REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

THE PROVINCE OF BATAAN
AND THE MUNICIPALITY OF
LIMAY, BATAAN,
Petitioners,

- versus -

C.T.A.
CASE NO. 848

STANDARD VACUUM REFINING
CORPORATION (PHILIPPINES)
and BOARD OF ASSESSMENT
APPEALS, BATAAN,
Respondents.

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

R E S O L U T I O N

This is in connection with the "Motion to Dismiss 'Second Amended Petition for Review'" filed by respondent Standard-Vacuum Refining Corporation (Philippines) on August 1, 1960 on the ground that this Court has no jurisdiction over the instant petition for review.

It appears that the decision of the Board of Assessment Appeals for the Province of Bataan from which petitioners are appealing was promulgated on April 29, 1960 and served upon the latter on May 6, 1960. On June 4, 1960, counsel for petitioners filed a "Notice of Appeal" together with a "Record on Appeal" with this Court by registered mail without remitting the corresponding docket fees. The Clerk of Court of the Court of Tax Appeals, in a letter dated June 9, 1960, informed counsel for petitioners of the requirements of Rule 5 of the Rules of this Court regarding the filing of an appeal thereto. Upon receipt thereof on June 10, 1960, the petitioners readily complied by filing a "Petition for Review" on June 13, 1960 and paying the docket fee of ₱200.00. Subsequently, the petition for review was amended on June 24, 1960.

Respondent Standard Vacuum Refining Corporation (Philippines) filed a "Motion to Dismiss" the amended petition for review on July 12, 1960. Petitioners filed their opposition thereto on July 16, 1960 and at the same time filed a "Second Amended Petition for Review".

Subsequently, respondent filed a "Motion to Dismiss 'Second Amended Petition for Review'" which was likewise opposed by petitioners.

The issues are the following:

1. Whether or not the petitioners, Province of Bataan and Municipality of Limay, Bataan, can appeal from the decision of the Board of Assessment Appeals of Bataan to this Court, pursuant to Section 11 of Republic Act No. 1125;

2. Whether or not the petition for review was filed beyond the 30-day period provided for by law; and

3. Whether or not the "Second Amended Petition for Review" is fatally defective in view of the fact that:

(a) it was filed without leave of Court;

(b) the amended portions were not appropriately marked as required by the Rules of Court; and

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(c) it seeks to add a new party to the present case, without order or leave of court.

In connection with the first issue, we believe that the Province of Bataan and the Municipality of Limay, Bataan, cannot appeal the decision of the Board of Assessment Appeals of Bataan to this Court.

The pertinent provisions of Republic Act No. 1125 provide:

> "Sec. 7. Jurisdiction.- The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
>
> x x x x
>
> "(3) Decisions of provincial and city Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto."
>
> "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. x x x"

Petitioners emphatically argue that since the word "corporation", as used in the above-quoted statutory provision, is not qualified, it could mean to include both private and public corporations. Inasmuch as the province and the municipality involved herein are public corporations duly constituted under our laws and adversely affected by the decision of the Board of Assessment Appeals of Bataan, it is concluded that they have a right to come to this Court for redress.

We cannot agree with petitioners' argument. We are of the opinion that even if the law as embodied in said provision did not qualify the word "corporation", yet, petitioners do not fall within its meaning. As a matter of fact, the legal question of whether the Government, and this includes the petitioners herein (Sec. 2, Rev. Adm. Code), can appeal to this Court has already been squarely decided by the Supreme Court. In the case of the Collector of Customs v. The Court of Tax Appeals and the Commissioner of Customs (G.R. No. L-8811, Oct. 31, 1957), the Supreme Court speaking thru Mr. Justice Felix, in holding that the Government cannot appeal to the Court of Tax Appeals said:

> "Republic Act No. 1125, which was approved on June 16, 1954, became very specific when it gave an enumeration of those who may appeal from a decision or ruling of the Collector of Internal Revenue, the Commissioner of Customs or Board of Assessment Appeals. Under this law, the right to appeal from decisions or rulings of said officials is allowed only to persons, associations or corporations adversely affected by the same, and well knowing the connotation of the legal maxim 'inclusio unius est exclusio alterious', the Government is certainly not one of them." (Underscoring supplied.)

And Mr. Justice Concepcion, in his concurring opinion in the same case, added that:

> "x x x whereas said Section 11 grants to '<u>any person</u>, <u>association</u> or <u>corporation</u> adversely affected by a decision or ruling x x x' the right to appeal therefrom to the Court of Tax Appeals, Section 18 of the same Act provides that '<u>any party adversely</u> affected by any ruling, order or decision of the Court of Tax Appeals may appeal therefrom to the Supreme Court'. The inference in Section 11 to 'any person, association or corporation' - which, admittedly, is inadequate to include the Government - when contrasted with the right to appeal, vested in Section 18, to 'any party adversely affected' - which clearly includes the Government - strongly suggests that the Government was not meant to have the right referred to in Section 11."

This conclusion is rendered more weighty in view of the observation made by our Supreme Court in the Ursal case, when it said:

> "x x x the Court of Tax Appeals was not created to decide mere conflicts of opinion between administrative officers and agencies. Imagine an income tax examiner resorting to the Court of Tax Appeals whenever the Collector of Internal Revenue modifies or lowers his assessment on the return of a taxpayer." (See Ursal vs. CTA, G.R. Nos. L-10123 & 10355, April 26, 1957; also Ursal vs. CTA, G.R. No. L-10165, Aug. 30, 1957.)

Therefore, the Province of Bataan and the Municipality of Limay, Bataan, cannot appeal the adverse decision of the Board of Assessment Appeals of Bataan to this Court because they have no personality to do so.

Inasmuch as we have arrived at the conclusion that petitioners have no personality to appeal to this Court, we find it unnecessary to pass upon the other issues raised.

WHEREFORE, finding the motion to dismiss meritorious, the Second Amended Petition for Review is hereby dismissed, without pronouncement as to costs.

SO ORDERED.

Manila, October 3, 1960.

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge