Johnson v. Commissioner, 116 T. C. 111 (U. S. Tax Ct. 2001)

In Johnson v. Commissioner, the U. S. Tax Court dismissed Shirley L. Johnson's petitions for lack of prosecution and sanctioned her attorney, Joe Alfred Izen, Jr. , under I. R. C. § 6673(a)(2). The court found Izen's actions in multiplying proceedings unreasonably and vexatiously justified an award of $8,587. 50 in attorney's fees and $807. 06 in travel expenses to the IRS. This ruling underscores the court's authority to penalize attorneys who obstruct the judicial process and highlights the importance of compliance with discovery orders.

Parties

Shirley L. Johnson (Petitioner) and NJSJ Asset Management Trust, Shirley L. Johnson as Trustee (Petitioner) v. Commissioner of Internal Revenue (Respondent). Joe Alfred Izen, Jr. , and Jane Afton Izen represented the petitioners. Christina D. Moss, Elizabeth Girafalco Chirich, and Marion S. Friedman represented the respondent.

Facts

Shirley L. Johnson filed petitions in the U. S. Tax Court challenging deficiencies determined by the Commissioner of Internal Revenue for the tax years 1996 and 1997, related to income reported by NJSJ Asset Management Trust. Johnson, both individually and as trustee, was represented by Joe Alfred Izen, Jr. The IRS sought to dismiss the cases for lack of prosecution and requested sanctions against Izen for unreasonably multiplying proceedings. The court's orders for discovery were repeatedly ignored by Johnson and her attorney, who invoked the Fifth Amendment in response to discovery requests. Despite multiple extensions and court orders, Johnson and Izen failed to comply, leading to the court's imposition of sanctions.

Procedural History

The petitions were filed on April 5, 1999, with Houston designated as the place of trial. The IRS served discovery requests, and upon non-compliance, filed motions to compel, which were granted. Despite further orders and a hearing on October 25, 1999, Johnson continued to assert the Fifth Amendment and failed to comply with discovery. The cases were continued and set for trial in Washington, D. C. , on May 3, 2000. After continued non-compliance, the court granted the IRS's motion to impose sanctions, precluding Johnson from introducing evidence on penalties and ordering Izen to pay attorney's fees. The cases were ultimately dismissed for lack of prosecution on February 27, 2001.

Issue(s)

Whether the U. S. Tax Court properly dismissed Shirley L. Johnson's petitions for lack of prosecution under Tax Court Rule 104(c)(3)?

Whether the court correctly imposed sanctions and attorney's fees on Joe Alfred

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Izen, Jr. , under I. R. C. § 6673(a)(2) for unreasonably and vexatiously multiplying the proceedings?

Rule(s) of Law

I. R. C. § 6673(a)(2) authorizes the court to require an attorney to "satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct" if the attorney "multiplies the proceedings in any case unreasonably and vexatiously. "

Tax Court Rule 104(c)(3) allows the court to dismiss a case for failure to prosecute.

Holding

The U. S. Tax Court held that dismissal of Johnson's petitions for lack of prosecution was appropriate under Tax Court Rule 104(c)(3) due to her and her attorney's failure to comply with court orders and discovery requests. Additionally, the court held that Izen's conduct justified sanctions under I. R. C. § 6673(a)(2), ordering him to pay $8,587. 50 in attorney's fees and $807. 06 in travel expenses to the IRS.

Reasoning

The court reasoned that Johnson's repeated failure to comply with discovery orders, her invocation of the Fifth Amendment without justification, and her attorney's persistent tactics in multiplying proceedings were unreasonable and vexatious. The court cited Izen's history of similar conduct in other cases, emphasizing his chronic failure to comply with court orders and rules. The court rejected Izen's argument that mere negligence was insufficient for sanctions, finding bad faith in his actions. The court also excluded fees related to the initial discovery motions and Fifth Amendment claims from the sanction award, focusing only on the costs incurred after March 15, 2000, when further non-compliance necessitated additional motions and hearings.

The court's decision was influenced by the need to maintain the integrity of the judicial process and deter attorneys from engaging in obstructive behavior. The court noted that Izen's tactics not only delayed the proceedings but also compromised the quality of practice before the court. The imposition of sanctions was seen as a necessary measure to address such conduct and uphold the court's authority.

Disposition

The U. S. Tax Court dismissed Shirley L. Johnson's petitions for lack of prosecution and ordered Joe Alfred Izen, Jr. , to pay $8,587. 50 in attorney's fees and $807. 06 in travel expenses as sanctions under I. R. C. § 6673(a)(2).

Significance/Impact

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Johnson v. Commissioner reinforces the Tax Court's authority to dismiss cases for lack of prosecution and impose sanctions on attorneys for vexatious conduct under I. R. C. § 6673(a)(2). The decision serves as a precedent for holding attorneys accountable for obstructing the judicial process through non-compliance with court orders and discovery requests. It underscores the importance of cooperation in litigation and the court's willingness to use its sanctioning power to maintain the efficiency and integrity of judicial proceedings. The case also highlights the potential consequences for attorneys who engage in dilatory tactics, setting a clear standard for professional conduct in tax litigation.

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