

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THE SHELL REFINING COMPANY
(PHILIPPINES) INC.,
Petitioner,

- VERSUS -

C.T.A. CASE NO. 2229

THE COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

X - - - - - X

12/6/74

D E C I S I O N

This is an appeal from a decision of respondent Commissioner of Internal Revenue holding petitioner liable for the sum of P41,165.38, as deficiency income tax for 1968, including interest thereon.

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Philippines with place of business and office address at the Shell House, Roxas Boulevard, Manila.

The facts of the case are stated in the petition for review, viz:

"IV. That on July 31, 1970, respondent addressed to petitioner a letter assessing and demanding payment against the latter in the total amount of P41,165.38 as alleged delinquency income tax including interest and penalty, for the taxable year 1968 on the ground that under Rep. Act No. 5431, domestic corporations have been made liable to the new tax rates of 25%/35% beginning July 1, 1968;

"V. That the above deficiency income tax assessment arose out of the application by the respondent of the new corporate income tax rates of "twenty-five percent upon the amount by which the taxable net income does not exceed one hundred thousand pesos; and thirty-five percent upon the amount by which the taxable net income exceeds one hundred thousand pesos" prescribed under Republic Act No. 5431 with respect to the net taxable income of petitioner for the second semester of 1968;

"VI. That petitioner is on a calendar year basis and it computed its income tax liability for the entire 1968 taxable year on the basis of the old corporate tax rates of 22% and 30% prescribed under Section 24 of the National Internal Revenue Code, prior to its amendment by Republic Act No. 5431;

"VII. That in a letter dated August 5, 1970, petitioner duly contested and protested the propriety and validity of the said delinquency income tax assessments for 1968; said letter of protest was filed with the office of the respondent on August 7, 1970;

"VIII. That respondent, in a letter dated January 20, 1971, which was received by petitioner on March 1, 1971, denied petitioner's above protest and reiterated therein his demand for the payment of the alleged delinquency income tax liability for the taxable year 1968 in the amount of ₱41,165.38; xx xx xx. "

The sole issue in this case is purely one of law, i.e., whether or not the increased rates of corporate income tax prescribed in Republic Act No. 5431, which amended Section 24 of the

Revenue Code, should apply to petitioner effective July 1, 1968.

Resolving a similar question in *The Manila Times Publishing Co., Inc. v. Commissioner of Internal Revenue*, C. T. A. Case No. 2263, December 17, 1973, cert. denied in G. R. No. L-38154, May 10, 1974, this Court held:

"It is the opinion of this Court, as the parties likewise do, that the terms of Section 10 of R. A. No. 5431 are clear and unambiguous and should be accorded its literal meaning. Analyzing carefully the wording of the law, we find that the key which could unravel the true and plain meaning thereof is the phrase "taxable year". The law has defined the term "taxable year" as the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed; and the term "fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. (Sec. 84(o) & (p), Revenue Code.) In accounting and income taxation, the term taxable year has acquired the accepted meaning as an accounting period of twelve months beginning January 1 and ending December 31, which is called a calendar year, or an accounting period of twelve months ending on the last day of any month other than December, which is termed a fiscal year. xxx.

"As defined by law and applicable jurisprudence, taxable year refers to a period of twelve uninterrupted

months. For this purpose, corporate taxpayers are classified into two, i.e., calendar year corporations and fiscal year corporations. Calendar year corporations have a taxable year beginning January 1 and ends December 31; while fiscal year corporations have a taxable year beginning the first day of any month except January 1. Accordingly, after June 30, 1968, the beginning of the taxable year in the case of fiscal year corporations would be July 1, August 1, September 1, October 1, November 1, 1968, February 1, March 1, April 1, May 1, and June 1, 1969. X X X.

"When the law, therefore, states that the provisions of this Act shall apply to income for taxable years beginning after June 30, 1968, it simply means that the increased rates apply to those whose taxable years begins after June 30, 1968, or to income earned for fiscal periods beginning July 1, 1968, etc., in the case of fiscal year corporations, and for those whose taxable period is the calendar year, beginning January 1, 1969, these periods being the first and next taxable years beginning after June 30, 1968."

Finding no cogent reason justifying a departure from the above-quoted ruling, we hold that under Republic Act No. 5431, the effectivity of the increased rates depends on when the taxable year of a corporation begins. It is the opinion of this Court, as it hereby holds, that as regards calendar year corporations the increased rates of corporate income prescribed in

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Republic Act No. 5431 shall apply to income earned by them only beginning January 1, 1969.

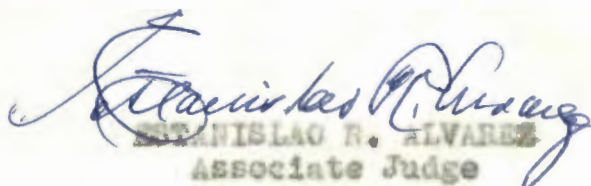
WHEREFORE, the decision appealed from is hereby reversed. Without pronouncement as to costs.

SO ORDERED.

Manila City, December 6, 1974.


ROMAN M. UMALI
Presiding Judge

WE CONCUR:


STANISLAS R. ALVAREZ
Associate Judge


RAMON L. AVANCEÑA
Associate Judge

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