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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

July 19, 1965

A. SORIANO Y CIA.,
Petitioner,

-versus-  C.T.A. CASE No. 1364

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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D E C I S I O N

This is a petition for credit in the amount of ₱18,099.00 which was alleged to be an overpayment of the income tax paid by petitioner for the year 1960.

Petitioner filed its 1960 income tax return (Exh. "A"), reporting among others its profit of ₱841,493.84 from the sale on April 13, 1960 of its Intramuros property, arrived at as follows:

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| Selling Price of Intramuros Property .................. | ₱1,840,831.00 |
| Deduct Cost of the Property.. | 999,337.16 |
| | ₱ 841,493.84 |

On the basis of its income tax return (Exh. "A"), petitioner paid the total amount of ₱409,533.00 as income tax for 1960.

In 1961, petitioner discovered that it failed to consider in its cost of the Intramuros property the following:

₱49,329.55 - Balance of the contract price paid to A. M. Oreta & Co., Inc. in 1961 for the excavation and pile driving done on the In-

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| | tramuros property (Exh. "F") |
| ₱ 1,000.00 - | Architect's fee paid on June 1, 1961 to Jose M. Zaragoza (Exh. "G") |
| ₱50,329.55 | |

Accordingly, petitioner filed an amended income tax return (Exh. "B") on October 4, 1961 showing that the total income tax due for the year 1960 was only ₱394,434.00 and not ₱409,533.00, or an overpayment of ₱15,099.00. On the same day, respondent received a letter dated September 29, 1961 (Exh. "C") from counsel of petitioner asking respondent that it be authorized to credit the sum of ₱15,099.00 from its income tax return for 1961. Before this request could be acted upon, petitioner discovered again that the amount of ₱10,000.00 paid on March 15, 1961 (Exh. "H") to Jose M. Zaragoza as architect's fee for the Intramuros property was not included in the computation of the cost of the said Intramuros property. Petitioner then filed its second amended income tax return for 1960 (Exh. "D") on March 12, 1963 showing that the income tax due for the year 1960 was ₱391,434.00 and not ₱409,533.00 as shown in the original income tax return (Exh. "A") nor ₱394,434.00 as shown in the first amended income tax return (Exh. "B"), or an overpayment of ₱18,099.00. On the same day, respondent received a letter dated March 8, 1963 (Exh. "E") from counsel of petitioner, asking that petitioner be granted authority to credit the said sum of ₱18,099.00 against its future income taxes.

The only issue in this case is whether or not the amount of ₱49,329.55 paid in 1961 for the balance of the contract price for the excavation and pile driving services and the architect's fees of ₱1,000.00 and ₱10,000.00, both paid also in 1961, formed part of the cost of the Intramuros property.

The Intramuros property was sold on April 13, 1960. It has not been disputed that the excavation and pile driving services, as well as the architect's fees, were spent in connection with the Intramuros property. It is not also disputed that the expenses incurred for these services were paid by petitioner. It appears that when the Intramuros property was sold, these obligations already accrued, and therefore it is immaterial that these expenses were paid in 1961. Counsel for respondent argued that since petitioner's return is on the accrual basis, expenses incurred in 1961 are not deductible in 1960. Counsel must be referring to deductible expenses referred to in Section 30 of the National Internal Revenue Code. In the case at bar, the excavation and pile driving services, as well as the architect's fees, are capital expenditures which are not deductible expenses but are nevertheless chargeable to the cost of the Intramuros property, thus reducing the resulting profit from the sale of the said property from ₱841,493.84 as shown in Schedule I of the original income tax return (Exh. "A") to ₱781,164.29 as shown in Schedule I of the second amended income tax return (Exh. "D").

WHEREFORE, respondent Commissioner of Internal Revenue is hereby ordered to give a tax credit to petitioner in the amount of ₱18,099.00, without pronouncement as to costs.

SO ORDERED.

Quezon City, July 19, 1965.

TEOFILO D. REYES, Sr.
Presiding Judge

WE CONCUR:

ROMAN M. UMALI
Associate Judge

ALEJANDRO B. AFURONG
Associate Judge