Library

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

July 17, 1964

JUAN JAMORA, JR.,
Petitioner,

- versus - C.T.A. CASE NO. 1330

THE COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

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DECISION

This is an appeal from a decision of the respondent dated December 28, 1962 holding the petitioner liable for the deficiency income tax assessments for the years 1956, 1958 and 1959, in the total amount of ₱641.50.

Petitioner is the President of the Lincoln College, a non-stock educational institution located in Iloilo City, which is operated and run by the Marian Corporation. The articles of incorporation of this institution, as originally drafted and executed, was entitled "Articles of Incorporation of the Lincoln School". When registered, however, with the Securities and Exchange Commission, this title was changed by crossing out the words "the Lincoln School", and substituting therefor the name "Marian Corporation".

The persons who constitute the Board of Trustees of the Lincoln School, now Lincoln College, are the original incorporators of the Marian Corporation. (Exhibits "A", "A-1" and "A-2", pp. 42-45, CTA Rec.)

The purpose for which the Marian Corporation is formed is to establish, operate and own educational institutions which shall be maintained by means of tuition and other fees, matriculations, endowments, donations and charitable contributions. (Exhibit "A", pars. 1 and 7)

In order to meet its operational expenses, specially the interests on its loan from the Development Bank of the Philippines, the Lincoln College leased four of the rooms in the first floor of its three-story building to Del Rosario Marketing Corporation for which it was paid a rental of ₱2,800.00 in 1958, and ₱5,200.00 in 1959, (pars. 1 and 2, Petition; par. 1, Answer; See also Exhibit "E"). In 1956, the College realized from its educational activities an income of ₱4,124.21, but it never filed any income tax return due to its belief that it is tax-exempt. (pp. 16-20, t.s.n.)

Petitioner filed his individual income tax returns for the tax years 1956, 1958 and 1959. (Exhibits "12" to "14" inclusive, pp. 19-23, BIR Rec.) But these returns did not include the income of the institution.

In view of the expected income from the lease of a portion of its building, petitioner wrote on June 26, 1958 to the respondent Commissioner inquiring "if there is any tax to pay the Government in which case we (petitioner) would be very glad to comply". This letter was not answered. Instead, respondent ordered the examination of the books of accounts of the petitioner, including those of the Lincoln College of which he is the President. (Exhibit "1", pp. 109-115, BIR Rec.)

On May 24, 1962, respondent issued against petitioner Deficiency Income Tax Assessment Notices Nos. 22-EAR-755423-62/56, for ₱313.58 (Exhibit "15", p. 184, BIR Rec.); 22-EAR-862212-62-58 for ₱85.07, (Exhibit "16", p. 184, BIR Rec.); and 23-EAR-861343-62-59 for ₱242.85 (Exhibit "17", p. 184, BIR Rec.).

These assessments were disputed by the petitioner in his letter, dated June 22, 1962, (Exhibit "18", pp. 185-187, BIR Rec.) wherein he requested that they be reconsidered. This request was denied by the respondent in his letter, dated December 28, 1962 (Exhibit "19", p. 196, BIR Rec.).

It appears in evidence that the properties of the Lincoln College, consisting mainly of several school buildings, were declared for real estate tax purposes in the name of the institution. (Exhibits "C" to "C-5", pp. 67-72, CTA Rec.)

Petitioner contends that the Lincoln College is not a single proprietorship exclusively owned by the petitioner and his wife, as contended by the respondent, but a non-stock corporation dedicated exclusively to religious, cultural and educational purposes, no income of which inures to the benefit of any individual, and therefore is tax-exempt. And that, granting for the sake of argument that the income of the Lincoln College is taxable, the respondent's right to assess and collect the tax in question has already prescribed.

It is abundantly clear that the Lincoln School, now Lincoln College, was registered as Marian Corporation. This is indicated not only by the articles of incorporation (Exhibit "A"), where the typewritten name, "The Lincoln School", was crossed out and was substituted with the name, "Marian Corporation", but also by the fact that the incorporators of the Marian Corporation and the members of the Board of Trustees of the Lincoln College are identically the same persons. It is equally clear that the Lincoln College (registered as Marian Corporation) is a non-stock corporation.

There is no evidence indicating that the Lincoln College is owned exclusively by the petitioner and, therefore, he cannot be assessed for any income realized by the Lincoln College.

In view of this conclusion, we find it unnecessary to determine whether or not the income in question is taxable.

WHEREFORE, the decision of respondent, dated December 28, 1962, is hereby set aside, without any pronouncement as to costs.

SO ORDERED.

Quezon City, July 17, 1965.

TEOFILO D. REYES, SR.
Presiding Judge

WE CONCUR:

ROMAN M. UMALI
Associate Judge

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ALEJANDRO B. AFURONG
Associate Judge