

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. PHILIPPINE POWER AND DEVELOPMENT CO., INC., AND THE COURT OF TAX APPEALS, RESPONDENTS.

G.R. No. L-25501. July 29, 1977

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

On July 14, 1977 the parties and their respective counsels filed the following:

"JOINT MANIFESTATION AND MOTION

"COME NOW Commissioner of Internal Revenue, and the Philippine Power and Development Co., Inc., by their respective counsel, and to this Honorable Court respectfully manifest:

"1. That on October 31, 1965, the Court of Tax Appeals rendered a decision in CTA Case No. 1152, the dispositive portion of which is quoted as follows:

'WHEREFORE, the assessment appealed from is hereby modified. Petitioner is hereby ordered to pay respondent Commissioner, within 30 days from the date this decision becomes final, deficiency franchise tax for the period from October 1, 1955 to June 30, 1960 in the amount of P133,175.52. If the said amount is not paid within 30 days from the date this decision becomes final, the same shall be subject to the surcharge of 25% for delinquency pursuant to Section 259 of the Revenue Code.'

"2. That the said decision was appealed by the Commissioner of Internal Revenue and the Philippine Power and Development Co., Inc., to this Honorable Court, which appeals, docketed as G. R. No. L-25501 and G. R. No. L-25507, are pending resolution;

"3. That the Philippine Power and Development Co., Inc. had availed of the privileges of Letter of Instructions No. 308 and in the letter dated December 17, 1976, the Commissioner of Internal Revenue informed the taxpayer herein that its offer to pay 15% of its deficiency franchise tax from October 1, 1955 to June 30, 1960 was increased to 30% of P133,175.52 (the amount adjudged by the Court of Tax Appeals and on appeal to the Supreme Court) or P33,952.66, in full and complete settlement of the tax liabilities in question, a xerox copy of which letter is hereto attached as Annex "A" and made an integral part hereof;

"4. That the Philippine Power and Development Co., Inc. applied its tax credit of P79,229.06 against the said amount of P33,952.66 and accordingly, the Commissioner of Internal Revenue issued Tax Debit Memo dated January 17, 1977, a xerox copy of which is hereto attached as Annex 'B' and made an integral part hereof;

"5. That in view of the aforesaid application of the taxpayer's tax credit to its tax liability of P33,952.66, the appeals of the Commissioner of Internal Revenue and the Philippine Power and Development Co., Inc. have become moot and academic.

"WHEREFORE, it is respectfully prayed that the aforesaid appeals be dismissed without costs.

"Manila, June 14, 1977.

"(Sgd.) EFREN I. PLANA ESTELITO P. MENDOZA

Acting Commissioner of Solicitor General

Internal Revenue

(Sgd.) REYNATO S. PUNO

Assistant Solicitor General

"PHILIPPINE POWER &

DEVELOPMENT CO., (Sgd.) LOLITA O. GAL-LANG

INC. Solicitor

By:

(Sgd.) RAMON A. AGULLANA

(Sgd.) PELAGIO M. ACHACOSO Special Attorney

Vice-Pres. & Gen. Mgr.

"POBLADOR, NAZARENO, AZADA,

TOMACRUZ & PAREDES

COUNSEL FOR PHILIPPINE POWER & DEVELOPMENT CO., INC.

575 ATLANTA, PORT AREA, MANILA

By:

(Sgd.) RUSTICO V. NAZARENO"

ACCORDINGLY, as the herein appeals have become moot and as prayed for by the parties, the cases at bar are dismissed without costs.

Makasiar, Muñoz Palma, Martin, Fernandez, and Guerrero, JJ., concur.

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