

### *Comments*

## THE MECHANICS, JURISDICTION AND ACHIEVEMENTS OF THE COURT OF TAX APPEALS

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### I. INTRODUCTORY

On January 5, 1951, the late President Elpidio Quirino promulgated Executive Order No. 401-A, pursuant to the powers vested in him by Republic Act No. 422, thereby creating the Board of Tax Appeals. As defined in the presidential order, the jurisdiction of the Board was practically co-extensive with that presently conferred on the Court of Tax Appeals. Its rulings, orders or decisions could be appealed directly to the Supreme Court.

But Executive Order No. 401-A was constitutionally defective in so far as it interfered with the jurisdiction of the Courts of First Instance in cases arising under the internal revenue, customs, and assessment laws. For this reason, Part IV of the said Executive Order, which referred to "Court Review of Board Decisions", was declared null and void by the Supreme Court in *U.S.T. v. Board of Tax Appeals*, G.R. No. L-5701, June 23, 1953; 49 O.G. 2245. As a consequence, Congress enacted House Bill No. 175 into Republic Act No. 1125, providing for the creation of the Court of Tax Appeals.

### II. THE MECHANICS

#### 1. THE INTERNAL ORGANIZATION

The Court of Tax Appeals is composed of a Presiding Judge and two Associate Judges, who are appointed by the President with the consent of the Commission on Appointments.<sup>1</sup> Any two judges constitute a *quorum*, and their concurrence is necessary to promulgate any decision of the Court.<sup>2</sup>

The functions of the court's personnel are departmentalized. The administrative and clerical functions are confined in the Office of the Clerk of Court, headed by the Clerk of Court and Administrative Officer. Under this official are the Budget Officer and Administrative Assistant, the Deputy Clerk of Court, the Cashier-Disbursing and Property Officer, the Records and Docket Officer, the

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<sup>1</sup> Sec. 1, Rep. Act No. 1125.

<sup>2</sup> Sec. 2, Rep. Act No. 1125.

Deputy Sheriff, and the Bailiff. Also under the Clerk of Court and Administrative Officer are the stenographers and janitors.

The Court of Tax Appeals has a legal and technical staff, manned by a Chief, an Assistant Chief who is also the Senior Attorney, an Internal Revenue Examiner, a Customs Duties Examiner, a Certified Public Accountant Examiner, Attorney-Researchers, a Librarian and Compiler of Decisions, a Law-Clerk, and a Clerk-Stenographer.

Initially, during the process of its organization, the Court adopted for the guidance and observance of party litigants, the Rules and Regulations of the defunct Board of Tax Appeals, dated February 7, 1952, in so far as they were not in conflict with the provisions of Republic Act No. 1125. The adoption of these rules and regulations finds authority in Section 8 of Republic Act No. 1125 which empowers the Court to promulgate rules and regulations for the conduct of its business. Subsequently, on September 10, 1955, it adopted and promulgated the Rules of the Court of Tax Appeals.<sup>3</sup>

## 2. PROCEDURE

A proceeding in the Court is initiated by the filing of a petition for review, to which petition a copy of the decision appealed from is attached.<sup>4</sup> The petition must be accompanied by proof of payment of the docketing fee, usually an official receipt issued by the cashier of the Court.<sup>5</sup> The docketing fees vary from ₱16.00 to ₱200.00, depending upon the tax assessment or customs duties involved, inclusive of interest or surcharges, or value of the property in seizure cases, or the amount of the contested assessment of real property involved.<sup>6</sup>

Upon the filing of the petition for review, the Clerk of the Court of Tax Appeals issues a summons to the respondent, requiring him to file with the Court within fifteen (15) days after service thereof his answer to the petition, in six (6) signed and conformed legible copies.<sup>7</sup> Within the same period, the respondent may file a motion for the dismissal of the petition.<sup>8</sup> Opposition to this latter motion may be filed by the petitioner within five (5) days from receipt thereof.<sup>9</sup>

Thereafter, the case (or the motion to dismiss) is set for hearing.

<sup>3</sup> 51 O.G. 4635.

<sup>4</sup> Sec. 2, Rule 5, Rules of the Court of Tax Appeals.

<sup>5</sup> Sec. 3, Rule 5, Rules of the Court of Tax Appeals.

<sup>6</sup> Sec. 1, Rule 17, Rules of the Court of Tax Appeals.

<sup>7</sup> Sec. 3, Rule 5; Sec. 1, Rule 7; Sec. 5, Rule 4, Rules of the Court of Tax Appeals.

<sup>8</sup> Sec. 1, Rule 6, Rules of the Court of Tax Appeals.

<sup>9</sup> Sec. 2, Rule 6, Rules of the Court of Tax Appeals.

Republic Act No. 1125 authorizes the Court to hold hearings at such places as it may, by order in writing, designate with a view to assuring a reasonable opportunity to taxpayers to appear with as little inconvenience and expense as practicable.<sup>10</sup> Ordinarily, hearings before the Court are held in Manila. But, it has become an established practice of the Court to hear cases of taxpayers residing in the Visayas and Mindanao during summer sessions in the cities of Cebu, Iloilo, Bacolod and Zamboanga, with only one judge presiding. This practice was conceived to afford taxpayers of these distant places opportunity to appear with as little inconvenience and expense as possible.

The Court sits *in banc*. However, it may, *motu proprio*, direct that a case, or any issue thereof, be assigned to one of its members for the taking of evidence, when the determination of a question of fact arises upon motion or otherwise in any stage of the proceedings, or when the taking of an account is necessary, or when the determination of an issue of fact requires the examination of a long account.<sup>11</sup> In this eventuality, such member shall upon completion of such hearing, promptly submit his report in writing, stating his findings and conclusions.<sup>12</sup> Thereafter the Court shall render its decision on the case, adopting, modifying, or rejecting the report in whole or in part, as the case may be, or, it may, in its discretion recommit it with instructions, or receive further evidence.<sup>13</sup>

The presentation of evidence having been concluded, the Court usually gives the petitioner-taxpayer thirty (30) days within which to file a memorandum in support of his petition for review. Similarly, the respondent Commissioner or Board is given thirty (30) days to file a memorandum in support of his answer to the petition, and the petitioner fifteen (15) days to reply thereto. Thereafter, the case is deemed submitted for decision.

Cases brought before the Court shall be decided within thirty days after their submission for decision.<sup>14</sup> But, decisions rendered beyond the statutory period are not invalid.<sup>15</sup>

A ruling, order or decision of the Court of Tax Appeals is appealable directly to the Supreme Court.<sup>16</sup> An appeal therefrom is perfected by filing with the said Court a notice of appeal and with the Supreme Court a petition for review within thirty (30) days

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<sup>10</sup> Sec. 6, Rep. Act No. 1125.

<sup>11</sup> Sec. 12, Rep. Act No. 1125.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> *Liddel & Co., Inc. v. Collector*, G.R. No. L-9687, June 30, 1961.

<sup>16</sup> Sec. 18, Rep. Act No. 1125.

from notice of the ruling, order or decision.<sup>17</sup> By its resolution of January 24, 1955, the Supreme Court has ordained that, until specific rules are thereafter prescribed, the procedure for review of the decision of the Auditor General, in so far as applicable, shall be followed in petitions for review of decisions of the Court of Tax Appeals.

### III. JURISDICTION

The Court of Tax Appeals is not a superior administrative body. As remarked by the sponsor of House Bill No. 175, the bill had for its purpose the creation of a regular court of tax appeals.<sup>18</sup> As created by Republic Act No. 1125, it is a part of the judicial system, presumably to act only on protests of private persons adversely affected by the tax, customs duty or assessment.<sup>19</sup> Appeal to this Court is manifestly judicial.<sup>20</sup> However, the Court of Tax Appeals is a court of special and limited jurisdiction. Therefore, all cases sought to be brought before it must find authority and justification in its organic law, Republic Act No. 1125. And those that fail of justification are outside the province of its jurisdiction and are perforce debarred from being considered.<sup>21</sup> It has jurisdiction only over matters that are expressly enumerated or recited in Republic Act No. 1125 and those incidental thereto.<sup>22</sup> And its jurisdiction to issue writs of prohibition and injunction independently of, and apart from, an appealed case, for the issuance thereof under the provision of Section 11, Republic Act No. 1125 is merely auxiliary to and in the furtherance of its appellate jurisdiction in the cases mentioned in Section 7 of the Act.<sup>23</sup>

The jurisdiction of the Court of Tax Appeals is limited by law to appeals from decisions of three administrative officials or bodies. Specifically, it embraces appeals from:<sup>24</sup>

1. Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;

2. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention

<sup>17</sup> *Ibid.*

<sup>18</sup> Congressional Record (House of Representatives), Vol. 1, No. 65, p. 2204.

<sup>19</sup> *Ursal v. Court of Tax Appeals, et al.*, G.R. No. L-10165, Aug. 30, 1957, citing *Ursal v. Court of Tax Appeals, et al.*, G.R. Nos. L-10123 & L-10255, April 26, 1957; 53 O.G. 6081.

<sup>20</sup> *Ruffino Lopez & Sons, Inc. v. Court of Tax Appeals*, G.R. No. L-9274, Feb. 1, 1957; 53 O.G. 8065.

<sup>21</sup> *S. Ombra Amilbangsa v. Angangco*, C.T.A. Case No. 255, Resolution, May 7, 1956.

<sup>22</sup> *Castro v. David*, G.R. No. L-8505, Nov. 29, 1956; 53 O.G. 4088; *Blaquera v. Rodriguez*, G.R. No. L-11192, April 16, 1958; *Collector v. Lacson*, G.R. No. L-12945, April 29, 1960.

<sup>23</sup> *Collector v. Yuseco, et al.*, G.R. No. L-12518, Oct. 28, 1961.

<sup>24</sup> Sec. 7, Rep. Act No. 1125.

or release of property affected; fines, forfeitures or other penalties imposed in relation thereto, or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs; and,

3. Decisions of provincial or city Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto.

Under Section 7 of Republic Act No. 1125, the decisions of the Collector (now Commissioner) of Internal Revenue which may be appealed to the Court of Tax Appeals fall under four distinct categories, to wit: (1) those involving disputed assessments; (2) those involving refunds of internal revenue taxes, fees or other charges; (3) those involving penalties imposed in relation thereto; and (4) those involving other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue. Consequently, decisions of the Commissioner of Internal Revenue other than those enumerated cannot be taken cognizance of by the court.

As afore-stated, decisions of the Commissioner of Internal Revenue involving disputed assessments may be appealed to the Court of Tax Appeals. The approved and quoted definitions of assessment follow:

"'An assessment of taxes' is the act of fixing and determining the proportion of tax chargeable to the distinct items of property. *Webb v. Bidwell*, 15 Minn. 479, 493 (Gil. 394, 397)."

"An 'assessment' fixes the liability of the taxpayer and ascertains the facts and furnishes the data for the proper preparation of the tax rolls. *Dallas Joint Stock Land Bank of Dallas v. State*, Tex. Civ. app., 118 S.W. 2d 941, 942."

"'Assessment', as the term is used in the law relative to taxation, means the adjustment of the shares of the contribution by several toward a common beneficial object according to the benefit received. *Adams, Mel-drum & Anderson Co. v. City of Shelbyville*, 57 N.E. 114, 122, 154 Ind. 467, 87 Am. St. Rep. 240, *Palmer v. Stumpt*, 29 Ind. 329, 333, 335." (Words & Phrases, Vol. 4, p. 428).

The assessment becomes disputed when the taxpayer questions its validity and asks for its reconsideration and withdrawal. And the taxpayer can appeal to the court only upon receipt of the decision of the Commissioner on the disputed assessment.<sup>25</sup> But where the assessment is subsequently modified, the decision of the Commissioner on this modified assessment is the appealable decision.<sup>26</sup>

<sup>25</sup> *Baguio Country Club Corp. v. Collector, et al.*, G.R. No. L-11419, April 22, 1959; *St. Stephen's Association, et al. v. Collector*, G.R. No. L-11238, Aug. 21, 1958.

<sup>26</sup> *Pangasinan Transportation Co., Inc. v. Blaquera*, G.R. No. L-13101, April 29, 1960.

The correctness or incorrectness of a tax assessment is for the Court of Tax Appeals to determine and not for the regular courts of justice. The fact that consequential or moral damages are demanded in addition to a declaration of the nullity of the assessment does not place such case beyond the jurisdiction of the Tax Court for the reason that the demand is merely incidental to the main issue of nullity of the assessment.<sup>27</sup> Similarly, as an incident to the determination of the validity and/or correctness of an assessment, the Tax Court may rule on the validity of a tax sale effected pursuant to the assessment;<sup>28</sup> it may also pass upon the question of ownership of properties levied and distrained by the Commissioner to effect the collection of an assessment.<sup>29</sup>

In connection with an assessment made by the Commissioner of Internal Revenue, it is well to remember that a presumption of correctness is accorded to such assessment.<sup>30</sup> Necessarily, it follows that the petitioner-taxpayer bears the burden of disputing such presumption, that is, of showing the correctness of the assessment. The presumption is merely *prima facie*. It must be founded upon facts and cannot be made to rest on another presumption.<sup>31</sup>

Decisions of the Commissioner of Internal Revenue involving refunds of internal revenue taxes, fees or other charges may likewise be appealed to the Tax Court by the persons, associations or corporations adversely affected thereby. "Refund" means to give back; to restore; to repay."<sup>32</sup> "To refund" means to return money in restitution, repayment."<sup>33</sup>

Refund cases over which the Court of Tax Appeals is invested with jurisdiction must be for the recovery of internal revenue taxes alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected.<sup>34</sup> Suits or proceedings for refund of taxes or penalties must be initiated in the Tax Court within two (2) years from and after the date of payment.<sup>35</sup> If the tax is paid in installments, the action for refund must be brought within two (2) years from the date of final payment, the reason being that there is no payment until the whole or entire tax liability is completely paid.<sup>36</sup>

<sup>27</sup> *Blaquera v. Rodriguez, et al.*, G.R. No. L-11192, April 16, 1958.

<sup>28</sup> See *Castro v. Collector*, G.R. No. L-12174, April 26, 1962.

<sup>29</sup> *Castro v. David*, G.R. No. L-8505, Nov. 29, 1956.

<sup>30</sup> *Interprovincial Autobus Co., Inc. v. Collector*, G.R. No. L-6741, Jan. 31, 1956; 52 O.G. 791. See also *Perez v. Court of Tax Appeals, et al.*, G.R. No. L-9193, May 29, 1957.

<sup>31</sup> *Collector v. Benipayo*, G.R. No. L-13656, Jan. 31, 1962.

<sup>32</sup> *Words & Phrases*, Vol. 35, p. 627.

<sup>33</sup> *Ibid.*

<sup>34</sup> Sec. 306, National Internal Revenue Code.

<sup>35</sup> *Ibid.*

<sup>36</sup> *Collector v. Prieto, et al.*, G.R. No. L-11979, Aug. 29, 1961.

Furthermore, before an action for refund of internal revenue taxes can be maintained, the claimant-taxpayer must have previously filed with the Commissioner of Internal Revenue a claim or request for refund of the tax. The filing of such claim or request is a condition precedent to assumption by the Tax Court of jurisdiction over the action.<sup>37</sup> The philosophy behind this requirement is to afford the Commissioner an opportunity to correct the action of his subordinates, and to notify the Government that such taxes have been questioned and the notice should be borne in mind in estimating the revenue.<sup>38</sup>

But a taxpayer claiming a refund must appeal to the Tax Court within thirty (30) days from receipt of the Commissioner's decision denying his claim for refund, in addition to filing said claim with the latter.<sup>39</sup> If, however, the Commissioner takes time in deciding the claim and the two-year period is about to end, the suit must be initiated in the Court before the lapse of the two years without waiting for the Commissioner's decision.<sup>40</sup>

The third class of decisions of the Commissioner of Internal Revenue which may be appealed to the Court of Tax Appeals in pursuance of Section 7 of Republic Act No. 1125 embraces those involving penalties in relation to internal revenue taxes, fees or other charges. Penalties, as provided for in the National Internal Revenue Code, are designed to aid in the enforcement of the revenue laws in the sense that they coerce, if not encourage, compliance with such laws. They are divisible into two principal classifications: (a) specific penalties, consisting of fines with maximum limits and imprisonment, and (b) *ad valorem* penalties, measured by a percentage of tax liability.<sup>41</sup> To the first classification belong the penalties provided for in Sections 73, 74, 76, 107(a), (b), (c), and (d), 121(a) and (b), 170, 171, 172, 173, 174, 175, 176, 208, 209, 239, 240, 248, 287, 288, 289, 345, 347, 348, 349, 350, 351, 353, 355 and 356. Under the second category fall those mentioned in Sections 51(3), 72, 101(c), 102, 119(c), 120, 183, 245, 250, 256, 258, 259, 260, pars. 5 and 6, 267, 295, and 304. Obviously, cases falling under the first classification are criminal in nature over which the Court of Tax Appeals has no jurisdiction.<sup>42</sup> It has been held that the Tax Court has no power to compel a taxpayer to pay the compromise penalty imposed by the Commissioner in pursuance of the authority granted

<sup>37</sup> *Bermejo v. Collector*, 87 Phil. 96.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Gibbs, et al. v. Collector, et al.*, G.R. No. L-13453, Feb. 29, 1960.

<sup>40</sup> *Ibid.*

<sup>41</sup> *Mertens, Law of Federal Taxation*, Vol. 10, Sec. 55.01, p. 3.

<sup>42</sup> *Ollada v. The Court of Tax Appeals, et al.*, G.R. No. L-8878, July 24, 1956; 52 O.G. 4667.

him by Section 309 of the Tax Code.<sup>43</sup> On the other hand, it may compel payment of surcharges for failure to render returns and/or for rendering false and fraudulent returns.<sup>44</sup> Similarly, it has authority to order the payment of interest on sums of money to be refunded to the taxpayer where the collection is attended with arbitrariness,<sup>45</sup> and it may assess damages against the appellant in cases where the appeal is found to be frivolous or that the proceedings have been instituted merely for delay.<sup>46</sup> And consequential or moral damages demanded in a tax case may be passed upon by the Tax Court, for they are but incidental to the main case.<sup>47</sup> But, admittedly, cases involving penalties falling under the second category come within the purview of the Tax Court's jurisdiction.<sup>48</sup>

Finally, decisions of the Commissioner of Internal Revenue which may be appealed to the Tax Court are those involving "other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue." In this connection, it must be observed that Section 7(1) of Republic Act No. 1125 specifies the cases that are subject to review by the Tax Court by first reciting them with particularity and then adding the general clause "other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue." It has been held that the "other matters" that may come under the general clause should be of the same nature as those that have preceded them. Otherwise stated, in order that a matter may be circumscribed within the field of the general clause, it must necessarily belong to the same kind or class therein specifically enumerated.<sup>49</sup> This conclusion is in consonance with the rule of statutory construction known as *ejusdem generis*. Consequently, a mandamus case involving unfair competition arising from the use of simplified set of bookkeeping records required by Section 334 of the Tax Code is not one that falls under the general clause of "other matters" for the reason that it does not involve disputed assessments, refunds of internal revenue taxes, fees

<sup>43</sup> Collector v. Pio Barretto Sons, Inc., G.R. No. L-11805, May 31, 1960; Collector v. Bautista, et al., G.R. Nos. L-12250 & L-12259, May 27, 1959; Collector v. U.S.T., et al., G.R. Nos. L-11274 & L-11280, Nov. 28, 1958.

<sup>44</sup> Castro v. Collector, G.R. No. L-12174, April 26, 1962.

<sup>45</sup> Collector v. Convention of Philippine Baptist Churches, et al., G.R. No. L-11807, Sept. 26, 1961; Collector v. Prieto, et al., G.R. No. L-11976, Sept. 26, 1961; Commissioner v. Asturias Sugar Central, Inc., G.R. No. L-15013, Aug. 31, 1961; Carcar Electric & Ice Plant Co., Inc. v. Collector, 53 O.G. 1068. But see Collector v. Fisher, et al., G.R. Nos. L-11622 & L-11668, Jan. 28, 1961; Commissioner v. Borres, et al., G.R. No. L-12867, Nov. 28, 1959; Collector v. J. N. Sweeney, et al., G.R. No. L-12178, Aug. 21, 1959; Collector v. St. Paul's Hospital of Iloilo, G.R. No. L-12127, May 25, 1959.

<sup>46</sup> Sec. 16, Rep. Act No. 1125.

<sup>47</sup> Blaquera v. Rodriguez, G.R. No. L-11192, April 16, 1958.

<sup>48</sup> Castro v. Collector, G.R. No. L-12174, April 26, 1962; Collector v. Bautista, et al., G.R. Nos. L-12250 & L-12259, May 27, 1959; Perez v. Court of Tax Appeals, et al., G.R. No. L-10507, May 30, 1958.

<sup>49</sup> Ollada v. Court of Tax Appeals, et al., 52 O.G. 4667.



or other charges, or penalties imposed in relation thereto.<sup>50</sup> For the same reason, it has been opined that an action seeking to restrain the Collector (now Commissioner) from proceeding with an announced public bidding for the lease of lands forfeited to the Government for taxes and to award the contract of lease to the petitioner does not fall under the general clause.<sup>51</sup>

Section 7(2) of Republic Act No. 1125 limits the decisions of the Commissioner of Customs which are appealable to the Court of Tax Appeals to those that involve (1) liability for customs duties, fees or other money charges; (2) seizure, detention or release of property affected; (3) fines, forfeitures or other penalties imposed in relation thereto; and (4) other matters arising under the customs law or other law or part of law administered by the Bureau of Customs. For appeal purposes, the decision of the Commissioner must have been made in review of a decision of a Collector of Customs in accordance with the doctrine of exhaustion of administrative remedies.<sup>52</sup> The mere fact that the Commissioner would likely sustain the decision of his subordinate, a Collector of Customs, who was acting upon his instruction,<sup>53</sup> or that the Commissioner has concurred with the amended decision of the Collector embodied in a 2nd Indorsement<sup>54</sup> would not obviate the necessity of intermediate appeal of the Collector's decision to the Commissioner before the review thereof by the Court of Tax Appeals.

Decisions of the Commissioner of Customs are also favored with presumption of correctness.<sup>55</sup> Hence, the importer initially bears the burden of disputing such presumption. But, unlike the burden of a taxpayer in overthrowing the presumption of correctness attaching to an assessment of taxes, which burden consists merely of a showing that such assessment is incorrect, the importer, who challenges the correctness of the assessment of duty by the Commissioner of Customs, must establish that he (former) was right in addition to a proof that the Commissioner was wrong.<sup>56</sup>

As already intimated, decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other charges may be appealed for review by the Tax Court.<sup>57</sup> These customs duties, fees or other charges are those imposed by the statutory provisions of Sections 101, 104, 301, 302, 2701, 2702, 2801, 2802, 2901,

<sup>50</sup> *Ibid.*

<sup>51</sup> *Morales v. Collector*, C.T.A. Case No. 517, March 24, 1958.

<sup>52</sup> *Sampaguita Shoe & Slipper Factory v. Commissioner, et al.*, G.R. No. L-10285, Jan. 14, 1958; *Rufino Lopez & Sons, Inc. v. Court of Tax Appeals*, 53 O.G. 3065.

<sup>53</sup> *S. Ombra Amilbangsa v. Manahan, et al.*, C.T.A. Case No. 221, Resolution, Dec. 19, 1955.

<sup>54</sup> *Sampaguita Shoe & Slipper Factory v. Commissioner, et al.*, *supra*.

<sup>55</sup> *Behn, Meyer & Co., Ltd. v. Insular Collector of Customs*, 26 Phil. 647.

<sup>56</sup> *Behn, Meyer & Co., Ltd. v. Insular Collector of Customs*, *supra*.

<sup>57</sup> Sec. 7(2), Rep. Act No. 1125.

2902, 2903, 2905, 2906, 2907, 2909, 3001, 3002, 3003, 3004, 3005, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3201, 3202, 3204, 3301, 3302 and 3405 of the Tariff and Customs Code.

Likewise, decisions of the Commissioner of Customs in cases involving seizure, detention or release of property affected are appealable to the Court of Tax Appeals. Legally, seizure is the taking possession by an officer (customs) <sup>58</sup> of any vessel, aircraft, cargo, articles, animal or other movable property when the same is subject to forfeiture or liable for any fine imposed under customs and tariff laws.<sup>59</sup> Detention which imports the keeping back or withholding of the seized property follows the seizure of the property. It is effected upon the issuance by a Collector of Internal Revenue of a warrant of detention.<sup>60</sup> And release is an alternative consequence of seizure, detention, or forfeiture. It is the surrender of the property to the owner thereof or his agent. Administratively, it follows, in any seizure case and while the case is yet before the Collector of Customs, upon the payment of the fine imposed by him, or, in case of forfeiture, upon payment of the appraised value of the property, except where the importation is absolutely prohibited or where the surrender of the property would be contrary to law.<sup>61</sup> The surrender is effected upon the initiative of the customs authorities. Judicially, surrender results from an order of the Court of Tax Appeals or the Supreme Court.

It should be borne in mind that not all seizures effected by the Bureau of Customs fall within the jurisdiction of the Tax Court. Thus, the seizure of copies of the "Pageant" magazine on the ground that they contain obscene or indecent article is beyond its jurisdictional field, for it does not involve payment of duties and charges subject to detention or seizure proceedings in the Bureau.<sup>62</sup>

Appeals from the Commissioner's decisions "in cases involving fines, forfeitures or other penalties in relation thereto" are also authorized by law.<sup>63</sup> The particular cases of the kind or nature hereof referred are those wherein surcharges and fines are authorized to be imposed and collected in accordance with the statutory sections 2501, 2502, 2503, 2504, 2505, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, and 2529.<sup>64</sup> These cases, while apparently penal, are in reality civil in nature because the surcharges and fines authorized to be assessed and collected are de-

<sup>58</sup> Words & Phrases, Vol. 38, p. 525.

<sup>59</sup> Sec. 22, Tariff & Customs Code of the Philippines.

<sup>60</sup> Sec. 2301, Tariff & Customs Code of the Philippines.

<sup>61</sup> Sec. 2307, Tariff & Customs Code of the Philippines.

<sup>62</sup> Acting Collector v. Court of Tax Appeals, *et al.*, G.R. No. L-8811, Oct. 31, 1957.

<sup>63</sup> Sec. 7(2), Rep. Act No. 1125.

<sup>64</sup> Tariff & Customs Code of the Philippines.

signed to aid in the collection of customs duties, fees and other money charges. Consequently, they are within the jurisdiction of the Tax Court. However, cases solely relating to the penal provisions of Sections 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609 and 3610 of the Tariff and Customs Code, which provisions sanction the imposition of fines and/or imprisonment, are undoubtedly criminal in nature, and, therefore, outside the jurisdiction of the Tax Court. For equally undoubted is the fact that the Tax Court does not have criminal jurisdiction.<sup>65</sup>

Appealable cases involving forfeiture in respect of which the Commissioner of Customs has rendered decisions, are those defined in the provisions of Section 2530.<sup>66</sup> Thus cases involving forfeiture after the expiration of Republic Act No. 650 of articles imported by virtue of a license issued by the defunct Import Control Commission in violation of an Executive Order implementing said Republic Act No. 650;<sup>67</sup> of importations made in violation of Executive Order No. 328, Series 1950;<sup>68</sup> of importations effected in contravention of Central Bank Circulars Nos. 44 and 45;<sup>69</sup> of exportation of gold bars, dollar and peso bills in violation of Central Bank Circulars Nos. 20, 21, 37, 42 and 55;<sup>70</sup> of importations entered without consular invoice;<sup>71</sup> and of importations consisting of unmanifested goods<sup>72</sup> are within the pale of the provisions of Section 7(2) of Republic Act No. 1125.

Cases involving "other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs" in which the Commissioner of Customs has rendered decisions are, by law,<sup>73</sup> appealable to the Tax Court. By virtue of the doctrine of *ejusdem generis*, the expression "other matters arising under the Customs Law and other law or part of law administered by the Bureau of Customs" should be interpreted to apply to things similar in character to the afore-enumerated class of cases appealed from the Commissioner of Customs and cognizable by the Court of Tax Appeals in pursuance of Section 7(2) of Republic Act No. 1125.<sup>74</sup>

<sup>65</sup> *Ollada v. Court of Tax Appeals, et al.*, G.R. No. L-8878, July 24, 1956; 52 O.G. 4667.

<sup>66</sup> Tariff & Customs Code of the Philippines.

<sup>67</sup> *Roxas v. Sayoc*, G.R. No. L-8502, Nov. 29, 1956.

<sup>68</sup> *Commissioner v. Valencia*, G.R. No. L-7470, Oct. 31, 1958.

<sup>69</sup> *Commissioner v. Nepomuceno*, G.R. No. L-11126, March 31, 1962; *Commissioner v. Santos, et al.*, G.R. No. L-11911, March 30, 1962; *Commissioner v. Farm Implement & Machinery Co.*, G.R. No. L-12203, May 30, 1961; *Commissioner v. Farm Implement & Machinery Co.*, G.R. No. L-12260, May 30, 1960; *Commissioner v. Serree Investment Co.*, G.R. No. L-12007, May 16, 1960; *Commissioner v. Pascual*, G.R. No. L-9836, Nov. 18, 1959; *Acting Commissioner v. Leuterio*, G.R. No. L-9142, Oct. 17, 1959; *Pascual v. Commissioner*, G.R. No. L-10979, June 30, 1959; *Commissioner v. Auyong Hian*, G.R. No. L-11719, April 29, 1959.

<sup>70</sup> *Tong Tek v. Commissioner*, G.R. No. L-11947, June 30, 1959; *Capistrano v. Commissioner*, G.R. No. L-11075, June 30, 1960.

<sup>71</sup> *Coloma v. Commissioner, et al.*, G.R. No. L-14217, Nov. 29, 1960; *Commissioner v. Brillo*, G.R. No. L-11902, June 29, 1959; *Commissioner v. Relunia*, G.R. No. L-11860, May 29, 1959.

<sup>72</sup> *Chiock Chun v. Commissioner*, G.R. No. L-12519, April 29, 1959.

<sup>73</sup> Sec. 7(2), Rep. Act No. 1125.

<sup>74</sup> *Acting Collector v. Court of Tax Appeals, et al.*, G.R. No. L-8811, Oct. 31, 1957.

Thus, it has been held that the provisions of the National Internal Revenue Code relating to the collection of internal revenue taxes on imported goods which are collected by customs officers prior to release thereof from customs are part of the customs law, and, therefore, cases relative thereto are within the jurisdiction of the Tax Court.<sup>75</sup>

Finally, the Court of Tax Appeals is also invested with jurisdiction to review by appeal decisions of provincial or city Boards of Assessment Appeals in cases involving: (1) the assessment and taxation of real property or (2) other matters arising under the Assessment Law, including rules and regulations relative thereto.<sup>76</sup> "The term 'assessment,' when employed in connection with general taxation, means more than a mere valuation, and when assessment is spoken of as the basis for levying and collecting taxes, it means an official listing of persons and property, with a statement of the value of the property of each for the purpose of taxation."<sup>77</sup>

Where an educational institution requested a City Assessor for exemption from realty taxes of certain parcels of land allegedly used by it for educational purposes, which request was denied by the latter, and subsequently appealed the denial to the proper Board of Assessment (Tax) Appeals, the decision of the said Board holding itself without authority to pronounce said properties exempt from the payment of realty taxes is appealable to the Court of Tax Appeals, for the reason that the decision of the Board in refusing to alter the decision of the City Assessor, in effect, is an affirmation of the latter's denial.<sup>78</sup>

But decisions of provincial and city treasurers relative to collection of realty taxes are not cognizable by the Court of Tax Appeals.<sup>79</sup>

#### IV. ACHIEVEMENT \*\*

Republic Act No. 1125, which provides for the creation of the Court of Tax Appeals, became effective on June 16, 1954. However, the Court was fully organized only on July 21, 1954 when two of its members \*\*\* and clerical personnel having already been appointed, the Rules and Regulations of the defunct Board of Tax Appeals was adopted in the *interim* for the conduct of its business.

<sup>75</sup> *Leuterio v. Commissioner*, G.R. No. L-9810, April 29, 1957.

<sup>76</sup> Sec. 7(3), Rep. Act No. 1125.

<sup>77</sup> *Words & Phrases*, Vol. 4, p. 434.

<sup>78</sup> *Southwestern Colleges, Inc. v. City Assessor, et al.*, C.T.A. Case No. 295, Resolution, April 23, 1957.

<sup>79</sup> *Medina v. City Treasurer*, C.T.A. Case No. 845, Resolution, Aug. 27, 1960; *Gamboa v. Parroco*, C.T.A. Case No. 704, Resolution, July 17, 1960.

\*\* Based on statistical compilations and computations respectively made by Mrs. Aurea Blanco, Budget Officer and Administrative Assistant, and Mrs. Gloria T. de Guzman, CPA Examiner.

\*\*\* Presiding Judge Mariano Nable and Associate Judge Augusto M. Luciano, who were appointed on June 19, 1954. Associate Judge Roman M. Umali was appointed on August 10, 1955.

Incidentally, on this latter date, the first case entitled *A. Soriano y Cia. v. Collector of Internal Revenue*, C.T.A. Case No. 1, was filed.

From July 21, 1954 to February of 1962, 1,284 cases were filed before the Court of Tax Appeals. These cases include those transferred from the defunct Board of Tax Appeals and Courts of First Instance in pursuance of the provisions of Sections 21 and 22 of Republic Act No. 1125. Of the total number of cases filed, 720 were decided by the Tax Court. Cases appealed to the Supreme Court totalled 275. And the Supreme Court affirmed 127 cases; reversed 28; and modified 15. The appeals of 8 cases were subsequently withdrawn, thereby leaving 97 cases pending appeal before the Supreme Court.

In fine, the cases already decided by the Tax Court constituted 56% of those filed before it. Those appealed to the Supreme Court represented 38.19%, of which 71.34% were affirmed; 15.73% reversed; and 8.43% modified. Cases, the appeals of which were withdrawn, consisted of 4.50%.

The Court of Tax Appeals was created "to review tax cases and at the same time to expedite the collection of taxes which is badly needed by our government x x x." It has fully fulfilled these purposes, thereby acquitting itself creditably. It has immeasurably contributed to the development of jurisprudence and judicial precedents in tax matters, for the Supreme Court has adopted and quoted extensively from opinions of the Tax Court. And it spurred prompt, if not better, compliance with revenue laws, as, in consequence of the judicial determinations of tax questions heretofore unresolved, people are beginning to entertain a clearer appreciation of their tax liabilities.