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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

PHINMA PROPERTY HOLDINGS CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 5155

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated : JUL 07 1995

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RESOLUTION

Before Us is a Motion to Dismiss filed by respondent on December 14, 1994 on the ground that this Court has no jurisdiction to take cognizance of the petition because there is no "disputed assessment" involved in reference to Section 7(1) of Republic Act 1125.

Petitioner, in its opposition to the Motion to Dismiss, contends that in seeking to set aside the assessments through a petition filed in this Court indicates that it is already disputing them.

The contention of the petitioner is patently erroneous. The disputed assessments mentioned in Section 7(1) of Republic Act 1125 refer to the protests filed by taxpayers in the administrative level and not to this appellate court. This court acquires jurisdiction only when the Commissioner of Internal Revenue renders a decision on the protest lodged in her office and this decision is challenged via a petition for review. The word "decision" in paragraph 1, Section 7 of Republic Act 1125, quoted above, has been interpreted to mean the decision of the Commissioner of Internal Revenue on the protest of the taxpayer against the assessment (Commissioner of Internal Revenue vs. Villa 22 SCRA 3). Section 7(1) of Republic Act 1125 provides as follows:

> Sec. 7 *Jurisdiction.* - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
>
> (1) 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 Revenue Code or other law or part of law administered by the Bureau of Internal Revenue.

Petitioner alleges that it did not receive the assessments issued by the respondent but instead received a collection letter from the BIR for alleged income and documentary stamp tax deficiency on September 1, 1994. However, petitioner goes on to say that it was only on September 9, 1994 that it obtained copies of the assessment notices (paragraphs 4.0 and 6.0 of the petition). Be it noted that petitioner admits having received copies of the assessment on September 9, 1994 and applicable law and jurisprudence dictates that petitioner should have filed a protest with the respondent from the time it received such copies, unfortunately it did not. Section 229 of the Tax Code provides, thus:

> Sec. 229 *Protesting of assessment.* - When the Commissioner of Internal Revenue or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings, within a period to be prescribed by implementing regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the commissioner shall issue an assessment based on his findings.
>
> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation in such form and manner as may be prescribed by implementing regulations within thirty (30) days from receipt of the assessment; otherwise, the assessment shall become final and unappealable.
>
> If the protest is denied in whole or part, the individual, association or corporation adversely affected by the decision on the protest may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision; otherwise, the decision shall became final, executory and demandable. (*as inserted by Pres. Decree No. 173.*)

We agree with the respondent that there having been no protest filed by the petitioner on the assessments issued by the respondent, this Court has no jurisdiction over the petition for review. The Supreme Court elucidated this point clearly in the case entitled

Commissioner of Internal Revenue vs. Villa 22 SCRA 3 when it ruled, thus;

> Since in the instant case the taxpayer appealed from the assessment of the Commissioner of Internal Revenue without previously contesting the same, the appeal was premature and the Court of Tax Appeals had no jurisdiction to entertain said appeal. For, as stated, the jurisdiction of the Tax Court is to review by appeal decisions of the Commissioner of Internal Revenue on disputed assessments. The Tax Court is a court of special jurisdiction. As such, it can take cognizance only of such matters as are clearly within its jurisdiction.

WHEREFORE, in view of the foregoing, this case is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
Associate Judge

MANUEL K. GRUBA
Associate Judge