REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

LOURDES VEGA,
Petitioner,

- versus - C.T.A. CASE NO. 336

COLLECTOR OF CUSTOMS,
Respondent.

2/11/57

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RESOLUTION

This is a "Motion To Dismiss" the appeal on the grounds (1) that this Court cannot acquire jurisdiction over the petition for review; and (2) that said petition does not state a cause of action.

Both parties did not appear on the date set for hearing of this motion and petitioner did not file an opposition to the motion to dismiss. We shall therefore resolve this incident on the basis of the facts obtained from the pleadings.

It appears that petitioner Lourdes Vega received on November 16, 1956 a copy of the decision of the Collector of Customs for Manila dated July 24, 1956 (Annex "A", Petition for Review) ordering the forfeiture of six (6) fifty-peso (₱50) bills covered by Seizure Identification No. 5033. On November 26, 1956, or ten (10) days from receipt of said decision, petitioner filed a motion for reconsideration thereof, but was denied by the said Collector in an order dated December 5, 1956, and received by the former on December 7, 1956. The

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following day, or December 8, 1956, petitioner filed the present petition for review.

Respondent contends that this Court cannot acquire jurisdiction over the instant petition because the decision appealed from by her to this Court is a decision of the Collector of Customs and not one of the Commissioner of Customs. He maintains that under Section 7 of Republic Act No. 1125, this Court has appellate jurisdiction to review only decisions of the Commissioner of Customs. Respondent further claims that since no appeal was made to the Commissioner of Customs within fifteen (15) days from the receipt of the decision of the Collector of Customs pursuant to Section 1380 of the Revised Administrative Code, the decision of the Collector of Customs has thus become final and executory.

We agree with the contention of the respondent that we have no jurisdiction to hear and determine the instant case on the ground that the instant appeal was made from a decision of the Collector of Customs. Under section 1380 of the Revised Administrative Code, a person aggrieved by a decision of the Collector of Customs may appeal the same to the Commissioner of Customs within fifteen (15) days from receipt of said decision.

Until and unless the Commissioner of Customs has rendered a decision on the appeal made from the decision of the Collector of Customs may an ag-

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grieved person come to this Court under Republic Act No. 1125 (Leuterio vs. Commissioner of Customs, C.T.A. Case No. 61, Resolution dated July 23, 1955; S. Ombra Amilbangsa vs. Manuel P. Manahan, C.T.A. Case No. 221, Resolution dated December 23, 1955). Yet, it is possible that petitioner acted upon the provisions of section 11 of Republic Act No. 1125 which states that a decision of the Collector of Customs may be appealed to this Court. The phrase "Collector of Customs" appearing in said section has been held to read "Commissioner of Customs" to make the same conform with section 7 of Republic Act No. 1125 (Rufino Lopez & Sons, Inc. vs. Collector, Resolution, C.T.A. Case No. 101, May 23, 1955 affirmed, G.R. No. L-9274, February 1, 1957). It is therefore necessary for petitioner to take the intermediate appeal to the Commissioner of Customs before coming to this Court.

By way of observation, we note that petitioner did interpose the present appeal within eleven (11) days from receipt of the decision of the Collector of Customs after deducting the period during which a motion for reconsideration thereof was pending. Notwithstanding the fact that the appeal was made at least four (4) days before the period prescribed by section 1380 of the Revised Administrative Code has expired, does not grant this Court jurisdiction to hear this case considering that the appeal was made to this Court directly instead of to the Commissioner of Customs. It is therefore our opinion that we have no jurisdiction over the present petition for review and find it unnecessary to pass upon the question of the lack of cause of action, the same having become academic.

WHEREFORE, let this case be, as it is hereby dismissed with costs against petitioner.

SO ORDERED.

Manila, February 11, 1957.

MARIANO NABLE
Presiding Judge

WE CONCUR:

[illegible]
Associate Judge

ROMAN M. UMALI
Associate Judge