REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

LA UNION ELECTRIC CO., INC.,
Petitioner,

- versus - C.T.A. CASE No. 1957

THE COMMISSIONER OF CUSTOMS
AND THE SECRETARY OF FINANCE,
Respondents.

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R E S O L U T I O N

This is a motion to dismiss the petition for review for being premature and for lack of cause of action.

Petitioner is a grantee of a legislative franchise under Republic Act No. 1225 to operate an electric light, heat and power system within the municipalities of San Juan, Bauang and San Fernando, Province of La Union. For the necessary operation of its business, it imported from abroad transformers and aluminum conductors for which it paid the amount of ₱10,549.00 assessed by the Bureau of Customs. On the theory that it is exempt from the payment of all taxes and customs duties under Republic Act No. 4070, it subsequently filed a request for reconsideration with the Commissioner of Customs to recover the amount it had paid. Said request was not acted upon by the Commissioner himself, but instead was denied by the Secretary of Finance in a letter dated June 25, 1968. From this ruling of the Secretary of Finance, petitioner has appealed contending that the decision of the Secretary of Finance is null

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and void and that it is entitled to the refund of the amount of ₱10,549.00, plus interest.

Respondent has filed a motion to dismiss the case for lack of jurisdiction and for lack of cause of action on the ground that there is as yet no decision of the Commissioner of Customs from which appeal may be taken to this Court pursuant to the provisions of Republic Act No. 1125.

Petitioner contends that the decision of the Secretary of Finance is equivalent to the decision of the Commissioner of Customs and is reviewable by this Court. It is further contended that there is no need to exhaust the administrative remedies since the questions involved are purely legal, and the controverted acts are patently illegal, citing the case of Cariño vs. ACCFA, G. R. No. L-19808, September 29, 1966.

We disagree with petitioner. The jurisdiction of this Court in Customs cases is specifically set out in Section 7(2) of Republic Act No. 1125, which states:

> "Sec. 7.- The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
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> x x x x x x
>
> "(2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines, forfeitures

> or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs; x x x."

x x x x x x

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. "Expressiu 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.

A case in point is Liberty Motors, Inc. v. Manahan, CTA Case No. 325, January 22, 1957, wherein this Court held that the power of the Secretary of Finance to review, modify or revoke any decision or action of his subordinate officers under Act No. 4007 "does not necessarily give rise to the implication that this Court has jurisdiction to review by appeal the decisions of the Secretary of Finance". By the same token, the rationale being similar, we are constrained to reject, as we hereby reject, the present appeal taken from the decision of the Secretary of Finance.

We may also add that the records do not show that petitioner has exhausted the administrative remedies provided by law before instituting court action for recovery of customs duties erroneously or illegally paid. (See Sections 2308-2314 and Section 2402, Tariff & Customs Code.) This failure or omission on the part of the petitioner is fatal to his case. (Acting Collector of Customs v. De la Rama Steamship Co., Inc., G. R. No. L-20676, February 26, 1965; Southwest Agricultural Marketing Corporation v. The Secretary of Finance et. al., G. R. No. L-24797, October 8, 1968.)

In Southwest Agricultural Marketing Corporation v. The Secretary of Finance et. al., supra, which is squarely in point, the Supreme Court held:

> "It is true that, pursuant to section 7 of Republic Act No. 1125, the Tax Court cannot exercise its jurisdiction except on appeal from a decision of the Commissioner of Customs, and that no such decision exists. This is, however, due to the fact that plaintiff has not taken the steps prescribed by law therefor, namely: payment of the charges in question coupled with a written protest against said charges, and, upon rendition of the decision thereon of the Collector of Customs of Davao, an appeal therefrom, if adverse to the plaintiff, to the Commissioner of Customs, whose decision in such appeal may, in turn, be reviewed by the Court of Tax Appeals, to the exclusion of other courts. <u>Indeed, the absence of such decision of the Commissioner of Customs merely underscores plaintiff's failure to exhaust administrative remedies and suggest a lack of cause of action.</u>"
> (Underlining supplied)

WHEREFORE, finding this Court without jurisdiction, and the petition without cause of action, the petition for review is hereby DISMISSED. No pronouncement as to costs.

SO ORDERED.

Quezon City, November 20, 1968.

ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge

ESTANISLAO R. ALVAREZ
Associate Judge