

**NORTH CAMARINES LUMBER CO., INC., PETITIONER, VS.
COLLECTOR OF INTERNAL REVENUE, RESPONDENT.***G.R. No. L-12353. September 30, 1960*

Ponente: PARAS, C. J.

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This is an appeal from a resolution of the Court of Tax Appeals dismissing the petition for review filed by the petitioner for lack of jurisdiction to try it on the merits, the same having been filed beyond the 30-day period fixed in Section 11 of Republic Act No. 1125.

The petitioner, North Camarines Lumber Co., Inc., is a domestic corporation engaged in the lumber business. On June 19, 1951 and July 31, 1951, it sold a total of 2,164,363 board feet of logs to the General Lumber Co., Inc., with the agreement that the latter would assume responsibility for the payment of the sales tax thereon in the amount of P7,768.51. After being consulted on the matter, the respondent Collector of Internal Revenue, in his letters dated June 18, 1951 and August 6, 1951, advised the petitioner that he was interposing no objection to the arrangement, provided the General Lumber Co., Inc., would file the corresponding bonds to cover the sales tax liabilities.

The General Lumber Co., Inc., complied with the condition. In view, however, of its failure and that of the surety to pay the tax liabilities, the respondent Collector, in his letter dated August 30, 1955, required the petitioner to pay the total amount of P9,598.72 as sales tax and incidental penalties in the sale of logs to the General Lumber Co., Inc. Although the date of receipt by petitioner of this letter does not appear in the records, it may be presumed to be September 9, 1955, when the petitioner addressed a letter to the respondent Collector, which was received on September 12, 1955, wherein the petitioner acknowledged receipt of the letter of demand and at the same time requested for the reconsideration of the assessment. This was denied by the respondent Collector in his letter of December 8, 1955, received by the petitioner on January 5, 1956. The respondent Collector having denied the second request for reconsideration in his letter dated January 30, 1956, which the petitioner received on February 16, 1956, the latter, on March 15, 1956, filed a petition for review with the Court of Tax Appeals. The Court, after a preliminary hearing on respondent Collector's motion to dismiss, ruled that, as the petition was filed beyond the 30-day period prescribed by Section 11 of Republic Act No. 1125, it has no jurisdiction to try the same. Accordingly, the case was dismissed.

In contending that the Court of Tax Appeals erred, the petitioner points out that Section 7, and not Section 11, of Republic Act No. 1125 confers and determines the jurisdiction of the respondent court, and that Section 11 refers merely to the prescriptive period for filing appeals.

While the petitioner is correct as to the attribute of Section 7, it should be remembered that, for the respondent court to have jurisdiction over any case, the party seeking redress must first invoke its exercise in the manner and within the time prescribed by the law. Thus Section 7, which enumerates the specific cases falling within the jurisdiction of the Court of Tax Appeals must be read together with Section 11 which fixes the time for invoking

said jurisdiction.

There is no question that petitioner's case is covered by Section 7 and, therefore, comes within the jurisdiction of the respondent court. But was said jurisdiction invoked by the petitioner within the period prescribed by Section 11?

The respondent court ruled that the time consumed by the petitioner in perfecting its appeal after deducting the time during which the period for appeal was suspended by a pending request for reconsideration is as follows:

From September 9, 1955, presumed date of receipt of decision, to September 12, 1955, the filing of request for reconsideration.....

3 days

From January 5, 1956, presumed date of receipt of denial of reconsideration, to January 9, 1956, the filing of the second request for reconsideration

4 days

From February 16, 1956, receipt of denial of second request for reconsideration, to March 13, 1956, the filing of petition for review

26 days

Total

33 days

As the petitioner had consumed thirty-three days, its appeal was clearly filed out of time. It is argued, however, that in computing the 30-day period fixed in Section 11 of Republic Act No. 125, the letter of the respondent Collector dated January 30, 1956, denying the second request for reconsideration, should be considered as the final decision contemplated in Section 7, and not the letter of demand dated August 30, 1955.

This contention is untenable. We cannot countenance the theory that would make the commencement of the statutory 30-day period solely dependent on the will of the taxpayer and place the latter in a position to put off indefinitely and at his convenience the finality of a tax assessment. Such an absurd procedure would be detrimental to the interest of the Government, for "taxes are the lifeblood of the government, and their prompt and certain availability an imperious need." (Bull vs. U.S. 295, U.S. 247.)

Wherefore, the resolution appealed from is affirmed, with costs. So ordered.

Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

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