummery distraint of and levy upon his personal and real properties, under the provisions of sections 316 to 330 of the National Internal Revenue Code. The petitioner's contention is that the respondent taxpayer cannot bring in the respondent Court an independent special civil action for prohibition without taking to said Court an appeal from the decision or ruling of the Collector of Internal Revenue in the cases provided for in sections 7 and 11 of Republic Act No. 1125.

Sections 7, 9 and 11 of Republic Act No. 1125, creating the Court of Tax Appeals, provide:

SEC. 7. Jurisdiction.—The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided—

(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 law administered by the Bureau of Internal Revenue;

(2) Decisions of the Commissioner of Customs' in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto; or either matters arising tinder the Customs Lalw or other law or part of law" administered by the Bureau of Customs; and

(3) Decisions of provincial or city Boards of Assessment Appeals in cases involving thte assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto.

SEC. 9. Fees.—The Court shall fix reasonable fees for the filing of an appeal for certified copies of any transcript of record, entry or other document, and for other" authorized services rendered by the Court or its personnel.

SEC. 11. Who may appeal; effect of appeal.—Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.

No appeal taken to the Court of Tax Appeals from the decision of the Collector of Internal Revenue or the Collector of Customs shall suspend the payment, levy, distraint, and/or sale of any property of the taxpayer for the satisfaction of his tax liability as provided by existing law; Provided, however, That when in the opinion of the Court the collection by the Bureau of Internal Revenue or the Commissioner of Customs may jeopardize

the interest of the Government and/or the taxpayer the Court at any stage of the proceeding may suspend the said collection and require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount with the court. (*Italics supplied.*)

The foregoing provisions of the law refer and limit only to appeals from decisions or rulings of the Collector of Internal Revenue, Commissioner of Customs and Provincial or City Boards of Assessment Appeals in the proper cases. Nowhere does the law expressly vest in the Court of Tax Appeals original jurisdiction to issue writs of prohibition and injunction independently of, and apart from, an appealed case. The writ of prohibition or injunction that it may issue under the provisions of section 11, Republic Act No. 1125, to suspend the collection of taxes, is merely ancillary to and in furtherance of its appellate jurisdiction in the cases mentioned in section 7 of the Act. The power to issue the writ exists only in cases appealed to it. This is reflected in the explanatory note of the bill (House No. 175), creating the Court of Tax Appeals; We quote from the explanatory note:

* * * It is proposed, in the attached, bill to establish not merely an administrative body but a regular court vested with exclusive appellate jurisdiction over cases arising under the National Internal Revenue Code, Customs Law and the Assessment Law. (*Italics supplied, p. 2202, Congressional Record, Third Congress, Vol. I, Part II.*)

Congressman Castañeda, one of the proponents of the bill, in his opening remarks sponsoring its enactment into law, said that "House Bill No. 175 has for its purpose the creation of a regular court of tax appeals." (p. 2204, *supra*.) Answering a question from Congressman Alonzo whether the Court of Tax Appeals would have only appellate jurisdiction and no concurrent or original jurisdiction, the proponent said that "It has exclusive jurisdiction with reference to matters or cases arising from the Internal Revenue Code, the Customs Law and the Assessment Law." (pp. 2209-2210, *supra*.) Dwelling further on the subject, the two members of the House of Representatives continued their discussion, as follows:

Mr. Alonzo. So that under this proposal you will bring the case immediately to this court that you are proposing to create, without first having it decided by the Commissioner of Customs or the Collector of Internal Revenue, as the case may be.

Mr. Castañeda. It will have to be appealed from the decision of the Collector of Internal Revenue, the Collector of Customs or the Assessors, to the Court of Tax Appeals, then to the Supreme Court, (pp. 2209-2210, *supra*.)

These statements made during the proceedings indicate that the intention of Congress was to vest the Court of Tax Appeals with jurisdiction to issue writs of prohibition and injunction only in aid of its appellate jurisdiction in cases appealed to it and not to clothe it with original jurisdiction to issue them. Such intent is reflected on the second paragraph of section 11, Republic Act No. 1125 quoted above. Taxes being the chief source of revenue for the Government to keep it running must be paid immediately and without delay. A taxpayer who feels aggrieved by the decision or ruling handed down by a revenue officer and appeals from his decision or ruling to the Court of Tax Appeals must pay the tax assessed, except that, if in the opinion of the Court the collection would jeopardize the interest of the Government and/or the taxpayer, it could suspend the collection and require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount of the tax assessed.

The judgment under review is annulled and set aside, without pronouncement as to costs.

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

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