

COLLECTOR OF INTERNAL REVENUE, PETITIONER, VS. ALBERTO M. K. JAMIR, RESPONDENT.

G.R. No. 16552. March 30, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal by the Government from a decision of the Court of Tax Appeals.

In his income tax return for the year 1954, Alberto M. K. Jamir declared a gross income of P75,858.65 and claimed deductions aggregating F58,134.50, thereby showing a net income of P17,774.15, upon which he paid P1,634 as income tax. Upon examination of his aforementioned return, as well as of his books of accounts and other records, the Collector of Internal Revenue, however, assessed, as deficiency income tax due from him, the sum of P16,395 computed as follows:

"Net income as per return

P17,724.15

Add: Disallowances—

1. Purchases overstated P 1,118.95
2. Unrecorded income 31,274.91
3. Bank charges 45.67
4. Car depreciation 400.00
5. Salary of driver 720.00
6. Transportation 576.20

Total adjustments

P34,135.73

P51,859.88

Net income as adjusted

6,000.00

Less personal and additional exemptions

P45,859.88

Net taxable income

P12,564.00

Income tax due on P45,859.88

1,634.00

Less amount previously assessed and paid

Deficiency tax

P10,930.00

50% surcharge

5,465.00

Total deficiency tax and surcharge

P16,395.00"

A reconsideration of this assessment having been denied, Jamir appealed to the Court of Tax Appeals, which after due notice and hearing, rendered a decision reducing the amount due as deficiency income tax for the year 1954 to P552.00, computed as follows:

"Net income as per return

P17,724.15

Add: Disallowances—

1. Overstated purchases P 1,118.95

2. Bank charges P45.67

3. Car depreciation (1/4) 200.00

4. Salary of driver (1/4) 360.00

6. Transportation expenses 576.20

P2,300.82

Net income as adjusted

P20,024.97

Less personal and additional exemptions

6,000.00

Net taxable income

P14,024.97

Income tax due on P14,024.97

P2,186.00

Less amount previously assessed and paid

1,634.00

Deficiency income tax

P552.00"

The main issue is whether Jamir had had an undeclared income for the year 1954 aggregating P31,274.91, consisting, according to appellant, of the sums of P1,281.24 and P29,993.67, representing the amounts by which his expenses for February and May, 1954, respectively, had exceeded his income therefor. It appears that, by using the so-called "expenditures method", the Government considered as an undeclared income so much of Jamir's expenditures for said months as was in excess of his reported income for the same months. Although the Court of Tax Appeals, in effect, sanctioned the adoption of the "expenditures method", it held—and, we think, correctly—that, the same should be applied by deducting the aggregate yearly expenditures from the declared yearly income, not the expenditures incurred each month from the declared income therefor. In the case at bar, Jamir's total income for the year 1954 (P75,858.65) exceeded (P17,774.15) the total deductions (P58,134.50) claimed by him. Indeed, Jamir explained and introduced evidence to the effect that said sums of P1,281.24 and P29,993.67 represented advances made to him by customers in the months of February and May, 1954, and that the income derived from the corresponding transactions were entered in his books of account in subsequent months, and this explanation was found by the Court of Tax Appeals to have been proven satisfactorily. The records before us do not warrant a different conclusion.

The next question raised by appellant refers to Jamir's claim for car depreciation and salary of his driver in the sums of P800.00 and P1,440.00, respectively. Although petitioner had disallowed one-half (1/2) of these claims, it appearing that the car was used by Jamir for personal and business purposes, the lower court allowed, as

deductions, three-fourths (3/4) of said amounts, the car having been used by Jamir "more for business than for personal purposes". Petitioner assails this as an error, but, considering the attending circumstances, we do not feel justified in disturbing the action taken by said Court.

It is next urged that the same should have upheld instead of eliminating, the 50% surcharge imposed in the contested assessment, for alleged fraud on the part of Jamir. It appearing, however, that Jamir had not had the undeclared income of P31,274.91, upon which the contested assessment is mainly based, it follows necessarily that he was not guilty of the fraud imputed to him and that the 50% surcharge has been properly eliminated.

WHEREFORE, the decision appealed from is hereby affirmed, without costs. It is so ordered.

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

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