REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FLORENCIO REYES, JR., and
TERESA R. IGNACIO,
Petitioner,

versus C.T.A. CASE NO. 2217

THE COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

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R E S O L U T I O N

This refers to a Motion dated May 26, 1971, filed by respondent to dismiss the Petition for Review on the ground of lack of jurisdiction on the part of this Court to take cognizance thereof.

It appears that in a letter dated January 6, 1969, respondent requested petitioner Florencio Reyes, Jr. to call at the former's office on January 13, 1969, for an informal conference in connection with a report of one of his examiners that petitioner has income tax liabilities for the years 1963 to 1966 and 1963 donor's and donee's gift taxes.

Subsequently, respondent sent petitioner a letter dated December 15, 1969, in the following tenor:

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> I have the honor to inform that, in the course of an investigation conducted by its Office of YOUR 1963 income tax liability, it was found that you sold real properties for less than adequate and full considerations. Hence, pursuant to Section 111 of the Tax Code the difference between the selling price of ₱412,500.00 and the value thereof at the time the sale was consumated, per investigation, in the amount of ₱708,428.10 or ₱295,928.10 is deemed a gift, subject therefore to donor's and donee's gift taxes.
>
> On account thereof, the sums of ₱25,965.11 and ₱84,317.91 as donor's and donee's gift taxes and penalties was recommended for assessment against you and your sister, Teresa R. Ignacio.
>
> In view however, of the policy of this Office to give taxpayers all the opportunity to give their side of the case before final assessment is issued, you and your sister or your authorized representative who should possess (sic) the Income Tax Division, BIR, Room 219 Finance Building, Manila, on January 8, 1970. Please bring with you document that has a bearing on the case.
>
> Please give this matter your preferential attention because after said period we do not hear from you final assessment will be issued immediately.

Petitioner answered the aforequoted letter with a letter-memorandum dated February 17, 1970. Thereafter, in a letter and in two assessment forms duly accomplished, one for Florencio Reyes, Jr. and the other for his sister Teresa R. Ignacio, respondent assessed petitioners Florencio Reyes, Jr.

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and Teresa R. Ignacio in the sum of ₱25,486.64 and ₱81,801.53, respectively, as donor's and donee's gift taxes at the same time demanding payment thereof on or before February 1, 1971. The letter and the assessment forms all bear the date of December 14, 1970.

The foregoing facts appear in the allegations and annexes of the Petition for Review. Nothing in the said allegations and annexes show that the aforesaid assessments were ever disputed by petitioners. Obviously, what is brought to this Court on appeal are the assessments against petitioners. Under Section 7 of Republic Act No. 1125, an assessment is not appealable; what is appealable is a decision on a disputed assessment. The assessment has first to be administratively contested or protested formally and it is the decision on this protest that constitutes the decision on a disputed assessment.

> In the first place, we believe the respondent court erred in holding that the assessment in question is the respondent Collector's decision or ruling appealable to it, and that consequently, the period of the thirty days prescribed by section 11 of Republic Act No. 1125 within which petitioner should have appealed to the respondent court must be counted from its receipt of said assessment. When a taxpayer questions an assessment and asks the Collector to reconsider or cancel the same because he (the taxpayer) believes he is not

> liable therefor, the assessment becomes a "disputed assessment" that the Collector must decide, and the taxpayer can appeal to the Court of Tax Appeals only upon receipt of the decision of the Collector on the disputed assessment, in accordance with par. (1) of Sec. 7, Republic Act No. 1125 conferring appellate jurisdiction upon the Court of Tax Appeals to review a "decision" of the Collector of Internal Revenue in cases involving disputed assessments. . .
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> The period to appeal to the respondent court in this case must, therefore, be computed from the time petitioners received the decision of the respondent Collector of Internal Revenue on the disputed assessment and not from the time they received the assessment. . . (St. Stephen's Association and St. Stephen's Chinese Girls School v. Comm. of Internal Revenue, G.R. No. L-11238, August 21, 1958.)

In another case, the Supreme Court also held that:

> 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 has 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, G.R. No. L-23988, Jan. 2, 1968.)

Since there is nothing to show that the assessment appealed to this Court has been formally contested administratively and the protest has

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been decided, it goes without saying that this Court has no authority to take cognizance of this appeal.

WHEREFORE, the present Petition for Review is hereby dismissed, confirming the order given in open Court on September 18, 1971.

SO ORDERED.

Quezon City, September 24, 1971.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge