

COLLECTOR OF INTERNAL REVENUE, PETITIONER, VS. THE COURT OF TAX APPEALS AND THOMSON SHIRTS FACTORY (AARON GO & CO.), RESPONDENTS.

G.R. No. 14902. October 31, 1960

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is a petition for certiorari in accordance with Section 19 of Republic Act No. 1125, to secure the annulment of the orders of the respondent Court of Tax Appeals dated October 15, 1958 and December 23, 1958, on the ground that said court is without jurisdiction to try Court of Tax Appeals Case No. 377, entitled "Thomson Shirts Factory (Aaron Go & Co.), petitioner, versus The Collector of Internal Revenue, respondent."

The record discloses that on October 31, 1955, demand was made by the petitioner Collector of Internal Revenue (Demand No. 13676) against respondent Thomson Shirts Factory for the payment of P26,975.03 as deficiency sales tax, surcharge and penalty for the period from January 1, 1954 to June 30, 1955. On March 15, 1956, respondent taxpayer asked for reinvestigation and a reconsideration of the assessment. This was done, and on March 21, 1957, a revised demand was made for the same sum of P26,975.03. Payment of this amount was demanded within 15 days from receipt. This demand was received by respondent taxpayer on April 9, 1957, and on April 15, 1957, a request for reinvestigation was again made, on the ground that the findings of the Collector of Internal Revenue are not in accordance with the facts and the evidence, and that the investigation was made without the presence of taxpayer's counsel. On April 17, 1957, the petitioner herein denied the request for reinvestigation. This denial was received by respondent taxpayer on April 21, 1957, and on May 14, 1957 he instituted the action in the Court of Tax Appeals, the same being docketed as C.T.A. No. 377.

On July 29, 1958, petitioner herein, after filing his answer on June 14, 1958, moved to dismiss the case in the Court of Tax Appeals, on the ground that said case was filed beyond the 30-day period allowed for the review of the assessment of the Collector of Internal Revenue, and the Court of Tax Appeals, therefore, had no jurisdiction to try the petition on its merits.

The Court of Tax Appeals denied the motion, holding that in administrative proceedings which are generally different from the judicial, it is not necessary for motions or petitions to conform to a particular form of procedure, as required in Section 1 of Rule 37 of the Rules of Court. Moreover, the Court of Tax Appeals said, an individual must exhaust all administrative proceedings before resorting to the courts. So the respondent court declared, the taxpayer's letter dated April 15, 1957 should be deemed to suspend the period within which a petition for review may be filed with the Court of Tax Appeals.

The Solicitor General, on behalf of the Collector of Internal Revenue, argues before Us that the taxpayer's letter of April 15, 1957 is merely pro-forma, so that it did not have the effect of suspending the period within which to appeal to the Court of Tax Appeals. He also argues that the policy of the Government requiring expeditious collection of taxes announced by Us in the case of *Lim, et al., vs. The Collector of Internal Revenue*, 105 Phil.,

974; 57 Off. Gaz. (10) 1786, demands that delays be not countenanced and should not be allowed to hamper collection of taxes.

Answering the above arguments of the Solicitor General, counsel for respondent taxpayer argues that the petition for reinvestigation is not pro-forma and it satisfies even the Rules of Court, Section 1, Rule 37.

After a consideration of the arguments, we find that the petition for reinvestigation is not pro-forma even if tested by the Rules of Court, because specific grounds are mentioned in said petition for reinvestigation, namely, lack of opportunity of taxpayer to be assisted by counsel in the investigation, and the findings are not in accordance with the facts and the evidence in the case. The rule against pro-forma motions should not be very strictly applied in tax cases before the Court of Tax Appeals, for the reason that the Rules of Court is only suppletory in character before said Court. Besides, in actions for certiorari filed before courts of justice, a motion for reconsideration should first be presented before a writ of certiorari may be invoked. Lastly, the need of exhausting all administrative remedies before resort to the courts is made, demands that the motion for reconsideration be filed.

It must be remembered that, as admitted by the Solicitor General, the final and definitive assessment was made in the letter of the Collector on March 21, 1957. After that definite demand, only one motion for reconsideration was made, and that is made in the letter of the taxpayer dated April 15, 1957. This motion even, if coached in general terms, serves the purpose of preparing the case for petition for review, as above indicated.

For the foregoing the petition to annul the orders of the Court of Tax Appeals in C.T.A. No. 377 is hereby denied. No costs.

Paras, C.J., Bengzon, Padilla, Bautista Angela, Reyes, J.B.L., Barrera, Gutierrez David, and Paredes JJ., concur.

Petition denied.

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