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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

VICTORIAS MILLING CO., INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 3466

THE PHILIPPINE PORTS
AUTHORITY,
Respondent.

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

10/26/83

D E C I S I O N

The incidental issue in the case at bar is whether or not this Court has jurisdiction to entertain an appeal from the decision or ruling of the Philippine Ports Authority requiring petitioner Victorias Milling Co., Inc. to undergo harbor formalities, pay clearance and berthing fees and remit the government's 10% share on its gross income derived from cargo-handling services and operation at its private wharf.

Petitioner's petition for review, filed by registered mail on April 2, 1982, presents the pertinent facts for purposes of this incident spawned by respondent's motion to dismiss predicated on jurisdictional grounds. Thus:

> 1. That petitioner is a private corporation duly organized and doing business in accordance with Philippine laws, with main office and business

address at Victorias, Negros Occidental, while respondent is a body corporate created and existing in accordance with Presidential Decree No. 857, with principal office at 5th Floor, B.F. Condominium, Aduana, Intramuros, Manila, where summons and other process may be served upon it.

2. That by virtue of section 39 of P.D. No. 857, the powers, duties and jurisdictions of the Bureau of Customs over the matters involved in this petition have been transferred to and vested in the respondent.

3. That in separate letters both dated April 28, 1981 (xerox copies hereto attached as Annexes "A" and "B"), the respondent's Iloilo Port Manager required petitioner to have its tugboats and barges undergo harbor formalities and pay entrance/clearance fees, as well as berthing fee, effective May 1, 1981; and with regard to the operation of petitioner's private port facilities in Daan Banua, Victorias, Negros Occidental, to secure a permit for its cargo-handling operations and remit 10% of its gross receipts therefrom as the government's share therein.

4. That in reply to the above-stated demands, petitioner sent to the Iloilo Port Manager separate letters both dated June 2, 1981 (xerox copies hereto attached as Annexes "C" and "D") respectfully declining to comply with said demands on the grounds that its private wharf and all facilities thereat were constructed and installed on land covered by Torrens titles, all at petitioner's expense; that repair and maintenance thereof are solely paid by petitioner; that even the dredging and maintenance of the Malijao River channel from Guimaras Strait up to the said wharf are being done by petitioner's equipment and personnel; and that the government at no time has spent a single centavo for

such activities. Said dredging operations involve a distance of 2.5 kilometers from the eastern end of petitioner's wharf to the end of the river channel, as shown in the sketch prepared by its qualified personnel, Annex "E" hereof.

5. That in reply to petitioner's letters mentioned in paragraph 3 above, the Iloilo Port Manager sent a letter dated November 3, 1981, enclosing a memorandum of the respondent's Assistant Executive Officer dated September 23, 1981 (xerox copies hereto attached as Annexes "F" and "G"), both of which in essence require petitioner (a) to have its tugboats and barges undergo harbor formalities and pay entrance/ clearance fees as well as berthing fees, and (b) to remit 10% of its gross income from cargo handling services in its aforesaid private wharf at Daan Banua, Victorias, Negros Occidental.

6. That petitioner thru counsel appealed to the General Manager of respondent, thru a letter dated November 23, 1981, against the ruling of the Iloilo Port Manager and its attached Memorandum referred to in paragraph 4 above. In said letter (xerox copy hereto attached as Annex "H"), petitioner, for the reasons therein stated, prayed that a ruling be issued by respondent holding that petitioner is -

(a) Not liable for berthing fees for its tugboats and barges which enter the Malijao River and moor at its private wharf at Daan Banua, Victorias, Negros Occidental, until such time as the Philippine

> Ports Authority shall take over the dredging and maintenance of the river channel from said wharf up to the Guimaras Strait; and
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> (b) Not liable to pay the 10% government share in its gross income from its cargo handling activities thereat, until such time as the said Authority actually sets up its own equipments and facilities thereat for such operations.
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> 7. That in a ruling dated January 14, 1982, (xerox copy attached hereto as Annex "1"), received by petitioner on March 16, 1982, respondent refused to give due course to petitioner's request for reconsideration dated November 23, 1981, in effect denying the same.
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> xxx xxx xxx

After the filing of petitioner's appeal and service of summons thereof to respondent Philippine Ports Authority, the latter sought the dismissal of said appeal, alleging that its decision or ruling is not one of those expressly enumerated and defined in Section 7 of Republic Act No. 1125 over which this Court is vested with jurisdiction to review on appeal, and thus, under the principle of "expressio unius est exclusio alterious" (matters which are not expressly stated are deemed excluded), said decision cannot be validly taken cognizance of by this Court. Moreover, respondent avers that petitioner has no cause of action because it failed to exhaust the administrative remedies provided for in cases involving protests against the decision or ruling of the general manager of the Philippine Ports Authority under Administrative Order

No. 13-77 of the said agency. (See Amended Motion to Dismiss, pp. 58 to 66, CTA records.)

On the other hand, petitioner stoutly insists in its opposition that this Court has jurisdiction to entertain its appeal because:

> 1. -When R.A. 1125 was enacted, the Philippine Ports Authority was not yet in existence, having been created only on July 11, 1974 under Presidential Decree No. 505.
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> 2. -Under Sec. 39 of P.D. 857, the powers and functions of the Bureau of Customs over the subject matter of this case were transferred to the respondent PPA. Therefore, in the absence of provisions in P.D. 857 governing protests against the charges imposed by respondent, those of the former laws must be followed. In this connection, Sec. 2315 of the Tariff and Customs Code, as amended, provides that rulings and decisions of the Commissioner of Customs are appealable to this Honorable Court, which under Sec. 7 of Republic Act 1125 has exclusive appellate jurisdiction to review by appeal all decisions of said Commissioner in cases involving liability for customs duties, fees or other money charges.
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> 3. -As the functions of the Bureau of Customs over the subject matter of this case have been transferred to the respondent, it follows that the latter's decisions over the said subject matter are reviewable by this Honorable Court, whose exclusive appellate jurisdiction to review the same, when formerly decided by the Bureau of Customs, now extends to decisions of the respondent over the same subject matter.
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> 4. -If the respondent's theory is adopted, it would lead to the absurd conclusion that a court's jurisdiction over the subject matter of a case can

> be nullified or transferred to another government agency or officer by the simple expedient of transferring the functions and powers of one agency to another. A court's jurisdiction over the subject matter of a case should not be affected through the simple expedient of changing the office or agency administering such subject matter. In short, the jurisdiction of this Honorable Court over decisions of the Commissioner of Customs involving the subject matter of this case, formerly administered by said official, was transferred to cover the decisions of the respondent PPA upon the delegation of the functions and powers of the former to the latter.

We agree with respondent. There is no law or statute which expressly vests jurisdiction upon the Court of Tax Appeals to review appeals from decisions or rulings of the Philippine Ports Authority. Presidential Decree No. 857, in Section 39 thereof, simply transfers to the Philippine Ports Authority all the powers, duties and jurisdictions of the Bureau of Customs relative to:

> "a) All dues, fees and rates collectible under Title VII but excluding Part VII of the Code;
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> "b) The general supervision, control, and regulation of all matters and affairs that pertain to the operation of and the issuance of permits or licenses to construct ports, port facilities, warehouses, and their facilities within port districts;
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> "c) All such other powers, duties and jurisdictions vested in the Bureau of Customs pertaining to every matter concerning port facilities, port operations or port works."

but does not provide that the decisions or rulings of said agency in cases or disputes involving such matters shall be appealable to the Court of Tax Appeals. Such transfer of powers and functions to the Philippine Ports Authority may be a diminution of those formerly granted to the Bureau of Customs whose decisions are appealable to this Court, but does not necessarily give rise to the conclusion nor inference that the decisions or rulings of the Philippine Ports Authority in cases involving such matters are appealable to this Court. Jurisdiction over the subject matter is fundamental for a court to act on a given controversy. Jurisdiction is conferred by law. (21 Corpus Juris Secundum, 127-128; Commissioner of Internal Revenue vs. Leonardo S. Villa & Court of Tax Appeals, L-23988, January 2, 1968, 22 SCRA 4.) The jurisdiction of a court to take cognizance of a case, we believe, should be clearly conferred and should not be deemed to exist on mere implication, specially with respect to the Court of Tax Appeals which is a specialized court of limited jurisdiction.

It is well settled that although the Court of Tax Appeals is a part of the judicial system (Ursal vs. Court of Tax Appeals, L-10123 and L-10355, April 26, 1957, 101 Phil. 209), its jurisdiction is special and limited (Amilbangsa vs. Angangco, CTA Case No. 255, May 7, 1956). The law conferring jurisdiction on the Court of

Tax Appeals is Section 7 of Republic Act No. 1125, and outside of the matters expressly defined and enumerated therein, to wit:

> SEC. 7. <u>Jurisdiction</u>. - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
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> (1) Decisions of the Collector of Internal Revenue[1] 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;
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> (2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs; and
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> (3) Decisions of provincial or city Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto.[2]

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[1] Now Commissioner of Internal Revenue.

[2] The jurisdiction of the Court of Tax Appeals over appeals from decisions or rulings of the Provincial or City Boards of Assessment Appeals in cases involving real property tax assessments has been transferred to the Central Board of Assessment Appeals in the light of the Real Property Tax Code (P.D. No. 464). See Jamora Jr. Enterprises vs. Local Board of Assessment Appeals, C.T.A. Case No. 2731, Nov. 17, 1977.

this Court has no power or authority to entertain appeals from decisions or rulings of the Philippine Ports Authority. "Those that fail of justification are outside the province of its jurisdiction and are perforce debarred from being considered by the Court of Tax Appeals." (Amilbangsa vs. Angangco, supra.) "The act is a complete law by itself and expressly enumerates the matters which the Court of Tax Appeals may consider; such enumeration excludes all others by implication. Expressio unius est exclusio alterius." (Ursal vs. Court of Tax Appeals, supra.)

Where Presidential Decree No. 857 does not provide that the decisions and rulings of the Philippine Ports Authority shall be reviewable by the Court of Tax Appeals, that should not be read into the decree, specially so when Section 131 of PPA Administrative Order No. 13-77, otherwise known as the General Port Regulations of the Philippine Ports Authority, and which was promulgated pursuant to Section 26 of P.D. 857, prescribes the remedy of appeal to the Office of the President of any party aggrieved by the decision of the General Manager as affirmed by the Philippine Ports Authority Board.

WHEREFORE, for lack of jurisdiction, petitioner's petition for review is hereby dismissed. With costs.

SO ORDERED.

Quezon City, Metro Manila, October 26, 1983.

AMANTE FILLER
Presiding Judge

WE CONCUR:

CONSTANTE C. ROAQUIN
Associate Judge

ALEX Z. REYES
Associate Judge