REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

TAN CHUAN, doing business under the firm name CEBU SOCIETY BAKERY,
Petitioner,

- versus -

C.T.A. CASE NO. 546

SILVERIO BLAQUERA, Collector of Internal Revenue,
Respondent.

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

RESOLUTION

The respondent assessed against the petitioner the sum of ₱14,901.50 as alleged deficiency percentage tax for the years 1952, 1953, 1954 and 1955. The assessment is contained in a letter of respondent dated November 12, 1955, admitted by petitioner to have been received on or about the same date. (Par. 3, Petition for Review.) Claiming that he has already paid the full amount of the tax due on his bakery business, petitioner instituted an action in the Court of First Instance of Cebu to enjoin the collection of said tax and for damages. This action was dismissed by the Court of First Instance of Cebu for lack of jurisdiction following the decision of the Supreme Court in Blaquera v. Rodriguez, G. R. No. L-11192, April 16, 1958, wherein it was held that a "decision of the collector of Internal Revenue on the assessment made by him with regard to certain deficiency percentage taxes, as well as x x x his decision to collect the same by coercive summary measures prescribed by law (are) matters which come within the exclusive jurisdiction of the Court of Tax Appeals." Petitioner has now come to this Court seeking a review of the decision of respondent.

Respondent has filed a motion to dismiss the herein petition for review solely on the ground that the appeal was filed beyond the thirty-day period provided in Section 11 of Republic Act No. 1125. The decision of respondent dated November 12, 1955 is admitted to have been received by petitioner on or about the same date and the petition for review was filed with this Court on June 23, 1958.

The motion to dismiss was set for hearing on August 16, 1958. Neither petitioner nor his counsel appeared. This Court _motu proprio_ postponed the hearing to September 6, 1958 to give petitioner every opportunity to oppose the motion and to present his side of the case. On this latter date, neither petitioner nor his counsel appeared. Consequently, respondent's counsel was allowed to present his evidence.

Finding the motion to dismiss meritorious, the herein petition for review is hereby dismissed, with costs against petitioner.

SO ORDERED.

Manila, October 2, 1958.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge