REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

COMPANIA GENERAL DE TABACOS
DE FILIPINAS, in its capacity
as agent of the SS "Lexa Maersk",
Petitioner,

- versus - C.T.A. CASE NO. 2470

THE COMMISSIONER OF CUSTOMS,
Respondent.
x - - - - - - - - - - - - - - - - x

4/15/82

RESOLUTION

The Court finds no merit in petitioner's "Motion For Leave To File Amended Petition For Review" filed on November 25, 1978 and sustains respondent's "Opposition To Amend and/or Motion To Dismiss" filed on July 11, 1979.

The records show that the party aggrieved or adversely affected by the decision of respondent Commissioner of Customs dated November 17, 1972 (in Customs Case No. 72-23), which affirmed that of the Collector of Customs dated September 29, 1971 (in S.I. No. 11784), decreeing the forfeiture of the 20 cases of the untaxed and unmanifested cigarettes found on board the vessel Lexa Maersk, is not the herein petitioner Compania General de Tabacos de Filipinas but the

P & I Club, the owner of said articles. In fact, in the seizure proceedings (S.I. No. 11784) instituted by the Bureau of Customs against the subject merchandise, it was the P & I Club, as owner and claimant of said articles, which appeared as party-respondent, and nowhere does it appear in the decision of the Collector, or in the decision of the Commissioner of Customs that petitioner Compañia General de Tabacos de Filipinas was made liable for any administrative penalty.

Consequently, when Compañia General de Tabacos de Filipinas filed the petition for review in this case, it had neither the personality or legal capacity to institute the said petition or appeal, nor a cause of action against the Commissioner of Customs. Hence, the said petition for review cannot be taken cognizance by this Court pursuant to the jurisdictional requirement of Section 11 of Republic Act No. 1125 that:

> SEC. 11. Who may appeal; effect of appeal.- Any person, association or corporation adversely affected by a decision or ruling of the Commissioner of Internal Revenue, the Collector of Customs or any Provincial or City Board of Assessment Appeals may file an appeal

> in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.

xxxxx xxxxx

As held by this Court, the "party adversely affected" by the decision or ruling of the Commissioner of Customs "refers to those persons, associations or corporations whose proprietary or pecuniary interests are adversely affected by the decision of the official mentioned." (Mutual Security Insurance Corp. vs. Comm. of Customs, C.T.A. Case (Res.) No. 963, Feb. 15, 1961.) And a "party aggrieved" refers to the owner or importer of the article subject to duty or forfeiture and who is adversely affected by the decision or ruling of the Commissioner of Customs. (Actg. Collector of Customs vs. Actg. Commissioner of Customs, 102 Phil. 244.) Finally, it is to be stated that a party who is not the importer or owner of the property involved cannot appeal to this Court. (Plywood Industries vs. Commissioner of Customs, C.T.A. Case No. 72, November 25, 1955; Echaves vs. Commissioner of Customs, C.T.A. Case No. 385, May 15, 1959.)

Since Compañia General de Tabacos has no legal personality to institute the instant appeal and the Court has no jurisdiction to take cognizance of said appeal, the motion to amend the petition for review to cure that jurisdictional defect by the simple expedient of its substitution by the P & I Club as party-petitioner cannot legally be entertained or granted by this Court.

Of course, the "Amended Petition For Review" filed on March 12, 1979 (see p. 55, CTA rec.), wherein the petitioner now appears to be the P & I Club (the party adversely affected by the decision of the respondent Commissioner of Customs), and assuming arguendo and without deciding that this may be properly treated as an entirely new and independent petition for review, and not merely as an amended petition for review, we believe that the said petition for review of petitioner P & I Club is already filed out of time because the decision of the Commissioner of Customs was received by its counsel on December 11, 1972 (p. 264, Customs rec.), and said petition was filed in this Court only on March 12, 1979, or after the lapse of more than six (6) years (p. 1, C.T.A. rec.). The Court has, likewise, therefore no jurisdiction to entertain the said amended petition for review. The law (section 11 of Republic Act No. 1125), as heretofore quoted, prescribes only a period of thirty (30) days within which the party adversely affected by the decision or ruling of the Commissioner of Customs may appeal to this Court after receipt of said decision or ruling, and such requirement is jurisdictional and non-extendable. (See Compania Maritima vs. Actg. Commissioner of Customs, C.T.A. Case No. 2492, October 14, 1975.)

WHEREFORE, the "Motion To File Amended Petition For Review" filed by Compañia General de Tabacos de Filipinas on November 25, 1978 is hereby DENIED, and this case is hereby dismissed for lack of jurisdiction.

SO ORDERED.

Quezon City, April 15, 1982.

AMANTE FILLER
Presiding Judge

ALEX Z. REYES
Associate Judge

CONSTANTE C. ROAQUIN
Associate Judge