REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FILOIL MARKETING CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 2054

THE COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

8/29/77

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DECISION

Involved in this appeal is petitioner Filoil Marketing Corporation's request for refund of the amount of ₱33,274.91 representing alleged "delinquency" income tax for the year 1968 assessed against it by respondent Commissioner of Internal Revenue, and paid by petitioner on November 24, 1969.

Petitioner is a domestic corporation engaged principally in marketing petroleum products. It reports its income on a calendar year basis. In 1969, pursuant to Letter of Authority No. 110974 issued by the Commissioner of Internal Revenue, petitioner was investigated for internal revenue tax liabilities corresponding to the years 1967 & 1968. As a result of the investigation, petitioner was assessed deficiency income tax for the year 1967 in the amount of ₱1,995.32, which it voluntarily paid on September 8, 1969, and the sum of ₱33,274.91 as delinquency income tax for the year 1968, including interest thereon from July 16 to September 15, 1969.

It appears that the delinquency income tax assessment arose out of the application by respondent of the corporate income tax rates of 25% and 35% prescribed under Republic Act No. 5431, in the computation of the income tax due on the net taxable income of petitioner for the period beginning July 1, 1968 to December 31, 1968. Petitioner, being on a calendar year basis, it computed its income tax liability for the entire income earned in the 1968 taxable year at the old corporate tax rates of 22% and 30% prescribed under Section 24 of the National Internal Revenue Code, prior to its amendment by Republic Act No. 5431. On November 24, 1969, petitioner paid under protest the aforementioned delinquency income tax assessment, and simultaneous with such payment, it filed with respondent a letter disputing the legality of the denial of its letter-protest and at the same time claimed a refund of the said payment.

Republic Act No. 5431, which was approved on June 27, 1968, amended Section 24 of the National Internal Revenue Code by increasing corporate income tax rates of 22% to 25% on the first ₱100,000.00 net income and 30% to 35% on the excess thereof. Section 10 of the Act provides:

> "The provisions of this Act shall apply to income for taxable years beginning after June, thirty, nineteen hundred sixty eight."

Since there is nothing in Republic Act No. 5431 which indicates that the effective date of the new rates of tax shall be different for corporations filing their income tax returns on the calendar year basis, respondent contends that the new rates of tax provided in Republic Act No. 5431 took effect on July 1, 1968 and, accordingly, applies on income earned from said date, irrespective of whether the corporation is on the calendar year or fiscal year basis. Petitioner, on the other hand, avers that the new corporate rates of 25% and 35% prescribed under Republic Act No. 5431 should be applied only to taxable income earned after December 31, 1968 insofar as corporations on calendar year basis are concerned.

For resolution therefore is the question of whether the new corporate income tax rates of 25% and 35% prescribed under Republic Act No. 5431 should be applied in the computation of the income tax due on the net taxable income of petitioner for the period beginning July 1, 1968 up to December 31, 1968.

The issue is not one of first impression. In the case of The Manila Times Publishing Co., Inc., vs. Commissioner of Internal Revenue, CTA Case No. 2263, December 17, 1973, certiorari denied in L-38154, May 10, 1974, where the factual setting is similar to that in the instant case, this Court ruled that the beginning of the taxable year of a calendar year corporation is January 1. It follows that a calendar year corporation can not be held subject to the increased rates of corporate income tax provided in Republic Act No. 5431 until January 1, 1969, the beginning of its taxable year after June 30, 1968. Respondent's ruling that a corporation which was filing income tax returns on the calendar year basis should pay the increased rates of corporate income tax effective July 1, 1968 applies solely to fiscal year corporations whose taxable year begins on July 1.

This view has been consistently reiterated in subsequent cases, and we find no plausible reason to depart therefrom. (See, among others: Zamboanga Wood Products, Inc. vs. Commissioner of Internal Revenue, CTA No. 2053, June 3, 1974; Colgate Palmolive Phil. Inc. vs. Commissioner of Internal Revenue, CTA No. 2293, June 10, 1974; Phil. Aviation Corp. vs. Commissioner of Internal Revenue, CTA No. 2195, August 5, 1974; First Insular Bank of Cebu vs. Commissioner of Internal Revenue, CTA No. 2262, August 29, 1974; Tabacalera Insurance Co. Inc., vs. Commissioner of Internal Revenue, CTA No. 2081, November 20, 1974)

WHEREFORE, the subject deficiency or delinquency income tax assessment against petitioner is declared null and void and respondent Commissioner of Internal Revenue is hereby ordered to refund the amount of ₱33,274.91. Without pronouncement as to costs.

SO ORDERED.

Quezon City, August 29, 1977.

Amante Filler
AMANTE FILLER
Acting Presiding Judge

I CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge