REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

WILLIAM LI YAO,
Petitioner,

- versus -

COLLECTOR OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - x

C.T.A. CASE No. 30
(G.R. No. L-11861)
(G.R. No. L-11875)

Jan. 31, 1967

R E S O L U T I O N

This pertains to respondent's motion seeking a writ of execution against the petitioner for the satisfaction of the sum of ₱404,107.37, as deficiency income tax for the years 1949, 1950 and 1951, inclusive of an additional 50% surcharge for 1946 and ½% deficiency interest from June 20, 1959 to June 20, 1962, plus 5% surcharge and 1% monthly interest from April 1, 1966 until full payment, and the sum of ₱91.00, as costs, on the ground that the decisions of the Supreme Court in G.R. Nos. L-11861 and L-11875, dated December 27, 1963 and December 28, 1963, respectively, have already become final and executory.

On July 31, 1956, this Court rendered a decision in the above-entitled case holding petitioner liable for deficiency income tax and 50% surcharge for the years 1949, 1950 and 1951 in the total amount of ₱424,536.77. Upon motion for reconsideration filed by petitioner's counsel, the said decision was modified by this Court in a resolution dated December 31, 1956, reducing the liability of petitioner to the sum of ₱411,293.80.

From the aforesaid decision and resolution of this Court, both parties appealed to the Supreme Court. Respondent's appeal was docketed as G. R. No. L-11861 and petitioner's appeal as G. R. No. L-11875.

On December 27, 1963, the Supreme Court rendered a decision in G.R. No. L-11861, the dispositive portion of which reads as follows:

> "Wherefore, the finding of the Court of Tax Appeals that respondent Li Yao had in the beginning of the year 1945 a net worth of ₱159,910.89 is hereby reversed and set aside. The decision appealed from is, therefore, modified accordingly. Let a new assessment be made on the basis of the decision of the Court of Tax Appeals, eliminating therefrom the aforesaid amount of ₱159,910.89 as net worth of Li Yao in 1945. Without costs."

and on the following day, i.e., on December 28, 1963, the same Court rendered judgment in G.R. No. L-11875, the dispositive part of which reads as follows:

> "Wherefore, finding no merit in the various supposed errors attributed to the Court of Tax Appeals in its decision, We hereby find that the decision is justified by law and the evidence. Wherefore, the decision appealed from is hereby affirmed, with costs against the petitioner."

After entry of judgment in both appealed cases, and on the basis of the decision of the Supreme Court in G.R. No. L-11861, respondent made a revised assessment of petitioner's deficiency income tax liability and demanded from him in a letter dated March 31, 1966, the payment of ₱404,107.37, as deficiency income tax for the years 1949, 1950 and 1951, inclusive of 50% surcharge and ½% deficiency interest from June 20, 1959 to June 20, 1962. Respondent also sought the imposition of 5% surcharge and 1% monthly interest on the deficiency tax, as delinquency penalty in case petitioner fails to pay the revised deficiency income tax assessment within the period specified in the said letter of demand. (See Exh. "1", pp. 847-852, CTA rec.)

The aforesaid amount of ₱404,107.37 was arrived at by respondent after taking into consideration in his computation the following:

(a) the total elimination of ₱159,910.89 from the beginning and ending net worth of Li Yao in 1945;

(b) the inclusion of 50% surcharge in the sum of ₱11,923.48 in the 1946 income tax deficiency of petitioner;

(c) the inclusion of ½% deficiency interest from June 20, 1959 to June 20, 1962; and

(d) the tax credit to petitioner of the total amount of ₱100,000.00 for payments in 1955.

On August 3, 1966, respondent filed in this Court a "Manifestation and Motion", praying that petitioner be ordered to pay the aforesaid sum of ₱404,107.37, plus 5% surcharge and 1% monthly interest from April 1, 1966 until full payment thereof, and to pay the cost of suit awarded by the Supreme Court in G.R. No. L-11875.

On August 18, 1966, he (respondent) filed the instant "Motion for Execution and Bill of Costs".

In his opposition to the motion fof execution, petitioner raised, among others, the following:

(1) That the imposition and demand for payment of the sum of ₱11,923.48 as 50% surcharge in his 1946 income tax deficiency was not included in the decision of this Court and is just the result of a revision;

(2) That the imposition of ½% deficiency interest from June 20, 1959 to June 20, 1962, as well as of the 5% surcharge and 1% monthly interest as penalties incident to delinquency are not in conformity with the decision of the Supreme Court;

(3) That respondent did not credit petitioner for payments made on October 14, 1965, November 15, 1965 and January 26, 1966, respectively, in the total amount of ₱30,000.00; and

> (4) That petitioner has a standing request with the respondent for a further extension of time to pay his deficiency income tax liability, and therefore, the execution of the judgment should be held in abeyance.

With respect to the 50% surcharge in the sum of ₱11,923.48 on the 1946 deficiency income tax of petitioner, as well as the ½% deficiency interest, 5% surcharge and 1% monthly interest in question, we believe that the contention of petitioner is well taken. The decision of the Supreme Court in G.R. No. L-11861 has modified the decision of this Court only in respect to the 1945 beginning net worth of petitioner in the amount of ₱159,910.89 and it made no pronouncement whatsoever as to the imposition of the 50% surcharge on the 1946 deficiency income tax of petitioner, much less on the ½% deficiency interest, the 5% surcharge and 1% monthly interest incident to delinquency. The said decision merely ordered that a new assessment be made on the basis of the decision of this Court after eliminating therefrom the aforesaid amount of ₱159,910.89 as net worth of Li Yao in the beginning of 1945. The decision of this Court which was affirmed by the Supreme Court did not find petitioner Li Yao liable for the 50% surcharge in 1946, nor was any mention made as to deficiency interest and 5% surcharge for delinquency. The inclusion, therefore, of the aforementioned delinquency penalties by respondent in his motion for execution is a variation of the terms of the judgment to be executed which the law does not sanction. It is a cardinal rule of law that a writ of execution must conform to the judgment sought to be executed. It can neither exceed nor widen in scope the terms of the judgment or decision on which it is based. (Ang Li Chi vs. Castelo, et al, 83 Phil. 263; Damasco, et al. vs Montemayor, G.R. No. L-3737, Dec. 27, 1950; Coll. of Int. Rev. vs. Gutierrez, G.R. No. L-13819, May 25, 1960). To maintain otherwise would be to ignore the constitutional provision against depriving a person of his property without due process of law. (Velez vs. Martinez, et al., 63 Phil. 231)

As regards the claim of petitioner that he should be credited for payments made on October 14, 1965, November 15, 1965 and January 26, 1966 amounting to ₱30,000.00, we find the same in order inasmuch as the said payments were actually made and receipted for by the respondent. Likewise, the records of the proceedings on December 10, 1966 show that petitioner made another payment of ₱10,000.00 on September 13, 1966. (See Exhs. "A", "B", "C" & "D", pp. 879-883, CTA rec.) These payments amounting to ₱40,000.00 should be discounted against the deficiency income tax due from petitioner.

Lastly, anent the contention of petitioner that the execution of the judgment should be held in abeyance inasmuch as he has a standing request with the respondent for a further extension of time to pay his deficiency income tax liability, this Court finds the same without merit. The fact that after entry of judgment in G.R. No. L-11861, respondent demanded from petitioner the payment of his liability and subsequently filed a manifestation and motion and the present motion for execution, show that the respondent does not agree with petitioner's request for a further extension of time to settle his obligation. It is well settled in our jurisdiction that the prevailing party is entitled to a writ of execution of the final and executory judgment (Day and Manalese vs. Judge of Court of First Instance of Tarlac and Tioseco, G.R. No. L-6691, April 27, 1954), and the issuance of a writ of execution thereof is purely a ministerial act of the Court (see Amor vs. Jugo, et al., 77 Phil. 703; Dollente vs. Blanco, G.R. No. L-3525, November 29, 1950; Rattan Art & Decorations, Inc.

vs. Collector of Int. Rev., C.T.A. No. 567, September 6, 1965).

After resolving the issues raised for our consideration, and pursuant to the decision of the Supreme Court in G.R. No. L-11861, we find petitioner still liable for the total amount of ₱303,109.71, as deficiency income tax and surcharge for the years 1946, 1948, 1949, 1950 and 1951, computed as follows:

1945

Net worth as of Dec. 31, 1945 (Assets admitted by parties	₱41,538.50
Less Net Worth as of Jan. 1, 1945:	
Assets admitted by parties ...	500.00
Increase in Net Worth in 1945 ...	₱41,038.50
Add non-deductible expenditures:	
Personal living and family expenses	3,500.00
Net income	₱44,538.50
Less personal exemptions	3,500.00
Amount subject to tax	₱41,038.50
Tax due thereon	₱ 2,163.08
Less amount already paid	1,111.74
Deficiency tax	₱ 1,051.34
Less overpayment in 1947	1,051.34
Balance	Nil

1946

Net Worth as of Dec. 31, 1946 ...		₱138,359.20
Less: Networth, Jan. 1, 1946		41,538.50
Increase in net worth		₱ 96,820.70
Add: Non-deductible items:		
1. Personal & living expenses	₱3,500.00	
2. Income tax payment	918.31	4,418.31

Net income per investigation	₱101,239.01
Less personal & additional exemptions	3,500.00
Amount subject to tax	₱ 97,739.01
Tax due thereon	₱ 26,320.82
Less amount already paid	2,538.76
Deficiency tax	₱ 23,782.06
Less overpayment in 1947	5,209.12
Net deficiency tax due	₱ 18,572.94

SUMMARY

1946	₱ 18,572.94
1948	3,718.15
1949	69,899.62
1950	183,210.00
1951	167,709.00
	₱443,109.71
Less payments in 1955, 1965 and 1966	140,000.00
	₱ 303,109.71

WHEREFORE, the Clerk of Court is hereby ordered to issue a writ of execution against the petitioner for the satisfaction of the total amount of ₱303,109.71 for the years in question, plus the sum of ₱91.00 as costs, and to deputize the Commissioner of Internal Revenue to execute the said writ.

SO ORDERED.

Quezon City, January 31, 1967.

(Sgd.) ROMAN M. UMALI
Presiding Judge

(Sgd.) RAMON L. AVANCEÑA
Associate Judge

(Sgd.) ESTANISNAL R. ALVAREZ
Associate Judge