

PANGASINAN TRANSPORTATION CO. INC., PETITIONER AND APPELLANT, VS. SILVERIO BLAQUERA, AS ACTING COLLECTOR OF INTERNAL REVENUE, RESPONDENT AND APPELLEE.

G.R. No. L-13101. April 29, 1960

Ponente: BENGZON, J.

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BENGZON, J.:

Appeal from a resolution of the Court of Tax Appeals dismissing the petition of Pangasinan Transportation Co. Inc.—Pantranco for short—for the revision of a certain tax assessment by the Acting Collector of Internal Revenue. The dismissal rested on Pantranco's failure to file its request within the thirty-day period prescribed by law.

According to the Tax Court, the Collector "on February 12, 1954 originally assessed and demanded from petitioner the amount of P73,791.66 as documentary stamp from 1948 to September 30, 1953, plus P1,000.00 as compromise penalty (Annex A, Petition for Review; p. 354 BIR records). 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. * * * Respondent, on September 16, 1954 denied this request and urged petitioner to pay the amount of P66,959.32 (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 P74,791.66 to P66,959.92 * * *. 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 P66,959.62 (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 (before the Tax Court) was filed on July 2, 1955." (Material dates italicized.)

Considering that the ruling or decision of the Collector of September 16, 1954 had been received by Pantranco on

November 20, 1954, the Court held that the 30-day period began to run on November 20, 1954; that it was interrupted by the petition for reconsideration filed December 3, 1954; and that such interruption ended on June 11, 1955, when denial of the reconsideration was received by Pantranco; and finding that the petition had thus been presented on the 34th day after receipt of the Collector's definite assessment, (November 20 to December 3-13 days; June 11 to July 2-21 days; total 34 days) the said Court resolved to dismiss the petition.

After failing to obtain a reconsideration, Pantranco filed here this petition for review (or appeal), insisting on two points:

- (1) The 30-day period should start from June 11, 1955, when it received the letter of the Collector denying its motion to reconsider;
- (2) Supposing the period began on November 20, 1954, the ten days spent by the attorneys in consulting with their client whether to appeal or not to appeal to the Tax Court, should be deducted from the computation.

We find these grounds to be untenable. The letter of September 16, 1954 is the decision of the Collector which the taxpayer had to contest within thirty days; otherwise, it would have become final and unappealable to the Court of Tax Appeals, or to any other court. It was a definite determination of Pantranco's tax accountability. Pantranco could ask for reconsideration, of course; if successful, well and good. If unsuccessful, it must appeal within thirty days, discounting the time within which its petition to reconsider had been pending. This computation is nothing unusual: it is the ordinary way the timeliness of appeals is determined.

As to the ten-day period "for consultation", we discover no authority in support thereof. Counsel for Pantranco had all the time from November 20, 1954 to June 1955 within which to seek advice. Indeed, it was unnecessary to consult: an attorney is ipso facto authorized to appeal for his client.

The appellant-petitioner urges liberality in the computation of the period, to enable it to have its day in court. It is, however, apparent that the period of thirty days is jurisdictional^[1] and non-extensible. Anyway, even if the courts had discretion in the matter, the appellant failed to show any valid defenses against this assessment. In fact, it pleaded for time expecting to bolster its position with the forthcoming decision by this Court in the case of Inter-Provincial Autobus Co. Inc. Yet that case, decided January 31, 1956, ruled that, (contrary to herein petitioner's contention), the freight receipts issued by land transportation carriers for goods transported by them, are subject to the documentary stamp tax as bills of lading.

The resolution is affirmed, with costs against appellant. So ordered.

Paras, C. J., Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

[1] Lim Tio vs. Collector, G. R. No. L-10681, promulgated March 29, 1958.

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