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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

TIU BON SIN,
Petitioner,

- versus - C.T.A. CASE NO. 286

COLLECTOR OF INTERNAL
REVENUE,
Respondent.

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

Febr. 18/58

D E C I S I O N

This is an appeal from a decision of respondent Collector of Internal Revenue assessing against and demanding from petitioner Tiu Bon Sin the sums of ₱1,125.00 representing alleged deficiency fixed and percentage taxes, including surcharge and compromise penalty, for the period from October 1, 1953 to December 31, 1954, inclusive, and ₱145.00 as alleged deficiency percentage tax,surcharge and compromise penalty for the first quarter of 1955. In his supplemental petition for review, petitioner seeks the refund of ₱125.00 which was allegedly unlawfully collected as percentage tax for the first quarter of 1955.

In 1955, investigations conducted by internal revenue examiners unearthed irregularities in the payment of taxes in Cebu. One of those investigations involved the case of petitioner.

Petitioner is the sole proprietor of the Sampaguita Soap and Candle Factory, situated in the City of Cebu. It appears that the amounts written and figured in the duplicate, triplicate and quadruplicate

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copies of the official receipts as internal revenue taxes were actually paid and turned to the provincial treasury of Cebu. However, the amounts shown in the original receipts then issued to and in the hands of petitioner were greater than those indicated in the duplicate, triplicate and quadruplicate copies. The discrepancies in the original and other copies of official receipts of taxes paid by petitioner are tabulated as follows:

Official Receipt Number	Date	Amount appearing in the Original	Amount appearing in duplicate, triplicate & quadruplicate copies	Difference
693568	1-20-54	₱208.66	₱ 8.66	₱200.00
693564	1-20-54	75.00	15.00	60.00
699020	4-20-54	144.90	44.90	100.00
704222	7-20-54	218.69	18.69	200.00
709018	10-20-54	214.00	14.00	200.00
206801	1-31-55	178.96	78.96	100.00
218114	4-20-55	117.80	17.80	100.00

The differences between the amounts appearing in the original official receipts and those indicated in the duplicate, triplicate and quadruplicate copies constitute the basis for the deficiency assessments of percentage tax demanded of petitioner, together with corresponding surcharge and compromise penalty.

An examination of the receipts involved here shows that the handwritten words and figures, not found in the duplicate, triplicate and quadruplicate copies of the official receipts were added to the original copies. These additions could not have been written by the person who wrote the signatures F. B. Pareja and the initials B^2. These signatures and initials, which appear in all copies of the receipts were admittedly written thereon by Bartolome Baguio, who, as chief of the internal revenue division and deputy city treasurer of Cebu was in charge of collecting taxes thereat.

During the period for which the deficiency taxes in question are sought to be collected, petitioner generally caused his taxes to be paid at the Treasurer's Office of Cebu City thru one Tan Chuan Liong who was a business agent of petitioner. It appears also that Tan Chuan Liong had many other clients for whom he paid taxes and by virtue thereof, and such payments were made, he was permitted by Bartolome Baguio to accomplish in the latter's booth the official receipts evidencing the payments of taxes due from the former's clients, including petitioner. The intervention of Baguio in the filling up of the receipts was limited to his writing thereon the signatures "F. B. Pareja" and his initials "B^2". As aforestated, the amounts appearing in the original copies of official receipts as taxes paid are different from and greater than those stated in the duplicate, triplicate and quadruplicate copies. Hence, respondent assessed petitioner for the underpayments on the theory that the latter was liable for the discrepancy. This is the subject of the principal petition for review.

The supplemental petition for review covers the amount paid by petitioner on May 10, 1956 in the sum of ₱125.00 as deficiency tax and surcharge for the first quarter of 1955. Thereafter, he requested respondent for the refund of this amount on the ground that same was unlawfully collected. This request for refund was denied.

The issues raised by the parties boil down to the following:

> 1. Whether or not petitioner is liable for the respective amounts of ₱1,125.00 and ₱145.00 as alleged deficiency taxes, surcharge or compromise penalty; and
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> 2. Whether or not the sum of ₱125.00 allegedly unlawfully collected from petitioner as tax and surcharge for the first quarter of 1955 may be refunded.

Relative to the first issue, it is the contention of petitioner that he has fully paid the taxes due him for the years 1954 and 1955, and, consequently, the assessment and demand hereof appealed is unlawful. Petitioner relies principally upon the original copies of the official receipts evidencing the alleged true and correct amounts of taxes paid by him. Upon the other hand, respondent denies that payment has been made in full. He maintains that the short payments are traceable to the acts of Tan Chuan Liong, thereby implying that petitioner should bear the burden of covering up short payments or tax deficiencies.

A tax receipt is presumptive evidence of payment of taxes indicated therein (see Cooley, On Taxation, Vol. 3, Sec. 1256, p. 2495), but it is not conclusive evidence of such payment, and the adverse party may prove by any competent evidence that payment has not actually been made (see 51 Am. Jur. sec. 960, p. 842). This inconclusive nature of a tax receipt must equally be conceded in cases of deficiency payment. And as a corollary to this concession, the adverse party may likewise prove by competent evidence that payment was not full and complete.

In the case at bar, respondent seeks to prove by the original copies of the tax receipts (official receipts) and the corresponding abstract of collections in relation to the duplicate copies of the receipts that the taxes due from petitioner have not been fully and completely paid. We shall now determine whether or not there was such full and complete payment. Upon this determination depends the resolution of the first issue.

An examination of the original copies of the official receipts (Exhibits "A", "B", "C", "D", "E", & "F"), in conjunction with their corresponding duplicate, triplicate and quadruplicate copies, leads us to the conclusion that said original copies have been subtly modified and falsified. It is abundantly evident that the figures "20", respectively marked as Exhibits "5-B" and "5-D" in Exhibit "A" and the words "two hundred", marked as Exhibit "5-A" in Exhibit "A"; the figures "7", marked as Exhibit "7-A" in Exhibit "B"; and the word "seventy", marked Exhibit "7-B" in Exhibit "B"; the figures "1", marked as Exhibit "10-A" in Exhibit "C" and the words "one hundred", marked as Exhibit "10-B" in Exhibit "C"; the figures "2", marked as Exhibit "13-A" in Exhibit "D" and the words "two hundred", marked as Exhibit "13-B" in Exhibit "D"; the figures "2", marked as Exhibit "15-A" in Exhibit "E" and the words "two hundred", marked as Exhibit "13-B" in Exhibit "D"; the figures "2", marked as Exhibit "15-A" in Exhibit "E" and the words "two hundred", marked as Exhibit "15-B" in Exhibit "E"; the figures "1", marked as Exhibit "17-A" in Exhibit "F" and the words "one hundred", marked as Exhibit "17-B" in Exhibit "F"; and the figures "1" and the words "one hundred" in Exhibit "J", which figures and words are not written in the subsequent copies ofthe official receipts, have been fraudulently added. While we are at a loss as to who authored these fraudulent additions, however, as testified to by handwriting expert, Felipe P. Logan, these additions could not have been written by Bartolome Baguio who wrote the signatures "F. B. Pareja" and the initials "B2" appearing at the foot of Exhibits "A" to "F". There is no evidence on hand satisfactory to establish or indicate that Bartolome Baguio supplied these additions. Bartolome Baguio himself has testified that the handwriting on the receipts were not made by him. Rather, the receipts were filled out by petitioner's agent Tan Chuan Liong. Petitioner has not presented his agent Tan Chuan Liong to rebut the testimony of Deputy Treasurer Baguio. The fact that the writings on the duplicate receipts and those on the original receipts, including the additions or insertions on the latter are made by the same person is corroborated by the handwriting expert. This fact is further not denied by petitioner. However, the latter merely argues that the writings could not have been made by him nor his agent Tan Chuan Tiong. Considering that the testimony of Treasurer Baguio is categorical or particular on this point, whereas petitioner's argument is merely speculative and, considering that petitioner's agent Tan Chuan Liong has not been presented, we believe that the weight of the evidence is strongly in favor of respondent in relation thereto. We are further sustained in this respect by the handwriting expert who testified that the additions on the original copies of the receipts then in the hands of petitioner were inserted subsequent to the preparation of the duplicate, triplicate and quadruplicate copies thereof.

We find therefore that the original receipts do not state correctly the amounts paid as taxes and the falsity of the said originals has worked to destroy the presumption of a full and complete payment of the taxes due from petitioner. We are thus convinced that the amounts indicated in the duplicate, triplicate and the quadruplicate copies of the official receipts and entered in the abstract of collections truly represent the payments actually made. All the entries were made in the ordinary course of public business and are entitled to weight and credence. Hence, we are of the opinion and so hold that there was a deficiency in the payment of the taxes in question for which petitioner is liable. Being liable therefor, it necessarily follows that the imposition of the 25% surcharge for late payment thereof is proper and lawful.

As regards the compromise penalties amounting to ₱70.00, which respondent assessed against and demanded from petitioner but which the latter has not accepted we hold that this Court has no jurisdiction to compel payment thereof (see Briñas v. Collector of Internal Revenue, C.T.A. No. 16, September 14, 1955; Central Azucarera de Tarlac v. Collector of Internal Revenue, C.T.A. No. 90, July 9, 1956; Gerato Commercial Inc. v. Collector of Internal Revenue, C.T.A. No. 218, October 5, 1956; Bohol Land Transportation v. Collector of Internal Revenue, C.T.A. No. 216, September 25, 1957).

Having ruled that petitioner is liable for the payment of the deficiency taxes now in question including surcharge, it follows that his claim for the refund of the sum of ₱125.00 paid as deficiency tax for the first quarter of 1955 which is of the same character and nature as the tax first above contested, should be denied.

DECISION -
C.T.A. CASE NO. 286

WHEREFORE, except for the modification as regards the non-liability of petitioner for the compromise penalty, respondent's assessment and demand is hereby affirmed. Petitioner, Tiu Bon Sin, is hereby ordered to pay to respondent or his authorized representative the sum of ₱1,075.00 as deficiency percentage tax plus 25% surcharge. With costs against petitioner.

SO ORDERED.

Manila, February 28, 1958.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge

Not appealed

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