REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

MANILA STOCK EXCHANGE, INC.,
Petitioner,

- versus - C.T.A. CASE No. 2223

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.
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RESOLUTION

This is in connection with a motion to dismiss the petition for review filed by respondent Commissioner of Internal Revenue on May 3, 1971 on the grounds of lack of jurisdiction and failure to state a cause of action.

It appears that petitioner, through its auditors, Sycip, Gorres, Velayo & Co., wrote a letter dated May 26, 1969 to respondent requesting exemption from the duty of filing the annual income tax return and the payment of income tax for being a business league, chamber of commerce or board of trade in accordance with the provisions of Section 27(f) of the Tax Code, in relation to Section 24 of the Revenue Regulations No. 2.

In a letter dated February 5, 1971, respondent denied petitioner's request for exemption and ruled that petitioner is not a business league, chamber of commerce or board of trade under Section 27(f) and ordered petitioner to "file an income tax return after every calendar or fiscal year, in accordance with Section 46 of the Tax Code, as amended, and pay income tax on its net income."

Considering said letter of respondent dated February 5, 1971 as a decision, petitioner appealed the same to this Court by filing on March 4, 1971 a petition for review.

On May 3, 1971, respondent filed a motion to dismiss the petition for review on the grounds that this Court lacks jurisdiction over the appeal and that the petition for review does not state a cause of action. He contends that the ruling contained in his letter dated February 5, 1971 that petitioner is not a business league, chamber of commerce or board of trade as contemplated under Section 27(f) and that it is not exempt from tax on its net income, is not a decision appealable to this Court within the purview of Section 7(1) of Republic Act No. 1125. He argues that this is not a case involving a disputed assessment and, citing the case of Felipe B. Ollada vs. Court of Tax Appeals, et al. (99 Phil. 604) as authority, concludes that this Court has no jurisdiction over the same.

On the other hand, petitioner in its opposition to the motion to dismiss contends that the ruling of respondent fall under the clause "or other matters arising under the National Internal Revenue Code" in Section 7(1) of Republic Act No. 1125. It explains that said ruling ordering petitioner to file an income tax return and pay a tax on its net income is of the same nature as a deci-

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sion on a disputed assessment which constitutes a final determination of its status and liability for income tax purposes. (Pp. 3-4, Opposition to Motion to Dismiss.) Finally, petitioner contends that the ruling infringes upon the right of petitioner to be exempted from filing income tax return and paying income tax.

We are in accord with respondent that this Court has no jurisdiction over the case and that the petition for review states no cause of action. The main contention of petitioner that the ruling of respondent appealed from in this case falls under the clause in Section 7(1) of Republic Act No. 1125 "or other matters arising under the National Internal Revenue Code", is without merit.

The term "other matters" mentioned in Section 7(1) of Republic Act No. 1125 has been interpreted to include cases of the same nature as disputed assessments and refunds of internal revenue taxes, fees or surcharges imposed by the National Internal Revenue Code.

> "Note that the law gives to the Court of Tax Appeals exclusive appellate jurisdiction to review the decisions of the Collector of Internal Revenue, the Commissioner of Customs, and the provincial or city Boards of Assessment Appeals. Note also that in defining the cases that may be reviewed the law begins by enumerating them and then adds a general clause pertaining to other matters that may arise under the National Internal Revenue Code, the Customs law and the Assessment Law. This shows that the 'other matters' that may come under the general clause should be of the same nature as those that have preceded them applying the rule of construction known as _ejusdem generis_. In

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> other words, in order that a matter may come under the general clause, it is necessary that it belongs to the same kind or class therein specifically enumerated. Otherwise, it should be deemed foreign or extraneous and is not included." (Ollada v. Court of Tax Appeals, 99 Phil. 604, 609-610.)

To the same effect is the decision in Acting Collector of Customs v. Court of Tax Appeals, 102 Phil. 244, wherein it was held:

> "It will be noted that the final sentence of paragraph 2 of this Section 7, 'or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs', comes after an enumeration of the class of cases cognizable by the Court of Tax Appeals, namely, those involving liability for customs duties, fees or other money charges, and as contended by respondent intervenor, by the doctrine of ejusdem generis, in order that the 'other matters arising under the Customs law or other law or part of law administered by the Bureau of Customs' may come within the jurisdiction of the Court, they should involve also liability for payment of money to the Government (see Ollada vs. Court of Tax Appeals, et al., /99 Phil. 604/, penned by Mr. Justice Felix Bautista Angelo, squarely interpreting the provisions of the aforequoted Section 7(2) of Rep. Act No. 1125)."

The salient characteristic of disputed assessments and refunds is that they involve the legality of a tax collection: in the first, payment of a definite sum as a tax that has already accrued and determined is demanded; while in the second, reimbursement of payments of a tax illegally or erroneously collected is sought. They do not involve mere interpretations

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of a tax law before a demand for payment of a definite amount as a tax that has already accrued and determined has been made. Actions merely seeking an interpretation of a tax law due to differences of opinion between the taxpayer and the Commissioner of Internal Revenue, which is the essence of this petition, are not of the same nature as actions on disputed assessments or refund. They are more in the nature of actions for declaratory relief which is barred by Act 3736, as amended by Commonwealth Act No. 55, prohibiting actions for declaratory relief in cases involving internal revenue taxes. As we said in La Perla Cigar and Cigarette Factory, et al., vs. The Secretary of Finance and the Commissioner of Internal Revenue (CTA 1892, Resolution - May 29, 1968):

> "There seems to be nothing in the provisions of Section 7 of Republic Act No. 1125 that confers jurisdiction on this Court to entertain petitions which are substantially in the form of actions for declaratory relief. Said section vests this Court with jurisdiction to review by appeal 'decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refund on internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue.'

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> Disputed assessments and refunds presuppose the accrual of a tax incident that calls for interpretation of a statutory provision which of course precludes petitions which are in substance for declaratory relief. To be in keeping with this spirit the jurisdiction of this Court as regards 'other matters' should be interpreted as likewise precluding petitions which are essentially for declaratory relief. At any rate, there is nothing in section 7 from which we can clearly infer an intention to abrogate the policy categorically declared in Act 3736, as amended by Commonwealth Act No. 55, prohibiting actions for declaratory relief in cases involving internal revenue taxes, fees and charges. A departure from a policy is generally expressed in clear and unambiguous language."

The purpose of Act 3736, as amended by Commonwealth Act 55, is obviously to prevent delay in the collection of taxes upon which the Government depends for its very existence (National Dental Supply Co. vs. Meer, 90 Phil. 265, 269), and there is good authority to the effect that neither the Rules of Court nor Republic Act 1125 has superseded it. (Rodriguez vs. Blaquera, G. R. No. L-13941, September 30, 1960.) One may well imagine what overlapping, repetitious and cumbersome incidents can arise in the collection of taxes if every taxpayer were allowed to bring to this Court actions for declaratory relief in anticipation of an impending assessment.

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WHEREFORE, this petition is hereby dismissed for lack of jurisdiction on the part of this Court.

SO ORDERED.

Quezon City, June 21, 1971.

ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge

ESTANISLAO R. ALVAREZ
Associate Judge