REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

ANTONIO QUIOGUE,
Petitioner,

- versus -

C.T.A.
CASE NO. 333

COLLECTOR OF INTERNAL
REVENUE,
Respondent.

7/1/57

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RESOLUTION

On February 2, 1952, respondent demanded from petitioner deficiency income taxes and additional residence taxes including surcharges for the years from 1945 to 1950 in the total amount of ₱219,295.23. A warrant of distraint and levy was issued to enforce collection of said taxes from petitioner on January 15, 1953 (p. 242, BIR records; p. 2, par. 2, "Opposition to Manifestation and Urgent Motion to Lift Warrents of Distraint and Levy").

On January 26, 1952, respondent assessed against petitioner the amount of ₱119,012.37 as fixed and percentage taxes, including surcharge (pp. 11-12, BIR records; see p. 1, par. 1, "Opposition to Manifestation and Urgent Motion to Lift Warrants of Distraint and Levy"). To enforce collection of this amount a warrant of distraint and levy was issued against petitioner on January 26, 1952 (p. 9, BIR records; see p. 1, par. 1, "Opposition to Manifestation and Urgent Motion to Lift

239

Warrants of Distraint and Levy"). This demand for fixed and percentage taxes in the sum of ₱119,012.37 was reduced to ₱62,239.15 on April 14, 1952 (Exhibit "B", Motion, p. 34, C.T.A. records; p. 57, BIR records) and finally to ₱44,485.11 on January 13, 1953 (Exhibit "C", Motion, p. 38, C.T.A. records; p. 129, BIR records). This last assessment was received by petitioner on January 19, 1953 (Exhibit "C-1", p. 39, C.T.A. records). A warrant of distraint and levy was issued against petitioner under date of January 21, 1953 (p. 130, BIR records; see p. 2, par. 1, "Opposition to Manifestation and Urgent Motion to Lift Warrants of Distraint and Levy"). The articles placed under constructive distraint on February 19, 1952 (p. 37, BIR records; 258-259, Ibid.; see p. 2, par. 2, "Opposition to to Manifestation and Urgent Motion to Lift Warrants of Distraint and Levy") were offered for sale at public auction on March 31, 1953 but there were no bidders. The said articles are still under constructive distraint (see p. 2, "Opposition to Manifestation and Urgent Motion to Lift Warrants of Distraint and Levy").

Petitioner has appealed to this Court from the foregoing assessments by the filing of his petition for review on December 5, 1956, more than two years after the final decisions of respondent were rendered. Respondent has filed a motion to dismiss for lack of jurisdiction on the ground that the appeal was filed beyond the 30-day period prescribed in Section 11 of Republic Act No. 1125.

Petitioner is apparently convinced that his appeal was filed out of time and has manifested his conformity to the dismissal of the appeal provided that the order of dismissal contain a finding that the right of respondent to assess the deficiency income tax in question has prescribed. Says counsel for petitioner:

> "Comes now the petitioner in the above-entitled case, by his undersigned counsel, and respectfully manifests that he has no objection to the dismissal of the petition provided that the order of dismissal will include a finding, pursuant to Section 14 of Republic Act No. 1125, that no deficiency income tax is due from the petitioner for the taxable years in question for the reason that the assessment of the deficiency income taxes from petitioner had already prescribed before the issuance of the corresponding assessment notices." (Page 1, Manifestation and Urgent Motion to Lift Warrants of Distraint and Levy, May 2, 1957.)

If we have no jurisdiction over this case, as clearly shown by the evidence of record that the herein appeal was filed beyond the 30-day period prescribed in Section 11 of Republic Act No. 1125, and as admitted by petitioner himself, it follows that we can not likewise entertain the motion of petitioner praying that this Court declare him not liable to the deficiency income tax on the ground that the right of respondent to assess the same has

235

prescribed. The question of prescription raised by petitioner is precisely one of the main issues involved in his appeal.

Finding that we have no jurisdiction over the herein appeal, the same has to be, as it is hereby, dismissed, with costs against petitioner.

SO ORDERED.

Manila, Philippines, July 1, 1957.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge