

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

CITY OF MANILA,
Petitioner,

versus

CTA CASE NO. 1739

THE COMMISSIONER OF
CUSTOMS,
Respondent.

April 6/67

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R E S O L U T I O N

On March 16, 1966, petitioner, the City of Manila, filed a petition for review in this Court. On March 23, 1966, respondent Commissioner of Customs filed a motion to dismiss said petition for review. The principal ground of the motion to dismiss was that the petition did not state that the Commissioner of Customs had already rendered a decision which could be the subject of a review by this Court and thus this Court had no jurisdiction to entertain same.

On April 6, 1966, before the Court could act on the said motion to dismiss, the City of Manila filed an amended and/or supplemental petition for review. In the said amended and/or supplemental petition, petitioner corrected the jurisdictional flaw of the original petition with the insertion of an allegation to the effect that on March 25, 1966, petitioner, through its Mayor, wrote a letter to the respondent Commissioner of Customs appealing

for a reconsideration of the action taken by the Collector of Customs, but in a letter dated April 1, 1966 said Commissioner of Customs denied the petitioner's request for reconsideration. Thereafter, during the hearing of April 14, 1966, petitioner moved that it be allowed to withdraw its original petition for review and that its amended and/or supplemental petition be admitted as a new petition for review in lieu of the original one. Respondent then asked that he be allowed to file a written motion to dismiss the amended and/or supplemental petition and on April 16, 1966, respondent filed his motion to dismiss which, in the last analysis, was based on the jurisdictional allegations in said amended and/or supplemental petition. As this Court declared itself with jurisdiction on the bases of said allegations, in an order of April 19, 1966, respondent filed a motion for reconsideration of said order alleging, among other grounds, lack of payment of the prescribed docket fee for the new petition for review.

(It is an established rule in this jurisdiction that when it appears from the very face of the complaint that the Court has no jurisdiction over the subject matter of the case, an amendment of the complaint so as to confer jurisdiction to the Court can not be allowed after a motion to dismiss has been filed, since it is elementary that the court

must first acquire jurisdiction over the case in order to act validly on the amendment; the course that the court then should properly follow is to dismiss the case) (Rosario vs. Carandang, 51 Off. Gaz., No. 5, 2387; Teresa Pelis Vda. de Rosario vs. Justice of the Peace of Camiling, Tarlac, et al, 52 Off. Gaz., No. 11, September 15, 1956, p. 5159).

Needless to say, the amended and/or supplemental petition was obviously filed to cure the jurisdictional defect of the original petition, but when it dawned upon petitioner that this was not feasible, petitioner moved to withdraw his original petition and submitted his amended and/or supplemental petition as a new petition. (Being then a new petition, filing fee should be paid for it for it is a case distinct from the first. However sympathetic this Court may be to petitioner's plight it can not find plausible reason for applying the docket fee for its original petition to his new petition, as it suggests, inasmuch as this course would practically render nugatory the rules as regard amendments of complaints and petitions. To accede to petitioner's plea would be to circumvent well-established rules on pleading and practice. Having failed to pay the docket fee for its new petition, there seems to be no alternative for this Court than to dismiss the same) (Lazaro vs. Endancia, 57 Phil., 552; Valdez vs. Ocumen, L-13536, January 29, 1960; Dacudao vs. Duenas, L-

RESOLUTION -
CTA CASE NO. 1739

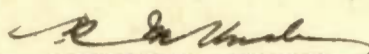
14355, May 20, 1960).

At any rate it appears that the tax in this case has already been paid, the trucks released and due protest filed before the Collector of Customs. The questions raised by petitioner before us can very well be threshed out in that proceeding.

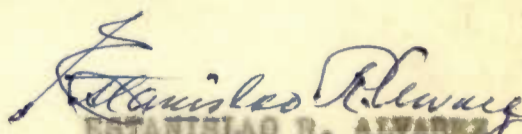
WHEREFORE, this case is hereby dismissed, without prejudice, and so is the intervention of Felipe Juan, Jr. of Makati Northern Motors, without pronouncement as to costs.

SO ORDERED.

Quezon City, April 6, 1967.


ROMAN M. UMALI
Presiding Judge


RAMON L. AVANCEÑA
Associate Judge


ESTANISLAO R. ALVAREZ
Associate Judge