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Republic of the Philippines
COURT OF TAX APPEALS
Manila

February 25, 1964

VICENTE MILADO,
Petitioner,

- versus - C.T.A. CASE NO. 1256

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

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

DECISION

On February 26, 1954, the petitioner filed his income tax return for 1953, wherein he reported a gross income of ₱102,255.00, of which ₱101,000.00 was his income from the practice of his profession as lawyer and ₱1,255.00 as dividends. He claimed deductions aggregating ₱30,880.33, leaving a net income of ₱71,374.67, and a net taxable income of ₱61,774.67 after deducting personal exemptions. On the basis of his income tax return he paid an income tax of ₱13,748.00.

On November 15, 1957, the office of Regional District No. 3 of the Bureau of Internal Revenue addressed a letter to petitioner requesting the latter to furnish data concerning the breakdown of his income in 1953, all other supporting papers in connection with his income tax return for 1953, and his residence certificates A and B for the year 1954. The said letter having been allegedly unanswered, three other letters were sent to petitioner dated July 1, September 15, and December 8, 1958. Failing to receive a reply from petitioner, an assessment was made against him for deficiency income tax for 1953 amounting to ₱5,085, resulting from the disallowance of one-half of the deductions claimed by petitioner in his income tax return. Upon receipt of this assessment, petitioner, in a letter dated March 17, 1959, requested that he be furnished with "an explanation and details of how the assessment has been arrived at, in order that (he) may verify the correctness and legality of the same before taking any further action." The reply of the Regional Director of B.I.R. Regional District No. 3 dated January 26, 1960 reads as follows:

> As you requested in your letter dated March 17, 1959, we are sending you the following computation of deficiency income tax for 1953 in the amount of ₱5,085.00.
>
> | | |
> |---|---|
> | Net income per return ------ | ₱71,374.67 |
> | Add: ½ of all expenses claimed disallowed (Unsubstantiated) ----- | 15,440.16 |
> | Net income per investigation ------------------ | ₱86,814.83 |
> | Less: Personal & add'l. exemptions ----------- | 9,600.00 |
> | Amount subject to tax ------ | ₱77,215.00 |
> | Income tax due thereon ----- | 18,833.00 |
>
> You are, therefore, requestdd to pay the amount of ₱5,085.00, plus the penalties for late payment, within ten (10) days from your receipt hereof in order that this case may be closed.

Still unable to understand why exactly one-half of his claimed deductions was disallowed, as unsubstantiated, petitioner asked for further explanation as to the reason for the disallowance. The Regional Director, in his letter of February 16, 1960, explained that the disallowance of one-half of petitioner's claimed deductions was due solely to his failure to substantiate them. On March 3, 1960, petitioner answered the Regional Director inviting attention to his previous letter of April 29, 1957 inclosing therewith a statement of his "Income and Expense Account under Schedule 'B'". Without resolving the protest of petitioner, respondent issued a warrant of distraint and levy to enforce collection of the questioned deficiency assessment. Hence, this appeal.

Briefly, the issues raised by petitioner are: (1) whether or not the disallowance of one-half of the deductions claimed by him in his 1953 income tax return is legal, and (2) whether or not the right of the Government to make said assessment has prescribed. In addition, respondent questions the jurisdiction of this Court to entertain the appeal on the ground that the herein appeal was filed beyond the thirty-day period prescribed in Section 11 of Republic Act No. 1125.

On the question of jurisdiction, the records show that respondent filed a motion to dismiss dated August 28, 1962, before filing his answer, on the ground that "the respondent has not as yet rendered his resolution on petitioner's requests for the reconsideration of the assessments," hence, no decision of the respondent on the disputed assessment is appealable to this Court. This motion was denied in our resolution of October 22, 1962, on the ground that the issuance of a warrant of distraint and levy to enforce collection of the deficiency assessment in question was tantamount to an outright denial of the request for reconsideration. Since the appeal was filed by petitioner without awaiting respondent's decision on his request for reconsideration, as admitted by respondent himself, it is inconsistent for him to claim now that the appeal was filed by petitioner after thirty days from the date of receipt of respondent's "decision."

In connection with the legality of the disallowance of one-half of the deductions claimed in petitioner's 1953 income tax return, it appears that the sole basis for the disallowance was the alleged failure of petitioner to substantiate or prove the deductibility of said deductions.

> Petitioner's failure to heed the repeated requests for him to furnish the required data or information, compelled the Bureau of Internal Revenue to write a letter on December 15, 1958 (Exh. 5, p. 10, BIR records), informing the taxpayer of the disallowance of one-half of the expenses claimed in his 1953 income tax return. In a report dated February 4, 1959 (Exh. 6, p. 14, BIR records), the revenue examiner reported the disallowance of one-half of the claimed expenses in the income tax return. On the basis of the said report, Income Tax Assessment No. AR-O-13656-58/53 was issued to the taxpayer on February 26, 1959 (Annex "B", petition, p. 25 BIR records), requiring him to pay the sum of ₱5,085.00 as income tax for the year 1953 on or before March 30, 1959. (Page 1, Memorandum for Respondent, Dec. 10, 1963.)

Petitioner alleges, however, that he submitted the data requested of him as evidenced by copies of his letter of April 29, 1957 and an itemized statement of his income and expenses, Annexes "A" and "A-1" of the Petition for Review. (Par. 5, Petition for Review.) This allegation is admitted in paragraph 1 of the Answer.

The itemized statement of income and expenses submitted by petitioner is, to our mind, a substantial compliance with the requirement of respondent. The said statement is reproduced below:

INCOME & EXPENSES UNDER SCHEDULE "B"

December 31, 1953

INCOME

Total Gross Receipts		
Retainers -------------	₱ 48,900.00	₱ 48,900.00
Prof. Fees:		
Financing Corp. of the Philippines -----	10,000.00	
Bacolod-Murcia Milling Co., Inc. -------	20,000.00	
Talisay-Silay Milling Co., Inc. -------	10,000.00	
Central Azucarera del Danao, Inc. ---------	10,000.00	
Socorro C. Vda. de Araneta & Heirs of Ramon S. Araneta -------------	2,000.00	
Mrs. Corazon L. Arcenas	100.00	52,100.00
TOTAL --------------		₱101,000.00

EXPENSES

SALARIES & WAGES

Office Personnel ------		₱18,425.40	
Chauffeur ---	₱1,440.00		
Less: 20% Family use -----	288.00	1,152.00	₱ 19,577.40

RENTS:

Office ---------------	₱ 3,168.00	
Electric Current ------	138.00	
Telephone ------------	340.27	3,646.27

TAXES:

Lawyer's License ------	₱ 50.00	
A & B Residence Certificates ---------	92.50	
Registration fees (2 Autos) ------------	134.00	
Driver's License ------	5.00	
Real Estate Taxes -----	₱ 88.53	₱ 370.03

SUNDRIES:

Office Stationery & Supplies ---------		₱ 120.00	
Office Miscel. Expenses --------------		380.25	
Automobile Repairs & Maintenances ----		1,339.55	
Gasoline, Oil Auto Service -----	₱1,500.00		
Less: 20% Family Use ----	300.00	1,200.00	
Representation Expenses -----------		2,000.00	₱ 5,039.85
DEPRECIATION ---------------------			₱ 2,246.78
		TOTAL ---	₱30,880.33

(See page 7, C.T.A. records.)

Petitioner also alleges that when said statement of income and expenses was submitted, he informed the officers or employees handling the case that his income and expenses are duly recorded in his books and records which were at all times available in his office for verification or examination by authorized examiners of the Bureau of Internal Revenue. It would seem, however, that the internal revenue officers concerned were not disposed to have the examination of petitioner's books in the latter's office; they insisted that the books and records of petitioner be brought to the office of the internal revenue examiner assigned to the case. And upon refusal of petitioner to bring his books to the Bureau of Internal Revenue, one-half of the deductions claimed by petitioner in his income tax return was disallowed arbitrarily, solely on the ground of being unsubstantiated, resulting in the assessment of the deficiency income tax in question.

An examination of the itemized statement of income and expenses of petitioner, as reproduced above, will readily show that petitioner made an honest effort to substantiate the deductions claimed in his income tax return. At any rate, if there was any doubt as to the authenticity or correctness of any item of deduction appearing in the statement submitted by petitioner, the same could have been easily verified from his books and records which he was ready and willing to make available in his office to any authorized internal revenue examiner. We find no justification for respondent's outright disallowance of one-half of petitioner's claimed deductions for the only reason that petitioner refused to bring his books and records to the Bureau of Internal Revenue. As evidence of the arbitrariness of the disallowance of one-half of said deductions is the disallowance of one-half of the taxes paid by petitioner, including his occupation tax for 1953. We are, therefore, of the opinion that the deficency income tax assessment against petitioner in the sum of ₱5,085.00 is not in order. Hence, we find it unnecessary to consider the question as regards prescription of the right of the Government to assess the said deficiency income tax.

DECISION -
C.T.A. CASE NO. 1256

Finding no merit in the assessment in question, the same is hereby set aside. Without pronouncement as to costs.

SO ORDERED.

Manila, February 25, 1964.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge