Library

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

June 23, 1960

THE HEIRS OF JOSE MA. CACHO,
Petitioner,

- versus -

C.T.A. CASE NO. 563

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

D E C I S I O N

This is an appeal from a decision of the respondent Commissioner of Internal Revenue, assessing against and demanding from the petitioner the sum of ₱14,732.07, as sugar adjustment tax for the crop year 1952-1953, plus ₱200.00 as compromise penalty.

The facts, as stipulated by the parties, are as follows:

> "1. The petitioner, the heirs of Jose Ma. Cacho, is a duly registered general co-partnership organized and existing under the laws of the Republic of the Philippines with business address at 213 Myers Building, Port Area, Manila. The respondent is the duly appointed Commissioner of Internal Revenue of the Republic of the Philippines, qualified to act as such, and with address at Finance Building, Manila.
>
> "2. The petitioner, on December 21, 1949, entered into a contract of lease with Cia. General de Tabacos de Filipinas involving certain parcels of sugar land owned by the former. The contract of lease provides, among others, particularly paragraph 4 (b) and (c) as follows:
>
> > '(b) EL ARRENDATARIO se obliga a pagar al APRENDADOR como renta anual, los siguientes porcientos de la total cosecha de azucar que se produzca en los terrenos arriba descritos y su derivado, la melaza, a saber:

De la cosecha 1952/53 el 10%'

"(c) El pago de la renta o alquiler anual en azucar se entregara al APRENDADOR durante la epoca de molienda a medida que la Central Azucarera de Tarlac vaya expediendo 'Quedanes', y el porciento correspondiente al arriendo a percibir por el APRENDADOR se compondra proporcionalmente de la produccion de los terrenos, en azucares de exportacion y consumo local.'

"3. The respondent, by a letter dated April 3, 1957, demanded from the petitioner the payment of the amount of ₱14,732.07 as sugar adjustment tax for the crop year 1952-1953 under Section 3 of Commonwealth Act No. 567, as amended by Republic Act No. 1583, computed as follows:

Total rental value (10%) participation	₱69,710.47
Add: Land tax paid by Hda. Luisita	2,893.60
Total rental	₱72,604.07
Less: 20% of the assessed value of the land of ₱289,360.00	57,872.00
Amount due and collectible	₱14,732.07

"4. The amount of ₱69,710.47 referred to in the preceding paragraph hereof was computed by the respondent on the basis of the gross selling price from market quotations in the United States for sugar for export at ₱17.2317 per picul, and on the gross selling price from market quotations in the Philippines for sugar sold locally at ₱14.6160 per picul. The said amount of ₱69,710.47 is arrived at by the respondent as follows:

Sale of 326.61 piculs of sugar for local consumption at ₱14.6160	₱ 4,773.73
Sale of 3,722.94 piculs of sugar exported to America at ₱17.2317	64,152.58
Value of 9,703 gallons of molasses at ₱.08 per gallon, less 2% tax	760.71

Value of 2.08.05 cavans of palay at ₱10.00 (paid by lessee)	₱ 23.45
T o t a l	₱69,710.47

"5. In fixing the amount of ₱69,710.47 as the money value of the rental or consideration collected by the petitioner from the lessee under the contract of lease mentioned in paragraph 2 hereof, the respondent did not consider the following expenses and charges incurred by the lessee in connection with the sale of sugar abroad:

Fixed and extra charges on:		
326.61 piculs of sugar for local consumption		₱ 307.01
3,722.94 piculs of sugar for export		4,988.84
Expenses incurred in unloading the 326.61 piculs of sugar sold in Manila and the commission of Chua Yu		256.27
Expenses incurred on 3,722.94 piculs of sugar exported to America:		
Expenses in America	₱8,066.66	
Expenses in Manila	491.43	
Commissions	641.09	9,199.18
Total expenses and charges		₱14,751.30

"6. The principal issue raised in this case is the determination of what constitutes the 'money value of the rental or consideration collected' for purposes of the tax imposed by Section 3 of Commonwealth Act No. 567, as amended by Republic Act No. 1583, under the contract of lease mentioned in paragraph 2 hereof. According to the respondent, the 'money value' of sugar representing the 10% participation of the petitioner from Hacienda Luisita should be based on the gross selling price in the United

> States and in the Philippines of sugar for export and for local consumption, respectively, as shown in paragraph 4 hereof. On the other hand, the petitioner maintain that in fixing the said 'money value of the rental', expenses and charges mentioned in paragraph 5 hereof should be deducted from said gross selling price, and/or that the 'money value of the rental' shall be determined by the value of sugar at the time of the issuance of quedans pursuant to the provisions of paragraph 4 (c) or the contract of lease abovementioned, and not on the basis of the gross selling price quoted in the United States."

In computing the sugar adjustment tax authorized by Commonwealth Act No. 567, as amended by Republic Act No. 1583, the respondent proceeded on the theory that the money value of the rental or consideration collected by the petitioner amounted to the gross selling price of the sugar, undiminished by the expenses incurred in the sale, plus the amount paid by the Hacienda Luisita as real estate tax on the leased sugar land. The petitioner, however, disputes this theory, contending that such expenses should be deducted from the selling price of the sugar, and to the resulting balance should be added the amount of real estate taxes paid on the land.

The contrariant claims of the parties hinge upon the issue of what is the basis for determining the sugar adjustment tax. And this issue turns upon the proper interpretation of Section 3 of Commonwealth Act No. 567, as amended by Section 1 of Republic Act No. 1583, which reads:

> "SEC. 3. When any land devoted to the cultivation of sugar cane is ceded to others by the owner or by the person in control thereof, for a consideration, under a contract of lease or otherwise, such owner or the person in control thereof shall pay a tax equivalent to the difference between the money value of the rental or consideration collected and the amount representing twenty *per centum* of the assessed value of such land."

Under the afore-quoted statutory provision, the sugar adjustment tax authorized therein shall be equivalent to the difference between the money value of the rental or consideration collected and the amount representing 20% of the assessed value of the leased land. The tax is on what was actually collected and received by the lessor, less the amount representing the 20% (formerly 12%) of the assessed value of the sugar land. And if the rental or consideration is in kind, the money value of what was actually collected should be determined for purposes of the tax.

In the determination of the money value in the case at bar, the expenses involving such rental or consideration should be discounted, for the same were not actually collected by the lessor. Said expenses did not form part of the rental or consideration received by the petitioner herein. This being the case, the sum of ₱14,751.30 representing the total expenses incurred in the sale of the sugar in question should be deducted from the gross price of ₱69,710.47, thereby leaving a balance of ₱54,959.17. And as correctly conceded by the petitioner, the real estate tax amounting to ₱2,893.60 paid by the Hacienda Luisita on the land in question should be added to this balance, thereby resulting in the aggregate amount of ₱57,852.77 as the money value of the rental or consideration collected by the petitioner. This is so because the real estate tax was paid in the name and for the benefit of the lessor. And inasmuch as the money value of the rental or consideration collected by the petitioner is less than the amount of ₱57,872.00, which is equal to 20% of the assessed value of the land, petitioner is not liable for the payment of the sugar adjustment tax provided for in Section 3 of Commonwealth Act No. 567, as amended by Section 1 of Republic Act No. 1583.

WHEREFORE, in view of the foregoing considerations, the decision appealed from should be, as it is hereby reversed, without pronouncement as to costs.

SO ORDERED.

Manila, June 23, 1960.

MARIANO NABLE
Presiding Judge

I concur in the result.

ROMAN M. UMALI
Associate Judge