REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

OBRA PIA DE PASIG-SADYANG HARI,
represented by The Roman Catholic
Archbishop of Manila, Trustee,
Petitioner,

-versus - C.T.A. CASE NO. 3818

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.
x - - - - - - - - - - - - - - - x

9/26/91

D E C I S I O N

Petitioner OBRA PIA DE PASIG-SADYANG HARI, represented by the Roman Catholic Archbishop of Manila, Trustee, appeals from a decision of respondent Commissioner of Internal Revenue denying its protest against an assessment for deficiency income tax for the calendar year 1976 in the amount of P19,841.66, inclusive of interest.

As borne out by the record, petitioner received from respondent on June 25, 1990, Income Tax Deficiency Assessment No. 24-1-04A-052043-76 for P19,841.66, which arose out of respondent's including in petitioner's taxable income in the sum of P26,681.56 representing the other half of its gain on the sales of lots in Barrio Pulo, Pasig, Metro Manila. (Par. 2, Petitioner for Review.)

On October 13, 1980, petitioner through counsel, protested the assessment which protest was denied by the respondent in a letter dated May 23, 1984 received by petitioner on June 20, 1984. (Par. 5, Petitioner For Review.)

Petitioner filed the present petition for review on July 30, 1984.

This court has noticed that the decision appealed to this court is actually signed by the Regional Director and not by the Commissioner of Internal Revenue. Presumably in view of the minimal amount involved the jurisdiction of the Regional Director to decide this type of case is within his competence and properly delegated to him by the Commissioner of Internal Revenue. This issue has never been raised neither by the Petitioner nor by the Respondent. In fact, both parties referred to the decision of the Regional Director as that of the Respondent Commissioner of Internal Revenue. Consequently, for the purpose of uniformity this court adopts the same numenclature.

The issues for resolution before the Court are:

1. Whether this Court has acquired jurisdiction over this case;

2. Whether the parcels of land in question are ordinary or capital assets.

On the issue of jurisdiction, respondent contends that petitioner received respondent's denial of its protest on June 20, 1984 but it was only on July 30, 1984 that the petition for review was filed with this Court which is ten days beyond the thirty-day reglementary period for appeal, hence this Court has not acquired jurisdiction over this case because the decision of the Commissioner of Internal Revenue on the protest of petitioner has become final and executory.

We agree. The petitioner for review was filed out of time.

Respondent's final decision dated May 23, 1984 denying the petitioner's protest, was admittedly received by petitioner on June 20, 1984. (See Par. 5, Petition for Review, p. 2, C.T.A. records.) The petitioner for review was filed by the petitioner on July 30, 1984, forty days after its receipt of respondent's final decision. Clearly, the herein petition for review was filed beyond the statutory period of thirty days prescribed in Section 11 of Republic Act No. 1125. Accordingly, this Court no longer has jurisdiction to entertain and determine the correctness of the assessment and does not have to pass upon the second issue raised by the respondent.

WHEREFORE, the petition for review is hereby dismissed, with costs against petitioner.

SO ORDERED.

Quezon City, Metro Manila, September 26, 1991.

ERNESTO D. ACOSTA
Associate Judge

WE CONCUR:

ALEX Z. REYES
Presiding Judge

CONSTANTE C. ROAQUIN
Associate Judge

C E R T I F I C A T I O N

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ALEX Z. REYES
Presiding Judge
Court of Tax Appeals