Library

KUENZLE & STREIFF, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 551

August 21, 1961

THE COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

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

AMENDED DECISION

p. 73 (infra)

The petitioner has filed a motion for reconsideration of our decision of April 28, 1961, on the grounds that (1) this Court erred in sustaining respondent's decision in disallowing the deduction by petitioner from its gross incomes for the years 1953, 1954 and 1955 of a portion of the bonuses and additional compensation given to its ranking officers during said years; (2) it is not liable for the 5% surcharge and 1% monthly interest "considering the absolute good faith of the petitioner in contesting the assessment of the alleged deficiency income tax in question;" and (3) assuming that it is liable for said surcharge and interest, the maximum amount of interest that may be collected should not exceed the amount corresponding to a period of three years.

With respect to the first ground, we find that the arguments in support thereof have been fully considered in our decision of April 28, 1961, hence there is no justification to reverse or modify the decision on this point.

As regards the second ground, the allegation that the surcharge and interest may not be imposed because of the good faith of petitioner is without merit. Good faith is no defense against the imposition of the said surcharge and interest. Under the law, the said surcharge and interest accrue automatically upon delinquency in the payment of the deficiency income tax.

In connection with the third ground, we agree with petitioner that the interest on deficiency income tax cannot exceed the amount corresponding to three years. It may be stated, however, that in the answer of respondent he claimed the payment of the 1% monthly interest by petitioner "from the dates said deficiency income taxes accrued to the date of payment thereof." This was reiterated in the memorandum of counsel for the Government dated June 16, 1960. No attempt was made by petitioner in the course of the trial or in its various memoranda to dispute this claim of respondent. It is only now that the question in regard to the maximum amount of interest has been raised. Be this as it may, since the law is clear that the maximum amount of interest that may be collected on deficiency income tax cannot exceed the amount corresponding to a period of three years, pursuant to Section 51(e) (2) of the National Internal Revenue Code, as amended by Section 8 of Republic Act No. 2343, which took effect on June 20, 1959, the dispositive portion of our decision is hereby amended to read as follows:

> "FOR THE FOREGOING CONSIDERATIONS, the decision appealed from is hereby affirmed with respect to the deficiency assessment for the years 1953 and 1955. As regards the deficiency assessment for the year 1954, the same is hereby modified in the sense that the amount due from petitioner is ₱11,248.00, instead of ₱16,648.00. Accordingly, petitioner is ordered to pay within thirty days from the date this decision becomes final the sums of ₱40,455.00 and

₱16,228.00, plus 5% surcharge and 1% monthly interest from October 1, 1957 until paid. It is likewise ordered to pay the sum of ₱11,248.00 within the same period, and, if not so paid, there shall be added thereto 5% surcharge and 1% monthly interest from the date of delinquency to the date of payment. In both cases, the maximum amount of interest shall not exceed the amount corresponding to a period of three years, pursuant to Section 51(e)(2) of the National Internal Revenue Code, as amended by Section 8 of Republic Act No. 2343. With costs against petitioner."

SO ORDERED.

Manila, August 21, 1961.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge