REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

TRANSWORLD BROKERAGE CORPORATION
Petitioner,

- versus - **C.T.A. Case No. 4964**

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

1/17/94

RESOLUTION

Respondent herein seeks the dismissal of the instant petition on the ground that this Court has no jurisdiction to hear this case, there being no final decision of the respondent on the petitioner's protest on the subject assessment.

On February 20, 1992, the petitioner received a pre-assessment notice assessing it for deficiency value added tax amounting to P325,607.32. After receiving a reply to its protest, the petitioner filed a rejoinder thereto dated August 29, 1992 seeking for a reconsideration and withdrawal of the assessment made.

On February 8, 1993, the petitioner received an urgent letter from the respondent dated February 2, 1993 signed by the Assistant Chief of the Account Receivable/Billing Division stating that:

"Sir/Madam/Gentleman:

The focus of our concern is your above-captioned tax liability. It is a huge amount. If paid, it will increase the cash in the government treasury and help accelerate our country's trek back to economic stability.

Thus, we appeal to your high sense of tax consciousness to our country and help it recover economically by paying your tax liability within ten (10) days from your receipt hereof at the Account Receivable/Billing Division, Room 203, BIR National Office Building, Diliman, Quezon City. If you fail to do so, we have no other recourse but enforce the collection thereof thru the issuance of the Warrants of Distraint and Levy and/or institute judicial action against you for the purpose."

Having considered the above-quoted letter as having the effect of a final decision, the petitioner filed the instant petition on March 1, 1993.

Thus, the only issue to be resolved in this case is whether or not the urgent letter dated February 2, 1993 can be considered as the final decision of the respondent appealable to this Court.

This issue has already been squarely ruled upon by this Court in the case of **Intertrod Maritime, Inc. vs. Commissioner of Internal Revenue**, (July 29, 1993, CTA Case No. 4772) which involves exactly the same letter We therefore hereby reproduce and adopt Our resolution in the said case as follows:

"The Supreme Court had on several occasions, defined what establishes final decision of the Commissioner which is appealable before this Court.

It should always be indicated in clear and unequivocal language that the Commissioner's action on an assessment questioned by a taxpayer constitutes his final determination on the disputed assessment. On that basis, a taxpayer would not grope in the dark and speculate as to when to seek refuge before this Court. (Commissioner of Internal Revenue vs. Union Shipping Corp., 185 SCRA 547; Surigaro Electric Co., Inc. vs. C.T.A., SCRA 523.

In raising the issue of jurisdiction as his defense, respondent correctly noted that:

'xxx (T)he final decision of the Commissioner xxx shall be in a form of a letter specifically stating that it is the final decision which is a decision on the merits. However, the petitioner here has filed his petition for review in this Honorable Court, upon a receipt of an urgent letter from one department of the Bureau which is the Accounts Receivable and Billing Division, so in that case, we have put an issue on the propriety of filing the case." (TSN, June 23, 1993).'

Considering that the urgent letter of the respondent dated March 5, 1992 is not his final decision on the petitioner's protest, this Court hereby **RESOLVES** and **DISMISS** this case for lack of jurisdiction without prejudice to filing of another petition on the part of petitioner upon receipt of respondent's final decision on the matter."

ACCORDINGLY, this Court hereby similarly **RESOLVES** to **DISMISS** this case for lack of jurisdiction, without prejudice to the filing of another petition upon the receipt by the petitioner of the final decision of the respondent on the matter.

SO ORDERED.

Quezon City, Metro Manila, January 17, 1994.

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
Associate Judge

MANUEL K. GRUBA
Associate Judge