REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

ST. PAUL'S HOSPITAL OF ILOILO,
Petitioner,

- versus -

C.T.A.
CASE NO. 105

COLLECTOR OF INTERNAL REVENUE,
Respondent.

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

Nov. 27, 1956

D E C I S I O N

This is an appeal from a decision of the respondent Collector of Internal Revenue holding the petitioner liable for business tax on the latter's maintenance of a pharmacy department within the premises of its hospital.

The case was submitted partly on a stipulation of facts (hereinafter referred to as "Stifacts") and on additional evidence adduced by petitioner. Petitioner is a corporation "dedicated to charitable, educational and religious purposes", operating a hospital giving medical assistance to destitute persons. (See St. Paul's Hospital of Iloilo v. Collector of Internal Revenue, C.T.A. Case No. 6, promulgated on December 4, 1954). It maintains a pharmacy department within the premises of its hospital to supply drugs and medicines only to charity and paying patients confined therein. However, only the paying patients are required to pay the medicines supplied to them and the charge consists of the cost of such medicines plus an additional 10% thereof to partly offset the cost of medisines supplied free of charge to charity patients. On May 6, 1954, respondent assessed and demanded from petitioner the sum of ₱485.00 allegedly representing business tax on its operation of a pharmacy department. From this assessment petitioner appealed to this Court.

The parties have presented the following issues for the resolution of the Court, to wit:- (1) Whether or not this Court can legally take cognizance of the appeal; and (2) Whether or not the petitioner is liable for the payment of the amount of ₱435.00 as graduated fixed annual tax for the years 1947, 1948, 1949, 1950, 1951 and 1953 and of ₱50.00 as penalty.

Without going into the merits of the case, we are constrained to dismiss the same for lack of jurisdiction.

On the basis of the facts established, it appears that the assessment of May 6, 1954, in the sum of ₱485.00 for graduated fixed tax and penalty in extrajudicial settlement of the penal liability thereof was received by petitioner on May 26, 1954 (see Exh. "4"). Petitioner in a letter dated May 27, 1954, contested the legality of respondent's assessment (Stifacts, par. 2, p. 1; Exh. "4"), which letter was received by respondent on June 3, 1954 (see BIR stamp on Exh. "4"). In a letter dated October 15, 1954 (Stifacts, par. 3, p. 1; Exh. "6") which was received by petitioner on November 16, 1954 (Stifacts, par. 3, p. 1; see Exh. "7") respondent reiterated the assessment of May 6, 1954. In another letter dated November 17, 1954 received by respondent on November 23, 1954 (Stifacts, par. 4, pp. 1 & 2; Exhibit "7") petitioner again assailed the legality of the assessment. Respondent nevertheless maintained the assessment as stated in his letter dated December 4, 1954 which petitioner received on December 20, 1954 (Stifacts, par. 4, p. 2; Exh. "8"). In a letter of December 22, 1954, which respondent received on January 3, 1955, petitioner again sought the reconsideration of the assessment. In reply thereto, respondent in a letter of January 12, 1955 which petitioner received on January 25, 1955 denied said request. This time petitioner thru its Mother Superior requested in a letter dated January 28, 1955 (Stifacts, par. 5, p. 2) that respondent withdrew and cancel the aforementioned assessment. Respondent received this letter on February 2, 1955 (see p. 25, BIR records). On March 16, 1955, petitioner received respondent's denial of the former's request (Stifacts, par. 5, p. 2). Thereafter on March 21, 1955 petitioner filed by registered mail the present appeal which was received by this Court on March 29, 1955 (Stifacts, par. 6, p. 2).

Petitioner contends that although this appeal is directed against the assessment contained in the letter of May 6, 1954 of the respondent, yet for the purposes of fixing the statutory period of 30 days within which to appeal therefrom, the same should be counted from March 16, 1955, when the latter's letter dated February 26, 1955, confirming and approving the said assessment was received by petitioner. On the other hand, respondent maintains that the assessment letter of May 6, 1954 is the decision which should be appealed to this Court, and, therefore the 30-day statutory period should be counted from the day following its receipt by petitioner.

We find both views not well-taken. It is obvious that no appeal could have been taken from the decision dated May 6, 1954, as this Court was not yet existing at that time. We have held that in fairness to the taxpayer who might avail of the remedy provided by Republic Act No. 1125, the appeal to this Court in cases of disputed assessment should be counted from July 21, 1954, when this Court was already regularly functioning to receive the petitions of taxpayers (see Sta. Clara Lumber Co., Inc. v. Collector, C.T.A. Case No. 91, Resolution dated September 20, 1955; see also La Tondeña, Inc. v. Collector, C.T.A. Case No. 99, Resolution dated March 15, 1956). On that date however petitioner could not have availed of such appeal inasmuch as no final action had been taken on its request for reconsideration of the assessment in question. Hence in the instant case the statutory period provided for in section 11 of Republic Act No. 1125 should start to run on November 16, 1954, when petitioner received respondent's letter dated October 15, 1954 maintaining the assessment now on appeal. Thereafter, petitioner filed several requests for reconsideration of the assessment which, when taken in the light of established jurisprudence regarding the appealability of decisions and the doctrine of the "exhaustion of administrative remedies", should be deemed to have suspended the running of the period to appeal until petitioner receives the denial to said motion for reconsideration (Secretary of Agriculture vs. Court of First Instance, G.R. No. L-7752, May 27, 1955; La Tondeña, Inc. v. Collector of Int. Rev., C.T.A. Case No. 99, March 15, 1956; Tomas S. Quirino v. Collector of Int. Rev., C.T.A. Case No. 86, June 26, 1956; American Rubber Co. v. Collector of Int. Rev., C.T.A. Case No. 164, August 25, 1956; Antonio G. Guerrero v. Collector of Int. Rev., C.T.A. Case No. 288, October 5, 1956.) With the above basic considerations in mind, the following computation of the period consumed by petitioner before taking this appeal, will show that petitioner filed its appeal beyond the reglementary period of 30 days:

From November 16, 1954, date of receipt by petitioner of respondent's letter reiterating assessment to November 23, 1954, date of receipt by respondent of petitioner's first letter of reconsideration	7 days
From December 20, 1954, date of receipt by petitioner of denial of request for reconsideration to January 3, 1955, date of receipt by respondent of petitioner's second letter of reconsideration .	14 days
From January 25, 1955, date of receipt by petitioner of denial of second letter of reconsideration to February 2, 1955, date of receipt by respondent of petitioner's third letter of reconsideration	8 days
From March 16, 1955, date of receipt of denial of third letter of reconsideration to March 21, 1956, date of the filing of the petition for review	5 days
Total number of days consumed	34 days

DECISION -
C.T.A. CASE NO. 105

The petitioner having exceeded the 30-day period as prescribed by section 11 of Republic Act No. 1125 within which to appeal to this Court, we are of the opinion and so hold that this Court cannot legally take cognizance of this case.

IN VIEW OF THE FOREGOING, the petition for review should be, as it is hereby, dismissed with no pronouncement as to costs.

SO ORDERED.

Manila, November 27, 1956.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge