

REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. DY CHAY, DEFENDANT AND APPELLEE.*G.R. No. 15705. April 15, 1961*

Ponente: BAUTISTA ANGELO, J.

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Appellee filed his income tax return for the calendar year 1951 wherein he reported an annual gross income of P51,725.89 and claimed as deductions the aggregate amount of P43,241.07 leaving a taxable net income of P8,484.82. However, when this return was investigated by an examiner of the Bureau of Internal Revenue, most of the items claimed by appellee as deductions were disallowed, as having been improperly made under the law. The examiner also found that appellee failed to declare certain taxable income earned during the year 1951. Consequently, on December 11, 1953, an assessment was made holding appellee liable to pay the sum of P24,588.00 as deficiency income tax.

Appellee protested against the new assessment and requested for a reinvestigation. In the reinvestigation made as requested, the Collector of Internal Revenue found the new assessment correct and, accordingly, sent a letter to appellee reiterating his demand that appellee pay the amount of P24,588.00, plus surcharge and interest, as deficiency income tax. Appellee neither appealed to the Court of Tax Appeals, nor paid the new tax assessed against him, whereupon the Collector filed an action before the Court of First Instance of Rizal for the collection of the above deficiency income tax pursuant to Section 316 of the National Internal Revenue Code.

Appellee moved for the dismissal of the complaint on the ground that, since the establishment of the Court of Tax Appeals by Republic Act No. 1125, an ordinary court has no longer jurisdiction to entertain cases involving the collection of internal revenue taxes. The trial court, ignoring the opposition of the government, dismissed the case acknowledging lack of jurisdiction. The Collector now comes before us contending that the trial court erred in holding that it lost jurisdiction over actions involving collection of internal revenue taxes after the enactment of Republic Act No. 1125 creating the Court of Tax Appeals.

There is merit in this appeal. Under Sections 7 and 11 of Republic Act No. 1125, the Court of Tax Appeals only assumes exclusive appellate jurisdiction over a case involving a disputed assessment if and when the same is brought before it within the reglementary period of 30 days from the taxpayer's receipt of the decision of the Collector of Internal Revenue, and this only takes place when the appeal is taken by the taxpayer who is adversely affected by the decision. Note that under Section 11 the only one who can appeal is the taxpayer adversely affected by the decision or ruling of the Collector. No such right is given to the Collector, or to the government.

Thus, in the case of *Acting Collector of Customs vs. Court of Tax Appeals*, 102 Phil., 211, this Court gave the following interpretation of said Section 11:

"Republic Act No. 1125, which was approved on June 16, 1954, became very specific when it gave an enumeration of those who may appeal from a decision or ruling of the Collector of Internal Revenue, the Commissioner of Customs, or Board of Assessment Appeals. Under this law, the right to appeal from decision

or rulings of said officials is allowed only to persons, associations or corporation adversely affected by the same, and well knowing the connotation of the legal maxim '*inclusio unius est exclusio alterius*' the Government is certainly not one of them." (*Italics supplied*)

It would therefore appear that Republic Act No. 1125 only provides for a remedy to a taxpayer but not to the government, and when a situation arises where the taxpayer neither pays the tax assessed against him nor contests its validity before the Court of Tax Appeals, the only remedy left to the government, aside from distraint and levy, is to enforce its Collection by judicial action in the ordinary courts of justice.[1] No other interpretation is tenable or reasonable, for to hold the contrary would be to deprive the government of its remedy to collect the tax by judicial action, which is unfair and discriminatory. Such interpretation is absurd and cannot be entertained.

Wherefore, the order appealed from is set aside. The case is remanded to the trial court for further proceedings. No costs.

Bengzon, Acting C.J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera and Dizon, JJ., concur.

[1] Republic of the Philippines vs. Juana B. Vda. de Del Rosario, 105 Phil., 277; 57 Off. Gaz., [31] 5543; Jacinto D. Uy Ham vs. Republic of the Philippines, G. R. No. L-13809, October 20, 1959.

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