REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

PHILIPPINE ROCK PRODUCTS, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 541

THE COLLECTOR OF INTERNAL REVENUE,
Respondent.

December 26, 1958

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R E S O L U T I O N

This is a petition for review of the decision of the respondent Collector (now Commissioner) of Internal Revenue on a disputed assessment of ₱20,691.60 allegedly due as deficiency sales tax, surcharge and compromise penalty from the petitioner, Philippine Rock Products, Inc. on its sale of ready-mix concrete during the period from the second quarter of 1955 to the first quarter of 1956. The respondent, having raised in his answer by way of special defense, the question of the jurisdiction of this Court, the same was heard as if a motion to dismiss was filed.

The facts preliminarily established in this incident are summarized hereunder. In a letter dated July 2, 1957 and received by the petitioner on August 14, 1957, (Exhibits 1-A and 1-B, pp. 20 and 22, BIR rec.), the respondent assessed and demanded from the former the amount of ₱20,691.60 representing deficiency sales tax and incremental penalties as stated above. In a letter dated August 23, 1957, and filed with the respondent on the same date, the petitioner requested that the demand for payment of the tax in question be held in abeyance (Exhibit 1-B, p. 22, BIR records).

In view of the requirements stated by the respondent in his letter dated August 29, 1957 (Exhibit 2-A p. 23 BIR records), the petitioner in a letter dated September 10, 1957, and received by the respondent on the same date, presented its grounds of objection to the assessment and at the same time requested for a reinvestigation and review of the case (Exhibit 2-B p. 24 BIR records). On September 27, 1957, the respondent denied this request and demanded payment of the assessment within three days from receipt of the letter, the same having been received by the petitioner on October 22, 1957 (Exhibit 3-B p. 26 BIR records).

Instead of paying as demanded, the petitioner, on October 24, 1957, requested that it be given fifteen (15) days within which to file its memorandum in support of its stand, and that, pending submission thereof, the collection of the amount in question be suspended (Exhibit 3-C p. 27 BIR records). Subsequently, the petitioner filed on November 8, 1957 a letter-memorandum dated November 6, 1957, wherein it requested for a revision of the assessment (see pp. 29-30 BIR records). This request was, however, denied by the respondent in his letter of April 29, 1958 and received by the petitioner on May 12, 1958 (Exhibits A and A-1, pp. 32-33, BIR records). On May 14, 1958, the respondent issued a warrant of distraint and levy of the properties of the petitioner to enforce collection of the said sum of

₱20,491.66 (see p. 34 BIR records), which was served upon the taxpayer on June 10, 1958 (see Petition for Review, Par. 11 and Answer, Par. 1). Thereafter, on June 11, 1958, the instant petition for review was filed with this Court.

The only question to be resolved in this incident is whether or not the present petition for review was filed within the statutory period of thirty (30) days within which to appeal as provided for by section 11 of Republic Act No. 1125.

The petitioner contends that only decisions of the Collector of Internal Revenue and not those of his subordinates may be the subject of review by appeal to this Court. On this theory, it is argued that since all previous letters were signed by subordinates of the respondent, the letter of the respondent of April 29, 1958, and received by petitioner on May 12, 1958, was the decision properly appealable to this Court. Hence, it is urged upon us that the instant petition for review which was filed on June 11, 1958, was instituted within the 30-day period prescribed in section 11 of Republic Act No. 1125.

The respondent, on the other hand, argues that the decision appealable to this Court is the letter of assessment dated July 2, 1957 which was received by petitioner on August 14, 1957. In the view taken by the respondent, the present petition for review was not seasonably filed.

We find the view of the petitioner not well taken. The thirty-day period within which to appeal to this

Court should be counted from October 22, 1957 when petitioner received the letter of the respondent dated September 27, 1957 which is the latter's decision on the "disputed assessment" appealable to this Court (See St. Stephen's Association et al. vs. The Collector of Internal Revenue, G.R. No. L-11238, August 21, 1958). After deducting the period from October 24, 1957 to May 12, 1958, during which time the request for reconsideration of the said decision was pending, we find that petitioner consumed a total of thirty-two (32) days before perfecting its appeal to this Court. It is therefore apparent that the instant petition for review was filed beyond the thirty-day period prescribed by law.

The argument of the petitioner, that only those decisions which are personally rendered by the respondent are appealable, is not meritorious. It could not have been intended by the legislature to require that the respondent should act personally on each and every disputed assessment, considering the number of taxpayers and tax assessments periodically made and determined. To accept this argument would result in absurd consequences as it would be humanly impossible for the respondent to render the decisions himself. The very nature of tax assessment and collection necessarily involves the exercise by the respondent of his powers and duties through his deputies or other authorized subordinates (see sections 2, 6, 8, 9, 10, 12 and 16, Tax Code).

IN VIEW OF THE FOREGOING, the present petition for review should be, as it is hereby, dismissed for lack of jurisdiction, with costs against petitioner.

SO ORDERED.

Manila, December 22, 1958.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge