REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

LIMPAN INVESTMENT CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 699

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

# DECISION

This is an appeal from the decision of the respondent holding the petitioner liable for the payment of the sums of ₱7,338.00 and ₱30,502.50, representing alleged deficiency income tax and surcharge for the years 1956 and 1957, respectively. On October 21, 1959, before filing his answer to the petition for review, respondent filed a motion to dismiss the appeal on the ground that the same was filed beyond the thirty-day period prescribed in Section 11 of Republic Act No. 1125. However, as the facts in relation to the allegation that the appeal was filed out of time were not clear, this Court required respondent to file his answer so that the jurisdictional issue and the issues raised on the merits may be considered at the same time. In his answer, respondent failed to raise the jurisdictional issue, apparently conceding that his position was untenable.

After hearing, in which both parties presented both oral and documentary evidence, counsel for both

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parties were given time within which to file their memoranda. However, despite two extensions, counsel for petitioner failed to file a memorandum; neither did they file a reply to respondent's memorandum.

The deficiency income tax assessment was brought about by the alleged underdeclaration of petitioner's rental income and excessive depreciation deduction claimed for its buildings, as follows:

1. Unreported rental income:

| | | |
|---|---|---|
| a. For the year 1956 | -- | ₱ 20,199.00 |
| b. For the year 1957 | -- | 81,690.00 |
| Total | -- | ₱101,889.00 |

2. Excessive depreciation deduction:

| | | |
|---|---|---|
| a. For the year 1956 | -- | ₱ 4,260.00 |
| b. For the year 1957 | -- | 16,338.00 |
| Total | -- | ₱20,598.00 |

In connection with the unreported rental income for 1956, paragraph 11 of the Petition for Review states:

> "11. That with respect to the supposed undeclared rentals for the year 1956 as above-concluded by the respondent, amounting to ₱20,199.00, the petitioner never collected nor received the said sum nor any part of it inasmuch as the previous owners of the leased buildings has to collect part of the total rentals in 1956 to apply to their payment of rental on the land in the amount of ₱21,630.00."

By petitioner's own admission, the sum of ₱20,199.00 was actually collected from its tenants and that the said amount was applied in partial payment of its obligation to the former owners of the buildings as "rental on the land." Undoubtedly, the said amount was income to it in 1956, and there is absolutely no

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justification for its failure to declare the same as part of its income for said year.

As regards the unreported rental income for the year 1957, paragraph 13 of the Petition for Review states:

> 13. That with respect to the alleged undeclared rentals in the amount of ₱81,690.00 for the year 1957, the petitioner respectively submits the following explanation as to the supposed non-declaration of rentals in the amount of ₱31,380.00 and vehemently maintains that it never received nor collected the amount of ₱81,690.00 nor any part of it in 1957:

| Name of Tenant | Explanation | Amount |
|---|---|---|
| Kian Tek | -is a sub-tenant as his given rate is not applicable | ₱ 4,200.00 |
| Chua Ping | -of the ₱11,000.00 alleged "undeclared rental" the amount of ₱7,200.00 had been turned in to the petitioner by Mr. I.P. Lim in January, 1959 | 7,200.00 |
| Santos Yu | - the amount of ₱3,600.00 had been turned in to the petitioner by Mr. I.P. Lim in Jan., 1959 | 3,600.00 |
| Go Tong | - ₱2,700.00 was not received nor collected by Mr. I.P. Lim but was part of the ₱25,650.00 received by the petitioner in June, 1957 | 2,700.00 |
| Go Tong | -the sum of ₱10,800.00 was not actually nor constructively received by the petitioner in 1957 because the same was in "custodia legis". As to the ₱25,650.00 which represents the rentals collected from the Court as deposit made by Go Tong from | |

May, 1954 to Sept. 1956, inclusive, none of this amount corresponds to rental income for 1957 having been accounted as income by the petitioner in June, 1957, although part of this amount (May, 1954 - June, 1955) belongs to Mr. Isabelo P. Lim. The petitioner corporation was organized and started operations only in the latter half of 1955 — ₱10,800.00

₱31,380.00

From the foregoing allegations contained in the Petition for Review, petitioner seeks to justify its failure to report in its income tax return for 1957 the sum of ₱31,380.00 only, impliedly admitting the correctness of respondent's determination in connection with the sum of ₱50,310.00. Of the sum of ₱31,380.00, which is contested, it is alleged that the sum of ₱4,200.00 was collected from a sub-tenant, ₱13,500.00 was collected by Mr. I.P. Lim, president of petitioner corporation, and the balance of ₱10,800.00 was deposited by certain tenants in court.

That the amount of ₱4,200.00 was paid by a sub-tenant and not by a tenant is immaterial. Any amount paid by way of rental by a tenant or sub-tenant and collected by the landlord is income to the landlord.

With respect to the amount allegedly collected by Mr. I. P. Lim, president of petitioner corporation, it is contended that Mr. Lim turned over the amount

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to petitioner not in 1957 but in 1959. And since petitioner is keeping its books of accounts on the actual receipts and disbursements basis, the amount so collected by its president is income to it only in the year the same is turned over to it. This is not correct. A corporation can act only through its officers. So, any amount paid to the president of a corporation, who is acting for and on behalf of the corporation, is payment to the corporation itself. Therefore, respondent committed no error in holding that the amount paid to Mr. Lim was income to petitioner in the year of receipt by Mr. Lim.

In connection with the sum of ₱10,800.00, which was allegedly deposited in court by certain tenants, it appears that the said amount was subject to withdrawal by petitioner after the deposit. The said amount was, therefore, deemed to have been constructively received by petitioner in the year it was deposited, that is, in 1957. Again, respondent committed no error in holding that it was income to petitioner in 1957.

As regards the alleged excessive depreciation claimed by petitioner in the sum of ₱20,598.00 for the two years under review, which was disallowed by respondent, the evidence of record does not show that respondent committed an abuse of discretion in disallowing the deduction. It appears that the rates of depreciation applied by respondent to the buildings owned by petitioner are even more than the rates allowable for similar properties listed in Bulletin F of

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the U. S. Bureau of Internal Revenue. (See Zamora v. Coll. of Int. Rev., C.T.A. No. 234, Dec. 29, 1958.) We find no justification to disturb the findings of respondent on this point.

Finding no reversible error in the decision appealed from, the same is hereby affirmed _in toto_, with costs against petitioner.

SO ORDERED.

Manila, May 31, 1963.

ROMAN M. UMALI
Associate Judge

I CONCUR:

AUGUSTO M. LUCIANO
Associate Judge