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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

MARSMAN & COMPANY, INC., as
General Managers of
Marsman Exploration Company
Itogon Mining Company (now
Itogon-Suyoc Mines, Inc.)
Suyoc Consolidated Mining Company
(now Itogon-Suyoc Mines, Inc.)
San Mauricio Mining Company
United Paracale Mining Company
Coco Grove, Inc.
Philippine Smelting Company, and
Marsman Building Corporation,
Petitioner,

September 19, 1962

- versus -

C.T.A.
CASE NO. 388

THE COLLECTOR OF INTERNAL REVENUE,
Respondent.

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

RESOLUTION

On August 13, 1962, respondent filed the instant motion asking this Court to issue an order directing the Far Eastern Surety & Insurance Co., Inc., Marsman Exploration Company, Itogon Mining Company (now Itogon-Suyoc Mines, Inc.), Suyoc Consolidated Mining Company (now Itogon-Suyoc Mines, Inc.), San Mauricio Mining Company, United Paracale Mining Company, Coco Grove, Inc., Philippine Smelting Company, Tuba Mines or Project and Marsman Building Corporation to join the petitioner, Marsman & Company, Inc., as parties-petitioners in the instant case. Petitioner and the Far Eastern Surety & Insurance Co., Inc., in separate pleadings, opposed the motion.

It appears that sometime in 1941 the Collector of Internal Revenue assessed against the Marsman Exploration Company, Itogon Mining Co., Suyoc Consolidated Mining Co., San Mauricio Mining Co., United Paracale Mining Co., Coco Grove, Inc., Philippine Smelting Co., Marsman Building Corporation and Tuba Mines compensating taxes on imported articles which arrived in the Philippines during the period from July 1, 1939 to October 15, 1940 in the total amount of ₱75,584.17. As the constitutionality and validity of the imposition of compensating taxes assessed on articles pursuant to the provisions of Section 190 of the National Internal Revenue Code was assailed, the Collector of Internal Revenue deferred the enforcement of the assessments in question until after the Supreme Court has resolved the legal issue in test cases. Meanwhile, the aforementioned corporations and the Far Eastern Surety & Insurance Co., Inc. executed bonds to guarantee the payment of the taxes assessed against them.

On December 10, 1956, the Collector of Internal Revenue wrote Marsman & Co., Inc. requesting payment of the compensating taxes assessed against the aforementioned corporations, otherwise the bonds would be forfeited. Its motion for reconsideration having been denied, Marsman & Co., Inc. instituted the instant appeal as general managers, and only in that capacity, of the above-named corporations.

Apparently, petitioner Marsman & Co., Inc. has no personality to file the instant appeal. Only persons, associations or corporations adversely affected by a decision or ruling of the Collector (now Commissioner) of Internal Revenue, the Collector (now Commissioner) of Customs or any provincial or city Board of Assessment Appeals may file an appeal in this Court (Section 11, Republic Act No. 1125). The corporations adversely affected by the decision of the Collector of Internal Revenue dated April 23, 1957 are not the petitioner, being only the general manager, but the taxpayers themselves. The taxpayers are the above-mentioned corporations. Moreover, Section 2 of Rule 3 of the Rules of Court requires an action to be prosecuted in the name of the real party in interest. The real party in interest in this case is not the general manager (Marsman & Co., Inc.) of the taxpayers, but the taxpayers themselves. Consequently, this action cannot be maintained (see Hilario vs. Paulist Congregation, 27 Phil. 593).

In view of our above finding, we shall refrain from considering the merits of the instant motion.

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WHEREFORE, the instant motion is hereby denied. The petition for review dated June 22, 1957 is hereby dismissed, without pronouncement as to costs.

SO ORDERED.

Manila, September 19, 1962.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge