REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

PHILIPPINE RACING CLUB, INC.,
Plaintiff,

- versus -

MANILA CIVIL
CASE NO. 20313

July 15, 1957

THE COLLECTOR OF INTERNAL
REVENUE, Defendant.

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

D E C I S I O N

The plaintiff is seeking the refund of ₱12,902.00 and ₱6,797.00 which it paid as income tax on the sums of ₱80,635.95 and ₱93,307.50. The sums of ₱80,635.95 and ₱93,307.50 were allegedly "derived by the plaintiff from holding . . . horse races for the Philippine Charity Sweepstakes Office" during the years 1950 and 1951. The claim for refund is based solely on Section 3 of Republic Act No. 79 which exempts racing clubs holding horse races authorized therein from the payment of any municipal or national tax.

The action for recovery of the sums of ₱12,902.00 and ₱6,797.00 was originally filed with the Court of First Instance of Manila on August 8, 1953. In his answer, defendant raised two issues, to wit: (1) that the complaint states no cause of action there being no allegation that plaintiff exhausted all the administrative remedies available by appealing the adverse decision of the defendant to the then Board of Tax Appeals, and (2) that plaintiff is not entitled to exemption from the income tax on the amounts received by it from the Philippine Charity Sweepstakes Office under Section 260 of the National Internal Revenue Code, as amended, and Section 3 of Republic Act No. 79. The case having remained pending in the Court of First Instance of Manila upon the establishment of this Court by Republic Act No. 1125, which took effect on June 16,1954, it was remanded to this Court pursuant to Section 22 of said Act.

The argument that plaintiff has no cause of action because it did not exhaust all administrative remedies by appealing the decision of defendant to the Board of Tax Appeals is without merit. Under the law in force when the action for recovery was instituted by plaintiff in the Court of First Instance of Manila on August 8, 1953, it was not necessary for a taxpayer to appeal to the former Board of Tax Appeals a decision of the Collector of Internal Revenue denying the claim for refund of an internal revenue tax before instituting an action for its recovery in the proper Court of First Instance. (University of Sto. Tomas v. Board of Tax Appeals, G. R. No. L-5701, June 23, 1953.) Counsel for defendant must have realized the futility of pressing the issue so that nothing has been said about it in their memorandum. We shall, therefore, consider solely the question whether or not plaintiff is exempt from the income tax on the amounts it received from the Philippine Charity Sweepstakes Office during the years 1950 and 1951.

The parties agreed that "the plaintiff received from the Philippine Charity Sweepstakes Office the sums of ₱80,635.95 and ₱93,307.50 as its share from the net proceeds from the holding of horse races in 1950 and 1951." However, Exhibit 1 itemizes the sources of said amounts as shown below:

<u>1950</u>

| | |
|---|---|
| (1) Track rentals - | |
| Jan. 28, 1950 ---------- | ₱ 3,950.00 |
| Feb. 19, 1950 ---------- | 3,950.00 |
| Mar. 11, 1950 ---------- | 3,875.00 |
| Mar. 25, 1950 ---------- | 3,875.00 |
| Apr. 16, 1950 ---------- | 3,875.00 |
| (2) Shares in net proceeds of sweepstakes races - | |
| Feb. 28, 1950 ---------- | ₱14,887.87 |
| June 30, 1950 ---------- | 14,179.19 |
| Oct. 31, 1950 ---------- | 16,471.75 |
| Dec. 25, 1950 ---------- | 15,572.14 |
| Total --------- | ₱80,625.95 |

<u>1951</u>

| | |
|---|---|
| (1) Track rentals - | |
| Jan. 27, 1951 ---------- | ₱ 3,875.00 |
| Feb. 17, 1951 ---------- | 3,875.00 |
| Mar. 10, 1951 ---------- | 3,875.00 |
| Mar. 31, 1951 ---------- | 3,875.00 |
| Apr. 28, 1951 ---------- | 3,875.00 |
| May 12, 1951 ---------- | 3,875.00 |
| (2) Shares in net proceeds of sweepstakes races - | |
| Feb. 25, 1951 ---------- | ₱16,231.19 |
| Apr. 24, 1951 ---------- | 14,803.39 |
| Sept. 16, 1951 ---------- | 12,326.68 |
| Oct. 18, 1961 ---------- | 22,821.24 |
| Total --------- | ₱93,307.50 |

The amounts received by plaintiff from the Philippine Charity Sweepstakes Office as track rentals were for the use of the former's race track during Saturday races held by the latter pursuant to the authority granted to it by Republic Act No. 79, while the amounts received by plaintiff as its shares in the net proceeds of sweepstakes races were paid to it in connection with sweepstakes races held in its race track by the Philippine Charity Sweepstakes Office by authority of Act No. 4130, as amended. In both cases, plaintiff claims exemption from income tax under Section 3 of Republic Act No. 79.

Republic Act No. 79 authorizes the holding by the Philippine Charity Sweepstakes Office of horse races, with betting, on Saturday afternoons, for charitable, relief and civic purposes, and exempts the racing club holding these races from the payment of any municipal or national tax. In Collector of Internal Revenue v. Manila Jockey Club, Inc., G.R. No. L-8755, March 23, 1956, it was held that the exemption from taxation provided in Section 3 of Republic Act No. 79 is limited to the city or municipal license fee of ₱600.00 for each day of racing imposed by Section 26 of Republic Act No. 309 and to the fixed tax of ₱500.00 for each day on which races are run imposed by Section 193 of the National Internal Revenue Code (now Section 182 (A)(3) of the same Code) and does not extend to the income tax on the rentals received by the racing club for the use of its race track. Said the Supreme Court:

> "The foregoing lead us to the conclusion that the exemption clause provided for in section 3 of Republic Act No. 79 merely intends to exempt the racing club in whose premises or tracks the races are held by the Philippine Charity Sweepstakes Office from the payment of the taxes we have above adverted to because they are the only ones that have any connection with the races held by said Office. It cannot certainly refer to any income tax that may be imposed on the rentals that may be paid for the use of those tracks and other paraphernalia. That is an income that the racing club has to account for income tax purposes because it is an income that the club earned because of the use of its tracks by the Philippine Charity Sweepstakes Office. It is an income that, strictly speaking, did not come from the horse races held by said club but it came to it as rentals paid for the use of its property. And the tax paid for such income cannot therefore be considered as one connected with those races within the purview of the exemption clause."

Following the decision of the Supreme Court in the case of the Manila Jockey Club, Inc., cited above, plaintiff herein is not entitled to exemption from the income tax on the rentals that it received for the use of its race track by the Philippine Charity Sweepstakes Office during Saturday races held pursuant to Republic Act No. 79. Neither may exemption be claimed with respect to the amounts received by plaintiff as its shares of the net proceeds from the holding of charity sweepstakes races for the reason that such races were held by the Philippine Charity Sweepstakes Office by virtue of Act No. 4130, as amended, and not under Republic Act No. 79.

Let us now inquire whether plaintiff may claim exemption from the income tax on the amounts received by it from the Philippine Charity Sweepstakes Office in connection with charity sweepstakes races held by the latter in the former's race track in accordance with Act No. 4130, as amended. The pertinent provisions of Act No. 4130, as amended, are as follows:

> "As an emergency measure the holding of charity horse race sweepstakes is authorized under the conditions provided in this Act. At least two of these races shall be held in the Philippines and in them only horses which have not run on any race course shall participate, and all said races shall be held under the direction and management of a public corporation to be known as Philippine Charity Sweepstakes Office. x x x." (Sec. 2, Act No. 4130, as amended.)

> "The holding of horse races and sale of tickets authorized by this Act shall be exempt from the payment of any tax, except the tickets each of which shall bear a twelve-centavo internal revenue stamps. x x x ." (Sec. 6, id.)

Section 2 of Act No. 4130, as amended, authorizes the Philippine Charity Sweepstakes Office to hold "charity horse race sweepstakes", and Section 6 thereof provides that the "holding of horse races and sale of tickets authorized by this Act shall be exempt from the payment of any tax". Obviously, the exemption from taxation provided in Section 6 is limited to the holding of horse races and the sale of tickets under said Act by the Philippine Charity Sweepstakes Office. There is nothing in said Act which provides for the exemption of the racing club where such races are held from the payment of any kind of tax, like Section 3 of Republic Act No. 79, from which it may be inferred that the racing club where such races are held is not even entitled to exemption from the city or municipal fee of ₱600.00 imposed by Section 26 of Republic Act No. 309 and the fixed tax of ₱500.00 imposed by Section 182 (A)(3) of the National Internal Revenue Code.

FOR THE FOREGOING CONSIDERATIONS, we are of the opinion that plaintiff is subject to the income tax on the amounts received by it from the Philippine Charity Sweepstakes Office either as rentals for the use of its race track during Saturday races held under Republic Act No. 79 or as its shares in the net proceeds derived from the holding of charity sweepstakes races under Act No. 4130, as amended. The complaint is accordingly dismissed, with costs against plaintiff.

SO ORDERED.

Manila, Philippines, July 15, 1957.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge

Decision affirmed in G R No L-12781 Aug. 31, 1960

334