

SURIGAO ELECTRIC CO., INC., PETITIONER, VS. THE HONORABLE COURT OF TAX APPEALS AND COMMISSIONER OF INTERNAL REVENUE, RESPONDENTS.

G.R. No. L-25289. June 28, 1974

Ponente: CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/916b3d734d05/>

CASTRO, J.:

The Court denies the present petition for review of the decision of the Court of Tax Appeals dated October 1, 1965 in its CPA Case No. 1438, which dismissed the appeal filed by the petitioner Surigao Electric Company, Inc. with the tax court on August 1, 1963 on the ground that it was time-barred.

In November 1961 the petitioner Surigao Electric Co., Inc., grantee of a legislative electric franchise, received a warrant of distraint and levy to enforce the collection from "Mainit Electric" of a deficiency franchise tax plus surcharge in the total amount of P718,59. In a letter to the Commissioner of Internal Revenue, the petitioner contested this warrant, stating that it did not have a franchise in Mainit, Surigao.

Thereafter the Commissioner, by letter dated April 2 1961, advised the petitioner to take up the matter with the General Auditing Office, enclosing a copy of the 4th Indorsement of the Auditor General dated November 23, 1960. This indorsement, indicated that the petitioner's liability for deficiency franchise tax for the period from September 1947 to June 1959 was P21,156,06, excluding surcharge. Subsequently, in a letter to the Auditor General dated August 2, 1962, the petitioner asked for reconsideration of the assessment, admitting liability only for the 2% franchise tax in accordance with its legislative franchise and not at the higher rate of 5% imposed by section 259 of the National Internal Revenue Code, as amended, which latter rate the Auditor General used as basis in computing the petitioner's deficiency franchise tax.

An exchange of correspondence between the petitioner, on the one hand, and the Commissioner and the Auditor General, on the other, ensued, all on the matter of the petitioner's liability for deficiency franchise tax.

The controversy culminated in a revised assessment dated April 29, 1963 (received by the petitioner on May 8, 1963) in the amount of P11,533.53, representing the petitioner's deficiency franchise tax and surcharges thereon for the period from April 1, 1956 to June 30, 1959. The petitioner then requested a recomputation of the revised assessment in a letter to the Commissioner dated June 6, 1963 (sent by registered mail on June 7, 1963). The Commissioner, however, in a letter dated June 28, 1963 (received by the petitioner on July 16, 1963), denied the request for recomputation.

On August 1, 1963 the petitioner appealed to the Court of Tax Appeals. The tax court dismissed the appeal on October 1, 1965 on the ground that the appeal was filed beyond the thirty-day period of appeal provided by section 11 of Republic Act 1125.

Hence, the present recourse.

The case at bar raises only one issue: whether or not the petitioner's appeal to the Court of Tax Appeals was

time-barred. The parties disagree on which letter of the Commissioner embodies the decision or ruling appealable to the tax court.

A close reading of the numerous letters exchanged between the petitioner and the Commissioner clearly discloses that the letter of demand issued by the Commissioner on April 29, 1963 and received by the petitioner on May 8, 1963 constitutes the definite determination of the petitioner's deficiency franchise tax liability or the decision on the disputed assessment and, therefore, the decision appealable to the tax court. This letter of April 29, 1963 was in response to the communications of the petitioner, particularly the letter of August 2, 1962 wherein it assailed the 4th Indorsement's data and findings on its deficiency franchise tax liability computed at 5% (on the ground that its franchise precludes the imposition of a rate higher than the 2% fixed in its legislative franchise), and the letter of April 24, 1963 wherein it again questioned the assessment and requested for a recomputation (on the ground that the Government could make an assessment only for the period from May 29, 1956 to June 30, 1959). Thus, as early as August 2, 1962, the petitioner already disputed the assessment made by the Commissioner.

Moreover, the letter of demand dated April 29, 1963 unquestionably constitutes the final action taken by the Commissioner on the petitioner's several requests for reconsideration and recomputation. In this letter, the Commissioner not only in effect demanded that the petitioner pay the amount of P11,533.53 but also gave warning that in the event it failed to pay, the said Commissioner would be constrained to enforce the collection thereof by means of the remedies provided by law. The tenor of the letter, specifically the statement regarding the resort to legal remedies, unmistakably indicates the final nature of the determination made by the Commissioner of the petitioner's deficiency franchise tax liability.

The foregoing view accords with settled jurisprudence and this despite the fact that nothing in Republic Act 1125,[1] as amended, even remotely suggests the element truly determinative of the appealability to the Court of Tax Appeals of a ruling of the Commissioner of Internal Revenue. Thus, this Court has considered the following communications sent by the Commissioner to taxpayers as embodying rulings appealable to the tax court: (a) a letter which stated the result of the reinvestigation requested by the taxpayer and the consequent modification of the assessment;[2] (b) a letter which denied the request of the taxpayer for the reconsideration, cancellation, or withdrawal of the original assessment;[3] (c) a letter which contained a demand on the taxpayer for the payment of the revised or reduced assessment;[4] and (d) a letter which notified the taxpayer of a revision of previous assessments.[5]

To sustain the petitioner's contention that the Commissioner's letter of June 28, 1963 denying its request for further amendment of the revised assessment constitutes the ruling appealable to the tax court and that the thirty-day period should, therefore, be counted from July 16, 1963, the day it received the June 28, 1963 letter would, in effect, leave solely to the petitioner's will the determination of the commencement of the statutory thirty-day period, place the petitioner -- and for that matter, any taxpayer -- in position to delay at will and on convenience the finality of a tax assessment. This absurd interpretation espoused by the petitioner would result in grave detriment to the interests of the Government, considering that taxes constitute its life-blood and their prompt and certain availability is an imperative need.[6]

The revised assessment embodied in the Commissioner's letter dated April 29, 1963 being, in legal contemplation, the final ruling reviewable by the tax court, the thirty-day appeal period should be counted from May 8, 1963 (the day the petitioner received a copy of the said letter). From May 8, 1963 to June 7, 1963 (the day the petitioner, by registered mail, sent to the Commissioner its letter of June 6, 1963 requesting for further recomputation of the amount demanded from it) saw the lapse of thirty days. The June 6, 1963 request for further recomputation, partaking of a motion for reconsideration, tolled the running of the thirty-day period from June 7, 1963 (the day the petitioner sent its letter by registered mail) to July 16, 1963 (the day the petitioner received the letter of the

Commissioner dated June 28, 1963 turning down its request. The prescriptive period commenced to run again on July 16, 1963. The petitioner filed its petition for review with the tax court on August 1, 1963 -- after the lapse of an additional sixteen days. The petition for review having been filed beyond the thirty-day period, we rule that the Court of Tax Appeals correctly dismissed the same.

The thirty-day period prescribed by section 11 of Republic Act 1125, as amended, within which a taxpayer adversely affected by a decision of the Commissioner of Internal Revenue should file his appeal with the tax court, is a jurisdictional requirement,[7] and the failure of a taxpayer to lodge his appeal within the prescribed period bars his appeal and renders the questioned decision final and executory.[8]

Prescinding from all the foregoing, we deem it appropriate to state that the Commissioner of Internal Revenue should always indicate to the taxpayer in clear and unequivocal language whenever his action on an assessment questioned by a taxpayer constitutes his final determination on the disputed assessment, as contemplated by sections 7 and 11 of Republic Act 1125, as amended. On the basis of this indicium indubitably showing that the Commissioner's communicated action is his final decision on the contested assessment the aggrieved taxpayer would then be able to take recourse to the tax court at the opportune time. Without needless difficulty, the taxpayer would be able to determine when his right to appeals to the tax court accrues. This rule of conduct would also obviate all desire and opportunity on the part of the taxpayer to continually delay the finality of the assessment -- and, consequently, the collection of the amount demanded as taxes -- by repeated requests for recomputation and reconsideration. On the part of the Commissioner, this would encourage his office to conduct a careful and thorough study of every questioned assessment and render a correct and indefinite decision thereon in the first instance. This would also deter the Commissioner from unfairly making the taxpayer grope in the dark and speculate as to which action constitutes the decision appealable to the tax court. Of greater import, this rule of conduct would meet a pressing need for fair play, regularity, and orderliness in administrative action.

ACCORDINGLY, the decision of the Court of Tax Appeals dated October 1, 1965 is affirmed, at petitioner's cost.

Makalintal, C.J., Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

Teehankee, J., concurs in a separate opinion.

[1] AN ACT CREATING THE COURT OF TAX APPEALS.

[2] Pangasinan Transportation Co., Inc. vs. Blaquera, L-13101, April 29, 1960, 107 Phil. 975.

[3] Villamin vs. Court of Tax Appeals and Collector of Internal Revenue, L-11536, October 31, 1960, 109 Phil. 896; Filipinas Investment and Finance Corporation vs. Commissioner of Internal Revenue, L-23501, May 16, 1967, 20 SCRA 50.

[4] Collector of Internal Revenue vs. Court of Tax Appeals and Thomson Shirts Factory (Aaron Go & Co.), L-14902, October 31, 1960, 109 Phil. 1027; Tuason & Legarda, Ltd. vs. Commissioner of Internal Revenue and Court of Tax Appeals, L-18552, September 30, 1965, 15 SCRA 99.

[5] Ker & Company, Ltd. vs. Court of Tax Appeals and Collector of Internal Revenue, L-12396, January 31, 1962, 4 SCRA 130.

[6] Roman Catholic Archbishop of Cebu vs. Collector of Internal Revenue, L-16683, January 31, 1962, 4 SCRA 279.

[7] Acting Commissioner of Internal Revenue vs. Joseph, et al., L-14034, August 30, 1962, 5 SCRA 895.

[8] Republic of the Philippines vs. Lim Tian Teng Sons & Co., Inc., L-21731, March 31, 1966, 16 SCRA 584.

SEPARATE OPINION

TEEHANKEE, J.:

I concur in the disposition of the case affirming the tax court's dismissal of the appeal on the ground of its having been filed beyond the statutory thirty-day period^[1] and in the main opinion's admonition that the internal revenue commissioner (and other officials concerned^[2]) should clearly and unequivocally state in their letter-decision or - ruling that the same constitutes his final determination on the disputed assessment and that the tax-payees next recourse (if he wishes to avail thereof) is to file an appeal with the tax court "within thirty days after the receipt of such decision or ruling"^[3] as provided by law.

Ordinarily, since petitioner's representation prior to the revised assessment dated April 29, 1963 had resulted in the revision and reduction of the original assessment from P21,156.06 to P11,533.53, petitioner would have been entitled to further request reconsideration or revision of such revised assessment based on new facts or arguments arising therefrom or calling attention to such facts or arguments, which although not new, might have been wrongly appreciated or disregarded in the revised assessment and the thirty-day period for appeal would be counted only from the receipt of the commissioner's denial dated June 28, 1963 (and received on July 16, 1963).

But since it appears that petitioner's request for recomputation dated June 6, 1963 of the revised assessment was but a pro forma request of the revised assessment of April 9, 1963, I concur with the main opinion's affirmance of the dismissal of the appeal on the strength of *Filipinas Investment and Finance Corp. vs. Commissioner of Internal Revenue*^[4] wherein the Court likewise upheld a similar dismissal by the tax court on the ground that the request for reconsideration of the disputed revised assessment was "a mere pro-forma request for reconsideration . . . did not adduce new facts or arguments" and that "a taxpayer may not delay indefinitely a tax assessment by reiterating his original defenses over and over again, without substantial variation."

[1] R.A. 1125, sec. 11.

[2] Such as the customs commissioner, et al. under pars. (2) and (3) of sec. 7, R. A. 1125.

[3] R.A. 1125, sec. 11.

[4] 20 SCRA 50, 53-54.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.