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THIRD DIVISION

[G.R. No. 108358. January 20, 1995]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* THE HON. COURT OF APPEALS, R.O.H. AUTO PRODUCTS PHILIPPINES, INC. and THE HON. COURT OF TAX APPEALS, *respondents.*

SYLLABUS

1. **ADMINISTRATIVE LAW; ADMINISTRATIVE OPINIONS AND RULINGS CONSISTENT AND IN HARMONY WITH THE LAW THEY SEEK TO APPLY AND IMPLEMENT, DESERVE WEIGHT AND RESPECT BY THE COURTS.**— The authority of the Minister of Finance (now the Secretary of Finance), in conjunction with the Commissioner of Internal Revenue, to promulgate all needful rules and regulations for the effective enforcement of internal revenue laws cannot be controverted. Neither can it be disputed that such rules and regulations, as well as administrative opinions and rulings, ordinarily should deserve weight and respect by the courts. Much more fundamental than either of the above, however, is that all such issuances must not override, but must remain consistent and in harmony with, the law they seek to apply and implement. Administrative rules and regulations are intended to carry out, neither to supplant nor to modify, the law.

2. **STATUTORY CONSTRUCTION; THERE IS NO NEED OF INTERPRETATION WHERE NECESSARY LAW IS CLEAR AND EXPLICIT; SCOPE OF EXECUTIVE ORDER No. 41, EXPLICIT AND REQUIRES NOTHING BEYOND ITS SIMPLE APPLICATION; CASE AT BENCH.**— We agree with both the Court of Appeals and Court of Tax Appeals that Executive Order No. 41 is quite explicit and requires hardly anything beyond

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a simple application of its provisions. It reads: "SEC. 1. Scope of Amnesty. - A one-time tax amnesty covering unpaid income taxes for the years 1981 to 1985 is hereby declared." The period of the amnesty was later extended to 05 December 1986 from 31 October 1986 by Executive Order No. 54, dated 04 November 1986, and, its coverage expanded, under Executive Order No. 64, dated 17 November 1986, to include estate and donors taxes and taxes on business. If, as the Commissioner argues, Executive Order No. 41 had not been intended to include 1981-1985 tax liabilities already assessed (administratively) prior to 22 August 1986, the law could have simply so provided in its exclusionary clauses. It did not. The conclusion is unavoidable, and it is that the executive order has been designed to be in the nature of a general grant of tax amnesty subject only to the cases *specifically* excepted by it.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.

Quisumbing, Torres and Evangelista for private respondent.

D E C I S I O N

VITUG, *J.*:

On 22 August 1986, during the period when the President of the Republic still wielded legislative powers, Executive Order No. 41 was promulgated declaring a one-time tax amnesty on unpaid income taxes, later amended to include estate and donor's taxes and taxes on business, for the taxable years 1981 to 1985.

Availing itself of the amnesty, respondent R.O.H. Auto Products Philippines, Inc., filed, in October 1986 and November 1986, its Tax Amnesty Return No. 34-F-00146-41 and Supplemental Tax Amnesty Return No. 34-F-00146-64-B, respectively, and paid the corresponding amnesty taxes due.

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Prior to this availment, petitioner Commissioner of Internal Revenue, in a communication received by private respondent on 13 August 1986, assessed the latter deficiency income and business taxes for its fiscal years ended 30 September 1981 and 30 September 1982 in an aggregate amount of P1,410,157.71. The taxpayer wrote back to state that since it had been able to avail itself of the tax amnesty, the deficiency tax notice should forthwith be cancelled and withdrawn. The request was denied by the Commissioner, in his letter of 22 November 1988, on the ground that Revenue Memorandum Order No. 4-87, dated 09 February 1987, implementing Executive Order No. 41, had construed the amnesty coverage to include only assessments issued by the Bureau of Internal Revenue after the promulgation of the executive order on 22 August 1986 and not to assessments theretofore made. The invoked provisions of the memorandum order read:

"TO: All Internal Revenue Officers and Others Concerned:

"1.0. 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:

"x x x x x x x x x

"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:

"x x x x x x x x x

"1.02.3. In appropriate cases, the cancellation/withdrawal of *assessment notices and letters of demand issued after August 21, 1986 for the collection of income, business, estate or donor's taxes due during the same taxable years.*"[1] (Italics supplied.)

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[1] *Rollo*, p. 29.

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Private respondent appealed the Commissioner's denial to the Court of Tax Appeals. Ruling for the taxpayer, the tax court said:

"Respondent (herein petitioner Commissioner) failed to present any case or law which proves that an assessment can withstand or negate the force and effects of a tax amnesty. This burden of proof on the petitioner (herein respondent taxpayer) was created by the clear and express terms of the executive order's intention - qualified availers of the amnesty may pay an amnesty tax in lieu of said unpaid taxes which are forgiven (Section 2, Section 5, Executive Order No. 41, as amended). More specifically, the plain provisions in the statute granting tax amnesty for unpaid taxes for the period January 1, 1981 to December 31, 1985 shifted the burden of proof on respondent to show how the issuance of an assessment before the date of the promulgation of the executive order could have a reasonable relation with the objective periods of the amnesty, so as to make petitioner still answerable for a tax liability which, through the statute, should have been erased with the proper availment of the amnesty.

"Additionally, the exceptions enumerated in Section 4 of Executive Order No. 41, as amended, do not indicate any reference to an assessment or pending investigation aside from one arising from information furnished by an informer. x x x Thus, we deem that the rule in Revenue Memorandum Order No. 4-87 promulgating that only assessments issued after August 21, 1986 shall be abated by the amnesty is beyond the contemplation of Executive Order No. 41, as amended."[2]

On appeal by the Commissioner to the Court of Appeals, the decision of the tax court was affirmed. The appellate court further observed:

"In the instant case, examining carefully the words used in Executive Order No. 41, as amended, we find nothing which justifies petitioner Commissioner's ground for denying respondent taxpayer's claim to the benefits of the amnesty law. Section 4 of

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[2] *Rollo*, pp. 28-29.

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the subject law enumerates, in no uncertain terms, taxpayers who may not avail of the amnesty granted, x x x.

"Admittedly, respondent taxpayer does not fall under any of the x x x exceptions. The added exception urged by petitioner Commissioner based on Revenue Memorandum Order No. 4-87, further restricting the scope of the amnesty clearly amounts to an act of administrative legislation quite contrary to the mandate of the law which the regulation ought to implement.

"x x x x x x x x x

"Lastly, by its very nature, 'a tax amnesty, being a general pardon or intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of evasion or violation of a revenue or tax law, partakes of an absolute forgiveness or waiver by the Government of its right to collect what otherwise would be due it, and in this sense, prejudicial thereto, particularly to give tax evaders, who wish to relent and are willing to reform a chance to do so and thereby become a part of the new society with a clean slate.' (Republic *vs.* Intermediate Appellate Court, 196 SCRA 335, 340 [1991] citing Commissioner of Internal Revenue *vs.* Botelho Shipping Corp., 20 SCRA 487) To follow [the restrictive application of Revenue Memorandum Order No. 4-87 pressed by petitioner Commissioner would be to work against the *raison d'etre* of E.O. 41, as amended, i.e., to raise government revenues by encouraging taxpayers to declare their untaxed income and pay the tax due thereon. (E.O. 41, first paragraph)]"[3]

In this petition for review, the Commissioner raises these related issues:

"1. WHETHER OR NOT REVENUE MEMORANDUM ORDER NO. 4-87, PROMULGATED TO IMPLEMENT E.O. NO. 41, IS VALID;

"2. WHETHER OR NOT SAID DEFICIENCY ASSESSMENTS IN QUESTION WERE EXTINGUISHED BY REASON OF PRIVATE RESPONDENT'S AVAILMENT OF

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[3] *Rollo*, pp. 30-31, 33.

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EXECUTIVE ORDER NO. 41 AS AMENDED BY EXECUTIVE ORDER NO. 64;

"3. WHETHER OR NOT PRIVATE RESPONDENT HAS OVERCOME THE PRESUMPTION OF VALIDITY OF ASSESSMENTS."[4]

The authority of the Minister of Finance (now the Secretary of Finance), in conjunction with the Commissioner of Internal Revenue, to promulgate all needful rules and regulations for the effective enforcement of internal revenue laws cannot be controverted. Neither can it be disputed that such rules and regulations, as well as administrative opinions and rulings, ordinarily should deserve weight and respect by the courts. Much more fundamental than either of the above, however, is that all such issuances must not override, but must remain consistent and in harmony with, the law they seek to apply and implement. Administrative rules and regulations are intended to carry out, neither to supplant nor to modify, the law.

The real and only issue is whether or not the position taken by the Commissioner coincides with the meaning and intent of Executive Order No. 41.

We agree with both the Court of Appeals and Court of Tax Appeals that Executive Order No. 41 is quite explicit and requires hardly anything beyond a simple application of its provisions. It reads:

"SEC. 1. Scope of Amnesty.-A one-time tax amnesty covering unpaid income taxes for the years 1981 to 1985 is hereby declared.

"SEC. 2. Conditions of the Amnesty.-A taxpayer who wishes to avail himself of the tax amnesty shall, on or before October 31, 1986;

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[4] *Rollo*, p. 12.

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"a) file a sworn statement declaring his net worth as of December 31, 1985;

"b) file a certified true copy of his statement declaring his net worth as of December 31, 1980 on record with the Bureau of Internal Revenue, or if no such record exists, file a statement of said net worth therewith, subject to verification by the Bureau of Internal Revenue;

"c) file a return and pay a tax equivalent to ten percent (10%) of the increase in net worth from December 31, 1980 to December 31, 1985: Provided, That in no case shall the tax be less than P5,000.00 for individuals and P10,000.00 for judicial persons.

"Sec. 3. Computation of Net Worth. - In computing the net worths referred to in Section 2 hereof, the following rules shall govern:

"a) Non-cash assets shall be valued at acquisition cost.

"b) Foreign currencies shall be valued at the rates of exchange prevailing as of the date of the net worth statement.

"Sec. 4. Exceptions. - The following taxpayers may not avail themselves of the amnesty herein granted:

"a) Those falling under the provisions of Executive Order Nos. 1, 2 and 14;

"b) Those with income tax cases already filed in Court as of the effectivity hereof;

"c) Those with criminal cases involving violations of the income tax law already filed in court as of the effectivity hereof;

"d) Those that have withholding tax liabilities under the National Internal Revenue Code, as amended, insofar as the said liabilities are concerned;

"e) Those with tax cases pending investigation by the Bureau of Internal Revenue as of the effectivity hereof as a result of information furnished under Section 316 of the National Internal Revenue Code, as amended;

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"f) Those with pending cases involving unexplained or unlawfully acquired wealth before the Sandiganbayan;

"g) Those liable under Title Seven, Chapter Three (Frauds, Illegal Exactions and Transactions) and Chapter Four (Malversation of Public Funds and Property) of the Revised Penal Code, as amended.

"x x x x x x x x x

"SEC. 9. The Minister of Finance, upon the recommendation of the Commissioner of Internal Revenue, shall promulgate the necessary rules and regulations to implement this Executive Order.

"x x x x x x x x x

"SEC. 11. This Executive Order shall take effect immediately.

"DONE in the City of Manila, this 22nd day of August in the year of Our Lord, nineteen hundred and eighty-six."

The period of the amnesty was later extended to 05 December 1986 from 31 October 1986 by Executive Order No. 54, dated 04 November 1986, and, its coverage expanded, under Executive Order No. 64, dated 17 November 1986, to include estate and donors taxes and taxes on business.

If, as the Commissioner argues, Executive Order No. 41 had not been intended to include 1981-1985 tax liabilities already assessed (administratively) prior to 22 August 1986, the law could have simply so provided in its exclusionary clauses. It did not. The conclusion is unavoidable, and it is that the executive order has been designed to be in the nature of a general grant of tax amnesty subject only to the cases *specifically* excepted by it.

It might not be amiss to recall that the taxable periods covered by the amnesty include the years immediately preceding the 1986 revolution during which time there had been persistent calls, all too vivid to be easily forgotten, for civil disobedience, most particularly in the payment of

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taxes, to the martial law regime. It should be understandable then that those who ultimately took over the reigns of government following the successful revolution would promptly provide for a broad, and not a confined, tax amnesty.

Relative to the two other issues raised by the Commissioner, we need only quote from Executive Order No. 41 itself; thus:

"SEC. 6. Immunities and Privileges.— Upon full compliance with the conditions of the tax amnesty and the rules and regulations issued pursuant to this Executive Order, the taxpayer shall enjoy the following immunities and privileges:

"a) The taxpayer shall be relieved of any income tax liability on any untaxed income from January 1, 1981 to December 31, 1985, including increments thereto and penalties on account of the non-payment of the said tax. Civil, criminal or administrative liability arising from the non-payment of the said tax, which are actionable under the National Internal Revenue Code, as amended, are likewise deemed extinguished.

"b) The taxpayer's tax amnesty declaration shall not be admissible in evidence in all proceedings before judicial, quasi-judicial or administrative bodies, in which he is a defendant or respondent, and the same shall not be examined, inquired or looked into by any person, government official, bureau or office.

"c) The books of account and other records of the taxpayer for the period from January 1, 1981 to December 31, 1985 shall not be examined for income tax purposes: Provided, That the Commissioner of Internal Revenue may authorize in writing the examination of the said books of accounts and other records to verify the validity or correctness of a claim for grant of any tax refund, tax credit (other than refund on credit of withheld taxes on wages), tax incentives, and/or exemptions under existing laws."

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There is no pretension that the tax amnesty returns and due payments made by the taxpayer did not conform with the conditions expressed in the amnesty order.

WHEREFORE, the decision of the Court of Appeals, sustaining that of the Court of Tax Appeals, is hereby AFFIRMED *in toto*. No costs.

SO ORDERED.

Feliciano (*Chairman*), *Bidin, Romero,* and *Melo, JJ.*, concur.

EN BANC

[G.R. No. 96073. January 23, 1995]

Republic of the Philippines, *petitioner*, *vs.* Sandiganbayan (First Division), Maria Clara Lobregat, Bienvenido Marquez, Celestino Sabate, Jose R. Eleazar, Jr., Domingo Espina, Jose Gomez, Manuel del Rosario, Jose Martinez, Jr., Jose Reynaldo Morente, Eladio Chatto, and Philippine Coconut Producers Federation, Inc., *respondents*.

[G.R. No. 104065. January 23, 1995]

Republic of the Philippines, represented by the Presidential Commission on Good Government (PCGG), *petitioner*, *vs.* Sandiganbayan (Second Division), Philippine Village Hotel, Inc., *respondents*.

[G.R. No. 104167. January 23, 1995]

Republic of the Philippines, represented by the Presidential Commission on Good Government