

TOMAS B. VILLAMIN, PETITIONER, VS. THE COURT OF TAX APPEALS AND THE COLLECTOR OF INTERNAL REVENUE RESPONDENTS.

G. R. No. 11536. October 31, 1960

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for review of a resolution of the Court of Tax Appeals dated July 31, 1956 dismissing the petition for review of a decision of the Collector of Internal Revenue involving the assessment of certain sales taxes on log sold during the period from 1948-1950 and from 1951-54.

There is no evidence as to when the first assessment was made. However, it appears that respondent wrote several letters of demand to petitioner among them those dated June 7, 1955, December 12, 1955 and February 13, 1956. Prior to these letters of demand or more specific on February 10, 1955, petitioner requested reconsideration of the assessment which the Provincial Revenue Agent of Oriental Mindoro attempted to collect from him. Respondent, thru the Acting Chief of the Assessment Department, denied said request in a letter dated June 7, 1955. This letter was received by petitioner on August 18, 1955. Subsequently, on September 2, 1955, petitioner wrote another letter to respondent offering to settle his case amicably, which request was also denied by the latter in his letter of December 12, 1955, which was received by petitioner on January 9, 1956. On the same date petitioner again requested for reconsideration of the decision which was likewise denied on February 13, 1956. This last letter was received by petitioner on February 29, 1956, and on April 2, 1956 he filed the petition for review with the Court of Tax Appeals.

On the strength of the above facts, respondent filed a motion to dismiss on the ground that" the petition for review was filed beyond the 30-day period prescribed by Section 11 of Republic Act No. 1125. This motion was sustained. Hence the present appeal.

The Court of Tax Appeals in dismissing the petition for review stated:

"Under the facts stated above, we are of the opinion that the 30-day period within which to appeal to this Court commenced to run from August 18, 1955 and was suspended on September 2, 1955 and commenced to run again from February 29, 1956, when the letter of respondent dated February 13, 1956 was received by petitioner, to the date the present petition for review was filed (April 2, 1956). From August 18, 1955 to September 2, 1955, there was an interval of 15 days; and from February 29, 1956 to April 2, 1956 there was another interval of 15 days. Petitioner had, therefore, consumed a total of 48 days before filing his appeal with this Court. Consequently, the present appeal was filed out of time."

Petitioner now contends that the Court of Tax Appeals erred in computing the 30-day period provided for in Section 11 of Republic Act No. 1125 from August 18, 1955, the date when he received respondent's letter of demand dated June 7, 1955, and not from February 29, 1956, the date when he received the last letter of respondent dated February 13, 1956, considering that in the interval several letters had been exchanged between them relative to the assessment in question.

This contention has no merit.

In *Pangasinan Transportation Co., Inc. vs. Blaquera* 107 Phil., 975; 58 Off. Gaz. (32) 5410, this Court held:

"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.

* * * * *

"* * * 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 appeal is determined."

In *St. Stephen's Association, et al. vs. The Collector of Internal Revenue*, 104 Phil., 314; 55 Off. Gaz. (13) 2243, this Court ruled:

"In the first place, we believe the respondent court erred in holding that the assessment in question is the respondent Collector's decision or ruling appealable to it, and that consequently, the period of thirty days prescribed by section 11 of Republic Act No. 1125 within which petitioner should have appealed to the respondent court must be counted from its receipt of said assessment. Where a taxpayer questions an assessment and asks the Collector to reconsider or cancel the same because he (the taxpayer) believes he is not liable therefor, the assessment becomes a disputed assessment that the Collector must decide, and the taxpayer can appeal to the Court of Tax Appeals only upon receipt of the decision of the Collector on the disputed assessment, in accordance with par. (1) of sec. 7, Republic Act No. 1125, conferring appellate jurisdiction upon the Court of Tax Appeals to review decisions of the Collector of Internal Revenue in cases involving disputed assessments * * * (*Italic supplied*)."

"The period for appeal to the respondent court in this case must, therefore, be computed from the time petitioners received the decision of the respondent Collector of Internal Revenue on the disputed assessment, and not from the time they received said assessment."

It thus appears that the appealable decision contemplated in Sections 7 and 11 of Republic Act No 1125 is the first letter of the Collector of Internal Revenue denying the request for reconsideration or cancellation of the original "assessment made by the latter, and that for the purposes of the appeal mentioned therein the 30-day period should be counted from the date said letter is received by the taxpayer. This is what respondent Court of Tax Appeals has observed in computing the period for appeal in the present case.

As regards the contention that the letter of June 7, 1955 signed by the Acting Chief of the Assessment Department is not the decision contemplated in the law, the same is of no moment, considering Memorandum Order No. V-603, dated March 15, 1956, of the Bureau of Internal Revenue, which authorizes said official to sign letters of demand involving assessment in behalf of the Collector of Internal Revenue. Moreover, the subsequent letters signed by the Collector affirming and upholding the correctness of the assessment made by his Assessment Department constitute evident proof that the official who signed the letter of June 7, 1955 was duly authorized to do so.

Wherefore, the resolution appealed from is affirmed, with costs against petitioner.

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

Paras, C. J., concurs in the result.

Resolution affirmed.

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