

THIRD DIVISION

[G.R. No. 109193, February 01, 2000]

REPUBLIC OF THE PHILIPINES, PETITIONER, VS. THE COURT OF APPEALS AND PRECISION PRINTING INC. RESPONDENTS.

DECISION

PURISIMA, J.:

At bar is a Petition for Review under Rule 45 seeking to set aside the decision of the Court of Appeals^[1] affirming the Order of dismissal by the Trial Court^[2] of Quezon City in the case, entitled "*Republic of the Philippines vs. Precision Printing, Inc.*", on the ground of extinguishment of tax liability as Precision Printing, Inc., had availed of tax amnesty under Executive Order Nos. 54 and 64.

On June 10, 1985, the Bureau of Internal Revenue (BIR) issued an assessment notice and letter against Precision Printing, Inc., demanding payment of the sum of P248,406.11. Despite repeated demands, however, the latter failed to pay within the period prescribed by law. Consequently, the said tax assessment became final and demandable.

On October 31, 1986, it turned out that Printing Precision, Inc. filed a Tax Amnesty Return together with the Statements of Net Worth as of December 31, 1985 and December 31, 1980 and other supporting documents under File No. 00696 and its Amended Tax Return filed on December 21, 1986.^[3]

The said amnesty return was filed pursuant to Executive Order No. 41, as amended by Executive Order Nos. 54 and 64 respectively, dated August 26, 1986, November 4, 1986, and November 17, 1986.

On June 9, 1990, BIR brought before Branch CV of the Regional Trial Court of Quezon City, a Complaint against Precision Printing, Inc. for the collection of the amount of P248,406.11 as deficiency income tax for 1981 inclusive of interest.

The defendant, Precision Printing, Inc., put up the affirmative defense that it is not liable for such tax deficiencies because it availed of tax amnesty under Executive Order No. 41, as amended by Executive Order Nos. 54 and 64.

On June 27, 1991, after a preliminary hearing on the aforesaid affirmative defense, Presiding Judge Tomas V. Tadeo of Branch 105 of Regional Trial Court of Quezon City, issued an Order of dismissal, ratiocinating thus:

"WHEREFORE, premises considered, the Court finds defendant's affirmative defense of availment of tax amnesty to be well-taken and hereby dismisses this case. No costs.

SO ORDERED."

The aforesaid Order was seasonably appealed to the Court of Appeals but to no avail. On February 23, 1993, the Court of Appeals promulgated its Decision affirming the appealed Order of Dismissal.

Dissatisfied therewith, the Republic of the Philippines has come to this Court via the present Petition for Review under Rule 45 of the Revised Rules of Court; posing for resolution the sole issue:

"WHETHER OR NOT THE RESPONDENT COURT ERRED IN AFFIRMING THE TRIAL COURT'S FINDING THAT PRIVATE RESPONDENT'S TAX LIABILITY WAS EXTINGUISHED WHEN IT AVAILED OF TAX AMNESTY UNDER EXECUTIVE ORDER NO. 41."

Petitioner anchors its submission on the fact that the respondent corporation was already assessed of its tax deficiency prior to the promulgation of Revenue Memorandum 4-87 which implemented E.O. 41. The tax assessment letter was received by respondent corporation on June 10, 1985 while the said Revenue Memorandum 4-87 explicitly refers only to assessments made after August 21, 1986.

The issue raised by petitioner is not a novel one. It was settled in the case of *Commissioner of Internal Revenue vs. Court of Appeals*, 240 SCRA 368, wherein the issues raised for resolution were similar to the theories and issues here.

Executive Order No. 41 (E.O. 41) declaring a tax amnesty on unpaid income taxes was promulgated on August 22, 1986. It was later amended to include estate and donor's taxes and taxes on business, for the taxable years 1981-1985. Thereafter, Revenue Memorandum 4-87 (R.O. 4-87) issued to implement the law.

However, R.O. 4-87 as the following provisions:

"TO: ALL INTERNAL REVENUE OFFICERS AND OTHER CONCERNED:

1.02. To give effect and substance to the immunity provisions of the Tax Amnesty under Executive Order No. 41, as expanded by Executive Order No. 64, the following instructions are hereby issued:

xxx xxx xxx

1.02. A certification by the Tax Amnesty Implementation officer of the fact of availment of the said tax amnesty shall be a sufficient basis for:

xxx xxx xxx

1.02.3. In appropriate cases, the cancellation/withdrawal of assessment notice and letters of demand, issued after August 21, 1986 for the collection of income, business, estate or donor's taxes during the taxable years."^[4]