REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PEDRO R. RANCES,
Petitioner,

- versus - C.T.A. CASE NO. 2605

THE HONORABLE COMMISSIONER
OF INTERNAL REVENUE,
Respondent.

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

Dec. 18/74

R E S O L U T I O N

This refers to respondent's motion to dismiss the above-entitled case on jurisdictional grounds.

On August 29, 1969, respondent assessed against petitioner the amount of P823.64, representing deficiency income tax for the year 1965. In a letter dated October 23, 1969 petitioner protested the assessment but respondent, through the Acting Regional Director, Region No. 6, denied the protest in a letter dated August 7, 1973. Petitioner was advised to pay within ten (10) days from receipt thereof, otherwise collection would be enforced by distraint and levy. Petitioner was also advised that in case he disagreed, he could appeal to the Court of Tax Appeals. Said letter was admitted to have been received by petitioner on September 3, 1973.

In a letter dated September 11, 1973, petitioner requested respondent to review said denial alleging that the reply of the Acting Regional Director did not squarely answer the legal questions raised in the protest. On March 20, 1974, respondent denied petitioner's request and reiterated the demand for the payment of ₱823.64, plus interest that had accrued thereon. This denial was allegedly received by petitioner on April 23, 1974.

The instant petition for review was filed with this Court on May 4, 1974.

The only question to be resolved is whether or not the appeal of petitioner was filed within the 30-day period prescribed in Section 11 of Republic Act No. 1125.

Respondent maintains that the letter of August 7, 1973, constitutes the final decision which should have been appealed to this Court within 30 days from receipt thereof by petitioner, and the request for reconsideration of September 11, 1973 being pro-forma did not stop the running of the period for appeal.

On the other hand, petitioner assails the stand of respondent and contends that on September 11, 1973, or eight (8) days from receipt of said letter of August 7, 1973, he questioned the same which was studied by the Appellate Division. Hence, the running of the 30-day period had been effectively suspended.

The decision of the Commissioner from which appeal can be taken to this Court within 30-days from receipt thereof is that which has the element of finality (see St. Stephens Association v. Coll. of Int. Rev., 104 Phil.). In the present case, we find respondent's letter of August 7, 1973 as his final decision, hence, his advice to petitioner in the last paragraph that "in the event that you are not in accord with this final decision, you may file your petition with the Court of Tax Appeals within the reglamentary period provided for under Republic Act No. 1125." Consequently, the period for appeal should be counted from receipt thereof by petitioner on September 3, 1973, that is, not later than October 3, 1973. The instant petition for review having been filed on May 4, 1974, is, therefore, out of time.

The request for reconsideration filed by petitioner on September 11, 1973 did not have the effect of suspending the running of the 30-day period for appeal because it did not advance new grounds not previously alleged, hence merely pro-forma (see Roman Catholic Archbishop of Cebu v. Coll. of Int. Rev., 4 SCRA 2.9; Del Rosario v. Court of Tax Appeals, 6 SCRA 541).

IN VIEW OF THE FOREGOING, the herein appeal is hereby dismissed for lack of jurisdiction.

SO ORDERED.

Quezon City, December 18, 1974.

R M Umali
ROMAN M. UMALI
Presiding Judge

WE CONCUR:

E R Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

Ramon Avanceña
RAMON L. AVANCEÑA