Lit.

COMMONWEALTH FOODS, INC.,
Petitioner,

versus C.T.A. CASE NO. 2283

THE COMMISSIONER OF INTERNAL REVENUE
Respondent.

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

DECISION

9/30/75

Petitioner seeks the refund of the sum of ₱19,335.68 which was paid as deficiency income tax and penalty for the year 1968.

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Philippines. It is keeping its books of accounts and records on the fiscal year basis, which starts from October 1 and ends on September 30 of the following year. For the fiscal year 1967-1968 or from October 1, 1967 to September 30, 1968, it paid its income tax under the old rates of 22% and 30%, under Section 24 of the Revenue Code prior to its amendment by Republic Act No. 5431. However, respondent computed the income tax of petitioner based on the new rates of 25% and 35% as prescribed in Section 24, as amended by Republic Act No. 5431, with respect to its income earned from July 1, 1968 to September 30, 1968. As a result, respondent assessed against petitioner a deficiency income tax of ₱19,335.68, inclusive of penalty. Petitioner paid the said amount under O.R. No. 1749370 dated May 1, 1969.

Subsequently, petitioner filed a claim for refund of the amount of ₱19,335.89 on the ground that it is not subject to the increased rates of 25% and 35% under Republic Act No. 5431 effective July 1, 1968 but to the former rates of 22% and 30%. Without waiting for respondent's decision on its claim for refund, petitioner appealed.

The sole issue in this case is purely one of law, i.e., whether or not the increased rates of corporate income tax of 25%-35% prescribed in Republic Act No. 5431 should apply to petitioner's income received from July 1, 1968 to September 30, 1968.

We have already held that a fiscal year corporation is subject to the new corporate income tax rates from the beginning of its taxable year after June 30, 1968. The beginning of the taxable year of petitioner after June 30, 1968 is October 1, 1968 and not July 1, 1968. Accordingly, it was error for respondent to apply the new corporate income tax rates on the income of petitioner beginning July 1, 1968. (Manila Times Publishing Co., Inc. vs. Comm. of Int. Rev., C.T.A. Case No. 2263, December 17, 1973, certiorari denied in G.R. No. L-38154, May 10, 1974; Pepsico, Inc. v.

The Commissioner of Int. Rev., C.T.A. Case No. 2245, Feb. 19, 1975, and cases cited therein.) The sum of ₱19,335.68 was, therefore, erroneously paid.

WHEREFORE, respondent is hereby ordered to refund to petitioner the sum of ₱19,335.68, without interest. No pronouncement as to costs.

SO ORDERED.

Quezon City, September 30, 1975.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge