REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

THE PANGASINAN TRANSPORTATION CO., INC.,
Petitioner,

- versus -

C.T.A. CASE NO. 153

SILVERIO BLAQUERA, as Acting Collector of Internal Revenue,
Respondent.

7/11/57

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R E S O L U T I O N

Respondent filed a "Motion for Preliminary Hearing" to determine the question of jurisdiction raised in his answer to the petition for review.

Respondent on February 12, 1954 originally assessed and demanded from petitioner the amount of ₱73,791.66 as documentary stamp tax from 1948 to September 30, 1953, plus ₱1,000.00 as compromise penalty (Annex A, Petition for Review; p. 354 BIR record). On March 4, 1954, petitioner requested a reinvestigation of respondent's original assessment and demand, on the grounds that the same was arbitrary and without legal basis, and assuming that the tax is due, that the collection of said tax has already prescribed (Annex B, Petition for Review; p. 355, BIR record). Meanwhile petitioner on September 6, 1954, requested that action on the assessment be held in abeyance until the case of Interprovincial Autobus Co., Inc. vs. Collector of Internal Revenue (G. R. No. L-6741) then pending in the Supreme Court, is decided (Annex C, Petition

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for Review). Respondent, on September 16, 1954 denied this request and urged petitioner to pay the amount of ₱66,959.92 (Annex D, Petition for Review; p. 388, BIR record). In view of the change in the amount demanded petitioner, in a letter dated October 4, 1954, requested a clarification thereof (Annex E, Petition for Review; p. 388, BIR record). In reply to this letter, respondent on November 15, 1954 wrote a letter enclosing therewith his letter dated September 16, 1954 which shows the result of the reinvestigation of the case and the consequent modification of the assessment from the amount of ₱74,791.66 to ₱66,959.92 (Exhibits A and 1, Motion, pp. 389-393, BIR record; see also Annexes F and F-1, Petition for Review). The last mentioned letter of respondent with the enclosed reduced assessment was received by petitioner on November 20, 1954. On December 2, 1954, petitioner sought a reconsideration of the modified assessment adopting as its own the arguments of appellant presented before the Supreme Court in the aforesaid case of Interprovincial Autobus Co., Inc. vs. Meer (Collector of Internal Revenue). In this letter of petitioner, which respondent received on December 3, 1954, it also reiterated its request that the case be held in abeyance pending the termination of the Interprovincial Autobus Co. case. In the meantime, the City Treasurer of Dagupan demanded from petitioner, in a letter dated January 3, 1955, the payment of the amount of ₱66,959.62 (p. 395, BIR record). On January 14, 1955 petitioner followed-up its request contained in the letter dated December 2, 1954. Respondent finding that petitioner has not yet paid the assessment in question again demanded payment of the same in a letter dated January 21, 1955 making no reference to petitioner's two letters. Hence, in a letter dated January 28, 1955, petitioner called the attention of respondent, to petitioner's letters of December 2, 1954 and January 14, 1955 requesting that the assessment be reconsidered and that the case be held in abeyance pending decision of the case of Interprovincial Autobus Co. In reply to petitioner's letter, respondent in a letter dated May 28, 1955 (Exhibits B and 5, Motion, p. 401 BIR record) which petitioner received on June 11, 1955 denied the former's request. Thereafter, the present petition for review was filed on July 2, 1955.

The issue raised in this incident is whether or not the petition for review was filed within the reglementary period of 30 days after the receipt of the decision or ruling of respondent Collector of Internal Revenue pursuant to section 11 of Republic Act No. 1125.

Respondent contends that the 30-day period should be counted from November 20, 1954, the date

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when petitioner received the letter of respondent dated September 16, 1954, it being the last unchanged and unmodified assessment. Petitioner, on the other hand, claims that the 30-day period should be counted not from the receipt on November 20, 1954 of respondent's letter dated September 16, 1954 but from June 11, 1955 when petitioner received respondent's letter of May 28, 1955. Petitioner argues that the letter of respondent dated September 16, 1954 is an interlocutory ruling and not final because, by virtue of the pendency of the case of Interprovincial Autobus Co., Inc. vs. Collector of Internal Revenue (Meer) in the Supreme Court, the outcome of that case would leave something still to be done by the Collector of Internal Revenue as regards the instant case, that is, either petitioner shall be required to pay the amount demanded, or respondent Collector countermands the assessment.

The contention of respondent is well-founded. This Court has repeatedly held in several cases that -

> "The term 'decision' mentioned in Section 7 (in cases involving disputed assessments) refers to determinations made or arrived at by the Collector which would become final and executory unless modified or reversed by said official, or appealed to a superior authority in accordance with law." (Angel Saraos v. Collector, C.T.A. Case No. 229, March 5, 1956; see also Merced Drug House v. Collector, C.T.A. Case No. 180, May 21, 1956; Tomas B. Villamin V. Collector, C.T.A. Case No. 258, July 31, 1956; Dirk Van Dongen v. Collector, C.T.A. Case No. 268, July 31, 1956; Robert L.Janda v. Araneta, C.T.A. Case No. 87, February 23, 1956; Auyong Hian v. Collector, C.T.A. Case No. 242, August 30, 1956.)

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Moreover, the Supreme Court had in one occasion ruled that "the letter of demand and assessment by the Collector of Internal Revenue is a 'decision' in that it is a determination of the taxpayer's liability, and contains the substantial and dispositive part thereof." (Ventanilla v. Board of Tax Appeals, G.R. No. L-7384, December 19, 1955.) Again this Court had occasion to rule that -

> "Decisions or final orders of administrative officers, like the Collector of Internal Revenue or the Commissioner of Customs, are adjudicative and final in character and therefore akin to judicial orders or decisions, if not appealed to higher authorities. It would be wise to follow this view for the purpose of uniformity and to prevent the confusion that may be caused to litigants and lawyers whenever an appeal from a decision of an administrative body or officer is contemplated. x x x" (Rafael Gerona v. The Collector, C.T.A. Case No. 203, Resolution of February 16, 1956; see also Felicidad Samson vs. Collector of Internal Revenue, C.T.A. Case No. 232, Resolution of October 27, 1956.)

In the case at bar, respondent's letter of September 16,1954 had disposed of the pending case so that, subject only to a reconsideration of his decision, nothing more was to or can be done on the merits. That letter-decision had put an end to the litigation.

> "An order or a judgment is deemed final when it finally disposes of the pending action so that nothing more can be done with it in the trial court. In other words, a final order or judgment is that which gives an end to the litigation. x x x" (Vol. I, Moran's Comments on the Rules of Court, 1952 Edition, pp. 894-895.)

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We therefore find and so hold that respondent's letter of September 16, 1954 is a final order or decision and not merely interlocutory.

As an alternative argument, petitioner contends that, assuming that respondent's letter of September 16, 1954 is the final decision to be appealed from, the petition for review was still filed on time. It is argued that, discounting the time when counsel asked his client, petitioner herein, whether to appeal the case or not which is a total of 10 days (counting from June 16, 1955, date of receipt of petitioner, to June 26, 1955, date when counsel received note from petitioner to appeal; see Annex A, Memorandum for Petitioner), a total period of only 28 days had been consumed in filing the petition for review. In support of this contention, petitioner invoked the liberality of the Supreme Court in accepting excuses for failure to comply with procedural requirements.

We find this view not well taken. There is a difference between a procedural requirement and one which is substantive. While the procedural requirements laid down by the Rules of Court may be liberally applied and/or construed, the substantive requirements involving tax proceedings provided by law may not begin an equally liberal construction. This Court had repeatedly held that the thirty-day period provided by section 11 of Republic Act No.

1125, within which to appeal from the decision of the Collector of Internal Revenue is determinative of the jurisdiction of this Court (Robert L. Janda v. Araneta, C.T.A. Case No. 87, February 23, 1956; Merced Drug House v. Collector, C.T.A. Case No. 180, May 21, 1956; North Camarines Lumber Co., Inc. v. Collector, C.T.A. Case No. 248.)

Counting therefore from the receipt by petitioner on November 20, 1954 of respondent's decision, to the filing of petitioner's request for reconsideration dated December 2, 1954 on December 3, 1954, 13 days had elapsed. Petitioner's request for reconsideration suspended the running of the period until June 11, 1955, when petitioner received respondent's letter dated May 28, 1955 denying the same. From June 11, 1955 to July 2, 1955, when the petition for review was filed, 21 days was consumed. Summing up, a total of 34 days was therefore consumed by petitioner in bringing this appeal to this Court which is beyond the reglementary period provided by Republic Act No. 1125.

IN VIEW OF THE FOREGOING, the petition for review should be, as it is hereby, dismissed. With costs against petitioner.

SO ORDERED.

Manila, Philippines, July 11, 1957.

MARIANO NABLE
Presiding Judge

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CUR:

AUGUSTO M. LUCIANO
Associate Judge

I concur in the result:

ROMAN M. UMALI
Associate Judge