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[G.R. No. 83736. January 15, 1992]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* **TMX SALES, INC. and THE COURT OF APPEALS,** *respondents.*

SYLLABUS

1. TAXATION; THE TWO-YEAR PRESCRIPTIVE PERIOD TO CLAIM A REFUND OF CORPORATE QUARTERLY INCOME TAX UNDER SECTION 292 (NOW SECTION 230) OF THE NATIONAL INTERNAL REVENUE CODE COMMENCES TO RUN NOT FROM DATE OF PAYMENT OF QUARTERLY INCOME TAX BUT FROM DATE OF FILING OF THE FINAL ADJUSTMENT RETURN. — Based on the above hypothetical data appearing in the Final Adjustment Return, the taxpayer is entitled under Section 87 (now Section 69) of the Tax Code to a refund of ₱6,250.00. If Section 292 (now Section 230) is literally applied, what then is the reckoning date in computing the two-year prescriptive period? Will it be the 1st quarter when the taxpayer paid ₱12,500.00 or the 3rd quarter when the taxpayer also paid ₱12,500.00? Obviously, the most reasonable and logical application of the law would be to compute the two-year prescriptive period at the time of filing the Final Adjustment Return or the Annual Income Tax Return, when it can be finally ascertained if the taxpayer has still to pay additional income tax or if he is entitled to a refund of overpaid income tax. Therefore, the filing of quarterly income tax returns required in Section 85 (now Section 68) and implemented per BIR Form 1702-Q and payment of quarterly income tax should only be considered mere installments of the annual tax due. These quarterly tax payments which are computed based on the cumulative figures of gross receipts and deductions in order to arrive at a net taxable income, should be treated as advances or portions of the annual income tax due, to be adjusted at the end of the calendar or fiscal year. This is reinforced by Section 87 (now Section 69) which provides for the filing of adjustment returns and final payment of income tax. Consequently, the

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two-year prescriptive period provided in Section 292 (now Section 230 of the Tax Code should be computed from the time of filing the Adjustment Return or Annual Income Tax Return and final payment of income tax.

2. STATUTORY CONSTRUCTION; SECTION 292 (NOW SECTION 230) TO BE INTERPRETED IN RELATION TO OTHER PROVISIONS OF THE TAX CODE IN ORDER TO GIVE EFFECT TO TRUE LEGISLATIVE INTENT AND TO AVOID ABSURDITY.— Section 292 (now Section 230) of the National Internal Revenue Code should be interpreted in relation to the other provisions of the Tax Code in order to give effect to legislative intent and to avoid an application of the law which may lead to inconvenience and absurdity. In the case of *People v. Rivera* (59 Phil. 236 [1933]), this Court stated that statutes should receive a sensible construction, such as will give effect to the legislative intention and so as to avoid an unjust or an absurd conclusion. *INTERPRETATIO TALIS IN AMBIGUIS SEMPER FRIENDA EST, UT EVITATUR INCONVENIENS ET ABSURDUM*. Where there is ambiguity, such interpretation as will avoid inconvenience and absurdity is to be adopted.

APPEARANCES OF COUNSEL

F.R. Quiogue for private respondent.

D E C I S I O N

GUTIERREZ, JR., *J.*:

In a case involving corporate quarterly income tax, does the two year prescriptive period to claim a refund of erroneously collected tax provided for in Section 292 (now, Section 230) of the National Internal Revenue Code commence to run from the date the quarterly income tax was paid, as contended by the petitioner, or from the date of filing of the Final Adjustment Return (final payment), as claimed by the private respondent?

Section 292 (now Section 230) of the National Internal Revenue Code provides:

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"SECTION 292. *Recovery of tax erroneously or illegally collected.* — No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be begun after the expiration of two years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: xxx" (Italics Supplied)

The facts of this case are uncontroverted.

Private respondent TMX Sales, Inc., a domestic corporation, filed its quarterly income tax return for the first quarter of 1981, declaring an income of ₱571,174.31, and consequently, paying an income tax thereon of ₱247,010.00 on May 15, 1981. During the subsequent quarters, however, TMX Sales, Inc. suffered losses so that when it filed on April 15, 1982 its Annual Income Tax Return for the year ended December 31, 1981, it declared a gross income of ₱904,122.00 and total deductions of ₱7,060,647.00, or a net loss of ₱6,156,525.00 (CTA Decision, pp. 1-2; *Rollo,* pp. 45-46)

Thereafter, on July 9, 1982, TMX Sales, Inc. thru its external auditor, SGV & Co. filed with the Appellate Division of the Bureau of Internal Revenue a claim for refund in the amount of ₱247,010.00 representing overpaid income tax. (*Rollo,* p. 30).

This claim was not acted upon by the Commissioner of Internal Revenue. On March 14, 1984, TMX Sales, Inc. filed a petition for review before the Court of Tax Appeals against the Commissioner of Internal Revenue, praying that the petitioner, as private respondent therein, be ordered to refund to TMX Sales, Inc. the amount of ₱247,010.00, representing overpaid income tax for the taxable year ended December 31, 1981.

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In his answer, the Commissioner of Internal Revenue averred that "granting, without admitting, the amount in question is refundable, the petitioner (TMX Sales, Inc.) is already barred from claiming the same considering that more than two (2) years had already elapsed between the payment (May 15, 1981) and the filing of the claim in Court (March 14, 1984). (Sections 292 and 295 of the Tax Code of 1977, as amended)."

On April 29, 1988, the Court of Tax Appeals rendered a decision granting the petition of TMX Sales, Inc. and ordering the Commissioner of Internal Revenue to refund the amount claimed.

The Tax Court, in granting the petition, viewed the quarterly income tax paid as a portion or installment of the total annual income tax due. Said the Tax Court in its assailed decision:

xxx xxx xxx

"When a tax is paid in installments, the prescriptive period of two years provided in Section 306 (now Section 292) of the Revenue Code should be counted from the date of the final payment or last installment xxx. This rule proceeds from the theory that in contemplation of tax laws, there is no payment until the whole or entire tax liability is completely paid. Thus, a payment of a part or portion thereof, cannot operate to start the commencement of the statute of limitations . In this regard the word 'tax' or words 'the tax' in statutory provisions comparable to Section 306 of our Revenue Code have been uniformly held to refer to the entire tax and not a portion thereof (*Clark vs. U.S.* 69 F 2d 748; *A. S. Kriedner Co. vs. U.S.* 30 F Supp. 274; *Hills vs. U.S.* 50 F 2d 302, 55 F 2d 1001), and the vocable 'payment of tax' within statutes requiring refund claim, refer to the date when all the tax was paid, not when a portion was paid (*Braun vs. U.S.* 8 F supp. 860, 863; *Collector of Internal Revenue vs. Prieto*, 2 SCRA 1007; *Commissioner of Internal Revenue vs. Palanca*, 18 SCRA 496)."

Petitioner Commissioner of Internal Revenue is now before this Court seeking a reversal of the above decision. Thru the Solicitor General, he contends that the basis in computing the two-year period of prescription provided for in Section 292 (now Section 230) of the Tax Code, should be May 15, 1981, the

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date when the quarterly income tax was paid and not April 15, 1982, when the Final Adjustment Return for the year ended December 31, 1981 was filed.

He cites the case of *Pacific Procon Limited vs. Commissioner of Internal Revenue* (G.R. No. 68013, November 12, 1984) involving a similar set of facts, wherein this Court in a minute resolution affirmed the Court of Appeals' decision denying the claim for refund of the petitioner therein for being barred by prescription.

A re-examination of the aforesaid minute resolution of the Court in the *Pacific Procon* case is warranted under the circumstances to lay down a categorical pronouncement on the question as to when the two-year prescriptive period in cases of quarterly corporate income tax commences to run. A full-blown decision in this regard is rendered more imperative in the light of the reversal by the Court of Tax Appeals in the instant case of its previous ruling in the *Pacific Procon* case.

Section 292 (now Section 230) of the National Internal Revenue Code should be interpreted in relation to the other provisions of the Tax Code in order to give effect the legislative intent and to avoid an application of the law which may lead to inconvenience and absurdity. In the case of *People vs. Rivera* (59 Phil. 236 [1933]), this Court stated that statutes should receive a sensible construction, such as will give effect to the legislative intention and so as to avoid an unjust or an absurd conclusion. *INTERPRETATIO TALIS IN AMBIGUIS SEMPER FRIENDA EST, UT EVITATUR INCONVENIENS ET ABSURDUM*. Where there is ambiguity, such interpretation as will avoid inconvenience and absurdity is to be adopted. Furthermore, courts must give effect to the general legislative intent that can be discovered from or is unraveled by the four corners of the statute, and in order to discover said intent, the whole statute, and not only a particular provision thereof, should be considered. (*Manila Lodge No. 761, et al. vs. Court of Appeals, et al*. 73 SCRA 162 [1976]) Every section, provision or clause of the statute must be expounded by reference to each other in order to arrive at the effect contemplated by the legislature. The intention of the legislator

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must be ascertained from the whole text of the law and every part of the act is to be taken into view, (*Chartered Bank vs. Imperial*, 48 Phil. 931 [1921]; *Lopez vs. El Hogar Filipino*, 47 Phil. 249, cited in *Aboitiz Shipping Corporation vs. City of Cebu*, 13 SCRA 449 [1965]).

Thus, in resolving the instant case, it is necessary that we consider not only Section 292 (now Section 230) of the National Internal Revenue Code but also the other provisions of the Tax Code, particularly Sections 84, 85 (now both incorporated as Section 68), Section 86 (now Section 70) and Section 87 (now Section 69) on Quarterly Corporate Income Tax Payment and Section 321 (now Section 232) on keeping of books of accounts. All these provisions of the Tax Code should be harmonized with each other.

Section 292 (now Section 230) provides a two-year prescriptive period to file a suit for a refund of a tax erroneously or illegally paid, counted from the time the tax was paid. But a literal application of this provision in the case at bar which involves quarterly income tax payments may lead to absurdity and inconvenience.

Section 85 (now Section 68) provides for the method of computing corporate quarterly income tax which is on a cumulative basis, to wit:

"SECTION 85. *Method of computing corporate quarterly income tax*. — Every corporation shall file in duplicate a *quarterly summary declaration of its gross income and deductions on a cumulative basis for the preceding quarter or quarters upon* which the income tax, as provided in Title II of this Code shall be levied, collected and paid. *The tax so computed shall be decreased by the amount of tax previously paid or assessed during the preceding quarters* and shall be paid not later than sixty (60) days from the close of each of the first three (3) quarters of the taxable year, whether calendar or fiscal year." (Italics supplied)

while Section 87 (now Section 69) requires the filing of an adjustment returns and final payment of income tax, thus:

"SECTION 87. *Filing of adjustment returns and final payment of income tax*. — On or before the fifteenth day of April or on or before the fifteenth day of the fourth month following the

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close of the fiscal year, every taxpayer covered by this Chapter shall file an Adjustment return covering the total net taxable income of the preceding calendar or fiscal year and if the sum of the quarterly tax payments made during that year is not equal to the total tax due on the entire net taxable income of that year, the corporation shall either (a) pay the excess tax still due or (b) be refunded the excess amount paid as the case may be. xxx" (Italics supplied)

In the case at bar, the amount of ₱247,010.00 claimed by private respondent TMX Sales, Inc. based on its Adjustment Return required in Section 87 (now Section 69), is equivalent to the tax paid during the first quarter. A literal application of Section 292 (now Section 230) would thus pose no problem as the two-year prescriptive period reckoned from the time the quarterly income tax was paid can be easily determined. However, if the quarter in which the overpayment is made, cannot be ascertained, then a literal application of Section 292 (Section 230) would lead to absurdity and inconvenience.

The following application of Section 85 (now Section 68) clearly illustrates this point:

FIRST QUARTER:

Gross Income	100,000.00
Less: Deductions	50,000.00
Net Taxable Income	50,000.00
Tax Due & Paid [Sec. 24 NIRC (25%)]	12,500.00

SECOND QUARTER:

Gross Income	1st Quarter	100,000.00	
	2nd Quarter	50,000.00	150,000.00
Less: Deductions	1st Quarter	50,000.00	
	2nd Quarter	75,000.00	125,000.00
Net Taxable Income			25,000.00

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Tax Due Thereon			6,250.00
Less: Tax Paid	1st Quarter		12,500.00
Creditable Income Tax			(6,250.00)

THIRD QUARTER:

Gross Income	1st Quarter	100,000.00	
	2nd Quarter	50,000.00	
	3rd Quarter	100,000.00	250,000.00
Less: Deductions	1st Quarter	50,000.00	
	2nd Quarter	75,000.00	
	3rd Quarter	25,000.00	150,000.00
			100,000.00
Tax Due Thereon			25,000.00
Less: Tax Paid	1st Quarter	12,500.00	
	2nd Quarter	—	12,500.00

FOURTH QUARTER: (Adjustment Return required in Sec. 87)

Gross Income	1st Quarter	100,000.00	
	2nd Quarter	50,000.00	
	3rd Quarter	100,000.00	
	4th Quarter	75,000.00	325,000.00
Less: Deductions	1st Quarter	50,000.00	
	2nd Quarter	75,000.00	
	3rd Quarter	25,000.00	
	4th Quarter	100,000.00	250,000.00
Net Taxable Income			75,000.00
Tax Due Thereon			18,750.00
Less: Tax Paid	1st Quarter	12,500.00	
	2nd Quarter	—	
	3rd Quarter	12,500.00	25,000.00
Creditable Income Tax (to be REFUNDED)			(6,250.00)

Based on the above hypothetical data appearing in the Final Adjustment Return, the taxpayer is entitled under Section 87 (now Section 69) of the Tax Code to & refund of ₱6,250.00.

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If Section 292 (now Section 230) is literally applied, what then is the reckoning date in computing the two-year prescriptive period? Will it be the 1st quarter when the taxpayer paid ₱12,500.00 or the 3rd quarter when the taxpayer also paid ₱12,500.00? Obviously, the most reasonable and logical application of the law would be to compute the two-year prescriptive period at the time of filing the Final Adjustment Return or the Annual Income Tax Return, when it can be finally ascertained if the taxpayer has still to pay additional income tax or if he is entitled to a refund of overpaid income tax.

Furthermore, Section 321 (now Section 232) of the National Internal Revenue Code requires that the books of accounts of companies or persons with gross quarterly sales or earnings exceeding Twenty Five Thousand Pesos (₱25,000.00) be audited and examined *yearly* by an independent Certified Public Accountant and their income tax returns be accompanied by certified balance sheets, profit and loss statements, schedules listing income producing properties and the corresponding incomes therefrom and other related statements.

It is generally recognized that before an accountant can make a certification on the financial statements or render an auditor's opinion, an audit of the books of accounts has to be conducted in accordance with generally accepted auditing standards.

Since the audit, as required by Section 321 (now Section 232) of the Tax Code is to be conducted yearly, then it is the Final Adjustment Return, where the figures of the gross receipts and deductions have been audited and adjusted, that is truly reflective of the results of the operations of a business enterprise. Thus, it is only when the Adjustment Return covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures.

Therefore, the filing of a quarterly income tax returns required in Section 85 (now Section 68) and implemented per BIR Form 1702-Q and payment of quarterly income tax should only be considered mere installments of the annual tax due. These

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quarterly tax payments which are computed based on the cumulative figures of gross receipts and deductions in order to arrive at a net taxable income, should be treated as advances or portions of the annual income tax due, to be adjusted at the end of the calendar or fiscal year. This is reinforced by Section 87 (now Section 69) which provides for the filing of adjustment returns and final payment of income tax. Consequently, the two-year prescriptive period provided in Section 292 (now Section 230 of the Tax Code should be computed from the time of filing the Adjustment Return or Annual Income Tax Return and final payment of income tax.

In the case of *Collector of Internal Revenue vs. Antonio Prieto* (2 SCRA 1007 [1961]), this Court held that when a tax is paid in installments, the prescriptive period of two years provided in Section 306 (Section 292) of the National Internal Revenue Code should be counted from the date of the final payment. This ruling is reiterated in *Commissioner of Internal Revenue vs. Carlos Palanca* (18 SCRA 496 [1966]), wherein this Court stated that where the tax account was paid on installment, the computation of the two-year prescriptive period under Section 306 (Section 292) of the Tax Code, should be from the date of the last installment.

In the instant case, TMX Sales, Inc. filed a suit for a refund on March 14, 1984. Since the two-year prescriptive period should be counted from the filing of the Adjustment Return on April 15, 1982, TMX Sales, Inc. is not yet barred by prescription.

WHEREFORE, *IN VIEW OF THE FOREGOING,* the petition is hereby *DENIED*. The decision of the Court of Tax Appeals dated April 29, 1988 is *AFFIRMED*. No costs.

SO ORDERED.

Narvasa, C.J., Melencio-Herrera, Cruz, Paras, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., and *Romero, JJ.,* concur.

Feliciano, J., did not participate in the deliberations.

Nocon, J., no part.