REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

****

GIG-A-SNACKS INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8303

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, and
MINDARO-GRULLA, *JJ.*

Promulgated:
OCT 2 1 2011 10:30 a.m.

x - x

RESOLUTION

Submitted for resolution is respondent's "***Motion to Dismiss***" filed on August 15, 2011, without petitioner's comment despite notice.

Respondent alleges that petitioner considered the Final Notice Before Seizure (Final Notice) issued by Revenue District Officer Gerry O. Dumayas (RDO Dumayas), as a denial of its protest and deemed it the decision of the Commissioner of Internal Revenue (CIR) that is appealable to the Court. However, a reading of the Final Notice would show that the same is not respondent's final decision on petitioner's protest letter filed on February 10, 2011, as mandated under Section 3, Rule 4 of the Revised Rules of Court of Tax Appeals. Hence, respondent concludes that the 30-day period to file an appeal was yet to commence, rendering the instant Petition for Review premature.

Respondent maintains that the tenor of the Final Notice did not suggest finality of the decision.

Respondent adds that the subject Final Notice was signed by RDO Dumayas, who cannot be deemed an alter-ego of respondent for purposes of issuing a final decision on petitioner's protest under a delegated authority. Lastly, respondent argues that petitioner failed to submit a valid protest letter. In view thereof, respondent prays that the instant Petitioner for Review be dismissed for lack of jurisdiction.

Section 7 of Republic Act (RA) No. 1125, as amended by Republic Act (RA) No. 9282 and Republic Act (RA) No. 9503, which enumerates the cases over which this Court has appellate jurisdiction, relevantly states:

> "SEC. 7. Jurisdiction. – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
>
> (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;"

Clearly, the Court has jurisdiction, among others, to review by appeal the decision and inactions of the Commissioner of Internal Revenue (CIR). However, in the instant case it is a Revenue District Officer who issued the Final Notice and not the Commissioner of Internal Revenue herself.

Undisputedly, Section 7 of the National Internal Revenue Code (NIRC), as amended, allows the CIR to delegate her vested powers, except those enumerated therein, to any subordinate official, with the rank equivalent to a division chief or higher.

Petitioner failed to allege in its petition and to prove that the Revenue District Officer who issued the subject notice was duly authorized to decide and to act on behalf of the CIR on its protest.

Also, Sections 11 and 13 of the NIRC, as amended, provides the duties and authority of a Revenue District Officer as follows:

> "SEC. 11. **Duties of Revenue District Officers and Other Internal Revenue Officers**. - It shall be the duty of every Revenue District Officer or other internal revenue officers and employees to ensure that all laws, and rules and regulations affecting national internal revenue are faithfully executed and complied with, and to aid in the prevention, detection and punishment of frauds or delinquencies in connection therewith.
>
> It shall be the duty of every Revenue District Officer to examine the efficiency of all officers and employees of the Bureau of Internal Revenue under his supervision, and to report in writing to the Commissioner, through the Regional Director, any neglect of duty, incompetency, delinquency, or malfeasance in office of any internal revenue officer of which he may obtain knowledge, with a statement of all the facts and any evidence sustaining each case.
>
> SEC. 13. - **Authority of a Revenue Officer**. - Subject to the rules and regulations to be prescribed by the Secretary

> of Finance, upon recommendation of the Commissioner, a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself."

There is nothing in the afore-quoted provisions which would show that a Revenue District Officer can issue decisions that are appealable to this Court.

Let it be emphasized that the CTA is a court of limited jurisdiction and as such, its jurisdiction to take cognizance of a case should be clearly conferred and should not be deemed to exist on mere implication.[1]

There being no decision of the CIR in the present case, this Court cannot acquire jurisdiction over the instant Petition for Review.

WHEREFORE, premises considered, the instant *Motion to Dismiss* is hereby **GRANTED**. Hence, the instant Petition for Review is hereby **DISMISSED**.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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[1] Southern Cross Cement Corporation vs. The Philippine Cement Manufacturers Corp., et. al., G.R. No. 158540, July 8, 2004.