ST. PAUL'S HOSPITAL OF ILOILO,
Petitioner,

- versus -

C.T.A.
CASE NO. 105

COLLECTOR OF INTERNAL REVENUE,
Respondent.

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

Feb. 21, 1957

AMENDED DECISION

On November 27, 1956, this Court rendered a decision dismissing the above entitled case for lack of jurisdiction, the petitioner having filed its petition for review beyond the 30-day period within which to appeal to this Court as prescribed by Section 11 of Republic Act No. 1125. The period consumed by the petitioner before appealing was computed by this Court as follows:

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

On December 22, 1956, the petitioner filed its motion for reconsideration of our decision on the ground that its petition for review was actually filed within the reglementary period of thirty (30) days. It agrees with this Court that the computation of the time within which to appeal should be counted from the dates when it received respondent's letters denying its requests for reconsideration. However, it contends that the running of the period stopped on the dates the petitioner deposited in the post office in Iloilo City, duly addressed and postage prepaid, the petitioner's letters of reconsideration, and not on the dates of their actual receipt by respondent.

The instant motion for reconsideration was accompanied by a supporting affidavit of Atty. Luis G. Hofileña, dated December 21, 1956, attesting to the fact that petitioner's requests for reconsideration of November 17, 1954, December 22, 1954, and January 28, 1955, respectively, were mailed in Iloilo City, postage prepaid, on the same dates they were prepared as appearing in the said letters.

And in accordance with its contention, the petitioner submitted the following computation of the period of time consumed before it filed its petition for review with this Court on March 21, 1955:

From November 16, 1954, date of receipt by petitioner of respondent's letter, dated October 15, 1954, to November 17, 1954, date when petitioner mailed its letter of even date	1 day
From December 20, 1954, date of receipt by petitioner of denial of request for reconsideration to December 22, 1954, date when petitioner answered and mailed its second letter of reconsideration of the same date..	2 days
From January 25, 1955, date of receipt by petitioner of denial of the second letter of reconsideration to January 28, 1955 date when petitioner answered and mailed its 3rd letter of reconsideration	3 days
From March 16,1955, date of receipt by petitioner of denial of 3rd letter of reconsideration to March 21, 1955, date of filing of petition for review	5 days
Total number of days consumed	11 days

We find the above computation of the period of time consumed by the petitioner to be correct, and accordingly, we hereby reconsider our decision dated November 27, 1956, and hold that we have jurisdiction over the case at bar. Certainly, the time spent while the letters for reconsideration were with the mail should not be counted against the petitioner.

As regards the dates of mailing of petitioner's requests for reconsideration of respondent's decision, we take the dates stated in the supporting affidavit of Mr. Hofileña to be the true dates after considering the applicable provisions of the Rules of Court (Sec. 3, Rule 26 and Sec. 100, Rule 123, Rules of Court), and the respondent's failure to present evidence disproving the correctness of said dates. It should be stated here, however, that when we dismissed this case on November 27, 1956, there was nothing in the record to show when the petitioner mailed its requests for reconsideration, (Sec. 2, Rule 5, Rules of the Court of Tax Appeals) and for that reason, we were then constrained to consider only the dates of actual receipt by the respondent of the requests for reconsideration.

Let us now proceed to determine the case on the merits.

There is no question as to the facts in this case. The parties submitted a stipulation of facts, dated July 5, 1956, the pertinent portions of which, for the resolution of the case on the merits, are as follows:

<u>ON THE QUESTION OF JURISDICTION</u>

"1. On May 6, 1954, the appellee assessed and demanded from the appellant the payment of the amount of ₱435.00 as graduated fixed annual tax for 1947, 1948, 1949, 1950, 1951, 1952 and 1953, plus a penalty of ₱50.00 in extra-judicial settlement of appellant's violation of the National Internal Revenue Code, or a total of ₱485.00. This letter of demand appears on page 4 of the B.I.R. records.

x x x x

"7. Pending the hearing of this case and to prevent its hospital equipment from being embargoed by the appellee to satisfy the assessed tax, the appellant paid the sum of ₱485.00 under Official Receipt No. A-631603 on August 25, 1955 and filed by registered mail on October 6, 1955 a supplemental pleading which was received by this Honorable Court on October 19, 1955."

<u>ON THE MERITS OF THE CASE</u>

"1. The appellant maintains a Pharmacy Department in its premises to supply drugs and medicines only to charity and paying patients confined therein.

"2. 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 medicines supplied free of charge to charity patients.

"3. The details of appellee's assessment contained in his letter of demand dated May 6, 1954 follow:

Period Covered:	Total Amount Received For Medicines Supplied By The Pharmacy Dept. To Paying Patients:	Graduated Fixed Tax:
1947	₱26,290.51	₱ 30.00
1948	47,872.57	30.00
1949	53,908.53	75.00
1950	53,849.70	75.00
1951	62,062.39	75.00

1952	₱68,190.30	....	₱ 75.00
1953	49,183.94	....	75.00
	Total Fixed Tax Due		₱435.00
	Penalty		50.00
	TOTAL		₱485.00

"4. The parties reserve to themselves the right to present additional evidence."

And in addition to the facts agreed upon by the parties, the petitioner presented evidence that it is a corporation organized for charitable, educational and religious purposes; that no part of its net income inures to the benefit of any private person or individual and is exempt from paying the income tax; (see St. Paul's Hospital of Iloilo vs. Collector, C.T.A. Case No. 6, December 4, 1954) that its Pharmacy Department is situated inside its hospital building; that the maintenance of its Pharmacy Department is essential to the efficient operation of the hospital in order to have medicine for immediate use at any time; and that its Pharmacy Department does not sell medicine to the public.

The only issue left to be decided in this case is whether or not the petitioner is subject to the payment of the graduated annual fixed tax prescribed in Sections 178, 180 and 182 of the National Internal Revenue Code.

The case at bar is substantially similar to the facts and the issues of the case of Convention of Philippine Baptist Churches vs. Collector of Internal Revenue, C.T.A. Case No. 149, decided by this Court on November 23, 1956. In the latter case, this Court, in interpreting and applying Sections 178, 180 and 182 of the Tax Code, and after considering the meaning of the term "business" said:

> "With these standard and accepted definitions of the term 'business'; the case in point cited above; and, the very admission of the appellee in the Stipulation of Facts submitted by both parties in the instant case that 'the appellant maintains a Pharmacy Department in its premises to supply drugs and medicines only to charity and paying patients confined therein' and that 'only the paying patients are required to pay the medicines supplied to them and the charge consists of the cost of such medicine plus an additional 10% thereof to partly offset the cost of medicine supplied free of charge to charity patients' we cannot see our way clear but to hold that appellant is not engaged in 'business' with the maintenance and operation of its Pharmacy Department and therefore is not liable for the privilege tax on business imposable under Sections 178, 180 and 182 of the National Internal Revenue Code."

Conformably to our decision in the said case of Convention of Philippine Baptist Churches, *supra*, we are of the opinion and so hold that the petitioner herein is not engaged in "business" and is therefore not subject to the payment of the graduated annual fixed tax under Sections 178, 180 and 182 of the National Internal Revenue Code.

WHEREFORE, the decision appealed from is hereby reversed, and the respondent Collector of Internal

Revenue is hereby ordered to refund to the petitioner the sum of ₱485.00 with legal interests thereon from the date of payment, without special pronouncement as to costs.

SO ORDERED.

Manila, Philippines, February 21, 1957.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge