REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

August 31, 1961

ANTONIO G. GUERRERO,
Petitioner,

- versus - C.T.A. CASE NO. 285

THE COLLECTOR OF INTERNAL
REVENUE,
Respondent.

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D E C I S I O N

This is an appeal from the decision of the respondent holding the petitioner liable for the sum of ₱5,139.17, computed as follows:

I. Fixed and percentage taxes and surcharge as producer of forest products from 1949 to 1950 ----------------------	₱ 1,192.51
II. Forest charges and surcharges on timber sold to Aparri Lumber Co. ------	3,775.66
III. "Compromise penalties":	
(a) For violations of Secs. 208 and 209 of the Revenue Code ----------------	100.00
(b) For violation of the Bookkeeping Regulations --------------	50.00
T o t a l ---------------	₱ 5,139.17

Respondent sought to have the appeal dismissed on the ground that it was filed beyond the thirty-day period provided in Section 11 of Republic Act No. 1125. The motion to dismiss was denied in our resolution of October 5, 1956. Respondent's motion for reconsideration was also denied in our resolution of December 29, 1956. Certiorari was likewise denied by the Supreme Court in Collector v. Court of Tax Appeals, G. R. No. L-11906, January 29, 1957, "appeal in due time being the proper remedy."

The incidental question in regard to the jurisdiction of this Court having been disposed of in our two resolutions of October 5 and December 29, 1956, we shall now consider the appeal on the merits. We shall first take up the question relating to the liability of petitioner for forest charges and surcharges in the sum of ₱3,775.66.

Petitioner claims that he is not liable for the said forest charges and surcharges on the ground that he did not cut the forest products he sold to the Aparri Lumber Co.; he merely bought them from forest concessionaires. On the other hand, respondent contends that petitioner "produced or caused to be produced" the forest products in question (narra logs);[1] otherwise stated, it is alleged that petitioner cut or caused to be cut the said forest products from the public forests without license and without paying the corresponding forest charges.

From the evidence of record, we are convinced that petitioner did not actually cut the forest products in question from the public forests. He merely bought them from persons who were not forestry concessionaires. We quote from the report of Agent Antonio Mole of the Bureau of Internal Revenue, which was the basis of respondent's decision:

> "In this connection, let me elaborate on how logs change hands in the place of origin at Isabela. In any place in the Philippines, as in Isabela, it is the practice of any laborer to cut logs in the forest.

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[1] See Exh. 8-A-1, pp. 209-211, B.I.R. records.

> When the logs are ready for hauling, the laborer goes to the town and offers for sale his logs to any buyer, be he a licensee or not. In the event that the buyer is a licensee, the auxiliary invoice is prepared and paid for by him (licensee). The licensee in turn sells those logs to any buyer (non-licensee) who transports same to Manila for sale to lumber dealer (Aparri Lumber Co.) to whom the Official Receipt and/or auxiliary invoice is surrendered. On the other hand, if the buyer happens to be a non-licensee, the auxiliary invoice is prepared in the name of any licensee who may agree if the forest charges, reforestation fund, sales tax and a certain percent allowance for profit are given him (licensee). The non-licensee again transports the logs to Manila and to any lumber dealer sells same surrendering the official receipt and/or auxiliary invoice to the latter. In many instances, the non-licensee buys so many logs and prepares only one invoice for few logs. This is done in order to avoid the payment of the forest charges, reforestation fund, sales tax and a little allowance for profit to the licensee. Those logs that are not covered by any invoice can not be considered as goods purchased from other persons not subject to sales tax on account of the fact that the purchases were made from laborers and not from legitimate sources who pay taxes. In this view, the non-licensee always invokes that he is not a producer of logs merely because he is not a holder of forestry license, while a licensee is always held as a producer because he has a license from the Bureau of Forestry, in the light of the same circumstances surrounding the transfer of logs." (Exh. 8-A-1, pp. 209-210, B.I.R. records.)

But whether or not petitioner actually cut the forest products from the public forests or merely purchased the same from other persons is not material for the purpose of determining his liability for the forest charges and surcharges. In Collector of Internal Revenue v. Pio Barretto Sons, Inc., G. R. No. L-11805, May 31, 1960, it was held that forest charges are liens on forest products and licensees or possessors thereof, whoever they may be, are responsible for the forest charges and surcharges. This is what the Supreme Court said in that case:

> "A person who buys or purchases timber without the official documents mentioned above is not a buyer in good faith; he should know that under the Regulations in force since 1934 timber cut in public forests should be accompanied by the documents required. In no case is the rule of caveat emptor be more applicable than in the present, where products from the patrimony of the people have apparently been taken away illegally. The purchaser thereof can not be said to be a purchaser in good faith unless he can show the official documents, the receipts for payment of the charges and the discharge permit covering the timber, because he ought to know the law and regulations regarding the payment of forest charges and the invoicing, transporting and discharging of forest products.
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> "Lastly, the adoption of the decision of the court below would certainly create unlimited opportunities for licensees and buyers to connive with each other and cheat the State of its lawful revenues. Whether from a practical point of view or from that of public policy, forest charges should be considered as a lien on the timber, and licensees or possessors of forest products, whoever they may be, should be made to respond for the forest charges and surcharges fixed in the law, and a lien should be pronounced on said timber or other forest products not only when they are yet in the condition of unsawn logs, but also after the same had been sawed into lumber and disposed off. It is only by such practical construction of the regulations and by the enforcement of such a public policy that the public patrimony may be saved from spoliation and ruin.
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> "Summing up what We have said before, We hold that Section 11 of the said Regulations refers to all persons who are in possession of timber without the necessary official and auxiliary invoices and discharge permits. We also hold that the charges are liens on the products and collectible upon whomsoever is in possession, unless he can show that he has the required auxiliary and official invoices and discharge permit." (Collector v. Pio Barretto Sons, Inc., _supra_.)

It is to be noted that the lien for forest charges described in the decision in the Barretto case is an extraordinary kind of lien. The term "lien" is defined thus:

> "A lien, in its modern acceptation, is understood to denote a legal claim or charge on property, either real or personal, as security for some debt or obligation. Its meaning is more extensive than the Jus retentionis (derecho de retencion) of the Civil Law." (Hongkong & Shanghai Banking Corp. v. Rafferty, 39 Phil. 145.)

A lien is, therefore, merely a legal claim or charge on property, real or personal. To enforce a lien, the property so charged may be taken. A lien is never a personal liability of the person who has possession of property subject to the lien. (Hongkong & Shanghai Banking Corp. v. Rafferty, supra.) But in the Barretto case an entirely new doctrine on the nature of the lien for forest charges has been enunciated. In that case it was held that the lien for forest charges is not only a charge on the forest products subject thereto; it is made a personal liability of any person in actual possession of the forest products or whoever had prior possession thereof. In other words, the Government may choose from among the actual possessor and those who had prior possession of the forest products who may be held personally liable for the forest charges. In the Barretto case, the owner of the sawmill which bought the forest products was held liable notwithstanding that it was no longer in possession of the forest products at the time demand was made upon it for the payment of the forest charges, the said forest products having been sold or disposed of long prior to the demand, as in fact the corresponding sales tax was assessed and collected from it on said sales. The Hongkong & Shanghai Bank case has obviously been overruled although the Barretto case is silent on the point.

The instant case is substantially the same as the

Barretto case, the only difference being that in the latter case it was the owner of the sawmill which bought the forest products which was held liable, while in the former it is the person who sold the forest products to the owner of a sawmill who is being held liable. In line with the decision in the Barretto case, we are constrained to sustain the decision appealed from holding petitioner liable for the sum of ₱3,775.66 as forest charges and surcharges. (See also Manila Pencil Co. v. Acting Commissioner of Int. Rev., C. T. A. Nol 619, May 31, 1961.)

In connection with the sum of ₱1,192.51, representing the fixed and percentage taxes, petitioner contends that he is not liable therefor on the ground that his sales of the forest products to the Aparri Lumber Co. were not original sales. It is, however, the position of respondent that petitioner is a producer with respect to the said forest products and is liable for the fixed and percentage taxes as such producer. The question to be decided is whether or not the sales of forest products by petitioner to the Aparri Lumber Co. are the original sales which are taxable under Section 186 of the National Internal Revenue Code, as amended.

Section 186 of the Revenue Code imposes "once only on every original sale, barter, exchange, and similar transaction either for nominal or valuable considerations, intended to transfer ownership of, or title to, the articles not enumerated in Sections 184 and 185 a tax equivalent to seven (formerly five) per centum of the gross selling price or gross value in money of the articles so sold, bartered, exchanged, or transferred, such tax to be paid by the manufacturer or producer. . ." The phrase "original sale, barter, or exchange" has been defined as follows:

> "As used in sections 184, 185 and 186 of Commonwealth Act No. 466, the phrase 'original sale, barter, or exchange' shall be construed to mean the first sale, barter, or exchange of articles by every manufacturer, producer, or importer: Provided, however, That where the taxes prescribed in said sections have not been collected on articles, the original sales of which are subject to tax, in the possession of any merchant, the first sale, barter, or exchange of said articles on or after the approval of this Act (October 1, 1939) shall be considered as the original sale, barter, or exchange and shall be subject to tax at the rates prescribed in said sections 184, 185 and 186." (Section 5, C.A. No. 503.)

Following this definition of "original sale, barter, or exchange," if a person buys an article from a tax-exempt entity and resells the same article, the subsequent sale is not an original sale and is not subject to the sales tax although no sales tax was paid on the original sale by the tax-exempt entity. (See Op. Sec. of Justice, Nov. 14, 1946; People v. Pastor, 77 Phil. 1001.)

When a person cuts forest products from the public forests and is required to pay the forest charges prescribed in Sections 264, et seq. of the Revenue Code, what is the nature of the transaction? There has been varying opinions on the question so that it may be pertinent in this connection to review the entire problem.

In Hongkong & Shanghai Banking Corp. v. Rafferty, 39 Phil. 145, the question at issue was whether or not the Bureau of Internal Revenue was authorized to distrain forest products (railroad ties) acquired by plaintiff on which the forest charges had not been paid. The railroad ties were then in the actual possession of plaintiff Bank and the Government contended that said railroad ties were subject to the tax lien for forest charges, pursuant to Section 1588 of the Administrative Code (now Section 315 of the Revenue Code), pertinent portion of which provides:

> "Every internal-revenue tax on property or on any business or occupation, and every tax on resources and receipts, and increment to any of them incident to delinquency, shall constitute a lien superior to all other charges or liens not only on the property itself upon which such tax may be imposed, but also upon the property used in any business or occupation upon which the tax is imposed and upon all property rights therein."

The Supreme Court in that case p.7 said that Section 1588 of the Administrative Code was applicable to forest charges, in effect holding that forest charges constitute "internal-revenue tax on property." That forest charges were conceded to be internal revenue taxes is apparent from the portion of the decision which we quote:

> "A businessman of ordinary prudence could not be expected to foresee that the personal property which he had taken in satisfaction of a debt was burdened by a <u>tax</u>. On this date, because no demand had been made and because the plaintiff had no notice of the <u>tax</u>, there was no valid subsisting lien upon the ties." (Underscoring ours.)

However, it was also held that in order that the lien for forest charges may follow the forest products in the hands of a third person who acquired the same from the concessionaire, it is necessary that there must have been a demand for the payment of the forest charges upon the concessionaire prior to acquisition of the forest products by the third person, and that in any case, such forest charges can not be a personal liability of the third person. The Hongkong & Shanghai Bank case was decided in 1918.

Notwithstanding the Hongkong & Shanghai Bank case, some doubt must have been entertained in administrative circles about the nature of forest charges so that the question was referred to the office of the then Attorney General.[1] In an opinion dated October 27, 1922, Attorney General Quintin Paredes[2] expressed the view that forest charges were internal revenue taxes. This opinion of the Attorney General was accepted and applied without question until the advent of new and necessary industries established after the war which were granted tax exemption under Rep. Acts Nos. 35 and 901, among which are manufacturers of plywood.

√ In Collector of Internal Revenue v. Mariano R. Lacson, G. R. No. L-12945, promulgated April 29, 1960, the Government vigoriously opposed the claim for exemption of a new and necessary industry engaged in the manufacture of plywood from the payment of forest charges on the ground, among others, that forest charges are not taxes but the prices paid for the acquisition of forest products from the Government. The Supreme Court sustained the view that forest charges are internal revenue taxes but denied the exemption of the new and necessary industry from the payment of forest charges on the ground that they are taxes not directly

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1 Now Secretary of Justice.

2 Now Senator of the Philippines.

payable by it in connection with the tax exempt industry. The highest Court expressly affirmed the concurring and dissenting opinion[1] of a member of this Court which reads:

> With respect to the forest charges on logs cut and removed from petitioner's concession and used by him in the manufacture of plywood, I agree that forest charges are national internal revenue taxes. (Sec. 18, Nat. Int. Rev. Code.) There appears to be no legal basis for not considering forest charges as taxes when respondent considers them as taxes under Republic Act No. 304, as amended, thus enabling holders of backpay certificates to pay forest charges out of their backpay (B. I. R. ruling, November 22, 1955, Exh. B), and as internal revenue taxes under Chapter II, Title IX, of the Revenue Code, so as to authorize collection of said charges by distraint and levy (Op. Atty. Gen., Oct. 27, 1922). The argument that forest charges are not taxes because they are the price paid for the sale by the Government of forest products overlooks the fact that some forest charges are imposed on forest products cut and removed from unregistered private lands. (See Sec. 266, Revenue Code.) The Government cannot sell forest products which it does not own. From this it may be inferred that forest charges are not in reality the price paid for the sale by the Government of forest products; they are essentially taxes for the privilege of cutting and removing forest products from the public forests and from certain private lands. They stand on the same footing as the mining taxes imposed under Title VII of the Revenue Code. In the United States, forest charges and mining taxes are generally designated as production or severance taxes.
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> > "Taxes which, although imposed under statutes containing many variations as to their precise phraseology, are directed generally against the production, or severance from the soil, of such natural resources as timber, oil, natural gas, ores, or the like, and are normally measured according to the quantity or value of the articles produced or severed,

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[1] M. R. Lacson v. Collector, C.T.A. No. 302, Sept. 2, 1957.

are usually, although not invariably, regarded as excise rather than property taxes." (51 Am. Jur. 1072.)

Barely a month after the promulgation of the decision in the Lacson case, specifically on May 31, 1960, the decision in Collector of Internal Revenue v. Pio Barretto Sons, Inc., G. R. No. L-11805, was promulgated wherein it was held that forest charges are not internal rev- taxes. Said the Court:

> In the first place, we do not subscribe to the proposition of the court below that because the collection of the forest charges has been entrusted to the Collector of Internal Revenue, said forest charges are taxes to be governed in the same manner as internal revenue taxes. As the court below had admitted, the Tax Commission had expressly stated that forest charges are not taxes but the price of forest products.
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> > "Forest charges, which are not properly taxes but rather the price paid for exploiting national resources, need to be revised to make them more in harmony with present-day conditions in the industry and with public policies." (Report of the Tax Commission, p. 36, Vol. I)
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> > "Forest charges are to be distinguished from taxes. They are, strictly speaking, the price which the Government charges for the privilege granted to concessionaires to exploit the public domain, rather than a tax imposed to support the general services of the government. Since under the Constitution all timber lands in the public domain belong to the State, sound public policy demands that they be conserved or wisely exploited in order that the patrimony of the nation may not be impaired. The increasing production of lumber in recent years means both a more rapid depletion of our forest resources and increasing expenditures by the Government for reforestation which now amount to about half a million pesos a year." (ID., p.90, Vol. 1)

The Court placed much reliance upon the above-quoted portions of the Report of the Tax Commission which undertook the codification of all national internal revenue tax laws. It is noteworthy, however, that the distinguished Chairman of that Commission, who was Secretary of Finance Manuel Roxas, later President of the Philippines, in enforcing the law on forest charges, adhered to and applied without reservation the doctrine laid down in the Hongkong & Shanghai Bank case. For convenience, a decision of Secretary Roxas rendered on November 20, 1939[1] is quoted below in full:

November 20, 1939

<u>Internal Revenue Case of the Dulañgan Mining Interests Co., Inc. for forest charges.</u>

<u>DECISION ON APPEAL</u>

In this case, the Collector of Internal Revenue demands from the Dulañgan Mining Interests Co., Inc. the payment of the sum of ₱313.01 as forest charges on certain logs purchased by it from various persons, on which the corresponding forest charges had not been paid by the said vendors. The company is of course not directly or primarily liable for such forest charges. The Collector of Internal Revenue, however, asserts that the vendee of forest products on which the corresponding charges had not been paid becomes liable to the payment of such charges, in accordance with Section 1588 of the Administrative Code, which provides that every internal revenue tax shall constitute a lien on the property on which the tax is imposed. The validity of the tax lien as against third persons, in cases involving the collection of forest charges, is discussed in Hongkong & Shanghai Banking Corporation v. Rafferty, 39 Phil. 145, in which the Supreme Court said:

"No demand in fact was made until over a year later when distraint proceedings were initiated.

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[1] The Report of Tax Commission is dated February 25. 1939.

> When the Hongkong & Shanghai Banking Corporation purchased and acquired these 2,000 ties in February, 1915, there was nothing to show that Pujalte & Co. were delinquent tax payers. No public record could be consulted to protect the purchaser from loss by reason of the existence of a secret lien. A businessman of ordinary prudence could not be expected to foresee that the personal property which he had taken in satisfaction of debt was burdened by a tax. On this date, because no demand had been made and because the plaintiff had no notice of the tax, there was no valid subsisting lien upon the ties."

The question to be resolved, therefore, is whether or not the facts of this case bring it within the doctrine enunciated in the abovementioned case.

It appears from the record that the Dulañgan Mining Interests Co., Inc. purchased the logs in question long before any demand for the payment of forest charges was made by the forest officer or by the Collector of Internal Revenue from the persons who sold the logs to the company. The company was a purchaser for value without notice of any tax liability attached to the property at the time it made the purchase. Under the doctrine in the abovecited case of Hongkong & Shanghai Bank Corporation v. Rafferty, it is clear that the tax lien (Section 1588, Administrative Code) was not valid as against the Dulañgan Mining Interests Co., Inc. inasmuch as the company was an innocent purchaser prior to demand.

In view of the foregoing, this Department is of the opinion that the lien for forest charges involved herein is not valid as against the Dulañgan Mining Intereets Co., Inc., accordingly, the assessment against said company for the payment of forest charges amounting to ₱313.01 is hereby withdrawn.

(SGD.) MANUEL ROXAS
Secretary

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Surprisingly, after succeeding in the affirmance of its theory that forest charges are not taxes but the price paid for forest products, the Government now seeks to overrule the doctrine. It has advanced a new theory - that forest charges are regulatory fees which are imposed for regulatory purposes. In other words, it is now the position of respondent that forest charges are neither taxes imposed by virtue of the taxing power nor the prices paid or charged for forest products arising from the contractual relationship between the Government as seller and the cutter of forest products as buyer; they are, it is alleged, imposed by virtue of the police power. As authority for this proposition, Opinion No. 127, Series of 1956, of the Secretary of Justice has been cited. It is to be noted that the Secretary of Justice had no opportunity to consider the opinion of the Supreme Court in the Barretto case which was promulgated only on May 31, 1960 inasmuch as he rendered his opinion No. 127 sometime in 1956.

In support of the new theory, counsel for the Government states that the Supreme Court, in the Barretto case, really intended to hold that forest charges are regulatory fees. "It is, therefore, not strange," it is alleged, "that the decision in said case dwelt lengthily on the regulatory nature of forest charges, quoting and analyzing in that connection Sections 11 and 13 of Regulations No. 85, the forestry regulations." (Page 2, Supplemental Memorandum for Respondent, dated July 6, 1961.) We regret we have been unable to find in any portion of the decision in the Barretto case any indication that it was the intention of the Highest Court to hold that forest charges are regulatory fees. On the contrary, the Court further strengthened its opinion in the resolution on the motion for reconsideration promulgated on August 31, 1960, when it stated:

> "Moreover, as already stated in the decision, forest charges and surcharges are payments for timber taken from public forests, and they are considered as internal revenue taxes only in the sense that they are to be collected by the Collector of Internal Revenue and the regulations for their collection are contained in the National Internal Revenue Code. Forest products are obtained under licenses issued by the Government[1] and forest charges are in a sense contractual in origin. No prescriptive period having been prescribed by law for this case, Sec. 47 of the Code of Civil Procedure should apply." (Emphasis supplied.)

If forest products are sold by the Government to whoever cuts and removes the same from the forests, it follows that the original sale is made by the Government, and the cutter who sells such forest products can not be held subject to the percentage tax imposed by Section 186 of the Revenue Code on his sale of such forest products because it is not the original sale within the meaning of said section. (See Op. Sec. of Justice, Nov. 14, 1946; People v. Pastor, 77 Phil. 1001.) Accordingly, the sales of forest products by petitioner to the Aparri Lumber Co. are not subject to the fixed and percentage taxes imposed by Sections 182 and 186 of the Revenue Code. That portion of the decision of respondent holding petitioner liable for the sum of ₱1,192.51, representing fixed and percentage taxes in connection with said sales, must have to be reversed.

With respect to the "compromise penalties," there are two items involved: first, the sum of ₱100 in connec-

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1 Forestry licenses are issued by the Bureau of Forestry for which license fees are collected by said bureau.

tion with the alleged violation by petitioner of Sections 208 and 209 of the Revenue Code, and second, the sum of ₱50 in connection with the alleged violation by petitioner of the Bookkeeping Regulations. The first item is contested by petitioner. As there appears to be no valid and binding compromise agreement between petitioner and respondent which may serve as basis for collecting said amount, the collection thereof is unauthorized and illegal.

As regards the second item, counsel for petitioner admits in his memorandum that petitioner violated the Bookkeeping Regulations. There is, however, no compromise agreement that has been entered into between petitioner and respondent in settlement of the former's criminal liability. It is alleged merely that petitioner "is willing to (pay) any compromise penalty which may be imposed by the Honorable Court." We have consistently held that this Court has no power to impose "compromise penalties." Criminal violations of the National Internal Revenue Code and regulations issued pursuant thereto may be settled extrajudicially, in proper cases, by compromise agreement entered into between the taxpayer concerned and the Commissioner of Internal Revenue. (Sec. 309, Rev. Code.) This Court may not intervene in negotiations looking toward settlement of such cases by compromise.

In the memorandum of counsel for the Government, this Court has been asked to pass upon the liability of petitioner for the additional sum of ₱668.36, representing alleged forest charges and surcharges and sales tax and surcharge. The decision appealed from makes no reference to this amount. Neither the answer of respondent contains any allegation concerning the same. It is merely alleged that -

> "In the evaluation of the evidence adduced in the instant case, we discovered certain documents which beyond peradventure of doubt established that the petitioner omitted the payment of sales tax and forest charges due on certain logs he shipped and sold to the Aparri Lumber Co." (Page 15, Memorandum for Respondent, Feb. 8, 1961.)

The claim of the Government in connection with said amount can not, therefore, be considered in this appeal. In a case involving a similar question, it was held:

> "In addition to the aforesaid amounts, counsel for respondent, in their memorandum, have asked this Court to hold petitioner liable for the 50% fraud penalty in the sum of ₱1,951.52, pursuant to Section 183 (A) of the Revenue Code, and the further sum of ₱80.90, representing deficiency tax and surcharge corresponding to the third quarter of 1950 and the second and third quarters of 1952. The decision of respondent appealed from does not contain these amounts, and neither the answer of respondent to the petition for review contains any allegation concerning the same. But it is contended that this Court has power to increase the assessment, if supported by the evidence, citing Coll. of Int. Rev. v. Batangas Transportation Co., G. R. No. L-9692, Jan. 6, 1958. It appears, however in said case of Batangas Transportation Co. that the assessment of respondent was duly amended and respondent's answer to the petition for review contained an allegation in regard to the increased assessment so that the same was squarely placed in issue during the proceedings of the case.
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> "In the instant case, the assessment which is the subject of this appeal has never been amended, and the answer of respondent does not contain any allegation in regard to the additional amounts referred to in the memorandum of counsel for respondent. Consequently, the liability of petitioner as regards the said additional amounts has never been placed in issue in these proceedings. It was raised for the first time only in the memorandum of counsel for respondent dated September 2, 1958 after the termination of the hearing. We do not think that

> the case of Batangas Transportation Co. is in point, and the claim of respondent with respect to the additional amounts must have to be denied." (Antonio Medina v. Coll. of Int. Rev., C.T.A. No. 129, Nov. 26, 1958, affd. in G. R. No. L-15113, Jan. 28, 1961; Taligaman Lumber Co. v. Coll. of Int. Rev., C.T.A. No. 161, Jan. 31, 1959.)

Mention is made of the case of Mayon Motors, Inc. v. Coll. of Int. Rev., C.T.A. No. 413, Dec. 27, 1958, affd. in G. R. No. L-15000, March 29, 1961 wherein we increased the assessment of respondent. In that case, we increased the amount due as determined by respondent on the ground that respondent's computation was erroneous, and the increase in the assessment was made by this Court motu proprio to conform to the statutory requirements. The decision in that case is, therefore, entirely irrelevant to the instant case.

In line with the foregoing opinion, the decision appealed from is hereby modified. Petitioner is ordered to pay the sum of ₱3,775.66 within thirty days from the date this decision becomes final. No pronouncement as to costs.

SO ORDERED.

Manila, August 31, 1961.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge