CANDYMAN, INCORPORATED,
Petitioner,

-versus- C.T.A. CASE No. 1872

THE COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

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

Jan. 20, 1970

D E C I S I O N

Petitioner has appealed from respondent's assessment in the amount of ₱25,337.57, representing deficiency compensating tax due on its importation of an air-conditioning unit.

Petitioner is a corporation duly organized and existing in accordance with the laws of the Philippines, with business address at Malabon, Rizal. In the year 1965, it imported a complete set of air-conditioning unit and paid 7% compensating tax in the sum of ₱7,713.00 in accordance with Section 190, in relation to Section 185 of the National Internal Revenue Code. On the theory that the imported article is subject to a compensating tax of 30% under Section 185-A in relation to Section 190 of the Tax Code, respondent, on June 13, 1967, assessed against petitioner a deficiency compensating tax in the sum of ₱25,337.57. The assessment was protested by petitioner in a letter dated June 29, 1967. On July 14, 1967 petitioner filed the instant petition for review.

The issues raised are:

> (1) Whether or not this Court has jurisdiction to entertain the appeal; and
>
> (2) Whether or not petitioner is liable for 30% compensating tax under Sections 185-A and 190 of the Tax Code.

(While petitioner protested or contested the assessment of respondent dated June 13, 1967, it does not appear that a decision has been rendered by respondent on said protest. The petition for review itself does not contain any allegation that a decision has been rendered by respondent on said protest. In order for this Court to acquire jurisdiction, it is indispensable that the assessment must have to be protested by petitioner and a decision rendered thereon by respondent.)

Section 7(1) of Republic Act No. 1125 provides 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 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. (Underlining supplied.)

In interpreting the above-quoted provision of law, the Supreme Court held:

> 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.
>
> Since in the instant case the taxpayer appealed from the assessment of the Commissioner of Internal Revenue without previously contesting the same, the appeal was premature and the Court of Tax Appeals had no jurisdiction to entertain said appeal. For, as stated, the jurisdiction of the Tax Court is to review by appeal decisions of the Commissioner of Internal Revenue on disputed assessments. The Tax Court is a court of special jurisdiction. As such, it can take cognizance only of such matters as are clearly within its jurisdiction. (Commissioner of Internal Revenue v. Leonardo S. Villa and The Court of Tax Appeals, G.R. No. L-23988, Jan. 2, 1968; see also Dionisio R. Lantin v. Commissioner of Internal Revenue, CTA Case No. 1951, April 10, 1969; underlining supplied.)

Applying the above doctrine, it is clear that this Court has no jurisdiction to entertain the instant appeal because no decision has as yet been rendered on the protest of petitioner against the assessment of June 13, 1967. Consequently, we find no alternative but to dismiss the appeal for lack of jurisdiction.

DECISION -
CTA CASE NO. 1872

Having decided the first issue adversely to petitioner, the disposition of the second issue becomes unnecessary.

IN VIEW OF THE FOREGOING, the instant appeal is hereby dismissed.

SO ORDERED.

Quezon City, January 20, 1970.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge