REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

DIONISIO R. LANTIN,
Petitioner,

\- versus - C.T.A. CASE No. 1951

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

April 18/69

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

RESOLUTION

In his "Motion to Dismiss" dated December 5, 1968, respondent alleged that this Court has no jurisdiction to hear and decide the petition for review because it was prematurely filed.

The pertinent facts of the case as shown by the pleadings of both parties are as follows:

On March 25, 1968, respondent requested petitioner to submit his records and books of accounts on a designated date for the purpose of examining or investigating the latter's deficiency income tax for 1963. Petitioner and his accountant, however, failed to appear on the aforesaid date because petitioner was then out of town attending to some of his urgent business, and that his accountant was sick and confined in a hospital at the time (Par. 4, p. 2, petition for review C.T.A. Rec.).

On June 17, 1968, petitioner allegedly received from respondent Assessment Notice No. 1779, dated May 9, 1968, wherein said respondent claimed that petitioner is liable for ₱296,791.80 as deficiency income tax, interest and compromise penalty for 1963 (Par. 5, p. 2, petition for review C.T.A. Rec.).

On July 16, 1968, petitioner interposed his appeal to this Court.

Respondent contends that his letter to petitioner dated May 9, 1968, which was appealed to this Court, is neither a decision on a disputed assessment nor a letter of demand and, therefore, the said appeal, being premature, cannot be entertained by this Court under Section 7 (1) of Republic Act No. 1125 which provides as follows:

> SEC. 7. Jurisdiction.-- The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided--
>
> (1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;

Respondent's contention is well taken. Before this Court can acquire jurisdiction, it is indispensable that the final assessment made by respondent be contested or disputed by a taxpayer; and the decision rendered thereon by respondent is the one appealable to this Court. Unfortunately, the letter of respondent dated May 9, 1968, which is considered by petitioner as a decision on a disputed assessment does not appear as an annex to the petition for review and, therefore, this Court cannot determine whether or not the aforesaid letter is in reality a disputed assessment.

We are constrained to consider that the said notice to taxpayer dated May 9, 1968 was a mere notice of a proposed deficiency income tax assessment because petitioner stated in the 4th paragraph of his petition that on March 25, 1968 respondent requested petitioner to produce his books of accounts and records for purposes of investigation. It is apparent that said notice to taxpayer No. 1779, dated May 9, 1968, containing a tentative(proposed) 1963 deficiency income tax assessment of ₱296,791.80 was a mere follow-up letter of respondent's request of March 25, 1968, urging petitioner to produce his books of accounts and records for verification and examination. Accordingly, the alleged assessment notice of respondent dated May 9, 1968, being merely a proposed assessment, is not a decision on a disputed assessment appealable to this Court under Section 7 (1) Republic Act No. 1125, in line with the decision of the Supreme Court in the case of Commissioner of Internal Revenue v. Villa and the Court of Tax Appeals, G. R. No. L-23988, dated January 2, 1968, which held as follows:

> "Since in the instant case the taxpayer appealed from the assessment of the Commissioner of Internal Revenue without previously contesting the same, the appeal was premature and the Court of Tax Appeals had no jurisdiction to entertain the said appeal. For, as stated, the jurisdiction of the Tax Court is to review by appeal decisions of the Commissioner of Internal Revenue on disputed assessments. The Tax Court is a court of special jurisdiction.

As such, it can take cognizance only of such matter as are clearly within its jurisdiction."

WHEREFORE, finding respondent's "Motion to Dismiss" dated December 5, 1968, well grounded, the same is hereby granted. Accordingly, the petition for review filed by the taxpayer is hereby dismissed.

SO ORDERED.

Quezon City, April 10, 1969.

ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge

ESTANISLAO R. ALVAREZ
Associate Judge