

## COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. ASTURIAS SUGAR CENTRAL, INC., RESPONDENT.

*G.R. No. L-15013. December 28, 1961*

Ponente: CONCEPCION, J.

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### CONCEPCION, J.:

Petitioner herein seeks a reconsideration of our decision in this case insofar as it affirms the award, made in the decision of the Court of Tax Appeals, of interest on the tax payments refundable to respondent herein.

The motion is predicated upon the theory that the precedent established in *Career Electric and Ice, Plant Co. Inc. vs. Court of Tax Appeals* (53 Off. Gaz., 1068, 1071, 1073-1075), has been superseded by the decision in *Court of Tax Appeals vs. St. Paul's Hospital of Iloilo* (G.R. No. L-12127, May 25, 1959). This issue has already been decided in the negative in a resolution, dated September 28, 1961, denying a motion for reconsideration in *Collector of Internal Revenue vs. Antonio Prieto*, L-11976. We quote from said resolution:

"x x x we held in *Carcar Electric & Ice Plant Co., Inc. vs. Collector of Internal Revenue* (G.R. No. L-9257, Oct. 17, 1956, 53 O.G. No. 4, 1068) that 'under the present Internal Revenue Code the Collector of Internal Revenue may be made to answer for interest at the legal rate on taxes improperly collected. Such liability serves as additional safeguard in favor of the taxpayer against arbitrariness in the exaction or collection of taxes and imposts.' (See Resolution on the Motion for Reconsideration filed by the Collector of Internal Revenue, 53 O.G. No. 4, pp. 1071-1075).

"In reasoning our Resolution in the *Carcar* case we said that 'Under the Internal Revenue Act of 1914, the Collector of Internal Revenue was liable for interest on taxes improperly collected as held in *Hongkong Shanghai Bank vs. Rafferty*, 39 Phil. 153; *Heacock Co. Vs. Collector of Customs*, 37 Phil. 970; *Vda. e Hijos de P. Roxas vs. Rafferty*, 37 Phil. 957'; that, subsequently, Section 1579 of the Administrative Code of 1917 expressly authorized suits against the Collector of Internal Revenue 'for the recovery without interest of the sum alleged to have been illegally collected'; that for this reason, thereafter, no judgments for interest were rendered against the Collector; that in 1939, the National Internal Revenue Code, in its section 306, authorized recovery of taxes erroneously or illegally collected, but omitting the expression 'without interest' employed in the aforesaid section of the Administrative Code of 1917, which it superseded; that considering our repeated rulings holding the Collector of Internal Revenue liable for interest on taxes improperly collected, in the absence of express exemption, it was clear that the Legislature's failure to reenact the words 'without interest' of the Administrative Code of 1917 showed a clear desire to return to the rule to force before said year.

"Our decision in the *Carcar* case, however, must be understood as holding the Collector of Internal Revenue liable for interest on taxes improperly collected only if the collection was attended with 'arbitrariness'. The facts involved in the case relied, upon by petitioner - the *St. Paul's Hospital of Iloilo* case - do not seem to

justify the conclusion that arbitrariness attended or characterized the collection of the taxes in question therein."

In the case at bar, we find that petitioner had acted arbitrarily in rejecting respondent's claim, to the effect that the destruction of the Asturias Sugar Central in April 1942, in furtherance of our resistance to enemy attack, is compensable by the War Damage Corporation under the provisions of Section 5(g) of Public Laws 506 of the 77th Congress of the United States, otherwise known as the War Damage Commission Act, and that the amount of the loss thus sustained by said respondent could be determined only in 1950, When it received from the Philippine War Damage Commission a communication stating that the check enclosed therewith would be the last payment by way of partial compensation for the loss of said Sugar Central. In other words, the assessment complained of is clearly unjustified, and, accordingly, the case at bar falls within the purview, not of the case of St. Paul's Hospital of Iloilo, but of the Carcar case.

WHEREFORE, petitioner's motion for reconsideration is hereby denied.

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

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