

SECOND DIVISION

[G.R. No. 164152, January 21, 2010]

**COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS.
JULIETA ARIETE, RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

The Commissioner of Internal Revenue (petitioner) filed this Petition for Review^[1] to reverse the Court of Appeals' (CA) Decision^[2] dated 14 June 2004 in CA-G.R. SP No. 70693. In the assailed decision, the CA affirmed the Court of Tax Appeals' (CTA) Decision^[3] and Resolution dated 15 January 2002 and 3 May 2002, respectively. The CTA cancelled the assessments issued against Julieta Ariete (respondent) for deficiency income taxes of P191,463.04 for the years 1993, 1994, 1995, and 1996.

The Facts

On 21 May 1997, George P. Mercado filed an Affidavit with the Special Investigation Division, Revenue Region No. 19, Davao City. The affidavit attested that respondent earned substantial income in 1994, 1995, and 1996 without paying income tax.^[4]

The Chief of the Special Investigation Division (SID Chief) issued Mission Order No. 118-97 dated 23 May 1997, directing a Revenue Officer to conduct preliminary verification of the denunciation made and submit a progress report. The SID Chief also sent a request to access the BIR records of Revenue District No. 112, Tagum, Davao del Norte (RDO), inquiring if the income tax returns of respondent for the years 1993 to 1996 are available for examination. The RDO replied that respondent had no records of income tax returns for the years 1993 to 1996.^[5]

On 15 October 1997, the Revenue Officer submitted a report stating that respondent admitted her non-filing of income tax returns.^[6]

On 2 December 1997, respondent filed her income tax returns for the years 1993, 1994, 1995, and 1996 under Revenue Memorandum Order (RMO) No. 59-97 as amended by RMO No. 60-97 and RMO No. 63-97, otherwise known as the Voluntary Assessment Program (VAP).^[7]

On 28 July 1998, the Regional Director issued a Letter of Authority to investigate respondent for tax purposes covering the years 1993 to 1996.

On 14 October 1998, the Revenue Officer submitted a Memorandum to the SID Chief recommending that respondent be assessed with deficiency income taxes for

the years 1993 to 1996. On 22 January 1999, four assessment notices were issued against respondent. The total deficiency income taxes, inclusive of interests and surcharges amounted to P191,463.04:

1993 P 6,462.18^[8]
1994 47,187.39^[9]
1995 24,729.64^[10]
1996 113,083.83^[11]
P 191,463.04

On 22 February 1999, respondent filed an Assessment Protest with Prayer for Reinvestigation. On 30 March 1999, the assessment protest was denied.

On 16 April 1999, respondent offered a compromise settlement but the same was denied.

Respondent filed a petition for review with the CTA assailing the Bureau of Internal Revenue's (BIR) decision denying with finality the request for reinvestigation and disapproving her availment of the VAP. Respondent also contested the issuance of the four assessment notices.

On 15 January 2002, the CTA rendered a decision cancelling the deficiency assessments. Petitioner filed a motion for reconsideration but the CTA denied the same in a Resolution dated 3 May 2002.

Petitioner appealed the CTA's decision to the CA. In a decision dated 14 June 2004, the CA affirmed the CTA's decision.

Aggrieved by the CA's decision affirming the cancellation of the tax deficiency assessments, petitioner elevated the case before this Court.

Ruling of the Court of Tax Appeals

The CTA stated that when respondent filed her income tax returns on 2 December 1997, she was not yet under investigation by the Special Investigation Division. The Letter of Authority to investigate respondent for tax purposes was issued only on 28 July 1998. Further, respondent's case was not duly recorded in the Official Registry Book of the BIR before she availed of the VAP.

The CTA, quoting RMO Nos. 59-97, 60-97, and 63-97, ruled that the requirements before a person may be excluded from the coverage of the VAP are:

1. a. The person(s) must be under investigation by the Tax Fraud Division and/or the regional Special Investigation Division;
2. The investigation must be as a result of a verified information filed by an informer under Section 281 of the NIRC, as amended; and

3. The investigation must be duly registered in the Official Registry Book of the Bureau before the date of availment under the VAP.^[12]

The CTA ruled that the conjunctive word "and" is used; therefore, all of the above requisites must be present before a person may be excluded from the coverage of the VAP. The CTA explained that the word "and" is a conjunction connecting words or phrases expressing the idea that the latter is to be added or taken along with the first.^[13]

The CTA also stated that the rationale behind the VAP is to give taxpayers a final opportunity to come up with a clean slate before they will be dealt with strictly for not paying their correct taxes. The CTA noted that under the RMOs, among the benefits that can be availed by the taxpayer-applicant are:

- 1) A bona fide rectification of filing errors and assessment of tax liabilities under the VAP shall relieve the taxpayer-applicant from any criminal or civil liability incident to the misdeclaration of incomes, purchases, deductions, etc., and non-filing of a return.
- 2) The taxpayer who shall avail of the VAP shall be liable only for the payment of the basic tax due.^[14]

The CTA ruled that even if respondent violated the National Internal Revenue Code (Tax Code), she was given the chance to rectify her fault and be absolved of criminal and civil liabilities incident to her non-filing of income tax by virtue of the VAP. The CTA held that respondent is not disqualified to avail of the VAP. Hence, respondent has no more liabilities after paying the corresponding taxes due.^[15]

The CTA found the four assessments issued against respondent to be erroneous and ordered that the same be cancelled.^[16]

Ruling of the Court of Appeals

The CA explained that the persons who may avail of the VAP are those who are "liable to pay any of the above-cited internal revenue taxes for the above specified period who due to inadvertence or otherwise, has underdeclared his internal revenue tax liabilities or has not filed the required tax returns." The CA rationalized that the BIR used a broad language to define the persons qualified to avail of the VAP because the BIR intended to reach as many taxpayers as possible subject only to the exclusion of those cases specially enumerated.

The CA ruled that in applying the rules of statutory construction, the exceptions enumerated in paragraph 3^[17] of RMO No. 59-97, as well as those added in RMO No. 63-97, should be strictly construed and all doubts should be resolved in favor of the general provision stated under paragraph 2^[18] rather than the said exceptions.

The CA affirmed the CTA's findings of facts and ruled that neither the verified information nor the investigation was recorded in the Official Registry Book of the

BIR. The CA disagreed with petitioner's contention that the recording in the Official Registry Book of the BIR is merely a procedural requirement which can be dispensed with for the purpose of determining who are excluded from the coverage of RMO No. 59-97.

The CA explained that it is clear from the wordings of RMO No. 59-97 that the recording in the Official Registry Book of the BIR is a mandatory requirement before a taxpayer-applicant under the VAP may be excluded from its coverage as this requirement was preceded by the word "and." The use of the conjunction "and" in subparagraph 3.4 of RMO No. 59-97 must be understood in its usual and common meaning for the purpose of determining who are disqualified from availing of the benefits under the VAP. This interpretation is more in faithful compliance with the mandate of the RMOs.

Aggrieved by the CA decision, petitioner elevated the case to this Court.

Issue

Petitioner submits this sole issue for our consideration: whether the CA erred in holding that the recording in the Official Registry Book of the BIR of the information filed by the informer under Section 281^[19] of the Tax Code is a mandatory requirement before a taxpayer-applicant may be excluded from the coverage of the VAP.

Ruling of the Court

Petitioner contends that the VAP, being in the nature of a tax amnesty, must be strictly construed against the taxpayer-applicant such that petitioner's failure to record the information in the Official Registry Book of the BIR does not affect respondent's disqualification from availment of the benefits under the VAP. Petitioner argues that taxpayers who are under investigation for non-filing of income tax returns before their availment of the VAP are not covered by the program and are not entitled to its benefits. Petitioner alleges that the underlying reason for the disqualification is that availment of the VAP by such taxpayer is no longer voluntary. Petitioner asserts that voluntariness is the very essence of the Voluntary Assessment Program.^[20]

Respondent claims that where the terms of a statute are clear and unambiguous, no interpretation is called for, and the law is applied as written, for application is the first duty of the court, and interpretation, only where literal application is impossible or inadequate.

Verba Legis

It is well-settled that where the language of the law is clear and unequivocal, it must be given its literal application and applied without interpretation.^[21] The general rule of requiring adherence to the letter in construing statutes applies with particular strictness to tax laws and provisions of a taxing act are not to be extended by implication.^[22] A careful reading of the RMOs pertaining to the VAP shows that the recording of the information in the Official Registry Book of the BIR is

a mandatory requirement before a taxpayer may be excluded from the coverage of the VAP.

On 27 October 1997, the CIR, in implementing the VAP, issued RMO No. 59-97 to give erring taxpayers a final opportunity to come up with a clean slate. Any person liable to pay income tax on business and compensation income, value-added tax and other percentage taxes under Titles II, IV and V, respectively, of the Tax Code for the taxable years 1993 to 1996, who due to inadvertence or otherwise, has not filed the required tax return may avail of the benefits under the VAP.^[23] RMO No. 59-97 also enumerates the persons or cases that are excluded from the coverage of the VAP.

3. Persons/Cases not covered

The following shall be excluded from the coverage of the VAP under this Order:

x x x

3.4. Persons under investigation as a result of verified information filed by an informer under Section 281 of the NIRC, as amended, **and duly recorded in the Official Registry Book of the Bureau** before the date of availment under the VAP; x x x (Boldfacing supplied)

On 30 October 1997, the CIR issued RMO No. 60-97 which supplements RMO No. 59-97 and amended Item No. 3.4 to read as:

3. Persons/Cases not covered

The following shall be excluded from the coverage of the VAP under this Order:

x x x

3.4 Persons under investigation by the Tax Fraud Division and/or the Regional Special Investigation Divisions as a result of verified information filed by an informer under Section 281 of the NIRC, as amended, **and duly recorded in the Official Registry Book of the Bureau** before the date of availment under VAP; (Boldfacing supplied)

On 27 November 1997, the CIR issued RMO No. 63-97 and clarified issues related to the implementation of the VAP. RMO No. 63-97 provides:

3. Persons/cases not covered: