358 Phil. 562

FIRST DIVISION

[G.R. No. 124043, October 14, 1998]

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. COURT OF APPEALS, COURT OF TAX APPEALS AND YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE PHILIPPINES, INC., RESPONDENTS.

D E C I S I O N

PANGANIBAN, J.:

Is the income derived from rentals of real property owned by the Young Men's Christian Association of the Philippines, Inc. (YMCA) - established as "a welfare, educational and charitable non-profit corporation" -- subject to income tax under the National Internal Revenue Code (NIRC) and the Constitution?

The Case

This is the main question raised before us in this petition for review on certiorari challenging two Resolutions issued by the Court of Appeals[1] on September 28, 1995[2] and February 29, 1996[3] in CA-GR SP No. 32007. Both Resolutions affirmed the Decision of the Court of Tax Appeals (CTA) allowing the YMCA to claim tax exemption on the latter's income from the lease of its real property.

The Facts

The Facts are undisputed.[4] Private Respondent YMCA is a non-stock, non-profit institution, which conducts various programs and activities that are beneficial to the public, especially the young people, pursuant to its religious, educational and charitable objectives.

In 1980, private respondent earned, among others, an income of P676,829.80 from leasing out a portion of its premises to small shop owners, like restaurants and canteen operators, and P44,259.00 from parking fees collected from non-members. On July 2, 1984, the commissioner of internal revenue (CIR) issued an assessment to private respondent, in the total amount of P415,615.01 including surcharge and interest, for deficiency income tax, deficiency expanded withholding taxes on rentals and professional fees and deficiency withholding tax on wages. Private respondent formally protested the assessment and, as a supplement to its basic protest, filed a letter dated October 8, 1985. In reply, the CIR denied the claims of YMCA.

Contesting the denial of its protest, the YMCA filed a petition for review at the Court if Tax Appeals (CTA) on March 14, 1989. In due course, the CTA issued this ruling in favor of the YMCA:

"xxx [T]he leasing of private respondent's facilities to small shop owners, to restaurant and canteen operators and the operation of the parking lot are reasonably incidental to and reasonably necessary for the accomplishment of the objectives of the [private respondents]. It appears from the testimonies of the witnesses for the [private respondent] particularly Mr. James C. Delote, former accountant of YMCA, that these facilities were leased to members and that they have to service the needs of its members and their guests. The Rentals were minimal as for example, the barbershop was only charged P300 per month. He also testified that there was actually no lot devoted for parking space but the parking was done at the sides of the building. The parking was primarily for members with stickers on the windshields of their cars and they charged P.50 for non-members. The rentals and parking fees were just enough to cover the costs of operation and maintenance only. The earning[s] from these rentals and parking charges including those from lodging and other charges for the use of the recreational facilities constitute [the] bulk of its income which [is] channeled to support its many activities and attainment of its objectives. As pointed out earlier, the membership dues are very insufficient to support its program. We find it reasonably necessary therefore for [private respondent] to make [the] most out [of] its existing facilities to earn some income. It would have been different if under the circumstances, [private respondent] will purchase a lot and convert it to a parking lot to cater to the needs of the general public for a fee, or construct a building and lease it out to the highest bidder or at the market rate for commercial purposes, or should it invest its funds in the buy and sell of properties, real or personal. Under these circumstances, we could conclude that the activities are already profit oriented, not incidental and reasonably necessary to the pursuit of the objectives of the association and therefore, will fall under the last paragraph of section 27 of the Tax Code and any income derived therefrom shall be taxable.

"Considering our findings that [private respondent] was not engaged in the business of operating or contracting [a] parking lot, we find no legal basis also for the imposition of [a] deficiency fixed tax and [a] contractor's tax in the amount[s] of P353.15 and P3,129.73, respectively.

x x x x x x x x x

"WHEREFORE, in view of all the foregoing, the following assessments are hereby dismissed for lack of merit:

1980 Deficiency Fixed Tax - P353,15;
1980 Deficiency Contractor's Tax - P3,129.23;
1980 Deficiency Income Tax - P372,578.20.
While the following assessments are hereby sustained:
1980 Deficiency Expanded Withholding Tax - P1,798.93;
1980 Deficiency Withholding Tax on Wages - P33,058.82

plus 10% surcharge and 20% interest per annum from July 2, 1984 until fully paid but not to exceed three (3) years pursuant to Section 51 (e)(2) & (3) of the National Internal Revenue Code effective as of 1984."[5]

Dissatisfied with the CTA ruling, the CIR elevated the case to the Court of Appeals (CA). In its Decision of February 16, 1994, the CA[6] initially decided in favor of the CIR and disposed of the appeal in the following manner:

"Following the ruling in the afore-cited cases of Province of Abra vs. Hernando and Abra Valley College Inc. vs. Aquino, the ruling of the respondent Court of Tax Appeals that 'the leasing of petitioner's (herein respondent) facilities to small shop owners, to restaurant and canteen operators and the operation of the parking lot are reasonably incidental to and reasonably necessary for the accomplishment of the objectives of the petitioners,' and the income derived therefrom are tax exempt, must be reversed.

> "WHEREFORE, the appealed decision is hereby REVERSED in so far as it dismissed the assessment for:
>
> 1980 Deficiency Income Tax P 353.15
> 1980 Deficiency Contractor's Tax P 3,129.23, &
> 1980 Deficiency Income Tax P 372,578.20,
>
> but the same is AFFIRMED in all other respect."[7]

Aggrieved, the YMCA asked for reconsideration based on the following grounds:

I

> "The findings of facts of the Public Respondent Court of Tax Appeals being supported by substantial evidence [are] final and conclusive.

II

> "The conclusions of law of [p]ublic [r]espondent exempting [p]rivate [r]espondent from the income on rentals of small shops and parking fees [are] in accord with the applicable law and jurisprudence."[8]

Finding merit in the Motion for Reconsideration filed by the YMCA, the CA reversed itself and promulgated on September 28, 1995 its first assailed Resolution which, in part, reads:

> "The Court cannot depart from the CTA's findings of fact, as they are supported by evidence beyond what is considered as substantial.
>
> x x x x x x x x x
>
> "The second ground raised is that the respondent CTA did not err in saying that the rental from small shops and parking fees do not result in the loss of the exemption. Not even the petitioner would hazard the suggestion that YMCA is designed for profit. Consequently, the little income from small shops and parking fees help[s] to keep its head above the water, so to speak, and allow it to continue with its laudable work.
>
> "The Court, therefore, finds the second ground of the motion to be meritorious and in accord with law and jurisprudence.

"WHEREFORE, the motion for reconsideration is GRANTED; the respondent CTA's decision is AFFIRMED in toto."[9]

The internal revenue commissioner's own Motion for Reconsideration was denied by Respondent Court in its second assailed Resolution of February 29, 1996. Hence, this petition for review under Rule 45 of the Rules of Court.[10]

The Issues

Before us, petitioner imputes to the Court of Appeals the following errors:

I

"In holding that it had departed from the findings of fact of Respondent Court of Tax Appeals when it rendered its Decision dated February 16, 1994; and

II

"In affirming the conclusion of Respondent Court of Tax Appeals that the income of private respondent from rentals of small shops and parking fees [is] exempt from taxation."[11]

This Court's Ruling

The Petition is meritorious.

First Issue:
Factual Findings of the CTA

Private respondent contends that the February 16, 1994 CA Decision reversed the factual findings of the CTA. On the other hand, petitioner argues that the CA merely reversed the "ruling of the CTA that the leasing of private respondent's facilities to small shop owners, to restaurant and canteen operators and the operation of parking lots are reasonably incidental to and reasonably necessary for the accomplishment of the objectives of the private respondent and that the income derived therefrom are tax exempt."[12] Petitioner insists that what the appellate court reversed was the legal conclusion, *not the factual finding,* of the CTA.[13] The commissioner has a point.

Indeed, it is a basic rule in taxation that the factual findings of the CTA, when supported by substantial evidence, will not be disturbed on appeal unless it is shown that the said court committed gross error in the appreciation of facts.[14] In the present case, this Court finds that the February 16, 1994 Decision of the CA did not deviate from this rule. The latter merely applied the law to the facts as found by the CTA and ruled on the issue raised by the CIR: "Whether or not the collection or earnings of rental income from the lease of certain premises and income earned from parking fees shall fall under the last paragraph of Section 27 of the National Internal Revenue Code of 1977, as amended."[15]

Clearly, the CA did not alter any fact or evidence. It merely resolved the aforementioned issue, as indeed it was expected to. That it did so in a manner different from that of the CTA did not necessarily imply a reversal of factual findings.

The distinction between a question of law and a question of fact is clear-cut. It has been held that "[t]here is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or falsehood of alleged facts."[16] In the present case, the CA did not doubt, much less change, the facts narrated by the CTA. It merely applied the law to the facts. That its interpretation or conclusion is different from that of the CTA is not irregular or abnormal.

Second Issue:
Is the Rental Income of the YMCA Taxable?

We now come to the crucial issue: Is the rental income of the YMCA from its real estate subject to tax? At the outset, we set forth the relevant provision of the NIRC:

> "SEC. 27. *Exemptions from tax on corporations.* -- The following organizations shall not be taxed under this Title in respect to income received by them as such --
>
> x x x x x x x x x
>
> (g) Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;
>
> (h) Club organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net income of which inures to the benefit of any private stockholder or member;
>
> x x x x x x x x x
>
> Notwithstanding the provision in the preceding paragraphs, the income of whatever kind and character of the foregoing organization from any of their properties, real or personal, or from any of their activities conducted for profit, regardless of the disposition made of such income, shall be subject to the tax imposed under this Code. (as amended by Pres. Decree No. 1457)"

Petitioners argues that while the income received by the organizations enumerated in Section 27 (now Section 26) of the NIRC is, as a rule, exempted from the payment of tax "in respect to income received by them as such," the exemption does not apply to income derived "xxx from any if their properties, real or personal, or from any of their activities conducted for profit, regardless, of the disposition made of such income xxx."

Petitioner adds that "rented income derived by a tax-exempt organization from the lease of its properties, real or personal, [is] not, therefore, exempt from income taxation, even if such income [is] exclusively used for the accomplishment of its objectives."[17] We agree with the commissioner.