Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

DEVELOPMENT BANK OF THE PHILIPPINES, LEGASPI BRANCH, LEGASPI CITY,
Appellant,

- versus -

C.T.A. CASE NO. 5446

THE REGIONAL DIRECTOR, BIR REVENUE NO. 10, LEGASPI CITY, REVENUE OFFICER LEONARDO RENDOR, BIR REVENUE DISTRICT NO. 67, LEGASPI CITY,
Appellees.

Promulgated:
DEC 18 1996

x - x

RESOLUTION

Considering carefully the paper denominated as "Brief For The Appellant" filed by (Appellant)Development Bank of the Philippines(DBP), Legaspi Branch, Legaspi City, the Court ***motu proprio*** finds the same not only defective in formal and legal requisites but beyond the jurisdiction of this Court to entertain.

Firstly, the formal requirements which are not followed pertain to the designation of the parties and title of the pleading prescribed under Section 4, Rule 5 of the Rules of this Court which states that in all cases brought or submitted to this Court, the taxpayer or the aggrieved party shall be called the "Petitioner" and the Collector (now Commissioner) of Internal Revenue shall be called the "Respondent." And the pleading (or appeal) shall be entitled "Petition for Review."

Then, as regards the number of copies of the pleading or paper to be filed as required under Section 5, Rule 4 of the same Rules, there shall be six (6) signed and confirmed copies in addition to the signed original. Here, there are only four (4) copies filed by the appellant DBP Legaspi Branch.

Secondly, the amount of docketing or filing fee sent by appellant DBP for its pleading is only P300.00, whereas based upon the prescribed rates of legal fees for the Court, the filing fee should be P400.00.

Thirdly, the Commissioner of Internal Revenue is not named or joined as party respondent. Under the law, the appeal by the taxpayer to this Court shall be from a decision 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 revneue code or other law or part of law administered by the Bureau of Internal Revenue. (See Sec. 7(d), Rep. Act No. 1125.) Hence, it is indispensable that the Commissioner of Internal Revenue shall be made party respondent in this case.

Finally, which is most fatal, the dispute or litigation here is between the DBP, a government owned or controlled corporation, and the BIR, a government bureau or agency, which falls under the administrative and adjudicatory jurisdiction of the Department of Justice pursuant to Sections 2 and 3 of P.D. 242, and not within the jurisdiction of the Court of Tax Appeals. (See Development Bank of the Philippines vs. The Court of Tax Appeals and the Commissioner of Customs, G.R. No. 86625, December 22, 1989; Philippine National Bank vs. Commissioner of Internal Revenue, CTA Case No. 4415, March 19, 1991; Government Service Insurance System vs. Commissioner of Internal Revenue, CTA Cases Nos. 4054 & 4057, August 28, 1990; National Housing Authority vs. Commissioner of Internal Revenue, CTA Case No. 4374, September 24, 1990; Philippine International Trading Corporation vs. The Honorable Commissioner of Internal Revenue, CTA Case No. 4417, October 8, 1990; Philippine National Oil Company vs. Hon. Bienvenido A. Tan, Jr. in his capacity as the Commissioner of Internal Revenue, CTA Case No. 4155, May 30, 1990; Philippine National Bank vs. The Commissioner of Internal Revenue, CTA Case No. 4316, July 5, 1991; Petron Corporation vs. Commissioner of Internal Revenue, CTA Case No. 4302, July 9, 1990; National Development Company vs. Commissioner of Internal Revenue, CTA Case No. 5309, July 2, 1996 and September 4, 1996.)

IN VIEW OF THE FOREGOING, the pleading filed by Appellant DBP, Legaspi City Branch, entitled "Brief For The Appellant", cannot be given due course and the same is hereby Dismissed.

SO ORDERED.

RAMON O. DE VEYRA
Associate Judge

ERNESTO D. ACOSTA
Presiding Judge