REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

AMERICAN PRESIDENT LINES,
Petitioner,

- versus -

C.T.A. CASE No. 1132

MELECIO R. DOMINGO, in his capacity as Commissioner of Internal Revenue,
Respondent.

x- - - - - - - - - - - - - - -x

May 25/70

D E C I S I O N

This is an appeal from the decision of respondent denying petitioner's claim for refund of the amount of ₱16,976.00, representing 1/2% monthly interest on the deficiency income taxes for the years 1957 and 1958.

There is no dispute as to the material facts. For convenience, we will merely re-state the facts as correctly stated by counsel for petitioner, thus:

> "On January 12, 1961, respondent, in his capacity as Commissioner of Internal Revenue, assessed against petitioner, deficiency income taxes plus interest for the years 1957 and 1958, as follows:

Deficiency 1957 Income tax ----------------	₱101,142.00
Interest from June 20, 1959 to January 12, 1961 ----------------	9,501.81
TOTAL -------------	₱110,643.81
Deficiency 1958 Income tax ----------------	₱ 79,559.00
Interest from June 20, 1959 to January 12, 1961 ----------------	7,474.19
TOTAL -------------	₱ 87,033.19

"On the same date, January 12, 1961, petitioner paid the assessed amounts of ₱110,643.81 and ₱87,033.19 to the City Treasurer of Manila.

"On January 16, 1961, petitioner requested the refund of the amount of ₱16,976.00 which it paid as interest on the deficiency income taxes for the years 1957 and 1958.

Respondent denied petitioner's claim for refund by a letter dated June 28, 1961 and received by petitioner on September 4, 1961. Hence, this petition, dated September 15, 1961, and filed within the reglementary period with this Honorable Court on September 18, 1961." (See Memorandum for Petitioner, pp. 52-53, CTA records.)

Respondent maintains that the 1/2% monthly interest on the deficiency income taxes assessed and collected from petitioner for 1957 and 1958 is in accordance with Section 51(d) of the National Internal Revenue Code, as amended by Republic Act No. 2343 and implemented by BIR General Circular No. V-318. On the other hand, petitioner contends that the amendatory law, Republic Act No. 2343, which took effect on June 20, 1959 should not be applied to the income tax on income earned before but paid after the effectivity of the amendatory law.

The sole issue to be resolved in this case is whether or not petitioner is subject to the 1/2% monthly interest prescribed in Section 51(d) of the National Internal Revenue Code, as amended by Republic Act No.

2343, on the deficiency income taxes due on income earned prior to the effectivity of the amendatory law, but assessed and paid thereafter.

The issue presented is not new. In the case of Central Azucarera Don Pedro vs. Court of Tax Appeals and Commissioner of Internal Revenue, G.R. Nos. L-23236 and L-23254, May 31, 1967, involving the same question, it was held:

> "From a perusal and comparison of the abovequoted sections of the Tax Code, before and after its amendment, it will be observed that, although the Commissioner (formerly Collector) of Internal Revenue, under the old Section 51(e) was required to assess the tax due, based on the taxpayer's return, and notify the taxpayer of said assessment, still, under subsection (b) of the same old Section 51, the time prescribed for the payment of tax was fixed, whether or not a notice of the assessment was given to the taxpayer. Under the new provision, the time of payment is also fixed and pre-determined (usually coinciding with the filing of the return) without the necessity of giving notification of the assessment to the taxpayer by the Commissioner.
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> "It should further be o bserved that, under the old Section 51(e), the interest on deficiency was imposed from the time the tax became due; while under the new Section 51 (d), said interest is imposed on the deficiency from the date prescribed for the payment of the tax.
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> "It is thus evident that petitioner's contention that 'interest on such deficiency accrued only when the taxpayer failed to pay the tax within the period prescribed therefor by respondent (Commissioner of

Internal Revenue)' is not correct; said interest was imposable in case of non-payment on time, not only on the basic income tax, but also on the deficiency tax, since the deficiency was part and parcel of petitioner's income tax liability.

"It appearing that the new Section 51(d) under Republic Act 2343 expressly provides that the interest on deficiency shall be assessed at the same time as the deficiency income tax; and that respondent Commissioner of Internal Revenue imposed and sought to collect the interest only from June 20, 1959, which was the date of effectivity of said Republic Act No. 2343; that the deficiency income taxes in question were assessed and unpaid when said Act was already in force; the Tax Court correctly held that said Section 51(d), as amended, is not being applied retroactively as contended by petitioner herein.

"Moreover, the application of said Section 51(d), as amended, in the cases at bar, operated and worked in favor of petitioner-appellant, since instead of imposing the rate of one per centum (1%) monthly interest prescribed in the old Section 51(e) from the time the tax became due, i.e., from January 15 - 1955, 1956, 1957, 1958 and 1959, respectively, respondent Commissioner merely imposed the new 1/2% monthly interest from January 20, 1959, which interests, as computed, are less than what would be due under the old law." (See also the case of Heald Lumber Company vs. Benjamin N. Tabios, G.R. No. L-23123, September 30, 1969.)

WHEREFORE, finding no error in the decision appealed from, the same is hereby affirmed, with costs against petitioner.

SO ORDERED.

Quezon City, May 25, 1970.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge