REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

MINDANAO ESTATES COMPANY and
HILDA WALSTROM,
Petitioners,

- versus - C.T.A. CASE NO. 611

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

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R E S O L U T I O N

The petitioners are the owners of coconut plantations in the Municipality of Padada, Province of Davao. In connection with their sales of copra produced from their plantations, they were required to pay, as they did pay on January 10, 1957, the fixed and percentage taxes imposed by Sections 182 and 186 of the National Internal Revenue Code, itemized and computed as follows:

Mindanao Estates Company

Fixed tax ---------------	₱ 40.00
Percentage tax -----------	6,151.25
Total --------------------	₱ 6,191.25

Hilda Walstrom

Fixed tax ---------------	₱ 20.00
Percentage tax -----------	1,401.83
Total --------------------	₱ 1,421.83

On the ground that sales of copra, an agricultural product, are not subject to the sales tax, petitioners filed a written claim dated August 14, 1957, requesting that a portion of said amounts be applied in payment of their income tax for 1956 and the balance refunded to them. This request for tax credit and refund was denied by respondent in a letter dated

September 12, 1957, which was received on the same date by Hilda Walstrom, one of the petitioners herein. Petitioners did not seek a reconsideration of the decision of respondent. However, in separate letters both dated April 17, 1958, that is, more than seven months after the receipt of the decision of respondent, petitioners renewed their request for tax credit. The request of Hilda Walstrom was denied by respondent in a letter dated August 26, 1958, while that of the Mindanao Estates Company has remained unanswered.

The petition for review was filed with this Court by petitioners only on January 6, 1959, and respondent has filed a motion to dismiss the case for lack of jurisdiction.

From the facts stated above, it is clear that the appeal of petitioners was filed beyond the 30-day period prescribed in Section 11 of Republic Act No. 1125. Accordingly, this Court has no jurisdiction to entertain the appeal.

> "We can, therefore, conclude that where payment has already been made and the taxpayer is merely asking for its refund, he must first file with the Collector of Internal Revenue a claim for refund before taking the matter to the Court, as required by Section 306 of the National Internal Revenue Code and that appeals from decisions or rulings of the Collector of Internal Revenue to the Court of Tax Appeals must always be perfected within 30 days after the receipt of the decision or ruling that is being appealed, as required by Section 11 of Republic Act No. 1125. x x x ." (Johnston Lumber Co., Inc. v. Court of Tax Appeals and Collector of Internal Revenue, G. R. No. L-9292, April 23, 1957, cited in Gibbs v. Coll. of Int.

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> Rev., C.T.A. No. 418, Dec. 2, 1957, motion for reconsideration denied on Jan. 31, 1958.)

It is, however, contended that -

> "The respondent in another ruling dated January 30, 1958 held that copra, even under the provisions of Republic Act 1612, is exempt from sales tax when sold in this country by the producer thereof or owner of the land where produced. In this connection it may be stated that the ruling of the respondent exempting copra sales from sales tax under Republic Act 1612 was reiterated by respondent to a query made by the Philippine Coconut Producers Federation as shown from the herein attached copy of the reply letter of the respondent.
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> "The implication or effect of the ruling of the respondent dated January 30, 1958 is that sales tax on copra paid by the producers thereof or owner of the land under Republic Act 1612 are refundable which is a reconsideration and reversal of the previous ruling of the respondent dated September 12, 1957." (Page 2, Answer to Motion to Dismiss, Feb. 10, 1959.)

The ruling of respondent dated January 30, 1958, referred to by counsel for petitioners is a letter addressed to Senator Emmanuel Pelaez which reads:

> "I have the honor to acknowledge the receipt of your letter dated January 22, 1958 and to inform you that copra, even under the provisions of Republic Act No. 1612, is exempt from the sales tax when sold in this country by the producer thereof or owner of the land where produced."

The ruling of January 30, 1958 cannot have the effect of amending or superseding the decision of respondent of September 12, 1957 denying petitioners' claim for tax credit and refund, it not appearing that Senator Pelaez was acting for and in behalf of petitioners when he sought respondent's opinion on the taxability of sales of copra. Neither does it appear that the ruling was sought to reconsider the decision of respondent on the case of petitioners. Even granting that Senator Pelaez did act for and in behalf of petitioners and that his purpose was to secure a reconsideration of the decision of respondent of September 12, 1957, his letter of January 22, 1958, written more than four months after respondent's decision, could not have revived the statutory period for appeal which had previously lapsed for failure of petitioners to request a reconsideration of the decision prior to its expiration.

Finally, it is argued that -

> "The statutory provisions on taxes requiring conditions precedent to the filing of an ordinary civil action for the refund of an illegally paid tax should be liberally construed by the Courts to enable them to inquire into and determine the merits of the case. (Conelly v. City County of San Francisco, 127 P., 834; Columbia Gaslight v. Mobley, 137 S.E. 211; 61 C.J., 994, sec. 1272)." (Page 4, Answer to Motion to Dismiss, Feb. 10, 1959.)

The rule in this jurisdiction is that the statutory provisions prescribing the period within which decisions of tax officials may be appealed are mandatory requirements which must be construed strictly. (College of Oral and Dental Surgery vs. Court of Tax Appeals, et al., G. R. No. L-10446, January 28, 1958.)

Finding that the herein petition for review was filed beyond the 30-day period prescribed in Section 11 of Republic Act No. 1125, the same has to be, as it is hereby, dismissed for lack of jurisdiction. With costs against petitioners.

SO ORDERED.

Manila, March 16, 1959.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge