REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

IMMACULATE CONCEPTION
ACADEMY OF MANILA,
Petitioner,

- versus - C.T.A. CASE NO. 582

COMMISSIONER OF INTERNAL
REVENUE,
Respondent. June 28, 1961

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D E C I S I O N

This is an appeal from an income tax assessment issued by the respondent against the petitioner for the years 1951 to 1955, inclusive, in the total amount of ₱783.00.

From the partial stipulation of facts submitted by the parties, and the evidences adduced, the following are the uncontroverted facts.

Petitioner is a corporation duly organized and existing under the laws of the Philippines with principal office located at Gagalangin, Tondo, Manila, exclusively dedicated for religious, educational and charitable purposes, no part of the income of which inures to the benefit of any private individual or stockholder. (Pars. 1 & 2 Stipulation of Facts.) It maintains Kindergarten, Primary, Intermediate, Secondary and Normal courses of instruction and conducts free religious instruction in public schools. (Exh. 6, p. 53 BIR rec.)

Petitioner requires the use of uniform which it supplies to the students ready made at ₱14.00 a piece, and from which after deducting the cost of materials and labor, a profit of ₱2.00 is realized. (Testimony of Maria Castañeda, pp. 5-9, t.s.n.) Its other sources of income are tuition fees, sale of school supplies and books, book rents, profit from school canteen, donations and miscellaneous (petty donations solicited by the sisters (pp. 5-18, t.s.n.). Petitioner's income is disposed of for salaries of instructors, laborers, janitors, etc., construction and repairs, etc.; charities to the poor and needy and the remainder credited to the surplus, and none inured to the benefit of any stockholder. (Exh. 6, p. 53 BIR rec.)

Petitioner did not file its income tax returns for the years 1951 to 1955, inclusive. So respondent after due investigation, filed for petitioner the corresponding income tax returns (Exhs. 1 to 5, pp. 1-5 BIR rec.), and after their audit and computation, issued income tax assessments all dated October 2 , 1956, for the total amount of ₱783.00, inclusive of penalties. (Pp. 57-66, BIR rec.)

It will be noted that petitioner claims that the disputed amount of income taxes due for the taxable years in question, including surcharge and penalties, is ₱783.00. (Please see par. 6, Petition.) Respondent, however, in his memorandum demands only ₱183.00. The discrepancy is due to the fact that the latter amount does not include surcharges and penalties.

The parties submitted two issues for decision, to wit:

(a) Whether or not the petitioner is obligated to file its income tax returns; and

(b) Whether or not the petitioner is liable to pay the income taxes due on the profit realized in the operation of the canteen, the sale of uniforms, and in the sale and/or rental of textbooks.

We shall jointly consider the two issues.

Petitioner contends that it is exempt from the payment of the income taxes claimed by the respondent for the following reasons, to wit:

> "(a) its purposes for existence were for religious, charitable and educational motives;
>
> (b) the sale of uniforms, rental of text-books and service of its small canteen were limited exclusively to its students, and only within its school campus;
>
> (c) provision for such activities were merely to cover operational expenses without intention to obtain profit; and
>
> (d) the activities in question specially tended to enhance the attainment of its educational objectives."

It is argued further that the requirement and sale of uniforms, and sale and/or rental of textbooks were motivated by considerations of economy on the part of the parents, and moral training and character building on the part of the students.

For the reasons aforementioned, petitioner concludes "that the conduct of the activities under review, was not only convenient, but essential to and necessarily connected with the attainment of the educational purposes."

Respondent, on the other hand contends, that the operation of the school canteen, the requirement and sale of uniforms, and the sale and/or rental of textbooks, were not essential to or necessarily connected with the educational purposes of the institution; that the school could very well exist without the petitioner managing or operating a canteen, or furnishing and engaging in the sale of uniforms and textbooks. These activities could very effectively be undertaken by private persons. Consequently, inasmuch as these activities are beyond the scope of its educational pursuits, whatever profits realized therefrom are subject to tax.

Petitioner's view is well taken. The fact that only the sum of ₱183.00 was assessed against the petitioner for income taxes on the gain realized from the operation of the activities in question for the taxable period from 1951 to 1955, inclusive, shows that the operation was not conducted for business profit making purposes, but merely as an incident to its educational pursuits.

Of course, the danger of unfair competition from the practice of conducting a profitable competitive business under the shelter of tax-exempt status is not remote. But in the case at bar, the evidence shows that the selling of uniforms, the sale and/or rental of textbooks, and the operation of the school canteen, were limited exclusively to its students. It was not open to outside customers; the profit realized was very nominal and barely enough to cover overhead expenses; and no outsider ever attempted to operate and handle the same activities. Not only that there was no competition or threat of competition but there was no competitor. (Collector of Internal Revenue vs. St. Paul's Hospital of Iloilo, G.R. No. L-12127, May 29, 1959; Collector of Internal Revenue vs. Convention of Philippine Baptist Churches, G.R. No. L-11807, Jan. 28, 1961.)

WHEREFORE, in view of the foregoing considerations, the income tax assessments in question are hereby declared null and void, without any pronouncement as to costs.

SO ORDERED.

Manila, June 28, 1961.

AUGUSTO M. LUCIANO
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

ROMAN M. UMALI
Associate Judge

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