REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SALVADOR M. CORPUS,
Petitioner,

- versus -

C.T.A. CASE No. 2127

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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

R E S O L U T I O N

Respondent sought the dismissal of the petition for review filed by petitioner on May 20, 1970 because it failed to state a cause of action and this Court has no jurisdiction to entertain the appeal.

Petitioner was engaged in business in Zamboanga City as exclusive dealer or seller of the products of International Harvester Co. of Philippines, now International Harvester Macleod, Inc., IHM for short. He purchased tractors, trucks, heavy equipment, and parts or accessories thereof from the IHM and sold to his customers under the terms of the Dealer Sales Agreement with the IHM.

Sometime in November 1962, respondent demanded upon petitioner payment of the commercial broker's fixed and percentage taxes amounting to ₱12,800.18 covering the period from 1956 to 1959, inclusive. The demand letter was protested and contested by petitioner, but no decision has as yet been rendered by respondent.

In the meantime, the resolution of the protest was held in abeyance by respondent pending the decision of this Court on CTA Case No. 1016 entitled

"Cirilo D. Constantino vs. Commissioner of Internal Revenue" involving the same controversial issue. The said case was decided by this Court in favor of petitioner on March 14, 1966 but it was appealed by respondent to the Supreme Court. The decision of the lower court was reversed by the Supreme Court on February 27, 1970.

On May 20, 1970, petitioner appealed the present case to this Court alleging that, despite the fact that no final decision has been rendered by the respondent on petitioner's protest and/or request for reconsideration, the "petition is being filed in view of information received from the Bureau of Internal Revenue that a Warrant of Distraint and Levy may be served upon petitioner" (p. 4, Pet. for Rev., CTA rec.).

On August 10, 1970, respondent filed his motion to dismiss. On September 18, 1970, petitioner opposed the said motion and claimed that in view of the peculiar circumstances of the case, the dismissal thereof is not proper. Petitioner argues that, when the Supreme Court decided the Constantino case in favor of respondent on February 27, 1970, he is deemed to have decided the disputed assessment simultaneously with the Supreme Court, conformably with the previous understanding between the parties.

This Court has jurisdiction to review the appeal made by taxpayers from decisions of the Commissioner of Internal Revenue on disputed revenue tax assessment.

However, the petition for review itself admits that no final decision has been rendered by respondent on petitioner's protest and/or request for reconsideration. Consequently, the filing of the present petition for review is premature and, therefore, this Court has no jurisdiction to take cognizance of the case (Commissioner of Internal Revenue v. Villa, et al., G.R. No. L-23988, Jan. 2, 1968; Candyman Inc. v. Commissioner of Int. Rev., CTA Case No. 1872, Jan. 20, 1970).

WHEREFORE, finding respondent's motion to dismiss well taken, the petition for review has to be, as it is hereby, dismissed.

SO ORDERED.

Quezon City, January 27, 1971.

Estanislao R. Alvarez
ESTANISLAO R. ALVAREZ
Associate Judge

WE CONCUR:

R M Umali
ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge