REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

COMPAÑIA GENERAL DE
TABACOS DE FILIPINAS,
Petitioner,

versus

C.T.A. CASE NO. 1990

COLLECTOR OF CUSTOMS,
Respondent.

x - - - - - - - - - - x

RESOLUTION

This is in connection with a "Motion to Dismiss" the petition for review filed by respondent on April 12, 1971 on the ground of lack of jurisdiction.

It appears that the Collector of Customs, after hearing, found the MS Rita Maersk to have no rat guards in violation of Section 2529-h(1) of the Tariff and Customs Code, and imposed against petitioner, the ship's local shipping agents, a fine of ₱200.00 in his decision dated December 9, 1964.

On January 4, 1964, petitioner filed a motion for reconsideration dated December 29, 1964, which was denied by the Collector of Customs on January 19, 1965.

From this order, petitioner filed on January 22, 1965 a notice of appeal seeking the review of the said decision of the Collector by the Commissioner of Customs. However, on January 27, 1965, the Collector of Customs informed petitioner that the notice of appeal cannot be given due course in view of the fact that the decision sought to be reviewed is not appealable but protestable; that under Section 2313 of the Tariff and Customs Code, only cases involving (a) action or decision of the Collector in seizure cases; and (b) decision or action in any matter presented upon protest are appealable to the Commissioner of Customs; and that the proper remedy is for petitioner to pay the fine and file the proper protest in accordance with Sections 2308 to 2310 of the same Code.

On February 27, 1965, petitioner paid the fine of ₱200.00 under protest. Instead of presenting evidence in the protest case however petitioner filed a motion to dismiss the administrative case in which the fine of ₱200.00 was imposed. The Collector of Customs denied the motion to dismiss, but set the protest case for hearing. After the hearing, Collector of Customs Jose F. Viduya, in his decision of February 6, 1969, ruled against the protest for lack of merit. From this decision of respondent Collector of Customs, petitioner filed the instant petition for review.

Under Section 2313 of the Tariff and Customs Code, the decision or action of the Collector of

Customs in any matter presented upon protest or his action in any case of seizure may, within fifteen days after notice in writing of his action or decision, give written notice to the Collector of his desire to have the matter reviewed by the Commissioner of Customs. Petitioner having failed to appeal from the decision of the Collector of Customs dated February 6, 1969 to the Commissioner of Customs, no decision could have been rendered by the latter, from whose decision an appeal can be taken to the Court of Tax Appeals within 30 days from receipt thereof under the provisions of Sections 7(2), in relation to Section 2402 of Republic Act No. 1937, and 11 of Republic Act No. 1125. (Southwest Agricultural Marketing Corporation v. The Secretary of Finance, et al., G.R. L-24797, Oct. 8, 1968; Negros Navigation Co., Inc. v. Comm. of Customs, G.R. L-18629, May 31, 1963; Caltex (Phil.) Inc. v. Comm. of Internal Revenue, G.R. L-20462, June 30, 1965; Procter & Gamble Philippines Marketing Corp. v. The Comm. of Customs, CTA Case No. 2155, April 15, 1971.) The decision of the Collector of Customs is not directly appealable to the Court of Tax Appeals and, therefore, we have no jurisdiction to take cognizance of the instant appeal. (Rufino Lopez v. C.T.A., 100 Phil. 850;

Chan Kian v. C.T.A., 105 Phil. 904; CMS Estate Inc. v. Comm. of Customs, G.R. L-18773, January 31, 1964; see also Caltex (Phil.) Inc. v. Comm. of Internal Revenue, C.T.A. Case No. 1149, Dec. 5, 1970; Procter & Gamble Philippine Manufacturing Corp. v. The Comm. of Customs, op. cit.)

WHEREFORE, the petition for review is hereby dismissed, with costs.

SO ORDERED.

Quezon City, June 5, 1971.

ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge

ESTANISLAO R. ALVAREZ
Associate Judge