

## ROBERT L. JANDA, PETITIONER AND APPELLANT VS. COLLECTOR OF INTERNAL REVENUE, RESPONDENT AND APPELLEE.

*G.R. No. 10725. February 28, 1961*

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### **BENGZON, ACTING C.J.:**

Review of the Court of Tax Appeals' resolution of February 23, 1956, that dismissed Robert L. Janda's appeal for correction of a certain assessment, made by the Collector of Internal Revenue. Belated appeal, the Court declared.

The material facts in connection with the point were partly contained in an "Additional Stipulation" which reads as follows:

"1. That on April 30, 1954, petitioner wrote a letter to respondent dated April 12, 1954, contesting Income Tax Assessment Notice AR-24664-53/50, issued by respondent against petitioner, demanding payment of a deficiency income tax of P1,546.00 and alleging that the amount of P1,469.63 representing taxes paid by petitioner to the United States Federal Government be deducted from his gross income pursuant to Section 30 (c) (1) of the National Internal Revenue Code;

"2. That on July 29, 1954, petitioner received from respondent a letter dated July 13, 1954, denying petitioner's request for the deduction of the aforesaid amount of P1,469.63 relying upon Section 30 (c) (2) (B) of the National Internal Revenue Code;

"3. That on August 4, 1954, petitioner filed with respondent a request for the reconsideration, of his ruling of July 13, 1954, dated July 31, 1954;

"4. That on October 14, 1954, petitioner received from respondent a letter dated September 21, 1954, reducing Income Tax Assessment Notice No. AR-24644-53-50 from P1,546.00 to P1,345.00, and issuing therefor Amended Income Tax Assessment Notice No. AR-24644-54/50;

"5. That on October 15, 1954, petitioner's counsel filed with respondent a letter dated October 14, 1954, requesting an extension of thirty (30) days within which to take up the case with respondent; and the latter granted an extension until November 15, 1955, as evidenced by his letter to petitioner's counsel, dated November 2, 1954;

"6. That on November 15, 1954, petitioner's counsel filed with respondent a letter of the same date, requesting the further reduction of the" deficiency income tax assessed against petitioner and advising respondent that he had already paid P768.00, as evidenced by Income Tax Receipt No. 529941, dated November 12, 1954;

"7. That on February 2, 1955, petitioner received from respondent a letter dated January 14, 1955, demanding payment of the amount of P577.00, as deficiency income tax for 1950, plus an administrative penalty of P40.00; that respondent made it clear to petitioner that further reduction of his deficiency income tax for 1950 could no longer be made; that it was understood by petitioner and respondent herein that respondent's letter dated January 14, 1955, is the final decision of respondent."

Explaining its position, the Tax Court said:

"We cannot agree with the parties that it is the letter of respondent of January 14, 1955 which is his final

decision, and that the 30-day period within which to appeal must be counted from the date of receipt thereof on February 2, 1955 by petitioner. Respondent's letter of September 21, 1954 reducing petitioner's income tax liability from P1,546.00 to P1,345.00 is final decision of respondent. The revised assessment of P1,345.00 has remained unaltered and unrevised. The said letter of September 21, 1954 was received by petitioner on October 14, 1954. On the following day, i.e., October 14, 1954, counsel for petitioner filed with respondent a letter dated October 14, 1954 which, in part, reads as follows:

"\* \* \*. Inasmuch as Mr. Janda is at present in the United States and considering that you usually give a taxpayer a period of thirty (30) days within which to pay an internal revenue tax assessed by you against him, we request that we be given the same period in order to contact Mr. Janda Before taking matter up with you."

The said letter of October 14, 1954 did not seek a reconsideration of the decision of respondent, and as much cannot be deemed to suspend the thirty-day period within which to appeal under Republic Act No. 1125. In fact, respondent did not treat the letter as a request for reconsideration but as a simple request for an extension of time for payment, as may be gleaned from his reply dated November 2, 1954, which reads:

'Replying to your letter dated October 14, 1954, I have the honor to inform you that in the light of the reasons therein stated, your Mr. Robert Janda is hereby given an extension of time until November 15, 1954 within which to pay the City Treasurer of Manila without penalty the sum of P1,345.00 representing his deficiency income tax for the year 1950.'

If the intention of petitioner in his letter of October 14, 1954 was to request for a reconsideration of the assessment, or at least to request an extension of time within which to file a request for reconsideration, instead of asking merely an extension of time within which to pay the deficiency tax, he should have so informed respondent upon his receipt of the latter's reply dated November 2, 1954, wherein respondent granted him until November 15, 1954 within which to pay the sum of P1,345.00. It appears that the letter of the Collector dated November 2, 1954 was received by petitioner, or by his authorized representative, on November 4, 1954, and he replied thereto on November 16, 1954, only to inform respondent that he had paid part of the deficiency tax in the amount of P768.00, leaving a balance of P577.00, in connection with which he requested reconsideration."

"It appears clear, therefore, that the thirty-day period from October 14, 1954 within which to appeal was not suspended and the same expired on November 14, 1954."

Considering the circumstances, we think the Court adopted a very strict view of the Collector's administrative power and discretion. The letter of Janda's counsel requesting for 30 days within which "to contact" him could properly be interpreted as a petition to hold the reduced assessment in abeyance so that Janda may decide whether to ask for further reduction or to pay.[1] But the Collector's Office interpreted the letter as a mere petition for time to pay, and sent the reply of November 2, 1954. Obviously, however, the misunderstanding was rectified when the Collector, instead of regarding the matter as definitely closed for failure to pay, acted on "Janda's petition of November 15, 1954, for further reduction, and categorically advised him in the letter of January 14, 1955, that no further reduction will be made. This is my final decision, the officer practically announced. And, the taxpayer should not be blamed for counting his time to appeal from that final communication. That the Collector may validly elect to treat his last letter as his final decision, is settled by the pronouncements of this Court in *Stephen Ass. vs. Collector of Internal Revenue*, 104 Phil., 314; 55 Off. Gaz. (13) 2243. The Collector's attitude must have been the reason why his representative before the Court of Tax Appeals never doubted the timeliness of the appeal, and even agreed to the inferable proposition (see last stipulation) that its period should be counted from the receipt of the said letter of January 14, 1955.

Now, it being admitted that the petition for review was filed on February 23, 1955, i.e. within the 30-day period starting from the receipt of the letter of January 14, 1955, the taxpayer's appeal may not be deemed to be

untimely, to be thrown out of court.

Wherefore, revoking the resolution under review, we hereby remand the records to the Court a quo for further proceedings.

Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes and Dizon, JJ., concur.

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[1] In fact, the stipulation of parties says "to take up the case with, the Collector.

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