REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

UNIVERSAL MILLS CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 1815

THE COMMISSIONER OF INTERNAL REVENUE, THE COMMISSIONER OF CUSTOMS,
Respondents. Feb. 14/67

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R E S O L U T I O N

Submitted to us for resolution is the motion filed by the respondent Commissioner of Customs, seeking the dismissal of this case insofar as he is concerned on the ground of lack of jurisdiction and lack of cause of action.

In support of his motion, respondent Commissioner of Customs argues that the action for refund filed by petitioner in this Court is premature since he has not yet rendered a decision which may be reviewed by this Court pursuant to the provisions of Republic Act No. 1125, and that petitioner has not yet exhausted administrative remedies required by the Tariff and Customs Code.

Petitioner, in its petition for refund and/or tax credit filed before this Court, as well as in its opposition to the motion to dismiss, clearly admits that its claim for refund or tax credit of customs duties and taxes paid under protest in the

Bureau of Customs has not yet been acted upon or decided by the respondent Commissioner of Customs (see Par. 8, Petition, p. 3, C.T.A. rec. & Opposition to Motion to Dismiss, p. 73, C.T.A. rec.) Furthermore, petitioner does not even allege in said petition whether its protest or claim for refund has been decided by the Collector of Customs as required by the Tariff and Customs Code.)

In previous cases involving similar facts and issues with the case at bar, this Court ruled:

> "The motion to dismiss the Petition for Review, as far as respondent Commissioner of Customs is concerned, is well taken. There is no decision rendered as yet by the Commissioner of Customs reviewable by this Court. (See Sampaguita Shoe & Slipper Factory vs. Comm. of Customs, G. R. No. L-10285, Jan. 14, 1958; Rufino Lopez & Sons, Inc. vs. C.T.A., G. R. No. L-9274, Feb. 1, 1957) Only decisions of the Commissioner of Customs are appealable to the Court of Tax Appeals. (Sec. 7(2), Rep. Act No. 1125) x x x Not having complied with these administrative requirements, this Court has no jurisdiction to pass upon the legality of the collection of said tax. (See Jesus L. Cumogda vs. The Comm. of Int. Rev., The Comm. of Customs, C.T.A. No. 1529, Oct. 28, 1964; Borden Chemical Company (Phil.) Inc. vs. Comm. of Customs and/or Comm. of Int. Rev., C.T.A. No. 1552, May 28, 1965) (Underlining supplied.)

IN VIEW OF THE FOREGOING, the "Motion to Dismiss" filed by respondent Commissioner of Customs on December 6, 1966, is hereby granted. The petition for refund filed on November 17, 1966 is dismissed insofar as respondent Commissioner of Customs is concerned.

SO ORDERED.

Quezon City, February 14, 1967.

ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge

ESTANISLAO R. ALVAREZ
Associate Judge