REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LITONJUA & COMPANY, INC.,
Petitioner,

-versus- C.T.A. CASE NO. 1903

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

ALFONSO B. ENCARNACION,
CONSTANTE ROSAL and
LUIS GRANADOS, JR.,
Movant-Intervenors.

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TRANSMARINE SHIPPING CO., INC.,
Petitioner,

-versus- C.T.A. CASE NO. 1904

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

ALFONSO B. ENCARNACION,
CONSTANTE ROSAL and
LUIS GRANADOS,
Movant-Intervenors.

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R E S O L U T I O N

The respondent seeks the dismissal of the above entitled cases on the ground that this Court has no jurisdiction over the same.

Petitioners Litonjua & Co., Inc. and Transmarine Shipping Co., Inc. are domestic corporations duly organized under the laws of the Philippines. Sometime in 1966, on the basis of a confidential information received by the Bureau of Internal Revenue, petitioners were investigated by internal revenue

178

agents for income tax purposes. As a result of said investigation, the said revenue agents submitted a report recommending that petitioners be held liable for deficiency income tax and the corresponding penalties as brokers-agents of non-resident foreign shipping corporations (Annexes "B" and "B", Petitions for Review). Acting on the said report, respondent, in separate letters dated November 22, 1966, invited petitioners' representatives to appear for an informal conference to look over the findings of revenue examiners and to present whatever objections they had to the "proposed assessments" (Annexes "A" and "A", Petitions for Review; Exh. "A", p. 163, CTA Case 1903). In separate letters dated December 1, 1966, petitioners replied that they had authorized their lawyer, Atty. Simeon N. Ferrer, to secure a copy of the report of respondent's examiners on the alleged tax liabilities of the said foreign shipping corporations (Exh. "B", pp. 164-165, CTA Case 1903). After having been furnished with a copy of the examiners' report (pars. 4 and 4, Petitions for Review), petitioners filed with respondent a joint reply memorandum contesting the findings and recommendations of the examiners (Annexes "C" and "C", Petitions for Review). Respondent, in several letters all dated October 16, 1967, addressed to various foreign shipping companies and/or petitioners, demanded the payment of deficiency income tax, inclusive of surcharge and interest, amounting to several million pesos (Annexes "D" to "D-53", Petition, CTA Case 1903 & Annexes "D" to "D-22", Petition, CTA Case 1904). These assessments were received by petitioners on December 26, 1967, but petitioners' counsel, in separate letters dated January 16, 1968, replied that petitioners had no authority to receive the assessments on behalf of the said foreign shipping firms or represent them in their tax cases (Annexes "E" and "E", Petitions for Review). On January 22, 1968, without waiting for respondent's reply to their letters, petitioners separately filed the instant petitions for review with this Court (p. 1, Petitions, CTA Cases Nos. 1903 & 1904).

In his motions to dismiss, respondent contends that the appeals are premature. Respondent has apparently treated the letters of petitioners dated January 16, 1968 as protests against the assessments and a denial of their liability on the ground that they are not agents of said foreign shipping companies, which protests have not yet been decided. Hence, invoking the decision in Commissioner of Internal Revenue vs. Leonardo S. Villa and the Court of Tax Appeals (G.R. No. L-23988, January 2, 1968), he prays that the said appeals be dismissed for lack of jurisdiction.

On the other hand, petitioners contend, among others, that the assessments in question are decisions appealable to this Court, and that the same need not be further protested inasmuch as the latter would only be tantamount to a motion for reconsideration which would not stop the running of the 30-day period for appeal.

The jurisdiction of this Court in matters involving internal revenue taxes is governed by Section 7 of Republic Act No. 1125, pertinent portions of which read 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 or 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;"

Respondent's reliance on Commissioner v. Villa, supra, is well taken. However, it may be pertinent to inquire into the jurisdiction of this Court in matters involving internal revenue taxes.

In cases involving assessments of internal revenue taxes, this Court has exclusive appellate jurisdiction to review on appeal not only decisions

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*now Commissioner

of the Commissioner of Internal Revenue in cases involving "disputed assessments" but also in "other matters" arising under the National Internal Revenue Code.

The term "other matters" mentioned in Section 7(1) of Republic Act No. 1125 has been interpreted to include cases of the same nature as disputed assessments and refunds of internal revenue taxes, fees or charges imposed by the National Internal Revenue Code.

> "Note that the law gives to the Court of Tax Appeals exclusive appellate jurisdiction to review the decisions of the Collector of Internal Revenue, the Commissioner of Customs, and the provincial or city Boards of Assessment Appeals. Note also that in defining the cases that may be reviewed the law begins by enumerating them and then adds a general clause pertaining to other matters that may arise under the National Internal Revenue Code, the Customs Law and the Assessment Law. This shows that the "other matters" that may come under the general clause should be of the same nature as those that have preceded them applying the rule of construction known as ejusdem generis. In other words, in order that a matter may come under the general clause, it is necessary that it belongs to the same kind or class therein specifically enumerated. Otherwise, it should be deemed foreign or extraneous and is not included." (Ollada v. Court of Tax Appeals, 99 Phil. 604, 609-610.)

To the same effect is the decision in The Acting Collector of Customs v. Court of Tax Appeals, 102 Phil. 244, wherein it was held:

18-v

> "It will be noted that the final sentence of paragraph 2 of this Section 7, "or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs", comes after an enumeration of the class of cases cognizable by the Court of Tax Appeals, namely, those involving liability for customs duties, fees or other money charges, and as contended by respondent intervenor, by the doctrine of ejusdem generis, in order that the "other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs" may come within the jurisdiction of the Court, they should involve also liability for payment of money to the Government (see Ollada vs. Court of Tax Appeals et al., (99 Phil. 604), penned by Mr. Justice Felix Bautista Angelo, squarely interpreting the provisions of the aforequoted Section 7-(2) of Rep. Act No. 1125)."

Evidently, an assessment of income tax made by the Commissioner of Internal Revenue against a taxpayer is a matter which can hardly be considered foreign or extraneous to those matters specifically enumerated in the law as coming within the jurisdiction of this Court. And since an assessment is a decision (Bull v. U.S., 247 U.S. 259) which becomes final and executory if not appealed (Rep. v. Del Rosario, 105 Phil. 277; Rep. v. Magalona, G.R. No. L-15802, Sept. 30, 1960; Rep. v. Gamboa, G.R. No. L-16504, Oct. 27, 1961; Rep. v. Albert, G.R. No. L-12996, Dec. 28, 1961), it would seem that an assessment against a taxpayer for income tax is an appealable decision within the meaning of Section 7(1) of

Republic Act No. 1125. But, while we are of the opinion that an assessment, even if not protested, is appealable to this Court, we are bound by the decision of the Supreme Court in Commissioner v. Villa, supra, to the effect that an assessment in itself is not an appealable decision. To enable a taxpayer to appeal, he must first file a protest against the assessment and the Commissioner must render a decision on such protest. These observations have been made solely to provoke a re-examination of the issue at the proper time.

WHEREFORE, the herein appeals are hereby dismissed, without prejudice. No pronouncement as to costs.

SO ORDERED.

Quezon City, July 31, 1968.

ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge

ESTANISLAO R. ALVAREZ
Associate Judge

184