REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

EMILIO G. CUAYCONG,
Petitioner,

- versus -

C.T.A. CASE NO. 395

COLLECTOR OF INTERNAL REVENUE,
Respondent.

10/14/57

x - - - - - - - - - - - x

RESOLUTION

This is in connection with the "Motion to Dismiss" filed by respondent on August 13, 1957 on the ground that the instant appeal was filed beyond the 30-day period prescribed by Section 11 of Republic Act No. 1125.

From the pleadings thus far filed, we gather the following pertinent facts. Petitioner is the owner of "Hacienda Nelia" which he leased to a certain Mr. Arturo Piccio in 1949-1955, for a yearly rental of 12% of the total annual sugar quota of the hacienda (p. 1, Exh. "A", Petition for Review). On December 1, 1953, respondent Collector of Internal Revenue assessed against petitioner the sum of ₱13,080.23 representing sugar adjustment taxes (p. 1, Exh. "B", Petition for Review). This letter was received by petitioner about the middle of February 1954 (p. 2, Petition for Review). On February 3, 1955, the Collector wrote another letter reiterating his previous demand from petitioner (Exh. "B-1", Petition for Review). Petitioner then requested in a letter dated March 23, 1955 (Exh. "C", Petition for Review), for the reconsideration of the said assessment. Presumably in relation with this request, on July 9, 1955, the Revenue Agent in Bacolod City wrote petitioner asking for certain pertinent papers to show that he was not benefited by the amount assessed against him as sugar tax (Exh. "C-1", Petition for Review). On September 18, 1955 (Exh. "D", Petition for Review), petitioner complied with this request. Subsequently, on May 2, 1957 (Exh. "E", Petition for Review) the Regional Director of the Bureau of Internal Revenue with station at Bacolod City informed petitioner that the Collector of Internal Revenue, in his letter dated January 11, 1956, had disallowed petitioner's claim of non-liability for the payment of the tax due. However, the tax liability was recomputed and the amount of the assessment was determined at ₱11,449.83 instead of the original amount of ₱13,280.23. This letter was received by petitioner on May 10, 1957 (p. 3, Petition for Review). On May 27, 1957, petitioner requested for reconsideration and reinvestigation thereof (Exh. "F", Petition for Review). This letter was filed with the Regional Director at Bacolod City and also contained a request for a copy of the letter of respondent dated January 11, 1956. Accordingly, enclosed with a letter dated June 1, 1957 (Exh. "G", Petition for Review) denying petitioner's request for reconsideration, the Regional Director furnished petitioner with a copy of respondent's letter. This was received by petitioner on June 7, 1957 (pp. 3-4, Petition for Review). On the same date (Exh. "H", Petition for Review), petitioner asked once more for the reconsideration of the assessment, but the same was also denied on June 10, 1957 (Exh. "I", Petition for Review). This last letter was received by petitioner on June 15, 1957 (p. 4, Petition for Review). Consequently, on July 13, 1957, the instant petition for review was filed.

The only question before us is whether or not the petition for review was filed within the reglementary period of 30 days provided by Section 11 of Republic Act No. 1125?

Petitioner contends that the appeal was seasonable in that the 30-day period should commence to run from June 7, 1957, the date when he received a copy of the letter of respondent disallowing the former's claim for non-liability for the sugar adjustment tax, which letter was furnished him by the Regional Director at Bacolod. Respondent on the other hand, argues that the period within which petitioner may appeal should be counted from May 10, 1957, when petitioner received the letter of the Regional Director denying the former's request for reconsideration and demanding the amount of ₱11,649.83.

We agree with the respondent that his decision of May 2, 1957, being his last unchanged decision is the "decision" properly appealable to this Court. In a long line of decisions, this Court ruled that:

> "The decisions of the Collector of Internal Revenue which are appealable to this Court refer to 'determinations made or arrived at by the Collector which would become final and executory unless modified or reversed by said official, or appealed to a superior authority in accordance with law." (Angel Saraos vs. BIR, CTA No. 229, March 5, 1956; Merced Drug House vs. Coll. of Int. Revenue, CTA 180, May 21, 1956, cited in Dirk Van Dongen vs. Coll. of Int. Rev., CTA 268, July 31, 1956).

The letter of the Regional Director dated June, 1957, cannot be considered as the decision of the respondent properly appealable to this Court because the same is a mere reiteration of the demand made in the letter dated May 2, 1957 and merely a denial of petitioner's request for reconsideration.

The 30-day period commenced to run from May 10, 1957 when petitioner received respondent's decision dated May 2, 1957. This period was suspended on May 27, 1957 when petitioner filed with respondent his request for reconsideration and resumed to run again on June 15, 1957 when petitioner received respondent's denial of his request for reconsideration. This period was tolled on July 13, 1957, when the present petition for review was filed. By a simple mathematical computation, we find that petitioner consumed a total of 45 days (May 10 to May 27 and June 15 to July 13, 1957) before he filed the instant appeal. This is evidently far beyond the 30 days granted him by law.

Petitioner contends further that the 30-day period should commence to run only on June 15, 1957, when he received respondent's letter of June 10, 1957, because in said letter respondent stated that his stand on the matter was final and that if the former was not satisfied with the decision, he may file his appeal with the Court of Tax Appeals within 30 days from receipt of said letter. In this regard, suffice it to say that we have consistently and uniformly ruled that the Collector of Internal Revenue has no power to extend the period fixed by law within which an appeal may be made to this Court (see Asturias Sugar Central Inc., vs. The Collector of Internal Revenue, C.T.A. No. 207, Resolution dated Feb. 27, 1957 and all cases cited therein).

WHEREFORE, for lack of jurisdiction, the petition for review should be, as it is hereby, dismissed with costs against petitioner.

SO ORDERED.

Manila, Philippines, October 14, 1957.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge

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