

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. CARLOS PALANCA, JR., RESPONDENT.

G. R. No. 16626. October 29, 1966

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal by the Government from the decision of the Court of Tax Appeals in CTA Case No. 571 ordering the petitioner to refund to the respondent the amount of P20,624.01 representing alleged overpayment of income taxes for the calendar year 1955.

The facts are:

"Sometime in July, 1950, the late Don Carlos Palanca, Sr. donated in favor of his son, the petitioner, herein, shares of stock in La Tondeña, Inc. amounting to P12,500 shares. For failure to file a return on the donation within the statutory period, the petitioner was assessed the sums of P97,691.23, P24,442.81 and P47,868.70 as gift tax, 25% surcharge and interest, respectively, which he paid on June 22, 1955.

"On March 1, 1956, the petitioner filed with the Bureau of Internal Revenue his income tax return for the calendar year 1955, claiming, among others, a deduction for interest amounting to P9,706.45 and reporting a taxable income of P65,982.12. On the basis of this return, he was assessed the sum of P21,052.91, as income tax, which he paid, as follows:

Taxes withheld by La Tondeña Inc. from Mr. Palanca's wage

P 13,172.41

Payment under Income Tax Receipt No. 677359 dated May 11, 1956

3,939.80

Payment under Income Tax Receipt No. 742334 dated August 14, 1956

3,939.80

Total

P 21,052.01

"Subsequently, on November 10, 1956, the petitioner filed an amended return for the calendar year 1955, claiming therein an additional deduction in the amount of P47,868.70 representing interest paid on the donee's gift tax, thereby reporting a taxable net income of P18,113.42 and a tax due thereon in the sum of P3,167.00. The claim for deduction was based on the provisions of Section 30 (b) (1) of the Tax Code, which authorizes the deduction from gross income of interest paid within the taxable year on indebtedness. A claim for the

refund of alleged overpaid income taxes for the year 1955 amounting to P17,885.01, which is the difference between the amount of P21,052.01 he paid as income taxes under his original return and of P3,167.00, was filed together with this amended return. In a communication dated June 20, 1957, the respondent (BIR) denied the claim for refund.

"On August 27, 1957, the petitioner reiterated his claim for refund, and at the same time requested that the case be elevated to the Appellate Division of the Bureau of Internal Revenue for decision. The reiterated claim was denied on October 14, 1957.

"On November 2, 1957, the petitioner requested that the case be referred to the Conference Staff of the Bureau of Internal Revenue for review. Later, on November 6, 1957, he requested the respondent to hold his action on the case in abeyance until after the Court of Tax Appeals renders its decision on a similar case. And on November 7, 1957, the respondent denied the claim for the refund of the sum of P17,885.01.

"Meanwhile, the Bureau of Internal Revenue considered the transfer of 12,500 shares of stock of La Tondeña, Inc. to be a transfer in contemplation of death pursuant to Section 88 (b) of the National Internal Revenue Code. Consequently, the respondent assessed against the petitioner the sum of P191,591.62 as estate and inheritance taxes on the transfer of said 12,500 shares of stock. The amount of P170,002.74 paid on June 22, 1955 by the petitioner as gift tax, including interest and surcharge, under Official Receipt No. 2855 was applied to his estate and inheritance tax liability. On the tax liability of P191,591.62, the petitioner paid the amount of P60,581.80 as interest for delinquency as follows:

1% monthly interest on P76,724.38 September 2, 1952 to February 16, 1955

P22,633.69

1% monthly interest on P71,264.77 February 16, 1955 to March 31, 1955

1,068.97

1% monthly interest on P114,867.24 September 2, 1952 to April 16, 1953

4,287.99

1% monthly interest on P50,882.77 March 31, 1955 to June 22, 1955

1,372.48

1% monthly interest on P119,155.23 April 16, 1953 to June 22, 1955

31,218.67

Total

P60,581.80

"On August 12, 1958, the petitioner once more filed an amended income tax return for the calendar year 1955, claiming, in addition to the interest deduction of P9,076.45 appearing in his original return, a deduction in the amount of P60,581.80, representing interest on the estate and inheritance taxes on the 12,500 shares of stock, thereby reporting a net taxable income for 1955 in the amount of P5,400.32 and an income tax due thereon in

the sum of P428.00. Attached to this amended return was a letter of the petitioner, dated August 11, 1958, wherein he requested the refund of P20,624.01 which is the difference between the amounts of P21,052.01 he paid as income tax under his original return and of P428.00.

"Without waiting for the respondent's decision on this claim for refund, the petitioner filed his petition for review before this Court on August 13, 1958. On July 24, 1959, the respondent denied the petitioner's request for the refund of the sum of P20,624.01."

The Commissioner of Internal Revenue now seeks the reversal of the Court of Tax Appeal's ruling on the aforementioned petition for review. Specifically, he takes issue with the said court's determination that the amount paid by respondent Palanca for interest on his delinquent estate and inheritance tax is deductible from the gross income for that year under Section 30 (b) (1) of the Revenue Code, and, that said respondent's claim for refund therefore has not prescribed.

On the first point, the Commissioner urges that a tax is not an indebtedness. Citing American cases, he argues that there is a material and fundamental distinction between a "tax" and a "debt." (*Meriwether v. Garrett*, 102 U.S. 427; *Liberty Mutual Ins. Co. vs. Johnson Shipyards Corporation*, 5 AFTR pp. 5504, 5507; *City of Camden v. Allen*, 26 N.J. Law, p. 398). He adopts the view that "debts are due to the government in its corporate capacity, while taxes are due to the government in its sovereign capacity. A debt is a sum of money due upon contract express or implied or one which is evidenced by a judgment. Taxes are imposts levied by government for its support or some special purpose which the government has recognized." In view of the distinction, then, the Commissioner submits that the deductibility of "interest on indebtedness" from a person's income tax under Section 30 (b) (1) cannot extend to "interest on taxes."

We find for the respondents. While "taxes" and "debts" are distinguishable legal concepts, in certain cases as in the suit at bar, on account of their nature, the distinction become inconsequential. This qualification is recognized even in the United States. Thus,

"The term 'debt' is properly used in a comprehensive sense as embracing not merely money due by contract, but whatever one is bound to render to another, either for contract or the requirements of the law. (*Camden vs. Fink Coule and Coke Co.*, 61 ALR 584).

"Where statutes impose a personal liability for a tax, the tax becomes at least in a broad sense, a debt." (*Idem*)

"Some American authorities hold that, especially for remedial purposes, Federal taxes are debts." (*Tax Commission v. National Malleable Castings Co.*, 35 ALR 1448)

In our jurisdiction, the rule is settled that although taxes already due have not, strictly speaking, the same concept as debts, they are, however, obligations that may be considered as such. (*Sambrano v. Court of Tax Appeals*, G. R. No. L-8652, March 30, 1957) In a more recent case, *Commissioner of Internal Revenue v. Prieto*, G. R. No. L-13912, September 30, 1960, we explicitly announced that while the distinction between "taxes" and "debts" was recognized in this jurisdiction, the variance in their legal conception does not extend to the interests paid on them, at least insofar as Section 30(b)(1) of the National Internal Revenue Code is concerned. Thus,

"Under the law, for interest to be deductible, it must be shown that there be an indebtedness, that there should be interest upon it, and that what is claimed as an interest deduction should have been paid or accrued within the year. It is here conceded that the interest paid by respondent was in consequence of the late payment of her donor's tax, and the same was paid within the year it is sought to be deducted. The only question to be determined, as stated by the parties, is whether or not such interest was paid upon an indebtedness within the contemplation of section 30(b)(1) of the Tax Code, the pertinent part of which reads: 'Sec. 30. Deductions from gross income -- In computing net income there shall be allowed as deductions - x x x x x 'Interest: '(1) In

general. -- The amount of interest paid within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations the interest upon which is exempt from taxation as income under this Title. "The term "indebtedness" as used in the Tax Code of the United States containing similar provisions as in the above-quoted section has been defined as the unconditional and legally enforceable obligation for the payment of money. (Federal Taxes Vol. 2, p. 13,019, Prentice Hall, Inc.; Merterns' Law of Federal Income Taxation, Vol. 4, p. 542.) Within the meaning of that definition, it is apparent that a tax may be considered an indebtedness, xxx (Underscoring supplied) 'It follows that the interest paid by herein respondent for the late payment of her donor's tax is deductible from her gross income under section 30(b) of the Tax Code above-quoted.'"

We do not see any element in this case which can justify a departure from or abandonment of the doctrine in the Prieto case above. In both this and the said case, the taxpayer sought the allowance as deductible items from the gross income of the amounts paid by them as interests on delinquent tax liabilities. Of course, what was involved in the cited case was the donor's tax while the present suit pertains to interest paid on the estate and inheritance tax. This difference, however, submits no appreciable consequence to the rationale of this Court's previous determination that interests on taxes should be considered as interests on indebtedness within the meaning of Section 30(b)(1) of the Tax Code. The interpretation we have placed upon the said section was predicated on the congressional intent, not on the nature of the tax for which the interest was paid.

On the issue of prescription: There were actually two claims for refund filed by the herein respondent, Carlos Palanca, Jr., anent the case at bar. The first one was on November 10, 1956, when he filed a claim for refund on the interest paid by him on the donee's gift tax of P17,885.01, as originally demanded by the Bureau of Internal Revenue. The second one was the one filed by him on August 12, 1958, which was a claim for refund on the interest paid by him on the estate and inheritance tax assessed by the same Bureau in the amount of P20,624.01. Actually, this second assessment by the Bureau was for the same transaction as that for which they assessed respondent Palanca the above donee's gift tax. The Bureau, however, on further consideration, decided that the donation of the stocks in question was made in contemplation of death, and hence, should be assessed as an inheritance. Thus the second assessment. The first claim was denied by the petitioner for the first time on June 20, 1957. Thereafter, the said denial was twice reiterated: on October 14, 1957 and November 7, 1957, upon respondent Palanca's plea for the reconsideration of the ruling of June 20, 1957. The second claim was filed with the Court of Tax Appeals on August 13, 1958, or even before the same had been denied by the petitioner. Respondent Palanca's second claim was denied by the latter only on July 24, 1959.

The petitioner contends that under Section 11 of Republic Act 1124,[[1]] the herein claimant's claim for refund has prescribed since the same was filed outside the 30-day period provided for therein. According to the petitioner, the said prescriptive period commenced to run on October 14, 1947 when the denial by the Bureau of Internal Revenue of the respondent Palanca's claim for refund, under his letter of November 10, 1956, became final. Considering that the case was filed with the Court of Tax Appeals only on August 13, 1958, then it is urged that the same had prescribed.

The petitioner also invokes prescription, at least with respect to the sum of P17,112.21, under Section 306 of the Tax Code.[2] He claims that for the calendar year 1955, respondent Palanca paid his income tax as follows:

Taxes withheld by La Tondeña Inc. from Mr. Palanca's wages

P13,172.41

Payment under Income Tax Receipt No. 677395 dated May 11, 1956

3,939.89

Payment under Income Tax Receipt No 742334 dated August 14, 1956

3,939.89

Total

P21,952.01

Therefore, the petitioner contends, the amounts paid by claimant Palanca under his withheld tax and under Receipt No. 677395 dated May 11, 1956 may no longer be refunded since the claim therefore was filed in court only on August 13, 1958, or beyond two years of their payment.

We find the petitioner's contention on prescription untenable.

In the first place, the 30-day period under Section 11 of Republic Act 1125 did not even commence to run in this incident. It should be recalled that while the herein petitioner originally assessed the respondent-claimant for alleged gift tax liabilities, the said assessment was subsequently abandoned and in its lieu, a new one was prepared and served on the respondent-taxpayer. In this new assessment, the petitioner charged the said respondent with an entirely new liability and for a substantially different amount from the first. While initially the petitioner assessed the respondent for donee's gift tax in the amount of P170,002.74, in the subsequent assessment the latter was asked to pay P191,591.62 for delinquent estate and inheritance tax. Considering that it is the interest paid on this latter-assessed estate and inheritance tax that respondent Palanca is claiming refund for, then the 30-day period under the abovementioned section of Republic Act 1125 should be computed from the receipt of the final denial by the Bureau of Internal Revenue of the said claim. As has earlier been recited, respondent Palanca's claim in this incident was filed with the Court of Tax Appeals even before it had been denied by the herein petitioner or the Bureau of Internal Revenue. The case was filed with the said court on August 13, 1958 while the petitioner denied the claim subject of the said case only on July 24, 1959.

In the second place, the claim at bar refers to the alleged overpayment by respondent Palanca of his 1955 income tax. Inasmuch as the said account was paid by him by installment, then the computation of the 2-year prescriptive period, under Section 306 of the National Internal Revenue Code, should be from the date of the last installment. (Antonio Prieto et al vs. Collector of Internal Revenue, G. R. No. L-11976, August 29, 1961) Respondent Palanca paid the last installment on his 1955 income tax account on August 14, 1956. His claim for refund of the alleged overpayment on it was filed with the court on August 13, 1958. It was, therefore, still timely instituted.

WHEREFORE, the decision appealed from is affirmed in full, without pronouncement on costs.

Concepcion, C.J., Reyes, J. B. L., Dizon, Makalintal, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

[1] Section 11. Who may appeal; effect of appeal.-Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.

[2] Sec. 306. Recovery of tax erroneously or illegally collected. No suit or proceeding shall be maintained in any court for the recovery of any national internal-revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been filed with the Collector of Internal Revenue; but such suit or proceeding may be maintained, whether or not such tax,

penalty, or sum has been paid under protest or duress. In any case, no such suit or proceeding shall be begun after the expiration of two years from the date of payment of the tax or penalty.

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