7

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PEDRO S. PAYUMO,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

C.T.A. CASE No. 1684

Jan. 3, 1966

R E S O L U T I O N

Petitioner seeks to enjoin the respondent Commissioner from collecting by distraint and levy the sum of ₱11,578.00, representing alleged deficiency income tax for the year 1955.

In a "Motion to Dismiss" dated October 20, 1965, respondent questioned the jurisdiction of this Court to take cognizance of this case on the ground that the law (Sections 7 and 11 of Republic Act No. 1125) does not expressly vest upon this Court original jurisdiction to issue writs of prohibition and injunction independently of, and apart from, an appealed case. It is argued that the writ of prohibition or injunction that this Court may issue under the provisions of Section 11 of Republic Act No. 1125 to suspend collection of taxes is merely ancillary to and in furtherance of our appellate jurisdiction in the cases specified in Section 7 of the Act. In support of his stand, respondent cites the case of Collector of Internal Revenue vs. Yuseco and Court of Tax Appeals, G.R. L-12518, October 28, 1961.

Petitioner, on the other hand, maintains the contrary view and invokes the ruling of the Supreme Court in the case of Panteja vs. David, G. R. No. L - 10765, February 28, 1961, and the cases cited therein.

We have carefully considered the arguments of both parties in this case, and we believe that respondent's view is well taken. The Supreme Court, in the later case of Collector of Internal vs. Yuseco and Court of Tax Appeals, supra, in deciding a similar issue, held:

> "The foregoing provisions of the law refer and limit only to appeals from decisions or rulings of the Collector of Internal Revenue, Commissioner of Customs and Provincial or City Boards of Assessment Appeals in the proper cases. Nowhere does the law expressly vest in the Court of Tax Appeals original jurisdiction to issue writs of prohibition and injunction independently of, and apart from, an appealed case. The writ of prohibition or injunction that it may issue under the provisions of section 11, Republic Act No. 1125, to suspend the collection of taxes, is merely ancillary to and in furtherance of its appellate jurisdiction in the cases mentioned in section 7 of the Act. The power to issue the writ exists only in cases appealed to it. This is reflected on the explanatory note of the bill (House N. 175), creating the Court of Tax Appeals. We quote from the explanatory note:
>
> > x x x It is proposed in the attached bill to establish not merely an administrative body but a regular court vested with exclusive appellate jurisdiction over cases arising under the National Internal Revenue Code, Customs Law and the Assessment Law. (Underscoring supplied. P. 2202, Congressional Record, Third Congress Vol. I, Part II.)
>
> x x x statements made during the proceedings indicate that the intention of Congress was to vest the Court of Tax Appeals

with jurisdiction to issue writs of prohibition and injunction only in aid of its appellate jurisdiction in cases appealed to it and not to clothe it with original jurisdiction to issue them. Such intent is reflected on the second paragraph of Section 11, Republic Act No. 1125 quoted ~~above~~ above. Taxes being the chief source of revenue for the Government to keep it running must be paid immediately and without delay. A taxpayer who feels aggrieved by the decision or ruling handed down by a revenue officer and appeals from his decision or ruling to the Court of Tax Appeals must pay the tax assessed, except that, if in the opinion of the Court the collection would jeopardize the interest of the Government and/or the taxpayer, it could suspend the collection and require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount of the tax assessed."

We find in the instant case no cogent reason for departing from the foregoing doctrine which has been consistently followed by this Court in subsequent similar cases (Philippine Planters Investment Co., Inc. v. Acting Comm. of Internal Revenue, C.T.A. Case No. 1266, Nov. 11, 1962 and Austin & Co., Inc. v. Pacis, et al., C.T.A. Case No. 1400, October 31, 1963).

IN THE LIGHT OF THE FOREGOING CONSIDERATIONS, this case is hereby dismissed without pronouncement as to costs.

SO ORDERED.

Quezon City, Jan. 3, 1966.

Teofilo Reyes

TEOFILO D. REYES, SR.
Presiding Judge

Alejandro B. Apurong

ALEJANDRO B. APURONG
Associate Judge

R M Umali

ROMAN M. UMALI
Associate Judge