REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

NATION-AD PHILIPPINES, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 1986

COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - - - - x Dec 18/74

D E C I S I O N

The present petition for review, assailing the decision of the respondent Commissioner of Internal Revenue holding petitioner liable for 1958 and 1959 deficiency income taxes amounting to ₱361.51 and ₱4,866.01, respectively, is time-barred and, therefore, this Court has no jurisdiction over this appeal.

Petitioner is a domestic corporation with office at Ramon Magsaysay Center, Roxas Blvd., Manila. On February 16, 1959 and March 18, 1960, it filed with respondent's office its 1958 and 1959 income tax returns placing therein its address as San Luis, Manila, and Room 203-204, San Luis Terraces, San Luis St., Manila, respectively.

In the investigation of the said returns conducted by Supervising Revenue Examiner Osias R. Robrigado, it was ascertained that petitioner was liable for deficiency income taxes amounting to ₱306.00 and ₱4,213.00 for 1958 and 1959, respectively. Thereafter, respondent issued against petitioner Assessment Notices Nos. 90-7-300648-62/58 and 90-5-300648-62/59 in the sums of ₱361.58 and ₱4,866.01, inclusive of interests.

Respondent's Regional Director, Region No. 8, followed up the said deficiency income tax assessments with a demand-letter dated February 9, 1967. On May 15, 1967, petitioner's Accounting Director, Miguel de Leon Garcia, advised respondent that he is not aware of any income tax assessment issued against petitioner because their records do not show such income tax liability. In reply, Regional Director Vicente Z. Lasquety, reminded petitioner in a letter dated July 19, 1967 that its 1958 and 1959 deficiency income taxes remained unpaid and requested that they be paid within 10 days in order that the case may be considered closed. This was followed up by another letter dated May 2, 1968 of the Revenue District Officer.

In the meantime, on September 14, 1967, President Mercy Beck of petitioner executed a waiver of the statute of limitations prescribed by the Tax Code and consented to the collection of the deficiency income taxes in question and their increments at any time before or after the lapse of the period of limitations fixed by the same Code. This condition was accepted by and agreed to by Regional Director V. Z. Lasquety.

On September 28, 1967, petitioner's accountants disputed the assessments in question alleging that the disallowed expenses were supported by receipts and they were ordinary, necessary, and actually incurred in carrying petitioner's business. In a letter dated March 20, 1968, Revenue Director V. Z. Lasquety denied petitioner's request for withdrawal and cancellation of the aforesaid assessments because President Mercy Beck of petitioner had already "signified her conformity to the aforesaid assessments by executing a waiver of the statute of limitations under the National Internal Revenue Code and agreed to pay the liabilities covered thereby."

On June 20, 1968, petitioner's accountants requested again the reconsideration of the assessments in question based on the same ground, that is, the disallowed expenses are supported by receipts and they are deductible from petitioner's gross income under the Tax Code. The said letter was directed to the attention of the Chief, Legal Branch, of the Regional Office. Without waiting for respondent's action on its latest request, petitioner further requested on August 16, 1968, the reconsideration of respondent's assessments on the same ground alleged in its letters to respondent dated September 14, 1967 and June 20, 1968, except the additional statement that the waiver of the statute of limitations signed by President Mercy Beck of petitioner was done through mistake and oversight.

On August 8, 1968, respondent reiterated the denial of petitioner's request for reconsideration. The letter of denial was received by petitioner on January 23, 1969, or almost six (6) months after it was issued. On February 13, 1969, petitioner filed its appeal with this Court.

The case at bar involves two important issues, to wit:

(1) Whether or not petitioner's appeal to this Court is time-barred; and

(2) Whether or not the deductions from petitioner's gross income in 1958 and 1959 of its expenses are legal and justified under Section 30 of the Revenue Code.

Where a taxpayer questions the assessment of respondent and requests him to reconsider or cancel the same, the assessment in question becomes a "disputed assessment" which the Commissioner of Internal Revenue must decide. Thereafter, the taxpayer can appeal to this Court within 30 days from receipt of respondent's adverse decision conformably with paragraph (1), Section 7, Republic Act No. 1125. The said law confers upon the Court of Tax Appeals appellate jurisdiction to review decisions of the Commissioner of Internal Revenue in cases involving disputed assessment.

The 30-day period for appeal to the Tax Court must be computed from the time the taxpayer received the decision of the Commissioner of Internal Revenue on the disputed assessment. (St. Stephen's Assn. v. Coll. of Int. Rev., 104 Phil. 314; Baguio Country Club v. Coll. of Int. Rev., 105 Phil. 1269, Unpub.; Roman Catholic Archbishop of Cebu v. Coll. of Int. Rev., L-16683, January 31, 1962, 4 SCRA 279; Commissioner of Int. Rev. v. Villa, L-23988, January 2, 1968, 20 SCRA 4; Commissioner of Int. Rev. v. Lilia Yusay Gonzales, L-19495, Nov. 24, 1966, 18 SCRA 757). In the light of the settled doctrine above-stated, it may now be asked: Which decision of the respondent is appealable to this Court?

From the numerous exchanges of letters between petitioner and respondent, we find that the denial and demand-letter issued by Regional Director V. Z. Lasquety on March 20, 1968 (Exh. "N") constitutes the final determination or decision on petitioner's 1958 and 1959 deficiency income tax liabilities. Said letter of March 20, 1968 represents respondent's decision on the disputed assessment which is appealable to this Court because it disposes finally the request for reconsideration contained in the letter of petitioner's accountants, Messrs. Carlos J. Valdes & Co., dated September 28, 1967. The aforesaid letter of respondent's Regional Director expressly and categorically denied petitioner's request for withdrawal and cancellation of the disputed assessments because of the facts already ascertained by respondent's examiner. What is more, the statement therein that President Mercy Beck of petitioner had already "signified her conformity to the aforesaid assessments by executing a waiver of the statute of limitations under the National Internal Revenue Code and agreed to pay the tax liabilities covered thereby" indicates that no further request for reconsideration would be entertained by respondent because of the spontaneous and voluntary commitment undertaken by petitioner that it will undoubtedly pay its deficiency income tax liabilities at any time before or after the lapse of the period of limitations fixed by the Tax Code.

Our stand finds ample support from the settled jurisprudence enunciated by the Supreme Court wherein it invariably held that the letter of respondent denying a taxpayer's request for reconsideration, cancellation and withdrawal of the original assessment is a decision on the disputed assessment appealable to this Court under paragraph (1), Section 7, Republic Act No. 1125, as amended. (Villamin v. CTA and Coll. of Int. Rev., L-11536, Oct. 31, 1960, 109 Phil. 896; Filipinas Investment and Finance Corporation v. Comm. of Int. Rev., L-23501, May 16, 1967, 20 SCRA 50; Surigao Electric Co. v. CTA and Comm. of Int. Rev., L-25289, June 28, 1974). Any other interpretation would indefinitely prolong and leave solely to the taxpayer the 30-day period of appeal imposed by law. Such a situation would seriously be detrimental to the interests of the Government because taxes are the lifeblood of the State and their prompt and certain availability is an imperative need. (Roman Catholic Archbishop of Cebu v. Coll. of Int. Rev., supra; Surigao Electric Co. v. CTA and Comm. of Int. Rev., supra).

We hold, therefore, that the 30-day period for appeal prescribed by Section 11 of Republic Act No. 1125, as amended, should perforce start from the time petitioner received respondent's letter of March 20, 1968.

In the 1st Indorsement of the Chief, Legal Branch, Region No. 8, it was pointed out that despite the letter of March 20, 1968 to the taxpayer's accountants, no payment has been made by petitioner. (See p. 188, BIR rec.) In the ordinary course of event, the said letter of March 20, 1968 would have been received by petitioner's accountants, at the latest, on April 23, 1968 or very much earlier. In the absence of any contrary evidence, the 30-day period of appeal should start from April 23, 1968.

On June 20, 1968, petitioner's accountants filed a second request for the withdrawal and cancellation of respondent's assessments.((See Exh. "L"). The said request is pro-forma because it merely reiterates the grounds already stated in their first letter for cancellation of the assessment dated September 28, 1967. (North Camarines Lumber Co. v. Coll. of Int. Rev., L-12353, Sept. 30, 1960, 109 Phil. 511; Roman Catholic Archbishop of Cebu v. Coll. of Int. Rev., L-16683, supra; Filipinas Investment & Finance Corp. v. Comm. of Int. Rev., supra). Consequently, the running of the 30-day period of appeal, which commenced from April 23, 1968, was not interrupted by the filing of petitioner's second pro-forma request for reconsideration. In effect, a taxpayer should not be permitted to delay indefinitely the settlement of a tax assessment by the simple expediency of reiterating his original defenses all over again without substantial variation.

(Filipinas Investment & Finance Corp. v. Comm. of Int. Rev., supra.)

The 30-day period of appeal prescribed by Section 11, Rep. Act No. 1125 is jurisdictional and non-extendible (Actg. Comm. of Int. Rev. v. Joseph, et al., L-14034, Aug. 30, 1962, 5 SCRA 895; Pangasinan Transportation v. Coll. of Int. Rev., 107 Phil. 975). The failure, therefore, of petitioner to lodge its appeal within the 30-day period prescribed by law bars its appeal and renders the disputed assessment final and executory. (Republic of the Phil. v. Lim Tian Teng Sons & Co., Inc., L-21731, March 31, 1966, 16 SCRA 584; Republic of the Phil. v. Manila Port Service, L-18208, Nov. 27, 1964, 12 SCRA 384; Surigao Electric Co., Inc. v. CTA, et al., supra).

In the case at bar, petitioner's second request for reconsideration dated June 20, 1968 was filed after the 30-day appeal period because from April 23 to June 20, 1968, fifty eight (58) days had already elapsed. Consequently, respondent's decision of March 20, 1968 had already become final, executory and unappealable. The same result would ensue with respect to petitioner's third pro-forma request for reconsideration dated August 16, 1968 (Exh. "M"); otherwise the statutory 30-day period for appeal would make little sense. (Rep. of the Phil. v. Lopez, L-18007, March 7, 1963, 7 SCRA 566; Rep. of the Phil. v. Lim Tian Teng Sons & Co., Inc., supra).

After holding that this Court has no jurisdiction to take cognizance of petitioner's appeal, the second question at issue becomes moot and academic.

WHEREFORE, the instant petition for review has to be, as it is hereby, dismissed. With costs against petitioner.

SO ORDERED.

Quezon City, December 18, 1974.

ESTANISLAO R. ALVAREZ
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge

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