363 Phil. 169

THIRD DIVISION

[G.R. No. 104171, February 24, 1999]

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. B.F. GOODRICH PHILS., INC. (NOW SIME DARBY INTERNATIONAL TIRE CO., INC.) AND THE COURT OF APPEALS, RESPONDENTS.

D E C I S I O N

PANGANIBAN, J.:

Notwithstanding the expiration of the five-year prescriptive period, may the Bureau of Internal Revenue (BIR) still assess a taxpayer even after the latter has already paid the tax due, on the ground that the previous assessment was insufficient or based on a "false" return?

The Case

This is the main question raised before us in this Petition for Review on *Certiorari* assailing the Decision[1] dated February 14, 1992, promulgated by the Court of Appeals[2] in CA-GR SP No. 25100. The assailed Decision reversed the Court of Tax Appeals (CTA)[3] which upheld the BIR commissioner's assessments made beyond the five-year statute of limitations.

The Facts

The facts are undisputed.[4] Private Respondent BF Goodrich Phils., Inc. (now Sime Darby International Tire Co. Inc.), was an American-owned and controlled corporation previous to July 3, 1974. As a condition for approving the manufacture by private respondent of tires and other rubber products, the Central Bank of the Philippines required that it should develop a rubber plantation. In compliance with this requirement, private respondent purchased from the Philippine government in 1961, under the Public Land Act and the Parity Amendment to the 1935 Constitution, certain parcels of land located in Tumajubong, Basilan, and there developed a rubber plantation.

More than a decade later, on August 2, 1973, the justice secretary rendered an opinion stating that, upon the expiration of the Parity Amendment on July 3, 1974, the ownership rights of Americans over public agricultural lands, including the right to dispose or sell their real estate, would be lost. On the basis of this Opinion, private respondent sold to Siltown Realty Philippines, Inc. on January 21, 1974, its Basilan landholding for P500,000 payable in installments. In accord with the terms of the sale, Siltown Realty Philippines, Inc. leased the said parcels of land to private respondent for a period of 25 years, with an extension of another 25 years at the latter's option.

Based on the BIR's Letter of Authority No. 10115 dated April 14, 1975, the books and accounts of private respondent were examined for the purpose of determining its tax liability for taxable year 1974. The examination resulted in the April 23, 1975 assessment of private respondent for deficiency income tax in the amount of P6,005.35, which it duly paid.

Subsequently the BIR also issued Letters of Authority Nos. 074420 RR and 074421 RR and Memorandum Authority Reference No. 749157 for the purpose of examining Siltown's business, income and tax liabilities. On the basis of this examination, the BIR commissioner issued against private respondent on October 10, 1980, an assessment for deficiency in donor's tax in the amount of P1,020,850, in relation to the previously mentioned sale of its Basilan landholdings to Siltown. Apparently, the BIR deemed the consideration for the sale insufficient, and the difference between the fair market value and the actual purchase price a taxable donation.

In a letter dated November 24, 1980, private respondent contested this assessment. On April 9, 1981, it received another assessment dated March 16, 1981, which increased to P1,092,949 the amount demanded for the alleged deficiency donor's tax, surcharge, interest and compromise penalty.

Private respondent appealed the correctness and the legality of these last two assessments to the CTA. After trial in due course, the CTA rendered its Decision dated March 29, 1991, the dispositive portion of which reads as follows:

> "WHEREFORE, the decision of the Commissioner of Internal Revenue assessing petitioner deficiency gift tax is MODIFIED and petitioner is ordered to pay the amount of P1,311,179.01 plus 10% surcharge and 20% annual interest from March 16, 1981 until fully paid provided that the maximum amount that may be collected as interest on delinquency shall in no case exceed an amount corresponding to a period of three years pursuant to Section 130(b) (1) and (c) of the 1977 Tax Code, as amended by P.D. No. 1705, which took effect on August 1, 1980.
>
> "SO ORDERED."[5]

Undaunted, private respondent elevated the matter to the Court of Appeals, which reversed the CTA, as follows:

> "What is involved here is not a first assessment; nor is it one within the 5-year period stated in Section 331 above. Since what is involved in this case is a multiple assessment beyond the five-year period, the assessment must be based on the grounds provided in Section 337, and not on Section 15 of the 1974 Tax Code. Section 337 utilizes the very specific terms `fraud, irregularity, and mistake'. `Falsity does not appear to be included in this enumeration. Falsity suffices for an assessment, which is a first assessment made within the five-year period. When it is a subsequent assessment made beyond the five-year period, then, it may be validly justified only by `fraud, irregularity and mistake' on the part of the taxpayer."[6]

Hence, this Petition for Review under Rule 45 of the Rules of Court.[7]

The Issues

Before us, petitioner raises the following issues:

"I

> Whether or not petitioner's right to assess herein deficiency donor's tax has indeed prescribed as ruled by public respondent Court of Appeals

II

> Whether or not the herein deficiency donor's tax assessment for 1974 is valid and in accordance with law"

Prescription is the crucial issue in the resolution of this case.

The Court's Ruling

The petition has no merit.

Main Issue: *Prescription*

The petitioner contends that the Court of Appeals erred in reversing the CTA on the issue of prescription, because its ruling was based on factual findings that should have been left undisturbed on appeal, in the absence of any showing that it had been tainted with gross error or grave abuse of discretion.[8] The Court is not persuaded.

True, the factual findings of the CTA are generally not disturbed on appeal when supported by substantial evidence and in the absence of gross error or grave abuse of discretion. However, the CTA's application of the law to the facts of this controversy is an altogether different matter, for it involves a legal question. There is a question of law when the issue is the application of the law to a given set of facts. On the other hand, a question of fact involves the truth or falsehood of alleged facts.[9] In the present case, the Court of Appeals ruled not on the truth or falsity of the facts found by the CTA, but on the latter's application of the law on prescription.

Section 331 of the National Internal Revenue Code provides:

> "SEC. 331. *Period of limitation upon assessment and collection*. - Except as provided in the succeeding section, internal-revenue taxes shall be assessed within five years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after expiration of such period. For the purposes of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day: *Provided*, That this limitation shall not apply to cases already investigated prior to the approval of this Code."

Applying this provision of law to the facts at hand, it is clear that the October 16, 1980 and the March 1981 assessments were issued by the BIR beyond the five-year statute of limitations. The Court has thoroughly studied the records of this case and found no basis to disregard the five-year period of prescription. As succinctly pronounced by the Court of Appeals: