lib.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

GOVERNMENT SERVICE
INSURANCE SYSTEM,
Petitioner,

- versus - C.T.A. CASE NO. 2916

COMMISSIONER OF IN-
TERNAL REVENUE,
Respondent.
x - - - - - - - - - - - x

7/26/77

D E C I S I O N

This is an appeal taken by petitioner from the assessment of respondent imposing against it deficiency income tax for the period from January 1 to June 30, 1974, and from July 1, 1974 to March 31, 1975, in the total amount of ₱17,210,385.37, inclusive of interest.

Petitioner, the Government Service Insurance System, is a government-owned and controlled corporation established pursuant to Commonwealth Act 186, as amended, which administers a program of benefit for government employees (Par. 1, Petition for Review, p. 1, admitted in par. 1, Answer, p. 24, CTA. rec.) On December 1, 1977 (Par. 4, Petition for Review, Annex "A", p. 7, CTA. rec.) petitioner received from respondent deficiency income tax assessment dated October 31, 1977, covering the periods from January 1 to June 30, 1974, and from July 1, 1974 to March 31, 1975, inclusive of interest in the amounts of ₱3,452,906.08 and ₱13,757,479.29, respectively computed as follows:

ACR-36-10-4-08000994-74/77

Net income per investigation	₱26,512,752.14
Income tax due thereon	9,346,841.00
Income tax already paid	6,915,217.00
Deficiency income tax	₱ 2,431,624.00
Add: 14% Int. fr. 10/15/74 to 10/15/77	1,021,282.08
TOTAL AMOUNT DUE AND COLLECTIBLE . . .	₱ 3,452,906.08

ACR-36-4-08001163-75/77

Net income per investigation	₱45,518,366.19
Income tax due thereon	15,911,428.00
Income tax already paid	5,214,682.98
Deficiency income tax	₱10,696,745.02
Add: 14% Int. fr. 10/15/75 to 10/31/77	3,060,734.27
TOTAL AMOUNT DUE AND COLLECTIBLE . . .	₱13,757,479.29

and requesting that the said amounts be paid on November 30, 1977 (Annex "A", p. 6, CTA. rec.)

Subsequently, petitioner, on December 19, 1977 filed a request for a reconsideration or protest alleging that the aforesaid assessment of respondent has been condoned under Section 36 of Presidential Decree 1146, which took effect on May 31, 1977. (Annex "B", p. 8, CTA. rec.; see also par. 5, Petition for Review, and par. 1, Answer, pp. 1 and 2, and 24, CTA. rec.)

Without waiting for an action on its request for reconsideration or protest of the aforementioned assessment, petitioner, on December 29, 1977, filed its Petition for Review in this Court (Exh. "1-D", par. 6, Petition for Review, p. 2, CTA. rec.)

The only issue is whether or not this Court has jurisdiction to entertain the instant petition for review.

The pertinent provisions of law that confers jurisdiction to this Court are Sections 7 (1), and 11 of Republic Act No. 1125, pertinent portions of which provide 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 (now Commissioner[1]) 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;
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> x x x x x x x x x
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> Sec. 11. Who may appeal; effect of appeal.- Any person, association or corporation adversely affected by a decision or ruling of the Collector (now Commissioner) of Internal Revenue, the Collector (now Commissioner) of Customs or any provincial or City Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.

The word "decision" provided for in said paragraph 1, Sections 7 and 11 of Republic Act No. 1125 has been interpreted to mean the decision of the Commissioner of Internal Revenue rendered based upon a written protest filed by the taxpayer against the assessment and not the "assessment" itself. It is already a well-settled rule that when the Commissioner

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[1] See Commissioner of Internal Revenue vs. Leonardo S. Villa, etc., G.R. No. L-23988, Jan. 2, 1968, 22 SCRA 3, at page 6.

of Internal Revenue issues an assessment against the taxpayer and the said taxpayer files a protest thereon, the taxpayer can appeal to this Court within 30 days from the receipt of the decision of the Commissioner denying taxpayer's protest.

In the case of Commissioner of Internal Revenue vs. Leonardo S. Villa, etc. (G.R. No. L-23988, January 2, 1968, 22 SCRA 35-6), the Supreme Court held thus -

x x x x x x x x x

> The word "decisions" in paragraph 1, Section 7 of Republic Act 1125, quoted above, has been interpreted to mean the decisions of the Commissioner of Internal Revenue on the protest of the taxpayer against the assessments. Definitely, said word does not signify the assessment itself. We quote what this Court said aptly in a previous case:
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> "In the first place, we believe the respondent court erred in holding that the assessment in question is the respondent Collector's decision or ruling appealable to it, and that consequently, the period of thirty days prescribed by section 11 of Republic Act No. 1125 within which petitioner should have appealed to the respondent court must be counted from its receipt of said assessment. Where a taxpayer questions an assessment and asks the Collector to reconsider or cancel the same because he (the taxpayer) believes he is not liable therefor, the assessment and becomes a 'disputed assessment' that the Collector must decide, and the taxpayer can appeal to the Court of Tax Appeals only upom receipt of the decision of the Collector on the disputed assessment, x x x (Italics supplied)
>
> The same interpretation finds support in Section 11 of Republic Act 1125, which states:

"Sec. 11. Who may appeal; effect of appeal.- Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling". (Italics supplied)

Note that the law uses the word "decisions", not "assessments", thus further indicating the legislative intention to subject to judicial review the decision of the Commissioner on the protest against an assessment but not the assessment itself.[2]"

x x x x x x x x x

In the instant case, since petitioner has appealed to this Court without waiting for the decision of the Commissioner of Internal Revenue on its request for reconsideration or protest of the assessment, petitioner had in fact appealed from the assessment itself, and not from said decision and hence, the appeal is prematurely filed, and this Court has no jurisdiction to entertain the same. (Commissioner of Internal Revenue vs. Leonardo S. Villa, etc., Op. cit., p. 7; J. Romero and Associates, Inc., vs. the Commissioner of Internal Revenue, CTA Case No. 2670, February 27, 1979.)

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[2] See Villamin v. Court of Tax Appeals, L-11536, October 31, 1960.

DECISION -
CTA CASE NO. 2916

WHEREFORE, for being prematurely filed and for lack of jurisdiction, this appeal is hereby dismissed.

With costs against petitioner.

SO ORDERED.

Quezon City, July 26, 1979.

CONSTANTE C. ROAQUIN
Associate Judge

I CONCUR:

AMANTE FILLER
Acting Presiding Judge