REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

CENTRAL AZUCARERA DON PEDRO,
Petitioner

versus C. T. A. CASE NO. 195

THE COLLECTOR OF INTERNAL REVENUE,
Respondent.

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RESOLUTION

Respondent Collector of Internal Revenue assessed against petitioner the amount of ₱199,906.10 as specific tax on denatured alcohol manufactured by the latter, plus ₱10,000.00 as "compromise penalty". The assessment is contained in a letter dated May 30, 1955 (Exhibit 1, pp. 11-12, B.I.R. records) and received by the petitioner on June 13, 1955 (Exhibit 2-A, pp. 19-24, B.I.R. records). Petitioner requested reconsideration of the assessment in a letter dated June 22, 1955, which was received by respondent on June 24, 1955 (Exhibit 2-B). On July 2, 1955, respondent denied said request (Exhibit 3, p. 25, B.I.R. records), which denial was received by petitioner on July 15, 1955 (Exhibit 3, p. 25, B. I. R. records; Exhibit 4-A, p. 28, B. I. R. records). On the same date, petitioner sent another letter requesting reconsideration of the assessment (Exhibit 4, pp. 27-28, B. I. R. records). This second letter for reconsideration was received by respondent on July 19, 1955 (Exhibit 4-B), and on September 5, 1955,

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respondent denied the second request (Exhibit 5, pp. 36-37, B. I. R. records). Petitioner received the second denial on September 16, 1955, and on October 15, 1955, it filed the present petition for review.

The question to be resolved is whether the petition for review was filed within the thirty-day period prescribed in Section 11 of Republic Act No. 1125.

Computing the period from June 13, 1955, when petitioner received the assessment, to June 24, 1955, when the request for reconsideration was received by respondent, we find that petitioner consumed eleven (11) days. The running of the period was suspended from June 25, 1955 to July 15, 1955, when petitioner received the letter of respondent of July 2, 1955 denying the first request for reconsideration. From July 15, 1955 to July 19, 1955, when petitioner again requested reconsideration of the assessment, petitioner consumed four days. The period was again suspended from July 20, 1955 to September 16, 1955, when petitioner received the denial of its second request for reconsideration. From September 17, 1955 to October 15, 1955, when petitioner filed the present petition for review, petitioner consumed 29 days. Consequently, petitioner consumed a total of 44 days before it filed its petition for review.

Petitioner, however, argues that the period of 30 days should be computed from September 16, 1955, the date it received respondent's letter denying its second request for reconsideration, and since the petition for review was filed on October 15, 1955, it is alleged that the petition for review was filed within the 30-day statutory period prescribed in Section 11 of Republic Act No. 1125.

This Court has consistently ruled that the period of thirty days commences to run from receipt by petitioner of the final decision of the Collector of Internal Revenue (Angel Saraos vs. Bureau of Internal Revenue, C. T. A. No. 229, March 5, 1956; Merced Drug House vs. Collector of Internal Revenue, C. T. A. No. 180, May 21, 1956; Villamin vs. Collector of Internal Revenue, C. T. A. No. 268, July 31, 1956; St. Stephen's Association vs. Collector of Internal Revenue, C. T. A. No. 173, August 15, 1956). The final decision of respondent in this case is contained in his letter of May 30, 1955, received by petitioner on June 13, 1955. Respondent's letter of September 5, 1955, received by petitioner on September 16, 1955, is merely a denial of petitioner's second request for reconsideration and is not to be considered a decision within the meaning of Sections 7 and 11 of Republic Act No. 1125. (Pacific Vegetable Oil Corp. v. Collector of Internal Revenue, C. T. A. No. 297, Oct. 28, 1956.)

The second contention of petitioner is untenable. It is a settled rule that the thirty-day period prescribed in Section 11 of Republic Act No. 1125 is jurisdictional. (Robert L. Janda v. Collector of Int. Rev., C. T. A. No. 87, Feb. 23, 1956; St. Stephen's Association v. Collector of Int. Rev., C. T. A. No. 173, Aug. 15, 1956; Bay View Hotel v. Collector of Int. Rev., C. T. A. No. 80, Nov. 21, 1955; Merced Drug House v. Collector of Int. Rev., C. T. A. No. 180, May 21, 1956.)

IN VIEW OF THE FOREGOING, the herein petition for review is hereby dismissed with costs against petitioner.

SO ORDERED.

Manila, January 15, 1957.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge