REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FILIPINAS LIFE ASSURANCE COMPANY,
Petitioner,

- versus - C.T.A. CASE NO. 1853

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.
x - - - - - - - - - - - - - - - x

3/4/74

D E C I S I O N

"Jurisdiction over the subject matter is fundamental for a court to act on a given controversy. It is conferred by law,[1] not by consent of the parties.[2] It can be challenged at any stage of the proceedings and for lack of it, a court can dismiss a case _ex mero motu_."[3] (Comm. of Int. Rev. vs. Villa and the Court of Tax Appeals, G. R. No. 23988, Jan. 2, 1968.)

With this pronouncement of the Supreme Court, we have inquired into our jurisdiction to entertain this case, although the parties have already gone to trial; adduced evidence thereat; and submitted this case for decision on the merits.

Petitioner filed its 1962 income tax return on

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[1] 21 Corpus Juris Secundum, 127- 128

[2] Molina v. De la Riva, 6 Phil. 12; Fuentebella v. Negros Coal Co., 50 Phil. 69; Vega v. San Carlos Milling Co., 51 Phil. 908

[3] U. S. v. De la Santa, 9 Phil. 22; Vda. e Hijos de San Pedro Roxas v. Rafferty, 37 Phil. 957

April 4, 1963. On May 2, 1967, it received a letter from respondent dated January 16, 1967 (together with assessment notices Nos. 90-AC-301786-62 [Q-b] and 90-B-56747-62 [Q-a] requiring it to pay the sum of ₱8,075.92 as deficiency income tax and interest, plus a compromise penalty of ₱100.00. On May 17, 1967, without contesting the assessment in the Bureau of Internal Revenue, petitioner appealed to this Court.

It is now well settled that before this Court could acquire jurisdiction over an appeal in a case involving disputed assessment of an internal revenue tax, the taxpayer must first file a protest with the Commissioner of Internal Revenue contesting the assessment, and from his decision thereon appeal to this Court must be made within thirty days. An appeal from a mere assessment and not from a decision on a protested assessment is not cognizable by this Court.

> The law conferring jurisdiction on the Court of Tax Appeals is found in Section 7 of Republic Act 1125, the pertinent part of which states:
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> > "SEC. 7. Jurisdiction. - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal as herein provided -
> >
> > "(1) Decision of the Collector[4] of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other

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[4] Now Commissioner

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;"

The word "decisions" in paragraph 1, Section 7 of Republic Act 1125, quoted above, has been interpreted to mean _decisions_ of the Commissioner of Internal Revenue on the _protest_ of the taxpayer against the assessments. Definitely, said word does not signify the assessment itself. xx xx xx xx

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The same interpretation finds support in Section 11 of Republic Act 1125, which states:

"SEC. 11. _Who may appeal; effect of appeal._ - Any person, association or corporation adversely affected by a _decision_ or _ruling_ of the Collector 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_." (Italics supplied)

Note that the law uses the word "decisions", not "assessments", thus further indicating the legislative intention to subject to judicial review the _decision_ of the Commissioner on the protest against an assessment but not the assessment itself. (Comm. of Int. Rev. vs. Villa and Court of Tax Appeals, _supra_; See also Candyman, Inc. vs. Comm. of Int. Rev., C.T.A. Case No. 1872, Jan. 20, 1970.)

Since in this case petitioner immediately appealed from the assessment of the Commissioner of Internal Revenue without previously contesting said assessment, the appeal is premature and this Court is without jurisdiction to entertain the same.

WHEREFORE, petitioner's appeal is hereby dismissed for lack of jurisdiction.

SO ORDERED.

Quezon City, March 4, 1974.

R M Umali
ROMAN M. UMALI
Presiding Judge

WE CONCUR:

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

Ramon L. Avanceña
RAMON L. AVANCEÑA
Associate Judge

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