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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

July 12, 1965

HORACIO V. RAMIREZ, in his capacity as Executor of the Estate of the late DON BALDOMERO HAZAÑAS,

Petitioner

versus

C.T.A. CASE NO. 1488

THE COMMISSIONER OF INTERNAL REVENUE,

Respondent.

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

D E C I S I O N

This refers to a claim for refund in the amount of ₱6,374.65, representing transfer taxes and compromise penalty alleged to have been paid erroneously by petitioner.

It appears that petitioner, in a letter dated December 8, 1958, notified respondent of the death of the late Baldomero de Hazañas on November 11, 1958, in St. Louis, Missouri, United States of America. On June 11, 1959, petitioner filed with the Bureau of Internal Revenue a tentative estate and inheritance tax return covering the properties left by the said Baldomero de Hazañas. On June 18, 1959, respondent issued Estate and Inheritance Tax Assessment No. EA-58 demanding payment in the amount of ₱6,374.65, as estate and inheritance taxes, including a compromise penalty for alleged lack of notice of death. On July 30, 1959, petitioner paid the amount of ₱2,745.63 as estate tax, plus ₱15.00 as compromise penalty, under Official Receipt No. A-606475, and on November 9, 1959, the amount of ₱3,614.02 was paid as inheritance tax under Official Receipt No. A-617882. On December 16, 1959, petitioner filed with the Bureau of Internal Revenue Regional District No. 3, an amended estate and inheritance tax return, together with a claim for refund. Said request for refund was denied by respondent in a letter decision dated July 31, 1963. On October 31, 1963, petitioner filed a request for reconsideration, which was denied by respondent on November 26, 1963. Hence, the petition for review which was filed with this Court on January 20, 1964.

The issues to be resolved in this case may be stated thus:

> 1. Whether or not the right of petitioner to claim for the refund of the amount of ₱6,374.65 paid as estate and inheritance taxes and compromise penalty has already prescribed;
>
> 2. Whether or not the alleged testamentary expenses in the respective sums of ₱14,681.70 and ₱14,561.71 may be deducted from the gross estate of the late Baldomero de Hazañas; and
>
> 3. Whether or not the amount of ₱145,754.49, which is allegedly the exclusive property of the widow, may be included in the computation of the gross estate of the deceased.

Respondent Commissioner contends that petitioner's right to claim for the refund of the amounts paid as taxes and penalty has already prescribed. Petitioner, however, avers the contrary. He maintains that he became aware of his right to refund only after the receipt from the United States of America of the pertinent data regarding the estate of the decedent. Hence, his request for refund was made only after receipt of the data and the filing of the amended return.

The record shows that petitioner paid the amount of ₱2,745.63 as estate tax plus ₱15.00 as compromise penalty, on July 30, 1959, and the amount of ₱3,614.02 as inheritance tax on November 9, 1959. The instant petition seeking the refund of the amounts paid as estate and inheritance taxes and compromise penalty was filed on January 20, 1964, far beyond the statutory period of two (2) years provided by law, which reads as follows:

> "SEC. 306. Recovery of tax erroneously or illegally collected. - x x x In any case, no such suit or proceeding shall be begun after the expiration of 2 years from the date of payment of the tax or penalty." (National Internal Revenue Code.)

As respects the above-quoted codal provision, it has been held that the taxpayer's failure to comply with the requirement regarding the institution of the action or proceeding in court within 2 years after the payment of the tax is a bar to the recovery of the same, irrespective of whether or not a claim for the refund of such taxes filed with the Collector of Internal Revenue is still pending action by the latter. (College of Oral & Dental Surgery v. Coll., G. R. No. L-10446, Jan. 28, 1958; Gibbs v. Collector, G. R. No. L-13453, Feb. 29, 1960.) In the case at bar, having failed to bring the present action within the statutory period of two (2) years, petitioner's right to recover has already prescribed.

Having reached the conclusion that petitioner's right of action has prescribed, we deem it unnecessary to consider the other issues.

WHEREFORE, the above-entitled case is hereby dismissed, without pronouncement as to costs.

SO ORDERED.

Quezon City, July 12, 1965.

R. M. Umali
ROMAN M. UMALI
Associate Judge

I CONCUR:

Teofilo D. Reyes
TEOFILO D. REYES, SR.
Presiding Judge