PHILIPPINE STEAM NAVIGATION CO.
Petitioner,

- versus - C.T.A. CASE NO. 2148

2/14/75

THE COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

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

D E C I S I O N

Petitioner seeks the refund of the sum of ₱23,938.30 which was paid as deficiency income tax and penalties for the year 1968.

Petitioner is a domestic shipping corporation duly licensed and engaged in water transportation. It records and accounts its income and expenses on the fiscal year basis, its taxable year commencing on November 1 and ends on October 31 of the following year. For fiscal year 1967-1968 (November 1, 1967 to October 31, 1968), it paid its tax under the old rates of 22% and 30%, as prescribed in Section 24 of the Revenue Code, prior to its amendment by Republic Act No. 5431, pursuant to Section 10 of said Act which provides that the "provisions of said Act shall apply to income for taxable years beginning after June 30, 1968." However, respondent computed the income tax of petitioner based on the new rates with respect to its income earned from July 1, 1968 to October 31, 1968. As a result, respondent assessed against petitioner a deficiency income tax of

₱24,250.45, inclusive of penalty. A recomputation of the amount of tax was however made by petitioner based on the increased rates and it found that the correct amount due was ₱23,938.30, inclusive of interest, which it paid under O.R. No. 149430-A dated January 23, 1970, and not the ₱24,250.45 assessed against it by respondent.

Subsequently, petitioner filed a claim for refund of the amount of ₱23,938.30 on the ground that it is not subject to the increased rates of 25% and 35% under Republic Act No. 5431 effective July 1, 1968 but to the former rates of 22% and 30%. Without waiting for respondent's decision on its claim for refund, petitioner appealed.

The sole issue in this case is purely one of law, i.e., whether or not the increased rates of corporate income tax of 25% - 35% tax prescribed in Republic Act No. 5431 should apply to petitioner's income received from July 1, 1968 to October 31, 1968.

As the taxable year of petitioner begins on November 1 the beginning of its taxable year after June 30, 1968, is November 1, 1968 and not July 1, 1968. Accordingly, it was error for respondent to apply the new corporate income tax rates on the income of petitioner beginning July 1, 1968. (See Manila Times Publishing Co., Inc. vs. Commissioner of Internal

Revenue, CTA Case No. 2263, December 17, 1973.) The sum of ₱23,938.30 was, therefore, erroneously paid.

WHEREFORE, respondent is hereby ordered to refund to petitioner, Philippine Steam Navigation Co., the sum of ₱23,938.30, without interest. No costs.

SO ORDERED.

Quezon City, February 14, 1975.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge