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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

September 26, 1962

SEVERINA DEL CASAL,
Petitioner,

- versus -

C.T.A. CASE No. 130

THE COLLECTOR OF INTERNAL REVENUE,
Respondent.

X - - - - - - - - - - - - - X

D E C I S I O N

This is an appeal from the decision of the Collector (now Commissioner) of Internal Revenue assessing against and demanding from petitioner deficiency income taxes for the years 1948 and 1949, in the total amount of ₱55,577.25, inclusive of surcharges, interest, and compromise penalties for failure to file returns and for late payment of the tax.

Petitioner, on July 31, 1948, purchased a parcel of land, together with improvements thereon which consist of four-story duplex apartments known as the "Commodore Apartments", for the sum of ₱180,000.00.

Upon investigation by respondent's agents, it was discovered that petitioner did not file income tax returns from 1945 to 1954. In consequence thereof, respondent filed returns for her for the years 1948 and 1949. And on the basis of the consideration of ₱180,000.00, respondent , on

May 20, 1954, assessed against and demanded from petitioner income taxes for the years 1948 and 1949 in the sums of ₱46,563.64 and ₱1,723.27, respectively, or in the total sum of ₱48,286.91, inclusive of 50% surcharges and administrative penalties for failure to file returns. (Exh. 3, p.13 BIR rec.)

On June 24, 1954, petitioner disputed the assessment, requesting that her tax case be heard before the Conference Staff of the Bureau of Internal Revenue. (p. 14 BIR rec.)

After due hearing before the Conference Staff of petitioner's tax case, respondent, on April 18, 1955, assessed against and demanded from petitioner the total amount of ₱55,577.25, computed as follows:

1948 deficiency income tax due	₱46,523.64
1949 " " " "	1,683.27
Total amount due	₱48,206.31
5% surcharge	2,410.31
1% monthly interest from June 30, 1954 to April 30, 1955	4,820.63
Compromise for failure to file returns for 1948 and 1949 at ₱40.00	80.00
Compromise for late payment of the tax	60.00
TOTAL AMOUNT DUE	₱55,577.25

(Exh.4, pp. 73-74 BIR rec.)

The total alleged deficiency income taxes due in the amounts of ₱46,523.64 and ₱1,683.27 should be ₱48,206.91, instead of ₱48,206.31 erroneously indicated in the foregoing assessment.

From this final assessment, petitioner appealed to this Court, alleging, in her petition for review, that respondent's right to collect the tax in question by summary method has already prescribed in accordance with Section 51(d) of the National Internal Revenue Code; and that the assessment is without basis in law and in fact as it was solely based on the amount of ₱180,000.00 which is not income earned by her.

Neither petitioner nor her counsel appeared during the scheduled hearing on August 27, 1962. Whereupon, on motion of counsel for respondent, the Court ordered her to proceed with the presentation of her evidence. Respondent's counsel presented only documentary evidence, after which the case was submitted for decision. The evidence of petitioner had established sufficiently and adequately the facts as heretofore stated.

On the basis of the pleadings and the facts established during the hearing, the issues are:

> 1. Whether or not petitioner is liable for deficiency income taxes in the total amount of ₱55,577.25, inclusive of surcharges, interest, and compromise penalties for failure to file returns and for late payment of the tax.
>
> 2. Whether or not the collection of the taxes have prescribed.

Petitioner failed to appear and present evidence or proof in support of her allegations in her petition for review. Hence, conformably to the doctrine of the presumption in favor of the correctness of tax assessments (Inter-provincial Autobus Co., Inc. vs Coll. of Int. Rev., G.R. No. L-6741, Jan. 31, 1956; Collector vs. Bohol Land Transportation Co., G.R. Nos. L-13099 & 13462, April 29, 1960), we are constrained to sustain the deficiency income tax assessment against petitioner including penalties, except with respect to the alleged compromise penalties, respondent having no authority to impose compromise penalties without the consent of the taxpayer concerned.

IN VIEW OF THE FOREGOING, the decision of the respondent Collector (now Commissioner) of Internal Revenue is hereby affirmed, except with respect to the compromise penalties. It appearing that petitioner is already dead, her estate, or her successors in interest, is hereby ordered to pay to the Commissioner of Internal Revenue, within 30 days from the date this decision becomes final, the amount of ₱48,206.91 as deficiency income taxes for the years 1948 and 1949, plus 5% surcharge and 1% monthly interest from June 30, 1954 until the taxes are paid, subject to the limitations prescribed in Section 51 of the National Internal Revenue Code, as amended. With costs against petitioner.

SO ORDERED.

Manila, September 26, 1962.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge