REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

GONZALO SY, doing business under the name and style of GONZALO SY TRADING and TOMAS Y. DE LEON, doing business under the name and style of T. Y. DE LEON ENTERPRISES,
Petitioners,

- versus - C.T.A. CASE No. 2163

THE HONORABLE COMMISSIONER OF CUSTOMS and THE HONORABLE COLLECTOR OF CUSTOMS,
Respondents.
x- - - - - - - - - - - - - - - - -x

R E S O L U T I O N

Petitioners seek the review of the action taken by the Collector of Customs of Manila who ordered the seizure of imported fresh fruits under Seizure Identification Nos. 11587, 11586, 11585, 11571, 11570, 11569, 11559, 11558 and 11604, for alleged violation of Central Bank Circular No. 289, in relation to Section 2530 (f) of the Tariff and Customs Code. Pending final determination of the case, petitioners prayed that a writ of preliminary injunction be issued restraining respondents or their agents from carrying out the seizure; to enjoin parties from proceeding with the projected auction sale of the fruits in question; and to order respondents to release to the petitioners the imported fresh fruits by virtue of the bonds already submitted to the respondent Collector of Customs.

The petition for review was filed with this Court on August 10, 1970. However, due to the urgency of petitioners' prayer for the issuance of a preliminary writ of injunction to stop the scheduled auction sale of the seized goods on August 12, 1970, the same was immediately set for hearing today, August 11, 1970.

The instant petition for review contains no allegation that a decision has been rendered by the Commissioner of Customs from which petitioners could appeal to this Court. In fact, even the Collector of Customs has not yet rendered a decision which could be appealed to the Commissioner of Customs whose decisions are appealable to this Court. Consequently, in the absence of a decision rendered by the said Commissioner, this Court has no jurisdiction to entertain the appeal under Section 7 of Republic Act No. 1125 which provides, among others, as follows:

> SEC. 7. Jurisdiction.- The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
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> x x x x
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> (2) Decisions of the Commissioner of Customs in cases involving liability for seizure, 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. (Underscoring s upplied.)

Having declared that this Court has no jurisdiction over the appealed case, it necessarily follows that it lacks jurisdiction to entertain petitioners' prayer for the issuance of a writ of preliminary injunction, the same being merely ancillary or incidental to the main case. Our Supreme Court had already decided that this Court has no authority to issue such writ independent of, or apart from, its appellate jurisdiction. (See Textile Mills Assn. of the Phil. v. Comm. of Customs, CTA Case No. 1999 /Reso./, Sept. 30, 1969; Austin & Co., Inc. v. Pacis, CTA Case No. 1400 /Reso./, Oct. 31, 1963.) Thus, it was held:

> "x x x Nowhere does the law expressly vest in the Court of Tax Appeals original jurisdiction to issue writs of prohibition and injunction independently of, and apart from, an appealed case. The writ of prohibition or injunction that it may issue under the provisions of section 11, Republic Act No. 1125, to suspend the collection of taxes, is merely ancillary to and in furtherance of its appellate jurisdiction in the cases mentioned in section 7 of the Act. The power to issue the writ exists only in cases appealed to it. This is reflected in the explanatory note of the bill (House No. 175), creating the Court of Tax Appeals." (Coll. of Int. Rev. v. Yuseco, G.R. No. L-12518, Oct. 28, 1961.)

IN VIEW OF THE FOREGOING, petitioners' prayer for the issuance of a writ of preliminary injunction has to be, as it is hereby, DENIED.

SO ORDERED.

Quezon City, August 12, 1970.

ROMAN M. UMALI	ESTANISLAO R. ALVAREZ
Presiding Judge	Associate Judge