REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

NICANOR T. SANTOS, REYNALDO T. SANTOS, MANUEL T. SANTOS, REMEDIOS SANTOS-CAMUS, MILAGROS SANTOS-LOPEZ, INTESTATE ESTATE OF THE DECEASED MIGUEL T. SANTOS, represented by its Administratrix, MARIA SALAO VDA. DE SANTOS,
Petitioners,

Mar 6/74

- versus - C.T.A. CASE NO. 1476

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

R E S O L U T I O N

Petitioner filed a motion for reconsideration of the decision of this Court. Before the Court could resolve said motion, petitioner made payments of the tax under Presidential Decree No. 68 and then filed a petition to declare the case "closed and terminated", thereby abandoning his motion for reconsideration and submitting the case under the provisions of the said decree. Respondent filed an opposition to said motion to "close and terminate" alleging that considering the terms of Presidential Decree No. 68, there remains an outstanding balance of the tax whereupon the Court denied petitioner's said motion. Thereafter, petitioner in a pleading entitled "Manifestation" asked for a reconsideration of the order of denial.

The payments in question did not include the 5% surcharge and the 1% monthly interest on the deficiencies provided in Section 101 of the Tax Code as additions to the tax in case of late payment. These surcharge and interest are imposed in the decision of this Court and in respondent's opposition, he merely asks to include these surcharge and interest pursuant to the law and the decision. These surcharge and interest should be included even if the payments were made under Presidential Decree No. 68. As computed by respondent, there is still due from petitioners the balance of ₱11,230.74 or ₱1,871.79 for each of them.

In Ana Building, Inc. vs. Commissioner of Internal Revenue, C.T.A. Case No. 1877 (Resolution, April 3, 1973) we held that to avail of the benefits of Presidential Decree No. 68 the taxpayer must comply correctly with the percentage provided therein, but if there is an error and the same is due to acts of respondent or his agent the taxpayer may still avail himself of such benefits by paying the balance of the percentage, not the full amount of the tax.

WHEREFORE, petitioners are hereby ordered to pay the said sum of ₱11,230.74 or ₱1,871.79 for each of the petitioners, after which this case shall be considered closed and terminated.

SO ORDERED.

Quezon City, March 6, 1974.

ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge

ESTANISLAO R. ALVAREZ
Associate Judge