P. J. KIENER COMPANY, LTD., PLAINTIFF AND APPELLANT, VS. SATURNINO DAVID, AS COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND APPELLEE.

G. R. No. L-5163. April 22, 1953

Ponente: TUASON, J.

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TUASON, J.:

This appeal is from an order of the Court of First Instance of Manila dismissing the appellant's action on the ground that it was brought outside the two-year period prescribed by section 306 of the Tax Code and therefore barred.

The appellant, P. J. Kiener Company, Ltd., it appears, paid the defendant and appellee, the Collector of Internal Revenue, the total sum of P10,421.10 representing percentage tax for the year 1948 itemized as follows: P1,781.59 on April 20, 1948, P1,585.84 on July 20, 1948, and P7,053.67 on January 20, 1949. It was alleged that appellant's liability was only P3,064,70 and that the balance, P7.356.70, was an overpayment.

Plaintiff's action, the object of which was to recover the last-mentioned amount, was docketed only on July 12, 1951, more than two years after the last payment. The reason for the delay was that plaintiff's claim for refund filed with the defendant on May 25, 1949, was not acted upon until June 11, 1951, when it was formally denied.

The controversy centers on the construction of the aforementioned section of the Tax Code which reads:

> "Sec. 306. Recovery of tax erroneously or illegally collected.—No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Collector of Internal Revenue; but such suit or proceeding may be maintained, whether of not such tax, penalty, or sum has been paid under protest or duress. In any case, no such suti or proceeding shall be begun after the expiration of two years from the date of payment of the tax or penalty."

The preceding provisions seem at first blush conflicting. It will be noticed that, whereas the first sentence requires a claim to be filed with the Collector of Internal Revenue before any suit is commenced, the last makes imperative the bringing of such suit within two years from the date of collection. But the conflict is only apparent and the two provisions easily yield to reconciliation, which it is the office of statutory construction to effectuate, where possible, to give effect to the entire enactment.

To this end, and bearing in mind that the Legislature is presumed to have understood the language it used and to have acted with full idea of what it wanted to accomplish, it is fair and reasonable to say without doing violence to the context or either of the two provisions, that by the first is meant simply that the Collector of Internal Revenue shall be given an opportunity to consider his mistake, if mistake has been committed, before he is sued, but not, as the appellant contends, that pending consideration of the claim, the period of two years provided in the last clause shall be deemed interrupted. Nowhere and in no wise does the law imply that the Collector of Internal Revenue

must act upon the claim, or that the taxpayer shall not go to court before he is notified of the Collector's action. Having filed his claim and the Collector of Internal Revenue having had ample time to study it, claimant may, indeed should, within the statutory period of two years proceed with his suit without waiting for the Collector's decision. We understand the filing of the claim with the Collector of Internal Revenue to be intended primarily as a notice or warning that unless the tax or penalty alleged to have been collected erroneously or illegally is refunded, court action will follow. Previous and timely notice is, in other cases and for diverse salutary reasons, made a prerequisite to the prosecution of contemplated proceedings without imposing on the party to whom the notice was sent any obligation to make any move.

The appealed order must be, and the same is, affirmed, with costs against the appellant.

Paras, C. J., Feria,, Pablo, Bengzon, Montemayor, Reyes, Bautista Angelo and Labrador, JJ., concur.

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