

TUASON & LEGARDA LIMITED, PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE AND COURT OF TAX APPEALS, RESPONDENTS.

G.R. No. L-18552. September 30, 1965

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/994b10e7c795/>

DIZON, J.:

Appeal from the decision of the Court of Tax Appeals Case No. 746 rendered on February 17, 1961, and from its resolution of June 14, 1961 denying petitioner's motion reconsideration and new trial.

Petitioner, a duly organized domestic corporation, is the owner of the "LA ROSARIO" distillery, operating since 1910 where it had in store, for many years, a stock of distilled spirits and compounded liquors.

On December 16, 1958 the Commissioner of Internal Revenue hereinafter referred to simply as respondent served on petitioner an assessment for specific tax in the amount of P3,525.40 and P800.00 as penalty on the stock of distilled spirits aforesaid. In reply thereto petitioner informed said respondent on January 16, 1959 that the stock had already oxidized and was unfit for human consumption, and asked for authority to destroy it in the presence of and under the supervision of a government representative.

On February 13 and 16, 1959, Restituto Magcase and Herminigildo Velasquez, respondent's distillery supervisor and Chief, Specific Tax Branch, respectively, recommended the destruction of said alcohol and compounded liquors, having found them to be unfit for human consumption. However, on April 29 of the same year, Inocencio Gonzales, Jr., Chief, Laboratory Section, after an analysis of the same substances, made a report to the contrary. As a result, respondent denied petitioner's request for authority to destroy the stock, but in his letter of July 3, 1959 respondent reduced the original assessment to P2,814.95, plus P300.00 as a penalty, copy of which amended assessment was received by petitioner on August 12, 1959. Respondent, in his letter dated September 30, 1959 and received by petitioner about the middle of October of the same year denied the second written request to destroy the stock made by petitioner on August 15, 1959, and demanded payment of the assessment and compromise penalty. In its reply letter dated November 25, 1959 petitioner reiterated its stand that the stock of distilled spirits and compounded liquors in question was damaged and unfit for human consumption and asked the withdrawal of the assessment served on it pursuant to Section 131 of the National Internal Revenue Code.

The respondent Commissioner of Internal Revenue, instead of replying to this last request, served on petitioner on January 20, 1960 a warrant of distraint and levy for P3,525.40, (the original assessment) plus P300.00 as a penalty, and the latter, in turn, on January 23, 1960 tendered to the former all the stock of grain alcohol and compounded liquors in question in payment of the specific tax and penalty demanded provided that the warrant of distraint and levy be withdrawn and a full release and discharge be issued to it. Respondent never replied to this offer.

On February 11, 1960, petitioner filed its petition for review with the Court of Tax Appeals. The respondent filed in due time his answer alleging as affirmative defense that the Court had no jurisdiction over the petition since it

was filed more than 30 days after receipt of the letter-demand dated July 3, 1959 and/or the other letter dated 30 of the same year.

After trial on the merits the Court of Tax Appeals dismissed the petition for review on the ground that the same was not filed on time.

A motion for reconsideration and new trial on the ground of accident, mistake and excusable negligence dated April 7, 1961, was denied by the same Court on June 14, 1961 for lack of merit.

The main issue to be resolved is whether the petition for review was filed within the 30-day period prescribed section 11 of Republic Act No. 1125.

The respondent contends that his letter dated July 3, 1959 wherein he demanded of petitioner the payment of the reduced assessment of P2,814.95, plus the compromise penalty, is the decision appealable to the Court of Tax Appeals, and that, as a consequence, the period of appeal should be counted from the date when petitioner received notice thereof, namely August 12, 1959.

Upon the other hand, petitioner claims that the petition for review was filed within the 30-day period because the latter should be counted from January 20, 1960, the date when it was served with the warrant of distraint and levy.

Petitioner's written request for authority to destroy the distilled spirits and compounded liquors mentioned in respondent's letter of December 16, 1958 obviously amounted to a petition to set aside the assessment for specific tax contained in the letter, thus making said assessment a disputed one (*St. Stephen's Association et al., vs. Collector of Internal Revenue*, G.R. No. L-11238, August 21, 1958). The request was denied by respondent in his letter of July 3, 1959, which, furthermore, reduced the amount of the original assessment and penalty to P2,814.95 and P300.00, respectively, and demanded their payment. This amended assessment was received by petitioner on August 12, of the same year.

In another letter of August 15, 1959, petitioner reiterated its request for authority to destroy the distilled spirits and compounded liquors mentioned heretofore, which respondent again denied in a letter dated September 30, 1959, received by petitioner "about the middle of October" 1959.

It is clear from the above facts that the letter of respondent dated July 3, 1959 was, in legal contemplation, the ruling or decision from which petitioner should have appealed to the Court of Tax Appeals; that from August 12, 1959 - when petitioner received said letter - to the 15th of the same month and year - the date when petitioner, by way of a motion for reconsideration, reiterated its written request for authority to destroy the distilled spirits and compounded liquors in its possession - petitioner consumed three (3) days of the period of appeal; that from October 15, 1959 the date when petitioner received respondent's letter of September 30, 1959 denying his second request for authority to destroy the merchandise taxed to February 11, 1960 when the petition for review was filed, more than three months elapsed.

In computing the period of appeal in this case, We believe that petitioner's last written request for authority to destroy the distilled spirits and compounded liquors in question did not suspend the running of said period, because it was a mere reiteration of two previous petitions already denied by respondent. Consequently, the conclusion is inevitable that when petitioner filed its petition for review with the Court of Tax Appeals, the questioned assessment had already become final, executory and incontrovertible.

Lastly, We likewise believe that petitioner's motion for reconsideration or new trial on the ground of accident, mistake and excusable negligence was correctly denied. Even assuming in this connection that respondent's letter dated September 30, 1959 was actually received by petitioner on November 20, 1959 and not "in the middle of

October" 1959 as admitted by one of petitioner's witnesses, the conclusion would still be that the petition for review was filed out of time because from November 20, 1959 to February 11, 1960 when said petition for review was filed, more than sixty days had elapsed.

Wherefore, the decision appealed from is affirmed, with costs.

Concepcion, Reyes, J. B. L., Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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.