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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

J. L. MANNING, W. D. McDONALD,
AND E. E. SIMMONS,
Petitioners,

- versus - CTA CASE NO. 1626

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

9/28/78

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RECOMPUTATION
&
PRONOUNCEMENT OF JUDGMENT

Remanding this case to this Court for further proceedings, after setting aside its judgment absolving the petitioners herein John L. Manning, W. D. MacDonald and E. E. Simmons from any deficiency income tax liability, the Supreme Court in the dispositive part of its decision in Commissioner of Internal Revenue vs. John L. Manning, W. D. McDonald, E. E. Simmons and The Court of Tax Appeals, L-28398, August 6, 1975, stated: "More specifically, the Court of Tax Appeals shall recompute the income tax liabilities of the respondents (petitioners herein) in accordance with this decision and with the Tax Code, and thereafter pronounce and enter judgment accordingly."

Appropriate to state here is the factual background of the present proceedings.

MANTRASCO (Manila Trading and Supply Co.) had in 1952 an authorized capital stock of ₱2,500,000.00 divided into 25,000 common shares. Julius S. Reese owned 24,700 of these shares, and the rest, at 100 shares each, were owned by the three petitioners. After Julius Reese died on October 19, 1954, MANTRASCO made a partial payment of Reese's shares and the certificate for the 24,700 shares in his name was cancelled and a new certificate was issued in the name of MANTRASCO. It was only on November 25, 1963 when the entire purchase price of Reese's interest in MANTRASCO was finally paid in full to his estate out of the earnings of the Company by the latter.

In the meantime, at a special meeting of the MANTRASCO stockholders on December 22, 1958, a board resolution was passed distributing proportionately among the petitioners the said 24,700 shares which had a total acquisition cost or book value of ₱7,973,660.00. As this amount (or proportionate share thereof) was not declared by the petitioners as part of their taxable income in 1958, the respondent Commissioner of Internal Revenue issued on April 14, 1965 notices of assessment for deficiency tax to the petitioners for the year 1958, as follows:

J. L. Manning	. . . ₱2,430,067.92
W. D. MacDonald	. . . 2,423,767.92
E. E. Simmons	. . . 2,436,729.12
	₱7,290,564.96

inclusive of the ½% monthly interest and 50% surcharge as fraud penalty. The petitioners failed to secure a favorable reconsideration of the assessments from the respondent.

On May 5, 1965, the petitioners filed their petition for review with this Court. After the case was tried on the merits, this Court rendered a decision dated October 30, 1967 in favor of the petitioners. On appeal, however, the Supreme Court in a decision dated August 6, 1975 set aside the judgment of this Court, and ruled that:

> "x x x the Commissioner erred in assessing the respondents (petitioners herein) the total acquisition cost (₱7,973,660) of the alleged treasury stock dividends in one lump sum. The record shows that the earnings of MANTRASCO over a period of years were used to gradually wipe out the holdings therein of Reese. Consequently, those earnings, which we hold, under the facts disclosed in the case at bar, as in effect having been distributed to the respondents, should be taxed for each of the corresponding years when payments were made to Reese's estate on account of his 24,700 shares. x x x."

As stated earlier, this case is now before this Court for the recomputation of the income tax liabilities of the petitioners so that their taxable income should be spread over the years during which MANTRASCO made payments for the decedent's shareholdings.

Accordingly, the respondent in consonance with the foregoing decision submitted to this Court his recomputations of the deficiency income tax liabilities of the herein petitioners for 1958 to 1962, as follows:

	JOHN L. MANNING	E. E. SIMMONS	W.D. MACDONALD
1958	₱ 877,766.40	₱ 882,729.12	₱ 873,040.56
1959	123,306.96	123,306.96	123,306.96
1960	112,603.68	112,603.68	112,603.68
1961	2,933.28	2,933.28	2,933.28
1962	1,220,783.76	1,220,783.76	1,220,783.76
TOTAL	₱2,337,394.08	₱2,342,356.80	₱2,332,668.24

inclusive of the ½% monthly interest and 50% surcharge as fraud penalty. (Exhibits "1-Recomputation" to "12-Recomputation.")

In their "Compliance" dated August 12, 1977, showing the recomputations of their respective income tax liabilities in this case in accordance with the decision of the Supreme Court, the petitioners' respective income tax deficiencies, according to them, are limited to, and can be enforced only for, the year 1958, which as computed by them, are as follows:

John L. Manning	. . .	₱ 877,766
W. D. McDonald	. . .	873,040
E. E. Simmons	. . .	882,729
		₱2,633,535

It is thus clear that the parties are in agreement on the recomputations, and the correctness of the amounts, of the respective income tax liabilities payable by the petitioners for the year 1958. And even with respect to taxable years 1959, 1960, 1961 and 1962, the petitioners do not assail the computations, or recomputations, of the respondent of their respective income tax liabilities for these years. So far as the computations or recomputations, and of course, the correctness of the amounts, of the petitioners' respective income tax deficiencies payable by them for the years 1959, 1960, 1961 and 1962 are concerned, it may therefore be considered beyond dispute that the parties are also in agreement thereon. The collision occurs at the enforceability, or non-enforceability, of the tax obligations of the petitioners for the said taxable years 1959, 1960, 1961 and 1962. Reasons:

1. Petitioners' position that prescription has already barred the Government's right to either assess them or enforce collection of any deficiency income tax due from them for the years 1959, 1960, 1961 and 1962.

2. Petitioners' availment of the tax amnesty under Presidential Decree No. 370.

Under Section 331 (now Section 318) of the National Internal Revenue Code, internal revenue taxes shall be assessed within five years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after expiration of such period. And under Section 332(a) [now Section 319(a)] of the same Code, in the case of a false or fraudulent return with intent to evade tax or of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within ten years after the discovery of the falsity, fraud, or omission. Since no deficiency assessments were issued nor proceedings for the collection of taxes for the years 1959, 1960, 1961 and 1962 were began within ten years from the discovery of the fraud, assuming that fraud was discovered by the Bureau of Internal Revenue on April 14, 1965, the date of the assessments involved in this case, the petitioners now claim in these proceedings for recomputations of their deficiency income tax liabilities for the said years that the Government is already barred from either assessing or enforcing collection of their deficiency income tax obligations.

The situation here presented would not create prescription. When the petitioners J. L. Manning, W. D. McDonald and E. E. Simmons appealed to this Court from the decisions of the respondent Commissioner of Internal Revenue, all dated April 14, 1965, assessing and demanding from them the respective amount of ₱2,430,067.92, ₱2,423,767.92 and ₱2,436,729.12 as deficiency income tax, inclusive of interest and 50% surcharge, on their receipt of treasury stock dividends from MANTRASCO in 1958 valued at ₱7,973,660.00, the judicial action for the collection of their deficiency income tax liabilities arising from this transaction was began by the respondent with the filing of his answer to the petitioners' petition for review wherein payment of the tax is prayed for. This is but logical for where the taxpayer avails of the right to appeal the tax assessment to the Court of Tax Appeals, the said Court, and the Supreme Court if the decision of the former is appealed thereto, are vested with the authority to pronounce judgment as to the taxpayer's liability. Either the proceedings in the Court of Tax Appeals partake of the nature of a "judicial action," within the purview of Section 316 (now Section 302) of the National Internal Revenue Code or the law creating the Court of Tax Appeals (Republic Act No. 1125) has, in effect, amended the aforementioned Code, in the sense, at least that, in all cases which are within the jurisdiction of said court (and the Supreme Court in case of appeal), it shall have the right to do whatever is necessary to decide the issues properly brought before it, including the power to sentence the taxpayer to pay what is due from him under the law. (Alhambra Cigar & Cigarette

Manufacturing Co. vs. Collector of Internal Revenue, 105 Phil. 1337; Collector of Internal Revenue vs. Bohol Land Trans. Co., 107 Phil. 965,972; Palanca vs. Commissioner of Internal Revenue, L-16661, January 31, 1962, 4 SCRA 263,266; Fernandez Hermanos, Inc. vs. Commissioner of Internal Revenue, L-21551, L-21557, L-24972, L-24978, September 30, 1969, 29 SCRA 552.)

In the present case, regardless of whether the total acquisition cost of the undeclared treasury stock dividends received by the petitioners in 1958 from MANTRASCO is taxable in 1958 in one lump sum, as ruled by the respondent Commissioner of Internal Revenue, but upon appeal to the Supreme Court after this Court had absolved them, the High Court held that the petitioners should be taxed for each of the corresponding years when payments were made to Reese's estate on account of his 24,700 shares, the Government's right to collect the taxes due has clearly not prescribed. As plainly shown by the records, the petitioners' appeal or petition for review was filed with this Court on May 5, 1965, with the respondent Commissioner of Internal Revenue filing on August 20, 1965 his answer, which is still more than nine and one half (9½) years before the expiration of the ten-year period from April 14, 1965, the date of the demand-letters appealed from, to affect collection by judicial action. When the Supreme Court therefore decided that the treasury stock dividends distributed by MANTRASCO to the petitioners should be taxed for each of the corresponding years when payments were made to Reese's estate on account of his 24,700 shares, with instructions to this Court to recompute their income tax liabilities in accordance with its judgment, our plain duty is to apply the decision as it is written, for the right and authority of the Supreme Court to decide the taxability of the treasury stock dividends included the power to sentence the petitioners to pay whatever taxes due from them under the law.

The fallacy of the petitioners' argument is its assumption that the present case (CTA Case No. 1626, which is G.R. No. L-28398 in the Supreme Court) "is limited to and covers only the assessment and collection of tax for 1958" (p. 256, CTA records). As explicitly described by this Court in the opening statement of its decision in CTA Case No. 1626: "This is an appeal from the decisions of respondent Commissioner of Internal Revenue, all dated April 14, 1965, assessing and demanding from J. L. Manning, W. D. McDonald and E. E. Simmons, the respective sums of P2,430,067.92, P2,423,767.92 and P2,436,729.12, or a total of ₱7,290,564.96, as deficiency income tax, inclusive of interest, and 50% surcharge, on their receipt of stock dividends from the Manila Trading & Supply Co., in 1958". (p. 157, CTA records; underscoring supplied.) And as paraphrased by the Supreme Court in the first paragraph of its decision in G.R. No. L-28398: "This is a petition for review of the decision of the Court of Tax Appeals, in CTA case 1626, which set aside the income tax assessments issued by the Commissioner of Internal Revenue against John L. Manning, W. D. McDonald and E. E. Simmons (hereinafter referred to as the respondents), for alleged undeclared stock dividends received in 1958 from the Manila Trading and Supply Co., (hereinafter referred to as MANTRASCO) valued at ₱7,973,660." (p. 1, Decision of the Supreme Court; emphasis supplied.)

It is thus plain and clear that CTA Case No. 1626 (G.R. No. L-28398) does not refer only to the assessment and collection of the income tax deficiencies of the petitioners for the year 1958, but more specifically to the assessment and collection of their income tax liabilities arising from their receipt of treasury stock dividends from MANTRASCO in 1958. Stated otherwise, CTA Case No. 1626 (G.R. No. L-28398) involves the determination, and collection, of the amount of taxes due from the petitioners on the undeclared stock dividends received by them in 1958 from MANTRASCO. If the respondent Commissioner of Internal Revenue assessed the petitioners the total acquisition cost (₱7,973,660.00) of the treasury stock dividends in one lump sum in <u>taxable year 1958 only</u>, instead of spreading the taxable income of the petitioners over the years during which MANTRASCO made payments for the decedent's share holdings as ruled by the Supreme Court, that was error on his part as pointed out by the High Court in page 16 of its decision. At all events, the Government is not bound by the errors or mistakes of its agents. (Tan Guan vs. Court of Tax Appeals, L-23676, April 27, 1967, 19 SCRA 903, citing Philippine American Drug Co. vs. Collector of Internal Revenue, L-13032, August 31, 1959, 106 Phil. 161; Luzon Stevedoring Corporation vs. Court of Tax Appeals, L-21005, October 22, 1966, 18 SCRA 436, citing Koppel [Phil.] Inc. vs. Collector, L-10550, September 19, 1961, 113 Phil. 17; Central Azucarera de Tarlac vs. Collector, et al., L-11092, September 30, 1958, 104 Phil. 653.) The net result is that CTA Case No. 1626 (G.R. No. L-28398) is not only a proceeding for the collection of the deficiency income tax due from the petitioners for the year 1958 but also a judicial action for the collection of whatever deficiency income tax liabilities that may be due from them on their receipt of treasury stock dividends from MANTRASCO in 1958 valued at ₱7,973,660.00, which should be taxed to them, as ruled by the Supreme Court, "for each of the corresponding years when payments were made to Reese's estate on account of his 24,700 shares." And the corresponding years during which MANTRASCO made payments to the decedent's shareholdings were taxable years 1958, 1959, 1960, 1961 and 1962. Since, as stated above, this Court, and the Supreme Court in case of appeal, have the right to do whatever is necessary to decide the issues properly brought before them, including the power to sentence the petitioners to pay whatever taxes are due from them under the law, prescription has not barred the Government from collecting the income tax deficiencies of J. L. Manning, W. D. McDonald and E. E. Simmons for taxable years 1959, 1960, 1961 and 1962, on the undeclared treasury stock dividends received by them in 1958 from MANTRASCO.

The petitioners would, however, also seek refuge in the immunities granted under Presidential Decree No. 370 to any person, whether natural or juridical, from any criminal, civil or administrative liability who may have taken advantage of the benefits thereof.

The controlling provision is Section 1 of Presidential Decree No. 370, which, insofar as pertinent hereto, textually reads:

> "1. A tax amnesty is hereby granted to any person, natural or juridical, who for any reason whatsoever failed to avail of Presidential Decree No. 23 and Presidential Decree No. 157; or in so availing of the said Presidential Decrees failed to include all that were required to be declared therein if he now voluntarily discloses under this decree all his previously untaxed income and/or wealth such as earnings, receipts, gifts, bequests or any other acquisitions from any source whatsoever which are or were previously taxable under the National Internal Revenue Code, realized here or abroad by condoning all internal revenue taxes including the increments of penalties on account of non-payment as well as all civil, criminal, or administrative liabilities, under the National Internal Revenue Code, the Revised Penal Code, the Anti-Graft and Corrupt Practices Act, the Revised Administrative Code, the Civil Service Laws and Regulations, laws and regulations on Immigration and Deportation, or any other applicable law or proclamation, as it is hereby condoned, provided a tax of fifteen (15%) percentum on such previously untaxed income and/or wealth is imposed subject to the following conditions. x x x." (underscoring supplied)

Adverting to the terms of the decree, it is quite clear that the tax amnesty granted to any person who availed of the benefits thereof is planted upon the conditions that he voluntarily disclosed all his previously untaxed income and/or wealth and an amnesty tax of 15% be paid thereon. Looking in retrospect, the petitioners relate:

> x x x that when the petitioners prepared and filed their tax amnesty returns in June,

> 1974, there were no unreported or untaxed income to speak of for the years 1959, 1960, 1961 and 1962 which they could have voluntarily disclosed in their amnesty returns. The reason is simple. The decision of this Honorable Court of Tax Appeals in CTA Case No. 1626, dated October 30, 1967 was in favor of the petitioners. It reversed the respondent's decision and cancelled the deficiency assessments. While it is true that said decision was appealed, the Supreme Court rendered its decision only on August 6, 1975. At the time, therefore, that petitioners prepared and filed their tax amnesty returns in June 1974, there were no untaxed or unreported income for the years 1958, 1959, 1960, 1961 and 1962 since the prevailing decision at that time was that of this Honorable Court of Tax Appeals, which cancelled the deficiency assessment. All that they were required to voluntarily disclose, therefore, were income which they honestly believed were untaxed or unreported. It would have been the height of absurdity, nay, stupidity, had petitioners included in their tax amnesty returns the questioned value of the MANTRASCO shares which they acquired, notwithstanding the then prevailing decision that it did not constitute taxable income. (pp. 289-290, CTA records.)

The provision of the decree is clear, specific and mandatory. As far as voluntary disclosure of the untaxed income is concerned, nothing is said of exceptions, supervening events or conditions existing at the time of filing the amnesty returns. There is no room for interpretation. Our task therefore is to apply the decree as it is written. So applying, we rule that since the petitioners could not have voluntarily disclosed, as in fact they have not disclosed, in their amnesty returns their previously untaxed treasury stock dividends received in 1958 from MANTRASCO valued at ₱7,973,660.00, the internal revenue tax liabilities of the petitioners for 1959, 1960, 1961 and 1962 arising from this transaction were not extinguished by their availment of the tax amnesty under Presidential Decree No. 370. For, how can their availment of the tax amnesty had the effect of condoning whatever income tax liabilities they incurred upon their receipt of the treasury stock dividends when the same were not disclosed so that the 15% amnesty tax due thereon should have been paid by the petitioners. An absurdity would result and mischievous consequences would follow to the prejudice of the Government for by the simple expedient of availment of the tax amnesty, internal revenue taxes on untaxed income and wealth would be condoned even if such untaxed income and wealth were not disclosed and no amnesty tax had been paid thereon.

Even more, on the assumption that the petitioners had availed of the tax amnesty under Presidential Decree No. 370 and that their income tax liabilities for the undeclared treasury stock dividends received from MANTRASCO in 1958 were condoned, their failure or neglect to interpose their immunities from taxes in the Supreme Court while this case (G.R. No. L-28398) was pending therein, or in their motion for reconsideration after they encountered an adverse judgment, is, to our mind, a waiver of their defense of non-liability from taxes on account of their availment of the tax amnesty. They are thereby estopped or barred from raising this defense for the first time in this proceeding which is merely for the recomputations of their income tax liabilities in accordance with the decision of the Supreme Court finding them liable thereto, and which decision has long become final and executory.

Note that the appeal of the respondent (G.R. No. L-28398) from the decision of this Court absolving the petitioners from deficiency income tax liabilities was filed in the Supreme Court sometime in November 1967. The judgment of the Supreme Court in G.R. No. L-28398, setting aside the decision of this Court and remanding this case for recomputations of the income tax deficiencies of the petitioners was rendered on August 6, 1975. A motion for reconsideration of the decision was filed by the petitioners on September 26, 1975 and the same was denied on January 30, 1976. Note also that the petitioners prepared and filed their tax amnesty returns in June 1974 while this case was still pending in the Supreme Court, and long before the High Court finally denied the petitioners' motion for reconsideration. If the petitioners really and honestly believed that their availment of the tax amnesty under Presidential Decree No. 370 had the effect of condoning whatever income tax liabilities arose from their receipt of the treasury stock dividends from MANTRASCO, which is the subject matter of G.R. No. L-28398, their failure or neglect to raise this defense before the Supreme Court finally decided the case against them estops or bars them from raising this issue for the first time in these proceedings for the recomputations of their income tax liabilities in accordance with the final and executory decision of the High Court.

We, accordingly, find no merit in the petitioners' thesis that the right of the Government to collect their deficiency income tax liabilities for 1959, 1960, 1961 and 1962 on their undeclared stock dividends received in 1958 from MANTRASCO has prescribed or that the petitioners can not be held liable for these tax deficiencies for the said years by reason of their availment of the tax amnesty under Presidential Decree No. 370. The deficiency income tax liabilities of the petitioners for the years 1958, 1959, 1960, 1961 and 1962, in accordance with the decision of the Supreme Court in G.R. No. L-28398 and with the Tax Code, should therefore be recomputed, as correctly pointed out by the respondent Commissioner of Internal

Revenue, as follows:

	John L. Manning	E.E. Simmons	W.D. McDonald
1958	₱ 877,766.40	₱ 882,729.12	₱ 873,040.56
1959	123,306.96	123,306.96	123,306.96
1960	112,603.68	112,603.68	112,603.68
1961	2,933.28	2,933.28	2,933.28
1962	1,220,783.76	1,220,783.76	1,220,783.76
Total	₱2,337,394.08	₱2,342,356.80	₱2,332,668.24

inclusive of the ½% monthly interest and 50% surcharge fraud penalty. (For details, please see Exhibits 1, 2, 3, 3-A, 3-B, 3-C, 3-D, 3-E, 3-F, 3-G, 3-H, 3-I, 4, 4-A, 4-B, 4-C, 4-D, 4-E, 4-F, 4-G, 4-H, 4-I, 5, 5-A, 5-B, 5-C, 5-D, 5-E, 5-F, 5-G, 5-H, 5-I, 6, 7, 9, 10, 11 & 12, Recomputation.)

WHEREFORE, the petitioners J. L. Manning, W. D. McDonald and E. E. Simmons are hereby ordered to pay the respondent Commissioner of Internal Revenue the respective amount of ₱2,337,394.08, ₱2,332,668.24 and ₱2,342,356.80, as deficiency income tax, inclusive of interest and 50% surcharge, for the taxable years 1958, 1959, 1960, 1961 and 1962, within thirty (30) days after this recomputation and pronouncement of judgment becomes final and executory.

RECOMPUTATION &
PRONOUNCEMENT OF JUDGMENT
C.T.A. CASE NO. 1626

SO ORDERED.

Quezon City, September 28, 1978.

AMANTE FILLER
Acting Presiding Judge

I CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge