REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EVERETT STEAMSHIP CORPORATION,
Petitiiner,

- versus - C. T. A. CASE NO. 2088

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - - - - - x

DECISION

Petitioner is seeking refund of the amount of ₱17,598.21, representing income tax and interest allegedly erroneously paid on its income for the year 1968.

It appears that petitioner, a corporation filing its income tax returns on the calendar year basis, was required by respondent to pay the amount of ₱19,844.48 as deficiency income tax and interest for the year 1968. The deficiency stemmed from the disallowance of the sum of ₱10,000.00 claimed by petitioner as bad debts and from the application, effective July 1, 1968, of the new corporate income tax rates of 25% and 35% prescribed in Republic Act No. 5431.

Petitioner does not dispute the deficiency assessment insofar as the disallowance of the deduction for bad debt is concerned. In fact, it paid on July 16, 1969 the sum of ₱3,030.00 as deficiency income tax on the basis of said disallowance. However, in regard to the amount of the deficiency which arose

(28)

from the application of the increased rates of corporate income tax effective July 1, 1968, the same is contested by petitioner on the ground that, in the light of Section 10 of said Republic Act No. 5431 which provides that "The provisions of this Act shall apply to income for taxable years beginning after June 30, 1968", its taxable year after June 30, 1968, which is the calendar year, begins on January 1, 1969 and not July 1, 1968.

On January 30, 1970, in a letter addressed to, and received by, the petitioner on February 11, 1970, respondent reiterated the demand for payment of the deficiency in the sum of ₱19,844.48, but petitioner, in its reply of February 16, 1970, requested that said demand be countermanded and held in abeyance until final action on its protest of July 18, 1969 shall have been decided.

On February 20, 1970, in a letter to petitioner, respondent denied petitioner's protest contained in its letters of February 16, 1970 and July 18, 1969, which letter of denial was received by petitioner on March 5, 1970.

On March 21, 1970, petitioner paid under protest the sum of ₱17,598.21, representing the balance of the amount originally assessed, inclusive of interest from April 16, 1969 to March 23, 1970. This payment was made known to respondent in petitioner's letter filed with the latter on March 25, 1970 further contesting the legality of the assessment and, at the same time, seeking the refund of the amount of ₱17,598.21.

The question posed for our consideration is whether the new corporate income tax rates provided in Republic Act No. 5431 are applicable to income of calendar year corporations, such as petitioner herein, effective July 1, 1968 or January 1, 1969.

The issue in this case is not of first impression. In previous cases involving the same issue, this Court ruled that the increased corporate income tax rates prescribed in Republic Act No. 5431 are not applicable to income of calendar year corporations beginning July 1, 1968 but on January 1, 1969. Thus from July 1, 1968 to December 31, 1968, the income of such corporations is still subject to the old rates prescribed under Section 24 of the Internal Revenue Code, before its amendment by Republic Act No. 5431. (The Manila Times Pub. Co., Inc. vs. Comm. of Int. Rev., C.T.A. CASE No. 2263, Dec. 17, 1973, Cert. denied in G.R. No. L-38154, May 10, 1974; Zamboanga Wood Products, Inc. vs.

Comm. of Int. Rev., C.T.A. Case No. 2053, June 3, 1974; Colgate Palmolive Phil., Inc. vs. Comm. of Int. Rev., C.T.A. Case No. 2293, June 10, 1974; Phil. Aviation Corp. vs. Comm. of Int. Rev., C.T.A. Case No. 2195, Aug. 5, 1974; Rural Bank of Sariaya, Inc. vs. Comm. of Int. Rev., C.T.A. Case No. 2068, Sept. 24, 1974; Rural Bank of Talisay (Cebu) Inc. vs. Comm. of Int. Rev., C.T.A. Case No. 2250, Sept. 24, 1974.)

WHEREFORE, finding no valid ground to deviate from the aforesaid ruling of this Court in said cases, judgment is hereby rendered ordering the respondent Commissioner of Internal Revenue to refund to petitioner the aforesaid sum of ₱17,598.21, representing erroneously paid income tax and interest for the year 1968. No costs.

SO ORDERED.

Quezon City, November 12, 1974.

R. M. Umali
ROMAN M. UMALI
Presiding Judge

WE CONCUR:

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

Ramon L. Avanceña
RAMON L. AVANCEÑA
Associate Judge