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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

UNION SHIPPING CORPORATION,
Petitioner,

- versus - C.T.A. CASE NO. 2989

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

12/9/83

x - - - - - - - - - - - - - - x

D E C I S I O N

This is an appeal from the decision of the Commissioner of Internal Revenue assessing against and demanding from petitioner the payment of the sums of ₱73,958.76 and ₱583,155.22, as deficiency income tax for the years 1971 and 1972, respectively, inclusive of 50% surcharge, interests and compromise penalties.

On December 27, 1974 (Exh. "A", p. 53, CTA rec.), respondent issued against petitioner an assessment for deficiency income taxes due for the years 1971 and 1972 aforesaid, computed as follows:

1 9 7 1

Net income per investigation - - - - - - - -	₱143,839.94
Tax due thereon - - - - - - - -	₱ 40,344.00
Add: 50% surcharge - - - - - - - -	20,172.00
½% mo. int. fr. 4-16-72 to 12-31-72 - -	1,714.62
14% int. fr. 1-1-73 to 12-27-74 - - - -	11,228.14
Compromise - - - - - - - -	500.00
TOTAL AMOUNT DUE & COLLECTIBLE - - - - - - - -	₱ 73,958.76

1 9 7 2

Net income per investigation	- - - - - - - -	₱988,296.32
Tax due thereon	- - - - - - - -	₱335,904.00
Add: 50% surcharge	- - - - - - - -	167,952.00
14% int. fr. 4-16-73 to 12-27-74	- - - -	78,299.22
Compromise	- - - - - - - -	1,000.00
TOTAL AMOUNT DUE & COLLECTIBLE	- - - - - - - -	₱583,155.22

This letter of assessment was received by petitioner on January 4, 1975. In a letter dated January 10, 1975 (Exh. "B", p. 56, CTA rec.), received by respondent on January 13, 1975, petitioner protested the letter of assessment of respondent Commissioner of Internal Revenue. However, without rendering a ruling on the protest, respondent issued a Warrant of Distraint and Levy (Exh. "C", p. 46, BIR rec.), which was served on petitioner's counsel, Clemente Celso, on November 25, 1976.

In a letter dated November 27, 1976 (Exh. "D", p. 58, CTA rec.), received by respondent on November 29, 1976 (Exh. "D-1", p. 58, CTA rec.), petitioner reiterated its request for reinvestigation of the assessment and for the reconsideration of the summary collection thru the Warrant of Distraint and Levy.

Without acting on the request for reinvestigation and reconsideration of the Warrant of Distraintand Levy, respondent Commissioner filed a collection suit before Branch XXI of the Court of First Instance of Manila and docketed as Civil Case No. 120459 against petitioner. Summons (Exh. "E", p. 61, CTA rec.) in the said collection case was issued on petitioner on December 28, 1978.

On January 10, 1979, petitioner filed the instant Petition for Review with this Court.

The issues involved in this case are (1) whether or not this Court has jurisdiction to hear and decide this case; and (2) whether or not petitioner Union Shipping Corporation is subject to tax on the gross receipts or earnings of the vessel of Yee Fong Hong, Ltd. which loaded cargo from Philippine Ports.

We will discuss the two (2) issues *in seriatim*.

On the first issue of jurisdiction, petitioner contends that this Court has jurisdiction over the case. On the other hand, respondent contends otherwise.

We agree with the contention of petitioner. The decision of the respondent Commissioner of Internal Revenue is the Warrant of Distraint and Levy (Exh. "C", p. 46, BIR rec.) which was served upon the petitioner on November 25, 1976, since this clearly evince his position and express his mind that he finds no way of reconsidering his assessment and, hence, the warrant of distraint and levy becomes his adverse decision on the contested assessment since there can be no other better proof of the finality of the assessment of an internal revenue tax than the action of the Commissioner of Internal Revenue in enforcing collection of the tax than by the summary remedy of distraint and levy. (Philippine Planters Investment Co., Inc. vs. Actg Comm. of Int. Rev., CTA Case No. 1266, Resolution, Nov. 11, 1962; Advertising Associates, Inc. vs. Comm. of Int. Rev., CTA Case No. 3017, June 17, 1981.).

The appealable decision, therefore, which was contained in the Warrant of Distraint and Levy (Exh. C, ibid) was later confirmed by respondent's act of filing a suit for collection of the deficiency assessment against petitioner (Exh. E, op. cit.) . This request for reinvestigation and reconsideration which was filed with, and received by respondent on November 29, 1976 tolled the running of the 30-day period of appeal, which first ran for four (4) days starting from November 25, 1976, the date of service of Clemente Celso, counsel for petitioner, to November 29, 1976, the date respondent received the request for reinvestigation and reconsideration of the warrant of distraint and levy filed by petitioner.

This request for reinvestigation and reconsideration (Exh. D, op. cit.) was in effect considered denied by respondent when he filed a civil suit for collection of the deficiency income tax against petitioner in the Court of First Instance and which summons was received by petitioner on December 28, 1978. (Exh. E, op. cit.) Indeed, the civil action filed by respondent for collection of the tax clearly indicates that it is his resolve to finally deny petitioner's request for reconsideration.

From the date of receipt of the aforesaid summons on December 28, 1978, the period to appeal begin to run again. From December 28, 1978, the aforesaid date of receipt of the summons on the collection case instituted by respondent in the Court of First Instance to January 10, 1979, the date when petitioner filed with this Court the instant petition for review, another thirteen (13) days elapsed. Clearly, petitioner had consumed a total of only seventeen (17) days in coming to this Court, well within the thirty-day period to appeal pursuant to Section 11 of Republic Act 1125, the Charter of this Court. We are, therefore, of the opinion and so hold that this Court has jurisdiction to hear and decide the instant case.

Coming to the second issue, petitioner contended and was substantiated by satisfactory uncontradicted testimonies of Clemente Celso, Certified Public Accountant, and Rodolfo C. Cabalquinto, President and General Manager, of petitioner that it is actually and legally the husbanding agent of the vessel of Yee Fong Hong, Ltd. as (1) it neither performed nor transacted any shipping business, for and in representation, of Yee Fong Hong, Ltd. or its vessels or otherwise negotiated or procured cargo to be loaded in the vessels of Yee Fong Hong, Ltd. (p. 21, t.s.n., July 16, 1980.); (2) it never solicited or procured cargo or freight in the Philippines or elsewhere for loading in said vessels of Yee Fong Hong, Ltd. (pp. 21 & 38, ibid.); (3) it had not collected any freight incomes or receipts for the said Yee Fong Hong, Ltd. (pp. 22 & 38, ibid.; pp. 46 & 48, t.s.n., Nov. 14, 1980.); (4) it never had possession or control, actual or constructive, over the funds representing payment by Philippine shippers for cargo loaded on said vessels (pp. 21 & 38, ibid; p. 48, ibid); petitioner never remitted to Yee Fong Hong, Ltd. any sum of money representing freight incomes of Yee Fong Hong, Ltd. (p. 21, ibid; p. 48, ibid); and (5) that the freight payments made for cargo loaded in the Philippines for foreign destination were actually paid directly by the shippers to the said Yee Fong Hong, Ltd. upon arrival of the goods in the foreign ports.

Petitioner finally contended and proved satisfactorily that, as husbanding agents of Yee Fong Hong, Ltd., its duties were limited to normal husbanding activities for a fee, which activities included (a) getting everything such as anchorage permits for the foreign vessels of Yee Fong Hong, Ltd.; (b) securing clearances for the said foreign vessels; (c) attended to the needs of the vessel, such as watering, channelling, repair of radio and other miscellaneous items and required equipment as ordered by said vessels (pp. 49-50, t.s.n., ibid); and (d) arranging, among others, the berthing and anchoring said vessels. These activities and duties were performed by the Union Shipping Corporation upon prior requests of the foreign owners of the vessels. Petitioner thereupon concluded that, in view of the above, it is not liable for deficiency income tax as withholding agent on the freight income or earnings from cargo loaded on Philippine ports on board the vessels of Yee Fong Hong, Ltd. for the period from 1971 to 1972.

On the other hand, respondent contended that petitioner is liable for deficiency withholding income tax subject under Section 53(b) (1) and (2) of the National Internal Revenue Code due from receipts or earnings of the vessels of Yee Fong Hong, Ltd. which loaded cargo from Philippine ports.

We find petitioner's allegations fully substantiated and the respondent's contention without scintilla of merit. We note that, as early as December 9, 1974, or prior to the issuance and receipt of the assessment in question, Clemente J. Celso, representing petitioner

Union Shipping Corporation, requested for an opinion as to whether or not the latter is liable for the payment of the income taxes due from the loading cargoes in the Philippines under specific circumstances (Exh. H, p. 72, CTA rec.). For illucidation, we are quoting the aforesaid request dated December 9, 1974 verbatim as follows:

"EXHIBIT H"

December 9, 1974

The Commissioner of Internal Revenue
M a n i l a

Attention: The Chief, Law Division

S I R :

I have the honor to request for an opinion as to whether or not, my client, the Union Shipping Corporation, a domestic corporation, is liable for the payment of the income taxes due from the foreign shipowners of foreign flag vessels loading cargoes in the Philippines, under the following circumstances:

1. The Union Shipping Corporation has been acting only as "husbanding agents" for the foreign shipowners for the latter's vessels touching Philippine water for loading and unloading. As "husbanding agent", its duties are limited only to normal husbanding activities which include clearing the foreign flag vessels, in and out of the Philippine ports, arrange for its berthing and anchoring, attend to the vessels' requirements as needed while at posts such

as bunkering, watering, chandling, repairs of its radio and equipments, assign surveyors and supercargo upon instruction only, and to settle these expenditures from funds already deposited prior to the acceptance by client of its appointment as "husbanding agent" for the foreign shipowners.

2. The Union Shipping Corporation pays the 2% carrier's tax on freight revenue derived in the Philippines only when duly authorized by the foreign shipowners from funds deposited by the latter and specifically earmarked only for this purpose.

3. My client has received no authority whatsoever from the foreign shipowners to file its income tax returns.

4. After receipt of appointment either thru cable or telex from foreign shipowners to "husband" their vessels while at Philippine ports, either for loading or discharging, the Union Shipping Corporation requires advance deposits in local bank funds to cover port disbursements and its husbanding fees the amount of which varies as to the number or ports called on by the foreign vessels and quantity of cargo to be loaded or discharged.

5. The Union Shipping Corporation does not have any control, at anytime, either actual or symbolic, of the freight revenue due the shipowners.

Based on the circumstances aforecited, I would highly appreciate an early ruling on this matter.

Very respectfully,

(SGD.) CLEMENTE J. CELSO

Under and by virtue of the activities stated in the request, and actually performed by petitioner as shown heretofore, Commissioner of Internal Revenue Misael P. Vera was correct in ruling, in his still unrevoked BIR Ruling dated December 12, 1974, that petitioner is a husbanding agent because it was only authorized to perform such limited duties as are normal to husbanding activities which included the clearing of the foreign flag vessels, in and out of Philippine ports; arranging for the ships' berthing and anchorage; attending to the vessel's particular requests which it needed to be serviced while at port, such as bunkering, watering, chandling, repairing of their radio and equipment, and assigning surveyors and super cargo but only upon instructions; pays the 2% carrier's tax on freight revenue derived from the Philippines only when so authorized; and that, consequently, it is his opinion that petitioner being merely a husbanding agent is not liable for the payment of the income taxes due from the foreign ship owners loading cargoes in the Philippines. (Exh. I, p. 74, CTA rec.; see also Memo for Petitioner, pp. 109-111, CTA rec.) Unnumbered BIR Ruling dated December 12, 1974 of Commissioner of Internal Revenue Misael P. Vera is quoted below in full:

"EXHIBIT I"

December 12, 1974

Mr. Clemente J. Celso
Certified Public Accountant
662 Guillermo St., Gagalangin
M a n i l a

S i r :

This refers to your letter dated December 9, 1974 requesting opinion as to whether or not your client, the Union Shipping Corporation, a domestic corporation, is liable for the payment of the income taxes due from the foreign ship owners of foreign flag vessels loading cargoes in the Philippines, under the following circumstances:

> "1. The Union Shipping Corporation has been acting only as 'husbanding agents' for the foreign shipowners for the latters' vessels touching Philippine water for loading or unloading. As 'husbanding agent', its duties are limited only to normal husbanding activities which include clearing the foreign flag vessels, in and out of the Philippine ports, arrange for its berthing and anchoring, attend to the vessels' requirements as needed while at ports such as bunkering, watering, chandling, repairs of its radio and equipments, assign surveyors and supercargo upon instruction only, and to settle these expenditures from funds already deposited prior to the acceptance by the client of its appointment as 'husbanding agent' for the foreign shipowners.
>
> "2. The Union Shipping Corporation pays the 2% carrier's tax on freight revenue derived in the Philippines only when duly authorized by the foreign shipowners from funds deposited by the latter and specifically earmarked only for this purpose.

"3. My client has received no authority whatsoever from the foreign shipowners to file its income tax returns.

"4. After receipt of appointment either thru cable or telex from foreign shipowners to 'husband' their vessels while at Philippine ports, either for loading or discharging, the Union Shipping Corporation requires advance deposits in local bank funds to cover port disbursements and its husbanding fees the amount of which varies as to the number of ports called on by the foreign vessels and quantity of cargo to be loaded or discharged.

"5. The Union Shipping Corporation does not have any control, at anytime, either actual or symbolic, of the freight revenue due the shipowners."

In reply, I have the honor to inform you that since your client is a husbanding agent, which is only authorized to such limited duties as are normal to husbanding activities including clearing the foreign flag vessels, in and out of Philippine ports, arrange for their berthing and anchoring, attend to the vessel's requirements as needed while at ports such as bunkering, watering, chandling, repairs of their radio and equipments, assign surveyors and supercargo upon instructions only and pays the 2% carrier's tax on freight revenue derived in the Philippines only when duly authorized, <u>your aforesaid client is not liable for the payment of the income taxes due from the foreign shipowners loading cargoes in the Philippines</u>.

In this connection, this ruling is issued on condition that your client merely acts as husbanding agent for foreign shipowners. If upon verification, your client act as ship agent representing the ownership of the vessel, it is "answerable for taxe on the earnings of such foreign corporation in the Philippines". (Commissioner of Internal Revenue vs. U.S. Lines Company, G.R. No. L-16850, May 30, 1962).

> The foregoing foreign vessels of which your client is their husbanding agents as hereinabove state, fall under the category of tramp vessels or those which do not regularly call on Philippine ports. Accordingly, this Office has consistently ruled that the income tax of 2½% on gross passenger and cargo receipts as prescribed by Section 24(b)(2) of the Tax Code, shall be paid before such vessels leave the Philippines.
>
> Very truly yours,
>
> (SGD) MISAEL P. VERA
> Commissioner of Internal Revenue
> Tan-1601-593-5

Truly, the acts actually performed by petitioner, as it was represented by it in its request for opinion, clearly shows that these are husbanding activities natural only to a "husbanding agent." A "husbanding agent" has been defined as the general agent of the owner in relation to the ship, with powers, among others, to engage the vessel for general freight and the usual conditions and settle for freight and adjust coverages with the merchant." (Comm. of Int. Rev. vs. United States Lines Company, 5 SCRA 175, 180, citing Bouvier's Law Dictionary, p. 3064.) "Husbanding" is a set of activities of a principal confined to equipping, supplying and maintaining, or otherwise servicing a ship. (p. 1104, Webster Third New International Dictionary, Unabridged, 1976 Phil. Ed., G & C Merriam Co.).

In this particular instance, petitioner cannot be held liable for withholding tax under Section 53 of the Internal Revenue Code since it is not in possession, custody or control of the funds received by and remitted to Lee Fong Hong, Ltd., a non-resident taxpayer. (p. 21, t.s.n., July 16, 1980). Under said law, before remitting the funds abroad, either by an individual or corporate taxpayer, said person who has possession, custody and control of the funds is duty bound to withhold the tax and pay it over to the Bureau of Internal Revenue. However, if an individual or corporation, like the petitioner in this case, is not in the actual possession, custody or control of the funds, it can neither be physically nor legally liable or obligated to pay the so-called withholding tax on income claimed by Yee Fong Hong, Ltd. It is thus clear that petitioner will never be subject to withholding tax on the said receipts of Yee Fong Hong, Ltd. of Hongkong or a deficiency income tax of ₱73,958.78 and ₱583,155.22, for the years 1971 and 1972 in question.

Moreover, in the declaration of respondent's witness, Potenciano Pineda, Chief, Public Utility Section, Bureau of Internal Revenue, he stated that the assessment of the deficiency income tax above should have been properly directed against Yee Fong Hong, Ltd. because it was the latter, not the petitioner, that earned the freight, and which freight income were collected abroad. (p. 23, t.s.n., July 23, 1981.) Said witness admitted, in effect, that the freight earnings did not pass the hands of petitioner Union Shipping Corporation (p. 23, t.s.n., ibid.) Witness also admitted that the 2% common carrier's tax petitioner had paid for Yee Fong Hong, Ltd. was made only after petitioner had received the 2% common carrier's tax money from the latter. (p. 26, t.s.n., ibid.) Furthermore, witness Clemente J. Celso undisputedly testified that the 1973 deficiency income tax liability was settled by Yee Fong Hong, Ltd. under LOI 308 and not herein petitioner, hence, no longer litigated in this case, which is evidence that the latter is not liable for the 1971 and 1972 deficiency income tax assessment. (pp. 35-37, t.s.n., July 16, 1980.) It is then clear that petitioner is not being assessed as a withholding agent, but instead directly as principal taxpayer which cannot be done. It simply means that the respondent Commissioner now seeks to collect from petitioner a tax on income it never earned, or received from another, such as for Yee Fong Hong, Ltd., or which otherwise never belonged to it as income. Indeed, to collect a deficiency income tax on income which petitioner never received would be absurd and unjustified. The case of Commissioner of Internal Revenue vs. United States Lines Co. (Comm. of Int. Rev. vs. U.S. Lines Co., 5 SCRA 175, 180) cannot be cited in support of respondent's position in this instant case because the U.S. Lines Co. truly had acted as the ship agent or managed the Philippine Shipping business of its principal, the "West Coast Trans-Oceanic Steamship Lines," the owner of the foreign vessel - the "SS Portland Trader." In this instant case, petitioner did not represent Yee Fong Hong, Ltd. in its shipping business in the Philippines but performed only husbanding activities as illuminated heretofore. It did not hold itself to the public and to the Government as the shipowner's local agent and this is not even apparent throughout the breathe of the records and proceedings of this case. Nowhere in the records will it show that petitioner has signed in the documents that it is the "owner's agents", or "agents for Yee Fong Hong, Ltd.", unlike in the case of U.S. Lines Co. cited above. It cannot be said therefore that petitioner, under the circumstances, is the "local agent" of Yee Fong Hong, Ltd. The type of job performed by petitioner for Yee Fong Hong, Ltd. is that of a husbanding agent. In short, petitioner performed only limited or particular acts of husbanding on the vessels of Yee Fong Hong, Ltd., which acts performed, taken either singly or collectively, never constituted petitioner as a ship agent or manager of the Yee Fong Hong, Ltd. of Hongkong. Consequently, petitioner is not subject to the deficiency income tax on the freight earnings of said Yee Fong Hong, Ltd. for the years 1971 and 1972.

WHEREFORE, the decision of the Commissioner of Internal Revenue appealed from, assessing against and demanding from petitioner the payment of deficiency income tax, inclusive of 50% surcharge, interests and compromise penalties, in the amounts of ₱73,958.76 and ₱583,155.22 for the years 1971 and 1972, respectively, is hereby reversed.

Without pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila, December 9, 1983.

CONSTANTE C. ROAQUIN
Associate Judge

I CONCUR:

AMANTE FILLER
Presiding Judge

Dissent in separate opinion

ALEX Z. REYES
Associate Judge

REPUBLIC OF THE PHILIPPINES
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UNION SHIPPING CORPORATION,
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- versus - C.T.A. CASE NO. 2989

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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DISSENTING OPINION

The precise question raised is nothing more than whether the subject Warrant of Distraint and Levy taken as it must, in connection with the contested assessment to which it expressly referred constitutes a sufficient denial of the petitioner's protest and determinative of the decision/ruling of the respondent Commissioner of Internal Revenue upon which to toll the statutory period for appeal.

The question is neither new nor novel and the views thereon have been frequently expressed with more or less distinctness and have been carried into adjudications in numerous cases. In a unanimous decision of recent memory under closely analogous facts and issue, I spoke for this Court, holding that:

> "We do think so. A warrant of distraint and levy is such a purposeful device neither intended simply to mollify nor to be resorted to as a mere bargaining ploy. It must be understood in the context of its unequivocal tenor and explicit terms in collecting the taxes due, encapsulating the finality of the assessment and stamping a definite resolve on the protest, as in the case of petitioner at bar. The peremptoriness of the demand in

the subject warrants no longer excites a queasy sense of speculation of what respondent might yet do but incites a tickling urgency of critical concern upon which petitioner's right to judicial review must be exercised or lost. Petitioner should not further expect the unexpected towards flirting to a volte-face ruling. As sustained by subsequent events respondent remained unperturbed in his denial. As readily attested by a host of decisions, a taxpayer should display more alertness in the protection of his rights (Koppel (Phil.) Inc. v. Collector of Internal Revenue, L-10550, September 19, 1961, 3 SCRA 17; Ker & Co., Ltd. v. Court of Tax Appeals & Collector of Internal Revenue, L-12396, January 31, 1962, 4 SCRA 160), and, the matter required the timely availment as fully as possible of the more effective means of adjudication on the merits by an appeal. Surely, it is not beyond the wit and wisdom of this Court to play a catalytic and constructive role in extruncating and if necessary reversing the alleged unwarranted assessments. But this Court has to take the hard choice of applying the basic rule that the running of the 30-day period mandated in Section 11 of R.A. No. 1125 did commence from the service of the warrants on March 28, 1973 and the petition for review came only on January 30, 1974, clearly time-barred. Petitioner cannot pry itself loose from the legal constraint.

"It may be necessary to repeat what so often may have been said and what so plainly apply to the petitioner in the case at bar that where the warrant of distraint and levy was issued, this Court held that such issuance is proof of the finality of the assessment (Philippine Planters Investment Co., Inc. v. Actg. Commissioner of Internal Revenue, CTA Case No. 1266, November 11, 1962) because a warrant of distraint and levy, which is the most drastic of action of all media of enforcing the collection of tax, renders hopeless a request for reconsideration or is tantamount to an outright denial thereof, and makes the request deemed rejected. (Hilado v. Commissioner of Internal Revenue, CTA Case No. 1266, October 20, 1956; Algue, Inc. v. Commissioner of Internal Revenue, CTA Case No. 1620, January 16, 1968; Hahn v. Commissioner of Internal Revenue, CTA Case No. 1937, October 30, 1969; Gepte v. Commissioner of Internal Revenue, CTA Case No. 1571, October 29, 1970; Gonzales v. Domingo, CTA Case No. 1135, November 27, 1961; Advertising Associates, Inc. v. Commissioner of Internal Revenue, CTA Case No. 3017, June 17, 1981; cited in Enage v. Commissioner of Internal Revenue, CTA Case No. 2094, April 15, 1982). We hesitate to further fashion an issue into a satisfactory settled legal situation.

"For reasons obvious, the reconsideration filed by petitioner on January 9, 1974 was no longer a prospect that could easily be reconciled with the evident needs of the situation. It must, as it did, end in a note of ineffectuality. But such an old and familiar mode of temporizing, more so often pro-forma and protracted, seriously and unjustifiably fetters perfectly legitimate methods of enforcement. (Manila Banking Corporation v. Commissioner of Internal Revenue, CTA Case No. 2993, October 30, 1981). Consideration of the convenience of the petitioner or any taxpayer for that matter, stands as an aberration from the otherwise intended imperative. We cannot substitute and indulge in any amorphous rule as to leave solely to the petitioner's will the determination of the commencement of the statutory thirty-day period and delay at will the finality of the tax assessments (Roman Catholic Archbishop of Cebu v. Collector of Internal Revenue, L-16683, January 31, 1962, 4 SCRA 279; Bull v. U.S. 79 US 247; Ker & Co., Inc. v. Court of Tax Appeals & Collector of Internal Revenue, L-12396, January 31, 1962, 4 SCRA 163; cited in Advertising Associates, Inc. v. Commissioner of Internal Revenue, C.T.A. Case No. 3017, June 17, 1981), and suffer the cornerstone of

> effective collection to petrify at the cost of the animating principles tinged with strong issues of public policy that taxes are the lifeblood of government and their prompt and certain availability are an imperious need (Commissioner of Internal Revenue v. Pineda, L-22734, September 15, 1967, 21 SCRA 105; Collector of Internal Revenue v. Goodrich International Rubber Co., L-22265, March 27, 1968, 22 SCRA 1256), and being the chief source of revenue for the Government to keep it running, must be paid immediately and without delay. (Collector of Internal Revenue v. Yuseco, L-12518, October 28, 1961, 3 SCRA 313). We do not think any different conclusion ought be reached in the case at bar." (pp. 5-9, Casimiro C. Ocampo v. Commissioner of Internal Revenue, CTA Case No. 2579, October 29, 1982.)

I hold therefore that the order to enforce collection by warrant of distraint and levy served the petitioner on November 25, 1976 for the payment of its income tax deficiency for the years 1971 and 1972 was the appealable decision or ruling of the respondent Commissioner of Internal Revenue, such that when the petition for review was filed with this Court on January 10, 1979 or some two (2) years thereafter, the statutory 30-day period for appeal ordained in Section 11 of R.A. No. 1125 had long lapsed as to take the case out of the jurisdiction of this Court. Thus, under the view I have taken on the question raised in this appeal, it is deemed unnecessary to resolve the other issues presented.

Accordingly, the petition must be dismissed with costs.

ALEX Z. REYES
Associate Judge