REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

RURAL BANK OF STA. CRUZ,
(LAGUNA), INC.,
Petitioner,

- versus - C.T.A. CASE NO. 2246

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

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

D E C I S I O N

Petitioner is seeking refund of the sum of ₱9,906.48, representing deficiency income tax paid by it for the taxable year 1968 under Official Receipt No. 1024601, dated August 12, 1969.

The facts of this case are embodied in the "Stipulation of Facts" filed by the parties on October 1, 1974, reading as follows:

"1. That petitioner is a corporation organized and constituted under Rep. Act No. 720, as amended, and Act 1459, and subject to supervision by the Central Bank under the provisions of Rep. Acts 720, 265 and 337, as amended;

"2. That petitioner was assessed by respondent for corporate income tax for the period commencing from July 1, 1968 to December 31, 1968, and out of the said tax assessment petitioner paid the following:

Amount Paid	Date Paid	Place of Payment	O.R. No.
₱9,906.48	Aug. 12,1969	Sta.Cruz, Laguna	1024601

"3. That petitioner, on September 23,

(50)

1969, wrote respondent for the refund of said payment;

"4. That the aforementioned letter of refund was received and acknowledged by the respondent in his letter of February 2, 1970;

"5. That the instant petition was filed on March 29, 1971;

"6. That petitioner uses the calendar method (January 1 to December 31 of any year) in its accounting system, as provided for by Sections 242 and 243 of the Rules and Regulations Governing Rural Banks, promulgated by the Monetary Board of the Central Bank as Res. No. 865 on May 19, 1969, and published in the September 11, 1967 issue of the Official Gazette (See page 7995 et sec.)".

In the answer of respondent, the jurisdiction of this Court to take cognizance of the case was raised. It is alleged that the claim for refund of the said amount of ₱9,906.48 contained in the letter of petitioner dated September 23, 1969 was denied by respondent in his letter dated February 2, 1970, but the petition for review was filed only on March 29, 1971 which is beyond the 30-day period within which to appeal to this Court, pursuant to Section 11 of Republic Act No. 1125.

It appears however, that the decision of respondent dated February 2, 1970, which was sent by ordinary mail, denying petitioner's claim for refund has not been received by the latter. In fact, in the petition for review it is alleged in paragraph 7 thereof that, up to the filing of said petition, respondent had not answered the claim for refund of petitioner, and the petition for review was being filed "as the two-year period allowed (it) by law is about to expire." In view thereof, we are of the opinion that the two-year period provided in Section 306 of the Revenue Code, within which appeals in cases involving refunds of internal revenue taxes may be filed, applies, and not the thirty-day period provided in Section 11 of Republic Act No. 1125. (See Gibbs v. Collector, 107 Phil. 232; Koppel v. Collector, G.R. No. L-10550, Sept. 16, 1961; Commissioner v. Victorias Milling, G.R. No. L-24108, Jan. 3, 1968, 22 SCRA 12.) Accordingly, we are of the opinion that the herein appeal was timely filed.

The other issue is whether or not the provisions of Republic Act No. 5431 should apply to petitioner effective July 1, 1968. In the affirmative, it is not entitled to the refund of the aforesaid amount; in the negative, it is entitled to the refund.

Section 10 of Republic Act No. 5431 provides that the provisions of said Act "shall apply to income for taxable years beginning after June 30, 1968."

Resolving a similar question in the case of the Rural Bank of Camiling, Inc. vs. Commissioner of Internal Revenue, C.T.A. Case No. 2041, promulgated on March 1, 1974 (cert. denied in G.R. No. L-38476, May 10, 1974), this Court held:

> It appears that petitioner is keeping its books of account on the calendar year basis. Its "taxable year" for purposes of the Income Tax Law is the period from January 1 to December 31 each year. Therefore, the beginning of its taxable year after June 30, 1968, is January 1, 1969, and not July 1, 1968. The decision of respondent holding that the provisions of Republic Act No. 5431 are applicable to petitioner effective July 1, 1968, is obviously erroneous.

In view of our opinion that rural banks are not subject to income tax on their income prior to December 31, 1968, pursuant to Section 10 of Republic Act No. 5431, we find it unnecessary to pass upon the issue whether or not said Act repealed the exemption from taxation of petitioner under Republic Act No. 720, as amended. At any rate, the exemption from taxation of rural banks has apparently been restored by Republic Act No. 5939, assuming that Republic Act No. 5431 repealed the prior exemption.

WHEREFORE, respondent is hereby ordered to refund to petitioner the sum of ₱9,906.48 which was erroneously paid by the latter as deficiency income tax for 1968. No costs.

SO ORDERED.

Quezon City, November 11, 1974.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge