REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

ANA BUILDING, INC.,
Petitioner,

versus

C.T.A. CASE NO. 1877

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

R E S O L U T I O N

This treats of petitioner's "Manifestation" filed on February 6, 1973, praying that the assessment for the year 1961 be ordered cancelled and withdrawn on the ground that it has availed of the Presidential Decree No. 68 by paying respondent the sum of ₱7,662.29. (Annex "A" Manifestation, p. 70, CTA rec.)

Respondent interposed his opposition and contends that as of January 31, 1973, the correct amount to be paid representing the 60% of the total amount due the government should be ₱7,692.95 and not the amount of ₱7,662.29 as paid. Thus, there exists a balance of ₱30.66 still due under Presidential Decree No. 68.

Respondent contended further that since the 60% has not been fully paid, petitioner is not entitled to the 40% deduction pursuant to paragraph 2(a) of the Presidential Decree but only to 20% deduction as provided for in paragraph 2(b) of said decree computed as follows:

Amount due	₱ 12,870.58
Deduct 20%	2,574.12
Tax due per Pres. Decree	₱ 10,296.46
Less amount paid	7,662.29
AMOUNT STILL DUE AND COLLECTIBLE	₱ 2,634.17

The pertinent provision of Presidential Decree No. 68 relied upon by the parties is quoted as follows:

> "2. That in the case of all delinquent tax accounts which remain unpaid involving an amount exceeding One Hundred Pesos (₱100.00) including all unlisted and/or current tax accounts resulting from assessments and/or letters of demand already issued as of the date of this Decree and/or such accounts which are protested and/or contested, the final resolution of which are still pending in the Bureau of Internal Revenue and/or in courts shall be produced.
>
> '(a) By 40% if said delinquent tax is <u>paid in full on or before January 31, 1963</u>.
>
> '(b) By 20% if said delinquent tax account is paid in full on or before February 28, 1973.' (Underlining supplied.)

From the above quoted provision, it is evident that in order to avail of the 40% deduction under paragraph 2(a), the delinquent taxpayer must pay in full the 60% of the total tax due the government on or before January 31, 1973.

It is not controverted that petitioner paid the sum of ₱7,662.29 on the basis of respondent's own computation. (Annex "A", page 78, CTA rec.) Good faith therefore is obvious. To compel petitioner to pay the sum of ₱2,634.17 instead of the balance of ₱30.66 would in effect penalize it not for its acts but for the very acts of respondent's agents.

In this jurisdiction, failure to pay the correct amount of the tax is no justification for penalizing the taxpayer when such failure is directly attributable to the acts of respondent's agents. (Paper Industries Corporation of the Philippines v. Comm. of Int. Revenue, CTA Case No. 1680, July 22, 1966; Connell Bros. Co., v. Collector of Int. Revenue, G.R. No. L-15470, March 31, 1964.)

WHEREFORE, it is our opinion that petitioner is liable only for the sum of ₱30.66, representing the balance of 60% of its original tax obligation, pursuant to Presidential Decree No. 68. Upon payment of said amount and advice given to this Court of such payment, this case will be considered closed.

SO ORDERED.

Quezon City, April 3, 1973.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge