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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

MUTUAL SECURITY &
INSURANCE CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 3051

12/7/82

THE HONORABLE COMMISSIONER
OF INTERNAL REVENUE,
Respondent.

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

D E C I S I O N

This is an appeal from the decision of the Commissioner of Internal Revenue dated December 7, 1979, denying the request for reinvestigation or reconsideration of the deficiency income tax assessment issued on August 15, 1978 against petitioner for the taxable year 1975 ,in the sum of ₱30,669.88, inclusive of interest.

Petitioner, a domestic corporation, is organized under the laws of the Philippines. It is engaged in non-life insurance policies. Its main source of income are premiums, commissions, interests and dividends. In 1977, it was subjected to an investigation for income tax deficiencies for the years 1975 and 1976. The investigation that was conducted yielded to the discovery that in its income tax return for 1975, petitioner claimed for bad debts the total amount of ₱91,793.30, which the investigating examiners had disallowed. (Exh. 3, p. 66, BIR rec.) These apparently consisted of marine premiums receivables due from March, 1957 to December, 1964 in the total sum of ₱6,793.30, and accounts receivables from the Mutual Construction Supply in the sum of ₱85,000.00, or a grand total of ₱91,793.30. (Exh. 2, pp. 59-60, BIR rec.). The sum of ₱6,793.30 was a receivable due from a related company, and ₱85,000.00 was receivable from an alleged related company that was dissolved. Furthermore, said amount of ₱85,000.00 was not originally taken up as income of petitioner since it was a loan to one of its officers, who invested the same amount in the said dissolved corporation. (Exh. 3, p. 66, BIR rec.; also page 95, BIR rec.) The total sum of ₱91,793.30 claimed as bad debt was disallowed as the alleged debtors were still solvent in 1975, the taxable year in question. (Exh. 3, p. 66, BIR rec.)

On August 15, 1978, respondent Acting Commissioner of Internal Revenue, assessed against and demanded from petitioner the payment of the sum of ₱30,669.88, as deficiency income tax for 1975, inclusive of 14% interest thereon from April 16, 1976 to August 15, 1978 (Exh. 4, p. 122, BIR rec.) computed as follows:

Net income per return - - - - - - - - - -	₱ 9,914.33
Add: Unallowable deduction -	
Bad debts written off - - - - - -	91,793.30
Net income per investigation - - - - -	₱101,707.00
Tax due thereon - - - - - - - - - - - - - -	₱ 25,597.00
Less: Amount paid - - - - - - - - - - -	2,479.00
Deficiency tax - - - - - - - - - - - - -	₱ 23,118.00
Add: 14% annual interest from	
4-16-76 to 8-15-78 - - - - - -	7,551.88
TOTAL AMOUNT DUE - - - - - - - - - - - -	₱ 30,669.88

On August 22, 1979, petitioner thru counsel, requested for reinvestigation or reconsideration of the above assessment asserting that the debts or accounts referred to above became worthless because the same were uncollectible but petitioner never presented any evidence showing their uncollectibility. (pp. 150-153, BIR rec.)

On December 27, 1979, respondent denied petitioner's request for reinvestigation and/or reconsideration and held that the assessment it issued was correct. (p. 162, BIR rec.) Respondent reasoned out his denial by stating thus, and which we hereby quote:

> "The records of this case show that the aforesaid assessment is based

on the disallowance of the amount of ₱91,793.30 claimed by your client as bad debts. The reasons for the disallowance are that the debtors concerned were not declared insolvent and that the accounts receivable of ₱85,000.00 which formed part of the amount written off were not really receivables from customers but was originally a loan to an officer who invested the same amount in a corporation which was allegedly dissolved. These findings of this Office show that the amount of ₱91,793.30 cannot be legally claimed as bad debt deduction."

Hence, this appeal.

During the hearing, petitioner presented the following as its exhibits:

Exhibit A refers to the letter of assessment dated August 15, 1978 of respondent (p. 7, CTA rec.), and which is the same as the Exhibit 4 for respondent.

Exhibit B refers to the Income Tax Notice requesting petitioner to pay the assessment of ₱30,669.88 on September 15, 1978.

Finally, Exhibit C refers to the letter of request for reinvestigation or reconsideration and, which cited merely, without more, the legal jurisprudence found in American cases to bolster its position that its claims for bad debt in question was deductible.

Thereafter, no other evidence was presented by petitioner in view of the non-appearance of counsel for petitioner during the hearing, at which time the respondent Commissioner of Internal Revenue was ordered by this Court to present his evidence and his witness, Examiner Modesta D. Najera, who testified before this Court and declared as follows:

> On the date this case was set for hearing, petitioner failed to appear in spite of due notice. Respondent, thus, presented evidence ex-parte. Witness for respondent testified, to wit:
>
> "Q. You stated a while ago that you recommended deficiency assessment here based solely on disallowance of claimed deduction for bad debts. Will you please inform the Honorable Court your basis for the disallowance of the said claimed deduction?"
>
> "A. We followed the revenue regulations. Before a bad debt could be allowed as a deduction, it should be written off in the books, and then, secondly, the amount of the account is declared worthless. In this case, the taxpayer failed to show that the accounts involved are already worthless."
>
> "x x x x x x x x x."
>
> "Q. By 'worthless', just what do you mean?"

"A. By worthless, there is no more .... the taxpayer is already insolvent, or there is no more hope for collection."

"x x x x x x x x x".

"Q. By the way, did you ascertain the names of the alleged debtors which the petitioner in this case claimed to be indebted to it?"

"A. Yes, they are in fact listed here, and most of them are from the related company, Florencio Reyes and Co., Inc. Hence, some are individuals assured like this Teresa Ignacio who is also an officer of the company."

"x x x x x x x x x"

"Q. Would it be safe for me to say that at the time you investigated this case this Florencio Reyes and company is a going concern?"

"A. I believe so."

"Q. How about this Mutual Construction Supply which under this list has indebtedness in the amount of ₱85,000.00 to the petitioner. What relation has this company to the petitioner in this case?"

"A. It is also a related company of the insurance company."

"Q. Did you try to check the financial position of the said company at the time?"

> "A. We asked from the taxpayer because they were the ones who have to prove whether that company is already dissolved, because they alleged that it is already dissolved."
>
> "Q. What did the taxpayer tell you when you ask them about the .....
>
> "A. <u>They did not present any proof</u>."
> (<u>Emphasis supplied</u>; Hearing July 20, 1981, pp. 8-11, tsn.)

By the above testimonial evidence, it was shown that petitioner did not present any proof to support its claim for allowance of the bad debts, either administratively or judicially. The testimony will bear out the fact that petitioner had extended the alleged loans to related companies and/or to its own officers. This finds support to the conclusion reached during the administrative investigation that the alleged loans were in reality a loan to one of its officers and which was invested in a related company or accomodations given to its officers.

Moreover, it is a fundamental tenet of law that the determination by the Commissioner of Internal Revenue of the deficiency assessment is presumptively correct. And this correctness of the assessment goes deep into the act of disallowance of the claim of petitioner for bad debt in its 1975 income tax return. Considering thus, it is, therefor, incumbent upon petitioner to prove its claim for bad debts. Since there was no evidence presented by petitioner in this case showing the basis for the allowance thereof, i.e., to show (1) that there is an outstanding valid debt or unconditional obligation to pay the taxpayer, or an existence of debtor-creditor relationship (Jacob Mertens, Jr., Law of Federal Income Taxation, 1972 Ed., Vol. 5, Chapter 30, pp. 0-10); (2) that the said debt is worthless, or that the debtors can not pay their indebtedness; (3) that the debt was actually ascertained to be bad or worthless because of the improbability of their collection during the particular taxable year in question; and (4) that the same was charged off in the taxpayer's books in the said taxable year, the bad debt disallowance made by respondent is, therefore, in accordance with law. The assessment must of necessity have to stand.

WHEREFORE, the decision appealed from holding petitioner liable for deficiency income tax for the year 1975, in the sum of ₱30,669.88, inclusive of penalties, is hereby affirmed.

Petitioner Mutual Security and Insurance Corporation is hereby ordered to pay the amount of ₱30,669.88, plus the surcharge and legal interest, provided that the maximum amount that may be collected shall in no case exceed the amount corresponding to a period of three years pursuant to Section 51(e) of the National Internal Revenue Code of 1977, as amended.

With costs against petitioner.

SO ORDERED.

Quezon City, Metro Manila, December 7, 1982.

CONSTANTE C. ROAQUIN
Associate Judge

WE CONCUR:

AMANTE FILLER
Presiding Judge

ALEX Z. REYES
Associate Judge