ping

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

INTERTROD MARITIME, INC.,
Petitioner,

- versus - C.T.A. CASE NO. 4772

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

R E S O L U T I O N

Before this Court for resolution is the issue of its jurisdiction as provided for under Sec. 7 of R.A. 1125 as amended, which reads:

> "Sec. 7. *Jurisdiction.* - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;
>
> xxx xxx xxx."

Petitioner, a corporation duly organized and licensed to do business under Philippine laws, received on June 19, 1991 three (3) letters from respondent Commissioner of Internal Revenue concerning assessments for alleged deficiency income taxes totalling P4,275,349.27 for the taxable year 1987.

The corporation timely protested the above assessments in a letter dated July 11, 1991.

On February 3, 1992, petitioner received another letter from respondent requesting the former to pay the deficiency income taxes.

Petitioner replied in a letter dated February 14, 1992 informing the respondent of its protest and requesting that they "await the resolution of the Commissioner of our protest." (Letter to B.I.R. dated February 14, 1992, C.T.A. Records, p.14)

On March 20, 1992, petitioner received an urgent letter from respondent dated March 5, 1992 signed by the Chief of the Accounts Receivable/ Billing Division stating that:

> "xxx(W)e appeal to your high sense of fealty to our country and help it recover economically by paying your tax lability within ten (10) days from your receipt hereof xxx. If you fail to do so, we have no other recourse but enforce the Collection thereof thru the issuance of the Warrants of Distraint and Levy and/or institute judicial action against you for the purpose." (Letter to Intertrod Maritime, Inc., C.T.A. Records, p. 19)

Petitioner thus filed this petition for review before this Court claiming that the "last letter constitutes as an implied but clear denial by respondent of the protest which was filed by herein petitioner." (Petition, C.T.A Records, p. 3)

In his answer, respondent questioned this Court's jurisdiction to take cognizance of the case claiming that:

> "xxx (T)here is yet no 'decision' of respondent on the disputed assessments which is appealable before this Court pursuant to Section 7(1) of Republic Act No. 1125. The petition is premature xxx The urgent notice of respondent dated March 5, 1992 xxx is but a demand for collection and not a decision on the protest." (Answer, C.T.A. Records, p. 29)

Under the statute above-cited, the cause of action accrues from the time the Commissioner issues his final decision on the protest made by taxpayer disputing the assessment.

The Supreme Court had on several occasions, defined what establishes final decision of the Commissioner which is appealable before this Court.

It should always be indicated in clear and unequivocal language that the Commissioner's action on an assessment questioned by a taxpayer constitutes his final determination on the disputed assessment. On that basis, a taxpayer would not grope in the dark and speculate as to when to seek refuge before this Court. (**Commissioner of Internal**

Revenue v. Union Shipping Corp., 185 SCRA 547; Surigao Electric Co., Inc. v. C.T.A., 57 SCRA 523)

In raising the issue of jurisdiction as his defense, respondent correctly noted that:

> "xxx (T)he final decision of the Commissioner xxx shall be in a form of a letter specifically stating that it is the final decision which is a decision on the merits. However, the petitioner here has filed his petition for review in this Honorable Court, upon a receipt of an urgent letter from one department of the Bureau which is the Accounts Receivable and Billing Division, so in that case, we have put an issue on the propriety of filing the case." (Tsn, June 23, 1993)

Considering that the urgent letter of the respondent dated March 5, 1992 is not his final decision on the petitioner's protest, this Court hereby RESOLVES to DISMISS this case for lack of jurisdiction without prejudice to filing of another petition on the part of petitioner upon receipt of respondent's final decision on the matter.

SO ORDERED.

Quezon City, Metro Manila, July 29, 1993.

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
Associate Judge

MANUEL K. GRUBA
Associate Judge