REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

CARLOS LEDESMA, as Administrator of the Estate of the deceased Julio Ledesma,
Petitioner,

- versus -

THE COLLECTOR OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 399

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

RESOLUTION

On August 7, 1957, petitioner filed a petition praying that "should the Court of First Instance of Negros Occidental dismiss respondent's claim for payment of the assessment in question in the said Special Proceedings No. 1994, instead of transferring it to this Court, petitioner be given an extension of fifteen days from receipt by him or the undersigned counsel of the order of the Court of First Instance of Negros Occidental to that effect within which to file the petition for review of the assessment in question."

In this connection, counsel for respondent interposed a "Motion to Dismiss" on the grounds that there is an action pending between the same parties and that the complaint states no cause of action.

The facts of the case are briefly as follows: Julio Ledesma was assessed by the Collector of Internal Revenue on January 17, 1955, for deficiency income taxes for 1949 in the sum of ₱43,378.97. The tax was not paid during his lifetime, hence the Collector filed a proof of claim on January 30, 1957 in Special Proceedings No. 1994 entitled "Intestate Estate of the Deceased Julio Ledesma", before the Court of First Instance of Negros Occidental, which claim is now pending hearing before said court. While waiting for the hearing and resolution of said claim before the Court of First Instance of Negros Occidental, petitioner asked for a reinvestigation of his tax liability before the Bureau of Internal Revenue which was denied by respondent on the ground that petitioner failed to comply with certain requirements. This decision was received by petitioner on July 9, 1957 and on August 7, 1957, he filed the present petition.

A perusal of the petition for review reveals the fact that petitioner is not appealing any decision or ruling of the Collector of Internal Revenue. Moreover, in his oppesition to the motion to dismiss (p. 1, Memorandum), petitioner categorically admits that "the allegations of the petition do not establish a cause for review but merely set forth the facts and that neither does the prayer ask for a review of the disputed assessment", but that it merely presented an alternative request. From the above, it is obvious that we can not assume jurisdiction over this petition, in view of the fact that it does not fall under any of the cases enumerated under section 7 of Republic Act No. 1125 which defines this

Court's jurisdiction.

IN VIEW OF THE FOREGOING, let the above-entitled case be, as it is hereby dismissed, for lack of jurisdiction, with costs against petitioner.

SO ORDERED.

Manila, Philippines, October 14, 1957.

MARIANO NABLE
Presiding Judge

I CONCUR:

ROMAN M. UMALI
Associate Judge

I concur in the Result:

AUGUSTO M. LUCIANO
Associate Judge