TOTOY OTEYZA,
Petitioner,

- versus - C.T.A. CASE NO. 89

J. ANTONIO ARANETA, Acting
Collector of Internal Revenue,
Respondent.

1/3/56

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# D E C I S I O N

The Collector of Internal Revenue, respondent in this case, assessed the petitioner, Totoy Oteyza, in the sum of ₱2,334.09 as amusement tax, including surcharge and penalties, pursuant to section 260, in relation with section 352 of the National Internal Revenue Code. This tax was imposed on the receipts realized from the sale of admission tickets to the ballet performances held on March 19 and 26, 1954 at the Far Eastern University Auditorium. It is from this decision of the Collector that the herein petitioner appeals to this Court, claiming exemption from payment of amusement taxes under the provisions of Republic Act No. 722.

Before the trial of this case, Attorney Pacifico Ocampo entered his appearance as amicus curiae, on behalf of Mr. Ricardo Cassel, likewise a ballet teacher.

The undisputed facts are as follows: that on March 19 and 26, 1954, petitioner Totoy Oteyza was directress and instructor of the Classic Ballet Academy, located at 110 San Rafael, Manila; that on the above-mentioned dates, petitioner held ballet performances at the Far Eastern University Auditorium, in which her primary and intermediate students participated; and that those performances were held as part of the curriculum of the school and the training of the students concerned especially as to public appearances. For the purpose of helping defray the expenses that have been or may be incurred in connection therewith, such as for music, costumes, light, rent of the auditorium, as well as printing, admission tickets were sold to the students and to their parents; that on the first performance, the prices of the tickets sold were ₱15.00 for the lodge and the rest were sold at ₱7.00, ₱5.00, and ₱3.00, according to the seating arrangements, with a ₱1.00 discount to students for each ticket; that on the second performance, the prices of the tickets sold were at ₱10.00, ₱5.00, ₱3.00 and ₱1.00, respectively; that for the assistance provided by the Manila Symphony Orchestra, approximately ₱4,900.00 was paid by petitioner for the first night and ₱3,200.00 for the second night; that for the use of the Far Eastern University Auditorium, ₱600.00 was paid for the first night and ₱500.00 for the second night; that in both performances, the petitioner sustained losses, ₱2,700.00 for the first performance and ₱1,500.00 for the second night, or a total of ₱4,200.00, which was defrayed by petitioner without reimbursement from any source; and that the performances were not held for profit but for the purpose of affording training to the students in stage appearances and public performances, as part of the school curriculum.

Petitioner presented some oral evidence which we might call expert testimonies, like those declared by

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Miss Jovita Fuentes, one of our few internationally known singer, and Mrs. Trinidad Fernandez-Legarda, nationally known social worker and undoubtedly one of the most well-known ladies of the country. Mr. Ricardo Cassel likewise took the witness stand. All these three witnesses, undoubtedly connoisseurs of art, testified as to the definition and scope of the term "recital" or "concert". Miss Fuentes, for instance, said that "recital" includes piano, violin, song, ballet presentations, etc.; that "concert" includes symphony and ballet; that even the word "opera" comprises several forms of art; and that opera and ballet go together. Mrs. Trinidad Fernandez-Legarda stated that opera concert or opera performances in their accepted definition means a group of people interpreting a story employing for instance, a ballet performance or a ballet concert presentation with orchestral accompaniment as the medium of expression or interpretation. Mr. Cassel corroborated the above two testimonies.

The petitioner likewise presented, as source of authority, an issue of the dance magazine of November 1952 (Exhibit "F").

As to whether ballet is an art, we find the following definitions of the term involved:

> ART, means skill in performance, acquired by experience, study or observation; Systematic application of knowledge or skill in effecting a desired result; an occupation requiring such knowledge or skill; application of skill and taste to production according to aesthetic principles. Art is often used interchangeably with skill when both imply proficiency or expertness in the exercise or practical application of knowledge. (Webster's International Dictionary.)

> BALLET, means a theatrical dance; specifically a pantominic dance executed by a group, esp. women; A kind of artistic dancing, marked by great variety, intricacy, and expressiveness in its movements. (Webster's International Dictionary). When used without any qualifying adjective or phrase, the term is frequebtly used to signify an art in its higher manifestations, or art par excellence, as itiis represented in works of art by those who are distinctively denominated artists. (5 Corpus Juris, p. 588).
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> BALLET, is a spectacular dance, more or less elaborate in steps, poses and costumes. (Vol. 5, Words and Phrases, p. 86); An artistic dance, often involving elaborate and difficult steps, postures, and figures, generally performed as a dramatic interlude and by considerable number of dancers, usually or mostly women; Also, the music for such a dance; A pantominic dance expressing emotion or telling story; The persons collectively who dance the ballet at any particular theater. (Funk and Wagnalls New Standard Dictionary, Vol. 1.)

With the above-cited expert testimonies, that were not contradicted by the attorneys of the Government, and viewed in the light of the foregoing definitions, we cannot escape the conclusion that the ballet performances sponsored by petitioner come within the exemptions contemplated by the provisions of Republic Act No. 722, which states:

> "SECTION 1. The holding of operas, concerts, recitals, dramas, painting and art exhibitions, and literary, oratorical or musical programs, except film exhibitions and radio or phonographic records thereof, shall be exempt from the payment of any national or municipal amusement tax on the receipts derived therefrom."

Having disposed of in a brief discussion, the legal issues of this case, we cannot resist the temptation of saying a few words regarding arts. Undoubtedly, art has always been strong in the hearts of the Filipinos, and as a matter of fact, it has been so manifested and recognized in our fundamental law which provides that arts and letters shall be under the patronage of the State (Sec. 4, Art. XIV, Constitution). For generations, the country, although scarcely populated, has produced men and women whose artistic talents have been recognized beyond the confines of our territorial boundaries, but unfortunately, very few have reached international stature. It is our belief that Congress, in approving Republic Act No. 722, had in mind the implementation of the constitutional objective by affording our young generations the opportunities to develop their artistic talents. The Members of this Court cannot but give impetus to the proper encouragement of this field of learning as it will ultimately afford this country a chance to contribute its share in the world of arts.

IN VIEW OF THE FOREGOING CONSIDERATIONS, we find and so hold that the decision of respondent appealed from should be, as it is hereby reversed, and declare the petitioner, Totoy Oteyza, exempt from the payment of the sum of ₱2,334.09 representing amusement tax, together with the surcharge and penalties, imposed by the respondent, pursuant to the provisions of section 260, in relation with section 352 of the National Internal Revenue Code, without any pronouncement as to costs.

SO ORDERED.

Manila, Philippines, January 3, 1956.

(Sgd.) MARIANO NABLE
Presiding Judge

WE CON-

CUR:

(Sgd.) AUGUSTO M. LUCIANO
Associate Judge

(Sgd.) ROMAN M. UMALI
Associate Judge