REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

RURAL BANK OF ROSARIO
(Batangas), INC.,
Petitioner,

- versus - C.T.A. CASE No. 2227

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.
x- - - - - - - - - - - - - -x

RESOLUTION

Petitioner Rural Bank of Rosario (Batangas), Inc., appeals from respondent's decision denying its claim for refund of ₱11,116.00, representing alleged erroneous payment of income tax for the year 1968. A motion to dismiss was filed by respondent Commissioner of Internal Revenue on the ground that this Court has no jurisdiction to take cognizance of this case on the ground that this petition was filed after the expiration of the thirty-day period within which to institute an appeal to this Court.

The records show that petitioner is a duly organized corporation created under and governed by Republic Act No. 720, as amended, with business address at Rosario, Batangas. On April 15, 1969, petitioner filed its income tax return for 1968 and paid under protest the corresponding tax thereon in the amount of ₱11,116.00. Subsequently, on January 14, 1970, petitioner filed a claim for the refund of the tax it paid.

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The said claim for refund is premised on the ground that the corporation is exempt from payment of income tax for 1968 under Section 14 of Republic Act No. 720, as amended. In a letter dated May 28, 1970, respondent denied the claim for refund which respondent claims to have been received by petitioner on July 17, 1970. Petitioner, however, denies receipt of respondent's letter denying the claim for refund.

The present petition for review was filed on March 10, 1971. Subsequently, on June 18, 1971, respondent filed a motion to dismiss the petition on the ground that this court has no jurisdiction to take cognizance of the instant case for the reason that the thirty-day period within which appeal to this court may be instituted had already expired at the time appeal was taken.

The bone of contention in this incident is whether or not petitioner received the letter dated May 28, 1970, denying its claim for refund. It is contended on behalf of petitioner that it did not receive the alleged letter. In this respect, it is on record that according to the testimony of the mailing clerk of the Bureau of Internal Revenue, supported by an entry in the Mailing Book of the Bureau, a letter of the Collector dated May 28, 1970, addressed to petitioner denying the latter's request for reconsideration, was released on July 16, 1970. The mailing of the letter is further supported by the registry receipt No. 76290. It also appears in the certification of the postmaster of Rosario, Batangas, that a letter with said registry receipt number was delivered to petitioner, through its manager, Atty. Octavio Macatañgay, on July 17, 1970.

Petitioner admits the authenticity of the entries in respondent's Record Book of Registered Mails but urges that "while it maybe true that a letter of denial of petitioner's claim was actually made and the same was entered on respondent's record book of mails, there is no showing whether it was the letter denying petitioner's claim for refund that was actually mailed." In this respect, the entry in the aforesaid record book of mails reads: "Rural Bank of Rosario, Inc., Rosario, Batangas, re refund for ₱11,116.00 - 1968 - denied." The letter of May 28, 1970, Exh. 1-B, is addressed to the Rural Bank of Rosario, Inc., and is a denial of a claim for refund of exactly ₱11,116.00 allegedly paid erroneously for income taxes for 1968. Thus, there can hardly be any mistake that the letter mentioned in the entry refers to the letter of May 28, 1970.

Petitioner, however, further urges that there is no proof that the aforesaid letter of denial was received by petitioner. In this respect, it should be noted that the postmaster of Rosario, Batangas, certi-

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fies that registered letter No. 76290 addressed to the petitioner was delivered to the addressee through its manager, Atty. Octavio Macatañgay, on July 17, 1970. This letter can scarcely be any other than the very letter mentioned in the entry of the record book of mails for as one will note in the entry as well as in the testimony of Elsa Guevarra, chief of the mailing section of the Bureau of Internal Revenue, the letter in question was sent as registered letter No. 76290. Significantly enough, although the certification categorically states that petitioner's manager received the letter in question on July 17, 1970, petitioner has offered no explanation as to what was the letter that was delivered to its manager on said date. Neither has petitioner adduced evidence contesting the veracity of the recitals of the certification, which could have been easily checked by it in the record of mails in Rosario, Batangas.

Lastly, petitioner contends that the postmaster should have been presented as witness instead of merely producing a certification from him. The pretension here is that a mere certification is hearsay evidence. The certification is obviously presented to prove an entry in an official record made in the performance of a duty by the postmaster which is acceptable as evidence as an exception to the hearsay rule (Rule 130, Section

38, Rules of Court). It is made admissible on the ground of necessity and trustworthiness. Were there no exception for official statements of this sort, a postmaster would be found devoting the greater part of his time attending as witness in court or making his deposition before an officer, to the detriment of public service.

In the light of the evidence presented by respondent which is unrebutted by petitioner, the finding of this Court is that petitioner received notice of the denial of its claim for refund on July 17, 1970, and it was too late for it to file this action for refund on March 10, 1971.

WHEREFORE, this petition is dismissed for lack of jurisdiction.

SO ORDERED.

Quezon City, March 27, 1973.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge