

THIRD DIVISION

[G.R. No. 135210, July 11, 2001]

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. ISABELA CULTURAL CORPORATION, RESPONDENT.

DECISION

PANGANIBAN, J.:

A final demand letter from the Bureau of Internal Revenue, reiterating to the taxpayer the immediate payment of a tax deficiency assessment previously made, is tantamount to a denial of the taxpayer's request for reconsideration. Such letter amounts to a final decision on a disputed assessment and is thus appealable to the Court of Tax Appeals (CTA).

The Case

Before this Court is a Petition for Review on Certiorari^[1] pursuant to Rule 45 of the Rules of Court, seeking to set aside the August 19, 1998 Decision^[2] of the Court of Appeals^[3] (CA) in CA-GR SP No. 46383 and ultimately to affirm the dismissal of CTA Case No. 5211. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, the assailed decision is REVERSED and SET ASIDE. Accordingly, judgment is hereby rendered REMANDING the case to the CTA for proper disposition."^[4]

The Facts

The facts are undisputed. The Court of Appeals quoted the summary of the CTA as follows:

"As succinctly summarized by the Court of Tax appeals (CTA for brevity), the antecedent facts are as follows:

`In an investigation conducted on the 1986 books of account of [respondent, petitioner] had the preliminary [finding] that [respondent] incurred a total income tax deficiency of P9,985,392.15, inclusive of increments. Upon protest by [respondent's] counsel, the said preliminary assessment was reduced to the amount of P325,869.44, a breakdown of which follows:

Deficiency	P321,022.68
Income Tax	
Deficiency	
Expanded	
Withholding	4,846.76
Tax	

Total -----
 P325,869.44

(pp. 187-189, BIR
records)'

On February 23, 1990, [respondent] received from [petitioner] an assessment letter, dated February 9, 1990, demanding payment of the amounts of P333,196.86 and P4,897.79 as deficiency income tax and expanded withholding tax inclusive of surcharge and interest, respectively, for the taxable period from January 1, 1986 to December 31, 1986. (pp. 204 and 205, BIR rec.)

In a letter, dated March 22, 1990, filed with the [petitioner's] office on March 23, 1990 (pp. 296-311, BIR rec.), [respondent] requested x x x a reconsideration of the subject assessment.

Supplemental to its protest was a letter, dated April 2, 1990, filed with the [petitioner's] office on April 18, 1990 (pp. 224 & 225, BIR rec.), to which x x x were attached certain documents supportive of its protest, as well as a Waiver of Statute of Limitation, dated April 17, 1990, where it was indicated that [petitioner] would only have until April 5, 1991 within which to assess and collect the taxes that may be found due from [respondent] after the re-investigation.

On February 9, 1995, [respondent] received from [petitioner] a Final Notice Before Seizure, dated December 22, 1994 (p. 340, BIR rec.). In said letter, [petitioner] demanded payment of the subject assessment within ten (10) days from receipt thereof. Otherwise, failure on its part would constrain [petitioner] to collect the subject assessment through summary remedies.

[Respondent] considered said final notice of seizure as [petitioner's] final decision. Hence, the instant petition for review filed with this Court on March 9, 1995.

The CTA having rendered judgment dismissing the petition, [respondent] filed the instant petition anchored on the argument that [petitioner's] issuance of the Final Notice Before Seizure constitutes [its] decision on [respondent's] request for reinvestigation, which the [respondent] may appeal to the CTA."^[5]

Ruling of the Court of Appeals

In its Decision, the Court of Appeals reversed the Court of Tax Appeals. The CA considered the final notice sent by petitioner as the latter's decision, which was appealable to the CTA. The appellate court reasoned that the final Notice before seizure had effectively denied petitioner's request for a reconsideration of the commissioner's assessment. The CA relied on the long-settled tax jurisprudence that a demand letter reiterating payment of delinquent taxes amounted to a decision on a disputed assessment.

Hence, this recourse.^[6]

Issues

In his Memorandum,^[7] petitioner presents for this Court's consideration a solitary

issue:

"Whether or not the Final Notice Before Seizure dated February 9, 1995 signed by Acting Chief Revenue Collection Officer Milagros Acevedo against ICC constitutes the final decision of the CIR appealable to the CTA."^[8]

The Court's Ruling

The Petition is not meritorious.

Sole Issue:

The Nature of the Final Notice Before Seizure

The Final Notice Before Seizure sent by the Bureau of Internal Revenue (BIR) to respondent reads as follows:

"On Feb.9, 1990, [this] Office sent you a letter requesting you to settle the above-captioned assessment. To date, however, despite the lapse of a considerable length of time, we have not been honored with a reply from you.

In this connection, we are giving you this LAST OPPORTUNITY to settle the adverted assessment within ten (10) days after receipt hereof. Should you again fail, and refuse to pay, this Office will be constrained to enforce its collection by summary remedies of Warrant of Levy of Road Property, Distraint of Personal Property or Warrant of Garnishment, and/or simultaneous court action.

Please give this matter your preferential attention.

Very truly yours,

ISIDRO B. TECSON, JR.
Revenue District Officer

By:

(Signed)
MILAGROS M. ACEVEDO

Actg. Chief Revenue Collection Officer"^[9]

Petitioner maintains that this Final Notice was a mere reiteration of the delinquent taxpayer's obligation to pay the taxes due. It was supposedly a mere demand that should not have been mistaken for a decision on a protested assessment. Such decision, the commissioner contends, must unequivocally indicate that it is the resolution of the taxpayer's request for reconsideration and must likewise state the reason therefor.

Respondent, on the other hand, points out that the Final Notice Before Seizure should be considered as a denial of its request for reconsideration of the disputed assessment. The Notice should be deemed as petitioner's last act, since failure to comply with it would lead to the distraint and levy of respondent's properties, as