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Republic of the Philippines
COURT OF TAX APPEALS
Manila

CENTRAL AZUCARERA DON PEDRO,
Petitioner,

June 15, 1964

- versus - C.T.A. CASE NO. 1273

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 sum of ₱1,509.30, representing ½% monthly interest on the deficiency income tax assessed against petitioner for the fiscal year ending on August 31, 1954. The facts of the case, as stated by counsel for petitioner, are as follows:

> The petitioner, Central Azucarera Don Pedro, is a corporation duly organized, existing and doing business under and by virtue of the laws of the Philippines, with offices at Nasugbu, Batangas.
>
> The petitioner has consistently been computing its net income, reporting the same for income taxation, and paying the income tax thereon, on the fiscal year basis ending August 31 of every year. It filed in the Bureau of Internal Revenue its income tax return for its fiscal year ended August 31, 1954 on October 28, 1954, that is, within the period granted to the petitioner under section 46 of the Revenue Code.
>
> The petitioner duly paid to the respondent, within the period prescribed therefor, the sum of ₱491,038.00 representing the income tax due for said fiscal year as computed in its said income tax return. For such payment, it was issued by the respondent Official Receipt No. 539105, dated January 15, 1955, corresponding to the amount of ₱245,519.00 and Official Receipt No.

552165, dated April 15, 1955, corresponding to the amount of ₱245,519.00.

On October 15, 1959, the respondent assessed against the petitioner the amount of ₱167,935.00 as deficiency income tax supposedly due for the fiscal year ended August 31, 1954; this deficiency assessment did not call for the payment of any interest on the supposed deficiency income tax so assessed.

On October 26, 1959, the petitioner submitted to the respondent a letter-protest interposing objection to the above said deficiency assessment and requesting cancellation thereof.

By letter dated December 20, 1961, the respondent advised the petitioner that there had ultimately been found to be due from the latter for its fiscal year ended August 31, 1954 the sum of ₱11,571.30, to pay which the petitioner was granted by the respondent a period expiring January 21, 1962. (See Petitioner's Memorandum, pages 31-32, CTA records.)

The sole issue is whether or not petitioner is liable for the payment of the interest of ½% per month on the deficiency income tax in question prescribed in Section 51(d) of the National Internal Revenue Code, as amended by Republic Act No. 2343.

Section 51(d) of the Revenue Code, as amended by Republic Act No. 2343, provides:

> (d) Interest on deficiency.- Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency and shall be paid upon notice and demand from the Commissioner of Internal Revenue; and shall be collected as a part of the tax, at the rate of six per centum per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed: Provided, That the maximum amount that may be collected as interest on deficiency shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding.

Republic Act No. 2343 took effect on June 20, 1959. It is contended that the imposition of interest on the deficiency income tax for the fiscal year ending August 31, 1954 is tantamount to a retrospective application of Republic Act No. 2343. The same question was presented in Heald Lumber Company v. Padilla, C.T.A. No. 1222, March 23, 1964, wherein it was held:

> The deficiency assessment was made on November 24, 1961 (for deficiency income tax for the taxable year 1953), after the effectivity of Republic Act No. 2343. The new law is, therefore, applicable to the assessment of the deficiency tax against petitioner for the year 1953. We think Congress has full power to provide for payment of interest on delinquency taxes which should have been paid before the enactment of the law prescribing payment of interest but assessed after the new law became effective. We cannot subscribe to the theory of herein petitioner to the effect that to impose interest on deficiency income tax for years prior to the effectivity of the new law would have the effect of applying the same retroactively, which is not sanctioned by the law. Precisely, the interest which is sought to be collected has been computed only from June 20, 1959, the date of effectivity of the new law. The allegation that the law is sought to be applied retroactively has no legal basis.

In this case, the deficiency income tax for the fiscal year ending August 31, 1954 was assessed against petitioner on December 20, 1961, after the effectivity of Republic Act No. 2343. Therefore, the doctrine laid down in the case of Heald Lumber Company, cited above, applies with equal force to the case at bar.

Section 13 of Republic Act No. 2343 which provides

> Sec. 13. This Act shall take effect upon its approval: Provided, That the rate hereinabove stipulated shall apply to income received from January first, Nineteen hundred and fifty-nine, and for fiscal periods ending after June thirty, Nineteen

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hundred and fifty-nine.

has been cited in support of the view that the interest provided in Section 51(d) of the Revenue Code cannot be imposed on deficiency income tax assessed on income earned prior to 1959 (or to fiscal periods ending prior to June 30, 1959). The provision of Section 13 of Republic Act No. 2343 limiting the applicability of the rates of income tax prescribed in Section 1 of said Act (amending Section 21 of the Revenue Code) to income received from January 1, 1959, and for fiscal periods ending after June 30, 1959, can not be considered as an indication of the intention of Congress to limit the applicability of the interest prescribed in Section 51(d) to the deficiency income tax on income earned from the date of the effectivity of the amendatory Act. Section 51(d) does not distinguish the deficiency income tax on income earned prior to the effectivity of Republic Act No. 2343 from the deficiency income tax on income earned from the date of effectivity of said Act. As we have heretofore held in the Heald Lumber Company case, Congress has full power to impose interest on deficiency income tax on income earned prior to the amendatory law but assessed after its enactment.]

Finding the decision appealed from in order, the same is hereby affirmed, with costs against petitioner.

SO ORDERED.

Manila, June 15, 1964.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge