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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

P. J. KIENER COMPANY, LTD.,
INTERNATIONAL CONSTRUCTION
CORPORATION and GAVINO T.
UNCHUAN,
Petitioners,

January 13, 1962

- versus -

C.T.A.
CASE NO. 1141

THE COMMISSIONER OF CUSTOMS,
Respondent.

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

R E S O L U T I O N

This refers to the "Motion to Dismiss" the "Petition" for lack of jurisdiction which was filed by the respondent on December 1, 1961. The petition seeks the refund and/or tax credit of the sums of ₱1,618.16, ₱23,654.80, and ₱4,122.10 representing customs duties and special import taxes, alleged to have been illegally collected by the respondent.

The claim of lack of jurisdiction is based on the following grounds, to wit:

> "(a) Petitioner never filed a protest before the Collector of Customs, to whom the customs duties and special import taxes were allegedly paid;
>
> "(b) There is no decision of the Collector of Customs that has been appealed to the Commissioner of Customs; and
>
> "(c) There is no decision of the Commissioner of Customs that may be reviewed by this Court."

The pertinent provision as regards jurisdiction of this Court is found in Section 7 (2) of Republic Act No. 1125, which states:

"Sec. 7. <u>Jurisdiction</u>.- The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -

x x x x

"(2) Decisions of the Commissioner of Customs in cases involving liability for custom duties, fees or other money charges; seizures, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs; x x x"

This Court is of special and limited jurisdiction. Republic Act No. 1125 deliberately delimits and canalizes this jurisdiction. All cases brought before this Court must find authority in the said organic Act. (Amilbangsa vs. Angangco, C.T.A. Case No. 255, May 7, 1956.) The Act expressly enumerates the matters which this Court may consider, and such enumeration excludes all others by implication. (Ursal vs. C.T.A., G.R. No. L-10123, April 26, 1957; 53 O.G. 6081.)

In the case at bar, a careful reading of the petition will show that there is no decision of the Commissioner of Customs that has been appealed to this Court. As a matter of fact, the "Opposition to Motion to Dismiss" admits that there is no such decision of the respondent Commissioner of Customs. (Pp. 20-25, CTA rec.) Inasmuch as this Court has exclusive appellate jurisdiction to review by appeal only <u>decisions</u> of the Commissioner of Internal Revenue, Commissioner of Customs, and Provincial or City Board of Assessment Appeals (Sec. 7, Rep. Act 1125) therefore, without such decision from which appeal may be taken, the filing of the instant petition is premature. (Sampaguita Shoe & Slipper Factory vs. Commissioner of Customs, G.R. No. L-10285, Jan. 14, 1958.)

WHEREFORE, finding the "Motion to Dismiss" well founded, the same is hereby granted, and the "Petition" filed on October 27, 1961 is hereby dismissed, with costs against the petitioners.

SO ORDERED.

Manila, January 13, 1962.

MARIANO NABLE
Presiding Judge

We concur:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge