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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

June 25, 1962

FRANCISCO MAJARUCON (On his behalf and as Administrator of the Estate of Felimon Dumada-ug),
Petitioner,

- versus -

C.T.A. CASE NO. 1207

JAIME ARANETA, The Regional Director of Regional District No. 8 of the BIR acting on behalf of the Collector of Internal Revenue, and CARLITO HECHANOVA, as the BIR Collection Agent in Dumangas, Iloilo,
Respondents.

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RESOLUTION

This is in connection with a "Motion to Dismiss", filed by respondents on May 18, 1962, the petition for injunction on the ground of lack of jurisdiction.

Petitioner alleges that respondents have assessed and demanded from petitioner income taxes for the years 1951 to 1955 in the total amount of ₱64,434.32 inclusive of surcharges and interests. For failure of petitioner to pay the amount assessed and demanded from him, respondents sought to satisfy petitioner's alleged liability for income taxes by summary remedies of distraint and levy pursuant to Sections 315 to 330 of the National Internal Revenue Code. Two (2) warrants of distraint and levy (Annexes A & A-1, "Petition") and a corresponding "Notice of Seizure", with seven (7) "Notices of Sale", were issued by respondents on January 15 and 22, 1962, and March 22, 1962, respectively, preparatory to selling at public auction the properties of petitioner for the satisfaction of the aforesaid income tax liability (Annexes B, B-1 to B-7, ibid.) In view of the issuance of the warrants of distraint and levy and the corresponding notice of seizure, with its accompanying notices of sale, petitioner filed a petition for injunction before this Court, seeking to declare the warrants of distraint and levy a nullity and to enjoin respondents perpetually from proceeding with the sale of his distrained properties.

The only issue in this incident is whether or not we can take cognizance of the petition for injunction.

Respondents aver that this Court can not take original jurisdiction over the issuance of a writ of injunction, independently of, and apart from, an appealed case. And, invoking the case of Collector of Internal Revenue vs. Yuseco, G. R. No. L-12518, October 28, 1961, they assert that this Court can only issue a writ of injunction to suspend the collection of taxes in aid of its appellate jurisdiction.

On the other hand, petitioner contends that this Court has jurisdiction on the theory that "what is sought to be reviewed in the petition is a ruling or decision of the respondents in effecting payment or collection of an alleged income tax liability of the petitioner" and "that the issuance of the warrants of distraint and levy and the corresponding notice of seizure by the respondents is a decision or ruling that adversely affects the petitioner" ("Opposition to Motion to Dismiss", p. 3.) Petitioner insists that the issuance of the warrants of distraint and levy and the corresponding notice of seizure is a decision or ruling which falls under the general clause "Other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue" (Par. 1, Sec. 7 of Rep. Act No. 1125).

Paragraph 1, Section 7 of Republic Act No. 1125 provides as follows:

> "SEC. 7. Jurisdiction---The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided--
>
> (1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;"

Under the above-quoted provision of Republic Act No. 1125, only decisions on disputed assessments (St. Stephen's Assn. vs. Collector of Internal Revenue, G.R. No. L-11238, Aug. 21, 1958) and claims for refund of internal revenue taxes, fees or other charges, penalties imposed in relation thereto (Johnston Lumber Co., Inc. vs. Court of Tax Appeals, G.R. No. L-9292, April 23, 1957; 53 Off. Gaz. 5226) are subject to the exclusive appellate jurisdiction of the Court of Tax Appeals. From the allegations in the petition for injunction, it does not appear that petitioner is appealing from a decision of the Commissioner of Internal Revenue on a disputed assessment, or on a claim for refund of taxes, fees or charges and penalties.

The petitioner's claim that the issuance of the warrants of distraint and levy and the corresponding notice of seizure is an appealable decision of respondents falling under the general clause "Other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue" of paragraph 1, Section 7 of Republic Act No. 1125 is not well taken. The "other matters" that may come under the general clause should be of the same kind and nature as those that have preceded them, that is, decision on a disputed assessment, or decision on a claim for refund of internal revenue taxes, fees or other charges, and penalties in relation thereto. The Supreme Court in the case of Ollada vs. Court of Tax Appeals, et. al., G. R. No. L-8878, promulgated on July 24, 1956, said:

> "Note that the law gives to the Court of Tax Appeals exclusive appellate jurisdiction to review decisions of the Collector of Internal Revenue, the Commissioner of Customs, and the provincial or city Boards of Assessment Appeals. Note also that in defining the cases that may be reviewed the law begins by enumerating them and then adds a general clause pertaining to other matters that may arise under the National Internal Revenue Code, the Customs Law and the Assessment Law.

> This shows that the 'other matters' that may come under the general clause should be of the same nature as those that have preceded them applying the rule of construction known as ejusdem generis. In other words, in order that a matter may come under the general clause, it is necessary that it belongs to the same kind or class therein specifically enumerated. Otherwise, it should be deemed foreign or extraneous and is not included."

Therefore, the issuance of the warrants of distraint and levy and the corresponding notice of seizure is not a decision which involves a disputed assessment or refund of taxes, fees, charges and penalties over which this Court can acquire exclusive appellate jurisdiction.

Moreover, Section 11 of Republic Act No. 1125 does not expressly vests in this Court original jurisdiction to issue a writ of injunction independently of, and apart from, an appealed case. The writ of injunction which this Court may issue to suspend the collection of taxes is merely ancillary to and in furtherance of its appellate jurisdiction. In sum, to quote the words of the Supreme Court, "the intention of Congress was to vest the Court of Tax Appeals with jurisdiction to issue writs of prohibition and injunction only in aid of its appellate jurisdiction in cases appealed to it and not to clothe it with original jurisdiction to issue them." (Coll. of Int. Rev. vs. J.C. Yuseco, et al., G. R. No. L-12518, Oct. 28, 1961.)

WHEREFORE, the instant petition for injunction should be, as it is hereby, dismissed for lack of jurisdiction.

SO ORDERED.

Manila, June 25, 1962.

MARIANO NABLE
Presiding Judge

I CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

I concur. I wish to add that we expressed the same view in Pantoja v. David, C.C. (Cebu) No. R-3045, decided by this Court on January 7, 1956, but reversed in G. R. No. L-10765, February 28, 1961.

ROMAN M. UMALI
Associate Judge