CHUA KA PIN,
Petitioner,

- versus -

C.T.A.
CASE NO. 284

COLLECTOR OF INTERNAL
REVENUE,
Respondent.

7/31/57

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

R E S O L U T I O N

This is in connection with the special and affirmative defense raised by respondent in his answer that the petition for review was filed beyond the thirty-day period prescribed by section 11 of Republic Act No. 1125. As it involved the question of jurisdiction of this Court, a preliminary hearing was held on this incident.

The evidence shows that respondent Collector of Internal Revenue, in a letter dated November 19, 1954, assessed and demanded from petitioner the payment of the total amount of ₱2,535.38 as fixed and sales taxes, inclusive of surcharge. This letter of demand was sent to petitioner on November 29, 1954 by ordinary mail (Exhibit 4). However, from the evidence so far presented, there is no showing as to the precise date when said letter of demand was actually received by the petitioner. Subsequently however, petitioner had several personal representations and conferences with respon-

2498

dent with regard to this assessment. On March 31, 1955, petitioner filed his request dated March 29, 1955 for reconsideration of the aforesaid assessment of ₱2,535.38. In a letter dated April 14, 1956, respondent denied the request for reconsideration which letter was admittedly received by petitioner on May 12, 1956. On June 7, 1956 the instant petition for review was filed with this Court.

The only issue here is whether or not the appeal was perfected within thirty (30) days from receipt of the decision appealed from as prescribed by Section 11 of Republic Act No. 1125.

We have previously ruled that the decision of the Collector of Internal Revenue is "adjudicative and final in character and therefore akin to judicial orders or decisions if not appealed to higher authorities". Hence, we held that the rule contained in section 7 of Rule 27 of the Rules of Court requiring that "final orders or judgments shall be served either personally or by registered mail" should be applied to such decisions (Gerona vs. Collector, C.T.A. No. 203, Resolution of February 16, 1956). The reason for this requirement of personal service or service by registered mail is to facilitate the computation of the time after which the order or judgment becomes executory (I Moran, Comments on the Rules of Court, 1952 Edition, p. 590). However, we believe that this does not mean that service of final orders or judgment by ordinary mail, even if actually completed as in the case at bar, is not valid and effective.

In the instant case, respondent's decision or letter of demand dated November 19, 1954 was actually sent by ordinary mail to the petitioner on November 29, 1954 at his mailing address at No. 125 Villaruel, Pasay City, a city adjacent to Manila. Although the date of actual receipt thereof by petitioner has not been definitely fixed or established in the preliminary hearing, it is clear that petitioner did in fact received this decision, for as a matter of fact, he had filed on March 31, 1955 a letter for its reconsideration dated March 29, 1955. Considering further that petitioner prepared his request for reconsideration only after having made several personal representations and conferences with the respondent, the conclusion is inescapable that the letter of demand in question was in fact received by petitioner long before March 29, 1955 the date of his request. Our position is buttressed by common everyday experience and observation that a letter mailed in Manila would not require more than 100 days to reach its addressee in Pasay City. Even if we were to concede by stretching the imagination and giving way for all possibilities that it took 100 days in all from November 29, 1954 for the letter to reach petitioner, it would mean that petitioner did in fact received the same on March 9, 1955. Of course, petitioner could choose to come out with the exact date of his receipt of said decision. However it is to be presumed that such evidence, which apparently has been suppressed, would be adverse to petitioner if produced.

On the basis of the foregoing, the period to appeal began to run on March 9, 1955 but was suspended upon the filing of petitioner's request for reconsideration on March 31, 1955. The period to appeal resumed to run again on May 12, 1956 when petitioner received the respondent's letter denying the former's request for reconsideration and was tolled only on June 7, 1956 when petitioner filed his petition for review with this Court. Thus petitioner consumed a total of forty-eight (48) days (March 9 to March 31, 1955 and May 12 to June 7, 1956) which is clearly beyond the reglementary period of thirty (30) days prescribed by section 11 of Republic Act No. 1125 within which an appeal may be taken. It follows that this Court has no jurisdiction to take cognizance of this case.

IN VIEW OF THE FOREGOING CONSIDERATIONS, the petition for review filed by the petitioner should be, as it is hereby, dismissed, for lack of jurisdiction, with costs against the petitioner.

SO ORDERED.

291

Manila, Philippines, July 31, 1957.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge