REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
G.C.

CLEOMENES V. FORTUGALEZA, JR.,
Petitioner,

Dec. 22, 1964

- versus -

C.T.A.
CASE NO. 1527

THE COLLECTOR OF INTERNAL REVENUE,
THE REGIONAL DIRECTOR OF REGIONAL
OFFICE NO. 11 OF BACOLOD CITY, AND
THE BUREAU OF INTERNAL REVENUE
COLLECTION AGENT OF BAYAWAN, NEGROS
ORIENTAL,
Respondents.

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R E S O L U T I O N

This treats of respondents' "Motion to Dismiss" the Petition for Review filed on October 22, 1964. Petitioner vigorously opposed respondents' motion in his "Opposition To Motion For Dismissal" filed on November 13, 1964. A "Reply To Opposition To Motion To Dismiss" was registered by the respondents on November 25, 1964.

In support of their motion to dismiss, respondents allege two grounds, namely: (a) that the claim or demand (compromise penalty) set forth in the petition for review has been waived or abandoned by the respondents, and (b) that petitioner failed to exhaust all administrative remedies before appealing to this Court. (See "Motion To Dismiss," pp. 46-49, C.T.A. rec.) In short, respondents' theory is that petitioner has no cause of action. On the other hand, petitioner, in his opposition to said motion, avers:

(a) that the waiver or abandonment was filed too late and, thus, amounts to an abuse of discretion, (b) that petitioner has already exhausted all administrative remedies, and (c) that dismissal of the petition for review would lead to multiplicity of suits. (See "Opposition To Motion For Dismissal," pp. 57-60, C.T.A. rec.)

We agree that petitioner has sufficiently taken the necessary steps to perfect his appeal to this Court. The decision of the Regional Director, Regional District No. 11, Bacolod City dated June 23, 1964 denying petitioner's request for the total elimination of the penalty imposed on him by the respondents, is a decision appealable to this Court. There is no need for the petitioner to elevate first his case to the Commissioner of Internal Revenue. Under the decentralized set-up of the Bureau of Internal Revenue, the Regional Director is possessed of delegated powers to issue assessment notices in behalf of the Commissioner of Internal Revenue. (See Villamin v. C.T.A., L-11536, Oct. 31, 1960; Coll. v. Bohol Land Transp. Co., L-13099 & L-13462, April 29, 1960; Phil. Rock Products, Inc. v. Coll., C.T.A. Case No. 541, Reso. dated Dec. 22, 1958; Pablo v. Comm., C.T.A. Case No. 733, Resolution dated Oct. 10, 1960.) Moreover, to dispel any doubt on this question, the respondent Commissioner on September 9, 1964 (p. 15, B.I.R. rec.) wrote a letter to the petitioner pointing to the letter-decision of the Regional Director which was made the basis of petitioner's appeal to us. This alone shows the Commissioner's concurrence and endorsement of the decision reached by the Regional Director and in effect made it his own.

This notwithstanding, we find, however, no alternative but to dismiss the herein petition for review. Respondents have expressly admitted their willingness to waive or abandon their claim against the petitioner. This being so, there is nothing left for this Court to decide. The issue has been rendered moot by the willingness of the respondents to withdraw their assessment. This finds legal sanction in our New Rules of Court, which allows the dismissal of an action when the claim or demand has been paid, waived, abandoned, or otherwise extinguished. (Sec. 1(h), Rule 16, New Rules of Court.) Petitioner's contention that the waiver or abandonment has been filed too late and amounts to an abuse of discretion is untenable. Nowhere in the law does it require that the claim or demand which is the basis of the petition be waived or abandoned <u>before</u> the filing thereof.

This being our stand, we find no need to dwell any longer on petitioner's assertion that the dismissal of this case will lead to a multiplicity of suits. Suffice it to state that this Court has no criminal jurisdiction (Ollada v. C.T.A., L-8878, July 24, 1956) and the fear of multiplicity of suit is, therefore, clearly unfounded.

WHEREFORE, finding respondents' "Motion to Dismiss" the instant Petition for Review meritorious, the same should be, as it is hereby, GRANTED. The Petition for Review filed on August 7, 1964 is hereby dismissed, with costs against the petitioner.

SO ORDERED.

Quezon City, December 22, 1964.

(Sgd.) MARIANO NABLE
Presiding Judge

ROMAN M. UMALI
Associate Judge

AUGUSTO M. LUCIANO
Associate Judge