REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Jan. 15/72

JOSEPH COCHINGYAN, JR.,
Petitioner,

versus

C.T.A. CASE NO. 2339

THE COMMISSIONER OF
INTERNAL REVENUE and
AUDREY GUERSEY,
Respondents.

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

R E S O L U T I O N

Respondent Commissioner of Internal Revenue has assessed petitioner deficiency income taxes for the years 1957 to 1965 in the total amount of ₱192,729.50. Petitioner protested the said assessment and failing to secure reconsideration thereof, instituted an appeal to this Court impleading Audrey Guersey as one of the respondents allegedly because the income on which the assessment was based belonged to her.

Respondent Audrey Guersey, on November 29, 1971, filed a motion seeking the dismissal of the instant appeal, insofar as she is concerned, for lack of a cause of action and lack of jurisdiction by the Court because the assessment is against petitioner and not against her.

We agree with respondent Guersey.

Under Section 7 of Republic Act No. 1125 the jurisdiction of the Court of Tax Appeals in internal revenue taxes is over disputed assessments of the

Commissioner of Internal Revenue. In connection with internal revenue taxes, an assessment is the official action of an administrative officer in determining the amount of tax due from a taxpayer (Bisaya Land Transportation Co., Inc. v. Collector of Internal Revenue, G.R. Nos. 12100 and 11812, May 19, 1959; Alcala v. Court of Tax Appeals, G.R. No. 24624, November 27, 1968) or, it may be a notice to the effect that the amount therein stated is due from a taxpayer as a tax, with a demand for payment of the tax or deficiency stated therein. (Commissioner of Internal Revenue v. Court of Tax Appeals, G.R. No. 21483, April 28, 1968.) Logically then, the issues involved in the appeal to this Court are limited to the tax liability of the taxpayer or taxpayers who are the subject of the assessment. Needless to say, parties who are not included in the assessment cannot be made respondents in an appeal from a particular assessment being extraneous thereto. No judgment can be rendered against such parties because any such judgment would be an encroachment on the prerogative of the Commissioner of Internal Revenue to make an assessment and would furthermore violate the rule on due process and the exhaustion of administrative remedies. Moreover, under Section 7 of Republic Act No. 1125, only the Commissioner of Internal Revenue, Commissioner of Customs and the Provincial or City Boards of Assessment Appeals may be sued before this Court in appropriate cases. (See John Gotamco & Sons, Inc. v. Comm. of Int. Rev., CTA Case [Res.] No. 1625, August 12, 1965; Santiago Syjuco, Inc. v. City Assessor of Pasay City, CTA Case [Res.] No. 1555, Nov. 5, 1965; Dy Peh v. Coll. of Int. Rev., CTA Case [Res.] No. 538, Jan. 30, 1959.)

WHEREFORE, the appeal as against Audrey Guerzay is dismissed.

SO ORDERED.

Quezon City, January 15, 1972.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge