REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THE UNITED CHURCH OF CHRIST
IN THE PHILIPPINES,
Petitioner,

- versus - C.T.A. CASE No. 2010

THE COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

x - - - - - - - - - - - - - - - x

DECISION

This is an appeal from the decision of the Commissioner of Internal Revenue assessing against and demanding from petitioner the sum of ₱1,215.46 as income tax and interests due from the operation of its Goodwill Pharmacy and Clinic in Lubuagan, Kalinga, Apayao for 1963.

Petitioner is a non-stock, non-profit, religious and charitable corporation. As one of its medical projects, petitioner started on June 10, 1962 the operation of the Goodwill Pharmacy and Clinic at Lubuagan, Kalinga, Apayao Province.

On April 8, 1964, petitioner filed its 1963 income tax return. An investigation was conducted by respondent of its activity of operating said pharmacy and clinic in 1963, and then an assessment notice dated January 31, 1968 was issued against petitioner in the sum of ₱1,235.46 after disallowing in its return the claim of bad debts due to the operation of said pharmacy and clinic.

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On November 11, 1968, petitioner, through Miss Ruth E. Rauch, protested the said assessment on the ground that the disallowance of the bad debts is unreasonable and unjust and should be allowable as the debtors were already dead and that the Goodwill Pharmacy and Clinic, being operated by the United Church of Christ in the Philippines, which is itself a religious and charitable corporation not being conducted for profit, it is exempt from income tax under Section 27(e) of the National Internal Revenue Code.

In a letter dated December 9, 1968, Regional Director D. N. Roque of Regional District No. 1, Bureau of Internal Revenue, denied petitioner's protest, which is quoted hereunder:

"December 9, 1968

United Church of Christ in the Philippines
Lubuagan, Kalinga-Apayao

Attn: Miss Ruth E. Rauch

Gentlemen:

Reference is made to your letter of November 11, 1968 protesting the income tax assessment of ₱1,235.46 on the operation of your Goodwill Pharmacy and Clinic for the year 1963.

The records show that the aforesaid assessment arose mainly from the disallowance of your claim for bad debts in the amount of ₱3,247.09. Your claim was disallowed due to your failure to submit

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together with your income tax return, a statement on the propriety of such deduction, showing such pertinent facts as: (a) the nature of the debt (b) the name of the debtor (c) your relationship with the debtor (d) when the debt was incurred (e) when the debt became due (f) your effort made to collect the debt (g) how the debt was determined to be worthless, and other vital information concerning the same.

In order that a claim for bad debt may be allowed as deduction from gross income, it is imperative to show that (1) the debt is actually ascertained to be worthless, and (2) that the same is charged-off in the books within the same taxable year.

Your general contention that it is "quite impossible" to collect the debts because the debtors were all deceased, does not fully demonstrate the uncollectibility of the obligation, for the simple reason that collection may still be effected against their respective estates. For a debt to be allowed, it must not only be uncollectible, but must also appear to be uncollectible at any time in the future.

Regarding your other contention that the Goodwill Pharmacy and Clinic is operated, managed and subsidized by the United Church of Christ in the Philippines which is a religious corporation exempt from taxation under Section 27(e) of the Tax Code, please be informed that the same section also provides that "the income of whatever kind and character from any of its properties, real or personal, or from any activity conducted for profit, regardless of the disposition made of such income, shall be liable to the tax imposed under this Code". Indeed, the Goodwill Pharmacy And Clinic is your property, and therefore, the income should be declared for taxation purposes pursuant to the aforementioned provision of the law. In fine, the operation of the Goodwill Pharmacy And Clinic is "not a purely religious activity" as to warrant exemption under the Tax Code.

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> Finally, it is to be emphasized that exemption from taxation is to be strictly construed, and should not be made to rest on mere inferences. He who claims exemption must be able to justify his claim with the clearest grant of organic or statute law.
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> In view of all the foregoing, it is regretted that your protest has to be, as it is hereby, denied, and you are requested to cause the immediate settlement of the above liability so as to avoid further accrual of penalties.
>
> Very truly yours,
>
> (Sgd.) D. R. ROQUE
> Regional Director"

An official stamp on this letter shows that it was released by the BIR Revenue Regional Office No. 1 on January 13, 1969.

On February 10, 1969, Regional Director D.R. Roque again wrote petitioner with the observation that the latter not having settled the income tax liability in the sum of ₱1,235.46 plus increments thereto, demanded for the settlement thereof not later than the end of the month of February, 1969 and threatened that failure to do so will constrain him to collect by summary remedies.

In a letter dated March 16, 1969, petitioner, through SimplicioCaguay, together with enclosures thereto, requested for reconsideration of respondent's letter dated December 9, 1968 maintaining, among others, that the Goodwill Pharmacy and Clinic is operated by it as a religious, non-profit, non-stock organization and is exempt from payment of all kinds of taxes under Section 22(3), Article VI of the Philippine Constitution and that its exemption on its properties and activities extends to those that are incidental to, and necessary to the accomplishment of its purposes, and citing as authority the decisions in the cases of Jesus Sacred Heart College vs. Collector of Internal Revenue (G.R. No. L-6807, May 24, 1954, 95 Phil 16.) and Jose V. Herrera and Ester Herrera vs. Quezon City Board of Assessment Appeals (G.R. No. L-15270, Sept. 30, 1961, 113 Phil 177.) and that its activity of operating said pharmacy and clinic being a religious or charitable character and not an activity conducted for profit, is exempt under Section 27(e) of the National Internal Revenue Code.

On April 11, 1969, a letter was again sent to petitioner, but this time by Regional Director Mauro Calaguio, denying the motion for reconsideration for the same reasons stated in their letter of December 9, 1968, which, in effect, is predicated on the ground that said Goodwill Pharmacy and Clinic was not organized and operated exclusively for religious or charitable purposes so as to fall under the exemption granted in Section 27(e) of the Tax Code, because it cannot be said that the operation of said pharmacy and clinic is incidental to, or necessarily connected with, the accomplishment of petitioner's function as a religious organization, said pharmacy and clinic being undeniably its property and subsidiary and that, under the proviso in Section 27(e) of the Tax Code, the income received from any of its properties, real or personal, regardless of the disposition of such income shall be liable to income tax; that the claim that under the Constitution (Sec. 22(3) of Art. XI), it is exempt from all kinds of taxes is incorrect as this provision refers only to real property taxes; and that while it may be true that petitioner is exempt from taxation under Section 27(e) of the Tax Code, said exemption cannot be extended to cover the operation of any of its instrumentality which is not exclusively organized for, essential to, or reasonably connected with its religious purposes under the general principle that exemption from taxation is a derogation of the power to tax and must strictly be construed and cannot rest on mere implication and that whoever claims exemption thereon must be able to justify as more than 30 days had elapsed from January 20, 1969, the date the letter of December 9, 1968 was presumed to have been received through the mails, since said letter was released by the BIR Administrative Branch at Baguio City on January 13, 1969.

We are in agreement with the claim of respondent that the decision to be appealed from, and to be brought to us upon appeal under Sections 7 and 11 of Republic Act No. 1125, is that letter dated December 9, 1968. The assessment in this case is that letter-notice dated January 31, 1968 since it determined petitioner's liability and fixed the sum for which it is liable for income tax for 1963 in the sum of ₱1,235.46 inclusive of interests. (Ventanilla v. BTA, G.R. No. L-7382, Dec. 19, 1955; see also Bull vs. U.S. 295 US 247, 260.) This assessment was then subjected to a protest by petitioner in a letter dated November 11, 1968 questioning the assessment and claiming that it is exempt from said tax. The letter of Regional Director D.R. Roque dated December 9, 1968, subsequently denying petitioner's protest is, therefore, the decision on the disputed or protested assessment which should be appealed from, and brought to this Court, within 30 days from the date of receipt thereof. (Comm. of Int. Rev. v.

Villa, et al., G.R. No. L-23988, Jan. 2, 1968, 22 SCRA 3; St. Stephen's Assn et al. v. Coll. of Int. Rev., 104 Phil 314.) The Supreme Court said in the aforesaid case of St. Stephen's Assn., supra.:

> "xxx Where a taxpayer questions an assessment and asks the Collector to reconsider or cancel the same because he (the taxpayer) believes he is not liable therefor, the assessment becomes a 'disputed assessment' that the Collector must decide, and the taxpayer can appeal to the Court of Tax Appeals only upon receipt of the decision of the Collector on the disputed assessment. xxx"

This decision having been released or sent by mail to petitioner on January 13, 1969, aforesaid, it is presumed to have been received within 5 days from mailing under Section 8, Rule 13 of the Rules of Court, or on January 18, 1969 (not January 20 as asserted by respondent). This decision can be made subject of a motion for reconsideration which, in order to be given due course, must be filed within the 30-day period of appeal and which, if not pro forma (Antonio H. Noblejas vs. Comm. of Int. Rev. CTA 1923, Resolution, Oct. 4, 1968), will suspend the 30-day period to appeal. (Rufino Lopez & Sons vs. CTA, G.R. No. L-9274, Feb. 1, 1957, 100 Phil 850; Muller & Phipps, Manila Ltd. vs. Coll., G.R. L-10694, March 20, 1958, 103 PHil 145; North Camarines Lumber Co. vs. Coll. of Int. Rev., G.R. L-12353, Sept. 30, 1960, 109 Phil 511; Pang. Transp. Co. vs. Blaquera G.R. L-13101, April 29, 1960, 107 Phil 975.) The 30-day period to file a motion for reconsideration or appeal ended February 17, 1969. The motion for reconsideration having been filed only on March 16, 1969, it was filed out of time by petitioner and, therefore, never suspended the said 30-day period of appeal. Consequently, we hold that due to petitioner's failure to file said motion for reconsideration or otherwise appeal within 30 days from receipt of said decision, it, therefore, became final and unappealable, and this Court lacks the jurisdiction to take cognizance of the appeal.

Having just held that this Court has no jurisdiction over this case, the disposition of the second issue becomes unnecessary.

WHEREFORE, the instant petition for review filed by petitioner should be, as it is, hereby dismissed.

With costs against petitioner.

SO ORDERED.

Quezon City, May 7, 1977.

CONSTANTE C. ROAQUIN
Associate Judge

I CONCUR:

AMANTE FILLER
Acting Presiding Judge

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