REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

MULLER & PHIPPS (MANILA), LTD.,
Petitioner,

- versus -

C.T.A.
CASE NO. 212

COLLECTOR OF INTERNAL REVENUE,
Respondent.

1/16/56

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

R E S O L U T I O N

Acting upon the "Motion to Dismiss" filed by the counsel for the respondent on December 8, 1955, on the ground that this Court has no jurisdiction over the subject matter of the instant case, and it appearing:

1. That the present "Petition for Review" seeks the refund of the sum of ₱4,453.25 representing advance sales tax on imported "Kolynos" essence, powdered soap and calcium carbonate, which were later sent back in their original packing to the supplier, Home Products International Limited of New York, U.S.A., because the same were not used by petitioner as raw materials in the manufacture of "Kolynos" tooth paste;

2. That the advance sales tax in question was paid in accordance with Section 183 (B) of the National Internal Revenue Code on the following dates: September 9, 1951, January 19, 1952 and January 22, 1952; respectively;

3. That in accordance with Section 306 of the Tax Code and the established jurisprudence in this jurisdiction, no suit or proceeding for the recovery of any national internal revenue tax alleged to have been erroneously or illegally collected shall be begun after the

expiration of two years from the date of payment of the tax (Wee Poco & Co., vs. Posadas, 64 Phil. 640; P. J. Kiener Co., Ltd. vs. David, 49 O.G. 1852; Bermejo vs. Collector, G.R. No. L-3029, July 25, 1950; Manila Electric Co. vs. Collector, C.T.A. Case No. 83, March 30, 1955); and

4. That the instant "Petition for Review" was filed with this Court only on November 23, 1955 or after the expiration of two years from the dates of payment of the advance sales tax in question.

WHEREFORE, the "Motion to Dismiss" filed by the counsel for the respondent on December 8, 1955 is hereby sustained, and the "Petition for Review" of the petitioner filed on November 23, 1955, is hereby dismissed for lack of jurisdiction, with costs against the petitioner.

SO ORDERED.

Manila, Philippines, January 16, 1956.

AUGUSTO M. LUCIANO
Associate Judge

MARIANO NABLE
Presiding Judge

I concur in the result on the same ground stated in my concurring opinion in College of Oral and Dental Surgery v. The Collector of Internal Revenue, C. T. A. No. 121.

ROMAN M. UMALI
Associate Judge