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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

UNITED ARTISTS OF
THE PHILIPPINES, INC.,
Petitioner,

August 13, 1969

versus

CTA CASE NO. 1961

COMMISSIONER OF CUSTOMS
and SECRETARY OF FINANCE,
Respondents.

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D E C I S I O N

This is a petition for review filed by petitioner on September 25, 1968 appealing the decisions of respondents Commissioner of Customs and the Secretary of Finance denying petitioner's request for refund or tax credit in the amount of ₱2,510.00 which it paid on September 15, 1966 to the Collector of Customs as customs duties for the importation of a motion picture entitled "Duel at Diablo."

The case was submitted for decision based on the pleadings and records of this case.

From the pleadings submitted by both parties, it appears that the only issue to be resolved by this Court is whether or not petitioner is entitled to a refund or tax credit of the sum of ₱2,510.00 paid by it for the importation of the motion picture "Duel at Diablo" which was later returned to the port of origin after discovering that it was the wrong motion picture it received.

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However, aside from said question, we deem it necessary to determine motu proprio whether or not the present appeal was filed within the 30-day period within which to appeal as prescribed by Section 11 of Republic Act No. 1125, which reads as follows:

> SEC. 11. Who may appeal; effect of appeal--Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue (now Commissioner of Internal Revenue), the Collector of Customs (now Commissioner of Customs), or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.

This Court considers this question of prime importance because it determines its jurisdiction to decide the case on the merits.

It appears that on September 14, 1966, petitioner, a corporation duly organized in accordance with the laws of Delaware, U.S.A., having its offices at the State Building, Rizal Avenue, Manila, was the consignee of a motion picture entitled "Duel at Diablo" for which it paid ₱5,015.80 to the Collector of Customs, Manila International Airport under Official Receipt No. 1446573. The importation refers to two prints of said motion picture, one with Spanish sub-title. The print with Spanish sub-title was returned to its home office in New York for alleged error in shipment.

On September 19, 1966, petitioner, through its sales manager, Eugenio Lingad, wrote the Collector of Customs to ask for the refund of the amount paid on the motion picture "Duel at Diablo" with Spanish sub-title in the amount of ₱2,510.00 or to apply the said amount to the replacement of the film which was returned to its home office for having Spanish sub-title. On September 21, 1966 the Collector of Customs answered the letter of petitioner denying the request for refund. Petitioner then sent a letter of reconsideration to the Commissioner of Customs on the stand of the Collector, which letter was denied on November 21, 1967. On January 10, 1968 petitioner sent a letter to the Secretary of Finance requesting the latter to reconsider the decision of the Commissioner of Customs. The Secretary of Finance denied the request of petitioner on July 29, 1968.

The records do not show evidence as to the date of receipt by petitioner of the decision of the Commissioner of Customs. In the absence of such evidence, we believe that petitioner received such decision on or before January 10, 1968 the date when it filed its letter of reconsideration with the Secretary of Finance where petitioner stated that it was appealing the letter of denial of the Commissioner of Customs. Petitioner has thirty (30) days from said date within which to file his petition for review before this Court. Counting from that date, Jan. 10, 1968, to the date when petitioner filed its petition for review with this Court on September 25, 1968, clearly this appeal was filed out of time.

It is of no consequence that petitioner asked the Secretary of Finance for a reconsideration of the decision of the Commissioner of Customs as Section 7(2) of Republic Act No. 1125 limits the jurisdiction of this Court to reviewing by appeal decisions of the Commissioner of Customs only. Hence, decisions of the Secretary of Finance cannot be entertained by this Court for jurisdiction conferred upon it by Republic Act 1125 cannot be enlarged by implication. (Liberty Motors, Inc. v. Manahan, CTA Case No. 325, January 22, 1957.) In the case of La Union Electric Co., Inc. v. The Commissioner of Customs and the Secretary of Finance, it was held -

> In defining the Court's jurisdiction, the statute necessarily limited its authority to those matters expressly enumerated therein. (Amilbangsa v. Angangco, CTA Case No. 255, May 7, 1956; Ursal v. Court of Tax Appeals, 101 Phil., 209.) This enumeration excludes all others by implication. "Expressio Unius est exclusio alterius." (Ursal v. Court of Tax Appeals, supra.) We can not, therefore, indulge in expansive construction and inject into the law other matters not therein set forth. (CTA Case No. 1957, Nov. 20, 1968, Resolution.)

What petitioner should have done was to appeal to this Court the decision of the Commissioner of Customs within thirty (30) days from receipt of such decision. This, petitioner failed to do.

Having decided that the appeal was not filed within the statutory period, we believe it is unnecessary to resolve the issue of whether or not the taxes and duties paid by the petitioner on the motion picture "Duel at Diablo" is refundable.

WHEREFORE, in view of the foregoing consideration, the "Petition for Review" filed by petitioner on September 25, 1968 should be as it is hereby dismissed, with costs against petitioner.

SO ORDERED.

Quezon City, August 13, 1969.

RAMON L. AVANCEÑA
Associate Judge

I CONCUR:

ROMAN M. UMALI
Presiding Judge