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Republic of the Philippines
COURT OF TAX APPEALS
Manila

HEALD LUMBER COMPANY,
Petitioner,

- versus - C.T.A. CASE NO. 1222

BENEDICTO PADILLA in his capacity as Acting Commissioner of Internal Revenue,
Respondent.

March 23, 1964

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D E C I S I O N

On February 10, 1959, the respondent assessed against the petitioner the sum of ₱41,040.00 as deficiency income tax for the year 1953. Upon petitioner's request for reconsideration, respondent, in his letter of November 24, 1961, reduced the deficiency assessment to ₱16,219.00, plus interest at the rate of ½% per month from June 20, 1959 to November 24, 1961, in the sum of ₱2,362.57. Petitioner paid the deficiency income tax of ₱16,219.00 but refused to pay the interest in the amount of ₱2,362.57 on the ground that there is no legal basis for the imposition and collection of said interest. Respondent having refused to reconsider his decision in regard to the liability of petitioner for the payment of said interest, the latter has appealed.

The sole issue in this case, as stated by counsel for petitioner, is whether or not petitioner is liable for the payment of the amount of ₱2,362.57, representing the monthly interest of ½% from June 20, 1959 to November 24, 1961 on the 1953 deficiency income tax assessed by respondent against petitioner on or about November 24, 1961.

Respondent seeks to justify the imposition of ½% monthly interest on the deficiency income tax in question upon Section 51(d) of the National Internal Revenue Code, which provides:

> (d) Interest on deficiency.- Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency and shall be paid upon notice and demand from the Commissioner of Internal Revenue; and shall be collected as a part of the tax, at the rate of six per centum per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installment, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed: PROVIDED, That the maximum amount that may be collected as interest on deficiency shall in no case exceed the amount corresponding to a period of three years, the present provisions regarding prescription to the contrary notwithstanding.

Section 51(d) quoted above is an amendatory provision contained in Republic Act No. 2343 which took effect on June 20, 1959. Before that date, the law did not impose any interest on deficiency income tax until after notice and demand from the Commissioner (formerly Collector) of Internal Revenue. For convenience, Section 51, as it stood before its amendment by Republic Act No. 2343, is quoted below:

> SEC. 51. Assessment and payment of income tax.- (a) Assessment of tax.- All assessments shall be made by the Collector of Internal Revenue and all persons and corporations subject to tax shall be notified of the amount for which they are respectively liable on or before the first day of May of each successive year.
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> (b) Time of payment.- The total amount of tax imposed by this Title shall be paid

on or before the fifteenth day of May following the close of the calendar year, by the person subject to tax, and, in the case of a corporation, by the president, vice-president, or other responsible officer thereof. If the return is made on the basis of a fiscal year, the total amount of the tax shall be paid on or before the fifteenth day of the fifth month following the close of the fiscal year.

(c) Installment payments.- When the tax assessed against the taxpayer is in excess of ten pesos, the taxpayer may elect to pay the tax in two equal installments in which case the first installment shall be paid on or before the date prescribed in the preceding subsection, and the second installment, on or before the fifteenth day of August following the close of the calendar year, or on or before the fifteenth day of the eighth month following the close of the fiscal year, as the case may be. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the Collector of Internal Revenue.

(d) Refusal or neglect to make returns; fraudulent returns, etc.- In cases of refusal or neglect to make a return and in cases of erroneous, false, or fraudulent returns, the Collector of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, or has been made, make a return upon information obtained as provided for in this code or by existing law, or require the necessary corrections to be made, and the assessment made by the Collector of Internal Revenue thereon shall be paid by such person or corporation immediately upon notification of the amount of such assessment.

(e) Surcharge and interest in case of delinquency.- To any sum or sums due and unpaid after the dates prescribed in subsections (b), (c) and (d) for the payment of the same, there shall be added the sum of five per centum on the amount of tax unpaid and interest at the rate of one per centum a month upon said tax from the time the same became due, except from the estates of insane, deceased, or insolvent persons.

While the old law required payment of the income tax on or before the 15th day of May following the close of the calendar year (in the case of calendar year taxpayers), it was the consistent practice of the Bureau of Internal Revenue not to collect interest on income tax not paid on or before May 15th until after there was a notice and demand from the Collector of Internal Revenue. This is based upon Section 51(a) which required that assessments must be made by the Collector and that taxpayers" shall be notified of the amount for which they are respectively liable on or before the first day of May of each successive year." In other words, the imposition of the delinquency penalties provided in Section 51(e) was conditioned upon an assessment or notice and demand being made by the Collector.

With the amendment of Section 51 by Republic Act No. 2343, the income tax becomes due and payable, in the case of calendar year taxpayers (apparently petitioner is a calendar year taxpayer), on or before April 15 after the close of each calendar year, without need of an assessment. And when a deficiency tax is assessed, Section 51(d) provides for the imposition of a monthly interest of ½% on the deficiency tax from the date prescribed for the payment of the tax. In this case, what is the date prescribed for the payment of 1953 income tax?

Applying Section 51(d) of the new law, in relation to Section 51(b) of the old law, the date prescribed for the payment of the 1953 income tax is May 15, 1954, and the interest of ½% per month on the deficiency tax is collectible from that date to the date the deficiency was assessed on November 24, 1961, which, however, cannot exceed the interest corresponding to three years. But since Republic Act No. 2343 took effect only on June 20, 1959, respondent has interpreted the law as authorizing the collection of interest only from the date of effectivity of the new law. Petitioner contends that to apply Section 51(d), as amended, to income tax which became due and payable prior to June 20, 1959, as in the instant case, is tantamount to applying the new law retroactively.

After a careful consideration of the question, we are of the opinion that the decision of respondent is more in accord with law. The deficiency assessment was made on November 24, 1961, after the effectivity of Republic Act No. 2343. The new law is, therefore, applicable to the assessment of the deficiency tax against petitioner for the year 1953. We think Congress has full power to provide for payment of interest on delinquency taxes which should have been paid before the enactment of the law prescribing payment of interest but assessed after the new law became effective. We cannot subscribe to the theory of herein petitioner to the effect that to impose interest on deficiency income tax for years prior to the effectivity of the new law would have the effect of applying the same retroactively, which is not sanctioned by the law. Precisely, the interest which is sought to be collected has been computed only from June 20, 1959, the date of effectivity of the new law. The allegation that the law is sought to be applied retroactively has no legal basis.

Finding the decision appealed from in accordance with law, the same is hereby affirmed, with costs against petitioner.

SO ORDERED.

Manila, March 23, 1964.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge