REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LUIS MA. GIL L. GANA,
Petitioner,

- versus - **C.T.A. CASE NO. 5480**

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JAN 30 1998

x - x

D E C I S I O N

Before Us is a petition for review seeking to set aside an assessment for alleged deficiency income tax for the year 1994 in the total amount of P10,588.40.

The facts of the case are simple.

Petitioner is an individual taxpayer earning mixed professional and compensation income. On July 22, 1996, petitioner received Notice of Assessment No. 0001110 (Annex A, Petition) from the respondent instructing the former to pay his deficiency income tax for the year 1994 amounting to P117,586.11. This prompted the petitioner to file a protest/motion for reconsideration of the said Notice of Assessment on August 16, 1996. In reply thereto, respondent issued an Audit Sheet for Individual (BIR Form No. 1749) showing the corrected amount of P10,588.40 as deficiency income tax due from petitioner inclusive of surcharge, interest and compromise penalty, computed as follows:

Gross Compensation	P 45,500.00	
Less: Exemption	28,000.00	
Total	P 17,500.00	
Tax Due	P 700.00	
Less: Withholding Tax	2,275.00	
Tax Refund	P 1,575.00	
Income from Profession		P379,619.54
Less: Personal and Additional Exemptions		
Taxable Income per Pre-Audit		P379,619.54
Tax Due Thereon		P 70,486.00
Less: Tax Withheld	P 1,575.00	
Payments	63,710.86	65,285.86
Balance of Tax Due		P 5,200.14
Add: 25% Surcharge		1,300.03
Interest		3,088.23
Compromise		1,000.00
Total Amount Due and Collectible		P 10,588.40

The correction made by the respondent was premised on its finding that the petitioner, who received mixed professional and compensation income, erred in deducting his personal exemption of P28,000.00 from his gross professional income, instead of first deducting the same against his gross compensation income as provided for under Section 4 of Revenue Regulation No. 2-93.

On September 2, 1996, petitioner filed another motion for reconsideration (Annex D, Petition) on the adjustment and through a letter query dated September 5, 1996 (Annex D-1, Petition), it also sought an opinion from the BIR Head Office, Legal Department, as to the validity of Section 4 of Revenue Regulation No. 2-93 restricting the deduction of personal exemption first from gross compensation income and only the remainder or excess therefrom to be deducted from professional income, considering that no such provision under the NIRC imposes such a restriction.

Through a letter-response dated February 20, 1997 (Annex E, Petition), the Regional Director of BIR, Revenue Region 8, Makati City, asserted the authority of the respondent to promulgate the necessary rules and regulations for the effective implementation of R.A. No. 7496 (adopting SNITS), thus denying petitioner's protest against the assessment (Annex F, Petition). Hence, petitioner filed the instant petition on April 2, 1997.

In her Answer, respondent interposed the following special and affirmative defenses:

> "5. Section 4 of Revenue Regulations No. 2-93 is a valid exercise of the respondent's rule-making power, as mandated by Section 245 of the National Internal Revenue Code, to wit:
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> > "Sec. 245. Authority of Secretary of Finance to promulgate rules and regulations. - The Secretary of Finance, upon recommendation of the Commissioner, shall promulgate all needful rules and regulations for the effective enforcement of the provisions of this Code. xxx xxx"
>
> 6. Likewise, under Section 4(i) of the National Internal Revenue Code, it is provided that:
>
> > "Sec. 4 Specific provision to be contained in regulations. - The regulations of the Bureau of Internal Revenue shall, among other things, contain provisions specifying, prescribing, or defining:
> >
> > xxx xxx xxx
> >
> > (i) The manner in which tax returns, information, and reports shall be prepared and

> reported and the tax collected and paid, as well as the condition under which evidence of payment shall be furnished the taxpayer, and the preparation and publication of tax statistics;
>
> xxx xxx xxx"

7. A revenue regulation, the issuance of which is authorized by statute, has the force and effect of law (Article 7, Civil Code; Arches vs. Bellosillo, 20 SCRA 32).

8. Petitioner, being explicitly liable for the payment of deficiency income tax under Section 4 of the Revenue Regulations No. 2-93 (SNITS Implementing Rules), cannot therefore solely rely upon the failure of R.A. No. 7496 and Sec. 29(l) of the NIRC to make any qualification in the availment by a taxpayer of his personal exemption. Tax exemptions cannot, as a rule, be merely implied but must be categorically and unmistakably expressed (National Development Company v. Court of Industrial Relations, 151 SCRA 472).

9. Tax assessments by tax examiners are presumed correct and made in good faith. It is the taxpayer's duty to prove otherwise. (Sy Po v. Court of Tax Appeals, G. R. No. L-814461, August 18, 1988, 51 Am-Jur. pp. 620 -621). Petitioner in this case miserably failed to overcome said presumption."

On June 24, 1997, petitioner filed a Motion for Judgment on the Pleading which was opposed by the respondent through an Opposition to Motion for Judgment on the Pleading filed on July 17, 1997. This Court, however, resolved to grant the Motion filed by the petitioner through a Resolution promulgated on August 20, 1997, declaring that "no controverted relevant factual issues exist between the petition and the answer in the instant case. Hence, what remains for the court to settle are the legal issues involved."

The sole issue to be resolved in this case is whether or not Section 4 of Revenue Regulations No. 2-93 (SNITS Implementing Rules) restricting the deduction of personal exemption first from gross compensation income and only the excess therefrom from professional/business income is null and void.

For a better understanding of the issue involved in this case, Section 4 of Revenue Regulations No. 2-93 is hereby reproduced. Thus:

> "Sec. 4. Personal and Additional Exemptions.
>
> x x x x x x x x x
>
> When the taxpayer receives mixed income (compensation and business/professional income) the <u>personal and additional exemptions shall first be deducted from compensation income and any excess therefrom, from business and professional income</u>." (Underscoring Supplied)

A careful study of the factual backdrop present in the instant case led this Court to rule in favor of the respondent.

The aforequoted portion of Revenue Regulations No. 2-93 is quite clear and unequivocal in expressing the procedure that shall govern in the deduction of personal and additional exemptions of taxpayers with mixed income. Personal and additional exemptions shall be deducted first from the taxpayer's compensation income and any excess therefrom, from the taxpayer's business and professional income. We find no reason to consider the said provision as null and void due to the absence of any restrictions or qualifications under Republic Act No. 7496 (Adopting SNITS) or Section 29(l) of the Tax Code as amended by Sections 4 & 5 of Republic Act 7497 (Finality of the Withholding Tax on Purely Compensation Income) as argued by the petitioner. Mere lack of qualifications or detailed application of the provisions of R.A. 7496 could not possibly render the subsequent implementing regulations, which was approved by the Secretary of Finance upon recommendation of the respondent, as null and void. As long as the regulations are confined to details for regulating the manner or method of carrying into effect the law as it has been enacted and does not increase or decrease the requirements of the law nor embrace matters not covered nor intended to be covered by the statute ***(12 C.J.S., pp. 845-846).***

It is already well-settled that administrative rules and regulations enacted by administrative bodies to interpret the law have the force and effect of law and are entitled to great respect (**Eslao vs. Commission on Audit, 236 SCRA 161; Warren Manufacturing Worker's Union vs. Bureau of Labor Relations, 159 SCRA 387**). A revenue regulation whose issuance is authorized by statute, has the force and effect of law (**Arches vs. Bellosillo, 20 SCRA 32**).

Moreover, the procedures laid down under Section 4 of Revenue Regulations No. 2-93 were properly promulgated in consonance with the provisions of Section 4(i) of the Tax Code as correctly pointed out by the respondent in her Answer, to reiterate:

> "Sec. 4 Specific provision to be contained in regulations. - The regulations of the Bureau of Internal Revenue shall, among other things, contain provisions specifying, prescribing, or defining:
>
> xxx xxx xxx
>
> (i) The manner in which tax returns, information, and reports shall be prepared and reported and the tax collected and paid, as well as the condition under which evidence of payment shall be furnished the taxpayer, and the preparation and publication of tax statistics." (Underscoring Supplied)

WHEREFORE, in the light of all the foregoing, the instant Petition for Review is hereby **DENIED** and petitioner is ordered to pay the adjusted amount of P10,588.40 representing his deficiency income tax for the year 1994 plus twenty percent (20%) interest computed from the date prescribed for payment until the full payment thereof pursuant to the provisions of Section 249 of the Tax Code.

SO ORDERED.

AMANCIO Q. SAGA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
Associate Judge

CERTIFICATION

I hereby certify that the above decision was reached after due consultation with the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals