Supreme Court E-Library

FIRST DIVISION

[G.R. No. 207843. July 15, 2015]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* **COURT OF TAX APPEALS (SECOND DIVISION) and PETRON CORPORATION,**[*] *respondents*.

SYLLABUS

1. TAXATION; REPUBLIC ACT NO. 8424, AS AMENDED (THE 1997 NATIONAL INTERNAL REVENUE CODE); COMMISSIONER OF INTERNAL REVENUE (CIR); POWERS; THE DECISIONS OF THE CIR INVOLVING THE POWER TO DECIDE DISPUTED ASSESSMENTS MAY BE REVIEWED ON APPEAL BY THE COURT OF TAX APPEALS.— Section 4 of the NIRC confers upon the CIR both: (*a*) the power to interpret tax laws in the exercise of her quasi-legislative function; and (*b*) the power to decide tax cases in the exercise of her quasi-judicial function. It also delineates the jurisdictional authority to review the validity of the CIR's exercise of the said powers x x x. The CTA is a court of special jurisdiction, with power to review by appeal decisions involving tax disputes rendered by either the CIR or the COC. Conversely, it has no jurisdiction to determine the validity of a ruling issued by the CIR or the COC in the exercise of their quasi-legislative powers to interpret tax laws. These observations may be deduced from a reading of Section 7 of RA 1125, as amended by RA 9282, entitled "An Act Creating the Court of Tax Appeals," enumerating the cases over which the CTA may exercise its jurisdiction: "Sec. 7. *Jurisdiction*. — The CTA shall exercise: a. Exclusive appellate jurisdiction to review by appeal, as herein provided: **1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue**; xxx."

---

[*] See Resolution dated August 28, 2013 granting petitioner's motion to correct caption; *rollo*, p. 81.

Supreme Court E-Library

2. ID.; ID.; ID.; ID.; THE COMMISSIONER OF INTERNAL REVENUE'S INTERPRETATION OF A TAX PROVISION INVOLVES AN EXERCISE OF QUASI-LEGISLATIVE FUNCTION WHICH CANNOT BE THE SUBJECT OF REVIEW BY THE COURT OF TAX APPEALS, FOR THE PROPER RECOURSE IS A REVIEW BY THE SECRETARY OF FINANCE AND ULTIMATELY BY THE REGULAR COURTS.— In this case, Petron's tax liability was premised on the COC's issuance of CMC No. 164-2012, which gave effect to the CIR's June 29, 2012 Letter interpreting Section 148 (e) of the NIRC as to include alkylate among the articles subject to customs duties, hence, Petron's petition before the CTA ultimately challenging the legality and constitutionality of the CIR's aforesaid interpretation of a tax provision. x x x [T]he CIR correctly argues that the CTA had no jurisdiction to take cognizance of the petition as its resolution would necessarily involve a declaration of the validity or constitutionality of the CIR's interpretation of Section 148 (e) of the NIRC, which is subject to the exclusive review by the Secretary of Finance and ultimately by the regular courts. In *British American Tobacco v. Camacho*, the Court ruled that the CTA's jurisdiction to resolve tax disputes excludes the power to rule on the constitutionality or validity of a law, rule or regulation x x x. Hence, as the CIR's interpretation of a tax provision involves an exercise of her quasi-legislative functions, the proper recourse against the subject tax ruling expressed in CMC No. 164-2012 is a review by the Secretary of Finance and ultimately the regular courts.

3. ID.; ID.; ID.; ID.; THE PHRASE "OTHER MATTERS ARISING UNDER THIS CODE" STATED IN THE SECOND PARAGRAPH OF SECTION 4 SHOULD BE USED IN REFERENCE TO CASES THAT ARE SUBJECT TO CONTROVERSIES OVER WHICH THE COMMISSIONER OF INTERNAL REVENUE (CIR) HAD EXERCISED QUASI-JUDICIAL FUNCTIONS, NOT THOSE THAT INVOLVED THE CIR'S EXERCISE OF QUASI-LEGISLATIVE POWERS.— [T]he phrase "other matters arising under this Code," as stated in the second paragraph of Section 4 of the NIRC, should be understood as pertaining to those matters directly related to the preceding phrase "disputed assessments, refunds of internal revenue taxes,

Supreme Court E-Library

fees or other charges, penalties imposed in relation thereto" and must therefore not be taken in isolation to invoke the jurisdiction of the CTA. In other words, the subject phrase should be used only in reference to cases that are, to begin with, subject to the exclusive appellate jurisdiction of the CTA, *i.e.*, those controversies over which the CIR had exercised her quasi-judicial functions or her power to decide disputed assessments, refunds or internal revenue taxes, fees or other charges, penalties imposed in relation thereto, not to those that involved the CIR's exercise of quasi-legislative powers.

4. REMEDIAL LAW; REPUBLIC ACT NO. 1125, AS AMENDED; COURT OF TAX APPEALS; WHAT MAY BE THE SUBJECT OF AN APPEAL THERETO IS A DECISION, RULING OR INACTION OF THE COMMISSIONER OF INTERNAL REVENUE OR THE COMMISSIONER OF CUSTOMS AND NOT THE DECISIONS OF THE CUSTOMS COLLECTOR; CASE AT BAR.— Petron prematurely invoked the jurisdiction of the CTA. Under Section 7 of RA 1125, as amended by RA 9282, what is appealable to the CTA is the decision of the COC over a customs collector's adverse ruling on a taxpayer's protest x x x. Section 11 of the same law is no less categorical in stating that what may be the subject of an appeal to the CTA is a decision, ruling or inaction of the CIR or the COC x x x. In this case, there was even no tax assessment to speak of. While customs collector Federico Bulanhagui himself admitted during the CTA's November 8, 2012 hearing that the computation he had written at the back page of the IEIRD served as the final assessment imposing excise tax on Petron's importation of alkylate, the Court concurs with the CIR's stance that the subject IEIRD was not yet the customs collector's final assessment that could be the proper subject of review. And even if it were, the same should have been brought first for review before the COC and not directly to the CTA. It should be stressed that the CTA has no jurisdiction to review by appeal, decisions of the customs collector. The TCC prescribes that a party adversely affected by a ruling or decision of the customs collector may protest such ruling or decision upon payment of the amount due and, if aggrieved by the action of the customs collector on the matter under protest, may have the same reviewed by the COC. It is only after the COC shall have made

Supreme Court E-Library

an adverse ruling on the matter may the aggrieved party file an appeal to the CTA. Notably, Petron admitted to not having filed a protest of the assessment before the customs collector and elevating a possible adverse ruling therein to the COC x x x. There being no protest ruling by the customs collector that was appealed to the COC, the filing of the petition before the CTA was premature as there was nothing yet to review.

5. **POLITICAL LAW; ADMINISTRATIVE LAW; PRINCIPLE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES; BEFORE A PARTY IS ALLOWED TO SEEK THE INTERVENTION OF COURTS, IT IS A PRE-CONDITION THAT HE AVAILS OF ALL ADMINISTRATIVE PROCESSES AFFORDED HIM, OTHERWISE THE PREMATURE RESORT TO THE COURT IS FATAL TO ONE'S CAUSE OF ACTION.—** [T]he fact that there is no decision by the COC to appeal from highlights Petron's failure to exhaust administrative remedies prescribed by law. Before a party is allowed to seek the intervention of the courts, it is a pre-condition that he avail of all administrative processes afforded him, such that if a remedy within the administrative machinery can be resorted to by giving the administrative officer every opportunity to decide on a matter that comes within his jurisdiction, then such remedy must be exhausted first before the court's power of judicial review can be sought, otherwise, the premature resort to the court is fatal to one's cause of action. While there are exceptions to the principle of exhaustion of administrative remedies, it has not been sufficiently shown that the present case falls under any of the exceptions.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Baniqued & Baniqued for private respondent.

Supreme Court E-Library

D E C I S I O N

PERLAS-BERNABE, *J.*:

Assailed in this petition for *certiorari*[1] are the Resolutions dated February 13, 2013[2] and May 8, 2013[3] of the Court of Tax Appeals, Second Division (CTA) in CTA Case No. 8544 reversing and setting aside the earlier dismissal of the petition for review filed by private respondent Petron Corporation (Petron) in the said case on the bases of prematurity and lack of jurisdiction.

The Facts

Petron, which is engaged in the manufacture and marketing of petroleum products, imports alkylate as a raw material or blending component for the manufacture of ethanol-blended motor gasoline.[4] For the period January 2009 to August 2011, as well as for the month of April 2012, Petron transacted an aggregate of 22 separate importations for which petitioner the Commissioner of Internal Revenue (CIR) issued Authorities to Release Imported Goods (ATRIGs), categorically stating that Petron's importation of alkylate is exempt from the payment of the excise tax because it was not among those articles enumerated as subject to excise tax under Title VI of Republic Act No. (RA) 8424,[5] as amended, or the 1997 National Internal Revenue Code (NIRC). With respect, however, to Petron's alkylate importations covering the period September 2011 to June 2012 (excluding April 2012), the CIR inserted, without prior notice, a reservation for all ATRIGs issued,[6] stating that:

---

[1] *Id*. at 2-33.

[2] *Id*. at 37-56. Signed by Associate Justice Caesar A. Casanova and Cielito N. Mindaro-Grulla with Associate Justice Juanito C. Castañeda, Jr. dissenting.

[3] *Id*. at 58-71.

[4] *Id*. at 205.

[5] Entitled "AN ACT AMENDING THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES" (January 1, 1998).

[6] *Rollo*, p. 206.

Supreme Court E-Library

This is without prejudice to the collection of the corresponding excise taxes, penalties and interest depending on the final resolution of the Office of the Commissioner on the issue of whether this item is subject to the excise taxes under the National Internal Revenue Code of 1997, as amended.[7]

In June 2012, Petron imported 12,802,660 liters of alkylate and paid value-added tax (VAT) in the total amount of ₱41,657,533.00 as evidenced by Import Entry and Internal Revenue Declaration (IEIRD) No. SN 122406532. Based on the Final Computation, said importation was subjected by the Collector of Customs of Port Limay, Bataan, upon instructions of the Commissioner of Customs (COC), to excise taxes of ₱4.35 per liter, or in the aggregate amount of ₱55,691,571.00, and consequently, to an additional VAT of 12% on the imposed excise tax in the amount of ₱6,682,989.00.[8] The imposition of the excise tax was supposedly premised on Customs Memorandum Circular (CMC) No. 164-2012 dated July 18, 2012, implementing the Letter dated June 29, 2012 issued by the CIR, which states that:

> [A]lkylate which is a product of distillation similar to that of naphta, is subject to excise tax under Section 148(e) of the National Internal Revenue Code (NIRC) of 1997.[9]

In view of the CIR's assessment, Petron filed before the CTA a petition for review,[10] docketed as CTA Case No. 8544, raising the issue of whether its importation of alkylate as a blending component is subject to excise tax as contemplated under Section 148 (e) of the NIRC.

On October 5, 2012, the CIR filed a motion to dismiss on the grounds of lack of jurisdiction and prematurity.[11]

---

[7] *Id*.

[8] *Id*. at 207.

[9] See *id*.

[10] *Id*. at 203-235.

[11] *Id*. at 240-250.

Initially, in a Resolution[12] dated November 15, 2012, the CTA granted the CIR's motion and dismissed the case. However, on Petron's motion for reconsideration,[13] it reversed its earlier disposition in a Resolution[14] dated February 13, 2013, and eventually denied the CIR's motion for reconsideration[15] therefrom in a Resolution[16] dated May 8, 2013. In effect, the CTA gave due course to Petron's petition, finding that: (*a*) the controversy was not essentially for the determination of the constitutionality, legality or validity of a law, rule or regulation but a question on the propriety or soundness of the CIR's interpretation of Section 148 (e) of the NIRC which falls within the exclusive jurisdiction of the CTA under Section 4 thereof, particularly under the phrase "other matters arising under [the NIRC]";[17] and (*b*) there are attending circumstances that exempt the case from the rule on non-exhaustion of administrative remedies, such as the great irreparable damage that may be suffered by Petron from the CIR's final assessment of excise tax on its importation.[18]

Aggrieved, the CIR sought immediate recourse to the Court, through the instant petition, alleging that the CTA committed grave abuse of discretion when it assumed authority to take cognizance of the case despite its lack of jurisdiction to do so.[19]

The Issue Before the Court

The core issue to be resolved is whether or not the CTA properly assumed jurisdiction over the petition assailing the

---

[12] *Id*. at 273-288. Signed by Associate Justices Juanito C. Castañeda, Jr., Caesar A. Casanova, and Cielito N. Mindaro-Grulla.

[13] Dated November 23, 2012. *Id*. at 289-325.

[14] *Id*. at 37-56.

[15] Dated March 1, 2013. *Id*. at 327-348.

[16] *Id*. at 58-71.

[17] See *id*. at 40 and 44.

[18] See *id*. at 44-46.

[19] See *id*. at 8.

Supreme Court E-Library

imposition of excise tax on Petron's importation of alkylate based on Section 148 (e) of the NIRC.

The Court's Ruling

The petition is meritorious.

The CIR asserts that the interpretation of the subject tax provision, *i.e.*, Section 148 (e) of the NIRC, embodied in CMC No. 164-2012, is an exercise of her quasi-legislative function which is reviewable by the Secretary of Finance, whose decision, in turn, is appealable to the Office of the President and, ultimately, to the regular courts, and that only her quasi-judicial functions or the authority to decide disputed assessments, refunds, penalties and the like are subject to the exclusive appellate jurisdiction of the CTA.[20] She likewise contends that the petition suffers from prematurity due to Petron's failure to exhaust all available remedies within the administrative level in accordance with the Tariff and Customs Code (TCC).[21]

The CIR's position is well-grounded.

Section 4 of the NIRC confers upon the CIR both: (*a*) the power to interpret tax laws in the exercise of her quasi-legislative function; and (*b*) the power to decide tax cases in the exercise of her quasi-judicial function. It also delineates the jurisdictional authority to review the validity of the CIR's exercise of the said powers, thus:

> SEC. 4. *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* – The **power to interpret** the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, **subject to review by the Secretary of Finance**.
>
> The **power to decide disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is

[20] *Id*. at 9-11.

[21] RA 1937, entitled "AN ACT TO REVISE AND CODIFY THE TARIFF AND CUSTOMS LAWS OF THE PHILIPPINES" (approved on June 22, 1957).

Supreme Court E-Library

vested in the Commissioner, **subject to the exclusive appellate jurisdiction of the Court of Tax Appeals**. (Emphases and underscoring supplied)

The CTA is a court of special jurisdiction, with power to review by appeal decisions involving tax disputes rendered by either the CIR or the COC. Conversely, it has no jurisdiction to determine the validity of a ruling issued by the CIR or the COC in the exercise of their quasi-legislative powers to interpret tax laws. These observations may be deduced from a reading of Section 7 of RA 1125,[22] as amended by RA 9282,[23] entitled "An Act Creating the Court of Tax Appeals," enumerating the cases over which the CTA may exercise its jurisdiction:

Sec. 7. *Jurisdiction*. - The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

> **1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue**;
>
> 2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

---

[22] Approved on June 16, 1954.

[23] Entitled "AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES" (April 23, 2004).

Supreme Court E-Library

3. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;

4. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;

5. Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

6. Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code;

7. Decisions of the Secretary of Trade and Industry, in the case of non-agricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Section 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties.

b. Jurisdiction over cases involving criminal offenses as herein provided:

1. Exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs: Provided, however, That offenses or felonies mentioned in this paragraph where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (₱1,000,000.00) or where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate. Any provision of law or the Rules of Court to the contrary notwithstanding, the

Supreme Court E-Library

criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filling of such civil action separately from the criminal action will be recognized.

2. Exclusive appellate jurisdiction in criminal offenses:

a. Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax cases originally decided by them, in their respective territorial jurisdiction.

b. Over petitions for review of the judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in their respective jurisdiction.

c. Jurisdiction over tax collection cases as herein provided:

1. Exclusive original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties: *Provided, however*, That collection cases where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (₱1,000,000.00) shall be tried by the proper Municipal Trial Court, Metropolitan Trial Court and Regional Trial Court.

2. Exclusive appellate jurisdiction in tax collection cases:

a. Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax collection cases originally decided by them, in their respective territorial jurisdiction.

b. Over petitions for review of the judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax collection cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in their respective jurisdiction. (Emphasis supplied)

Supreme Court E-Library

In this case, Petron's tax liability was premised on the COC's issuance of CMC No. 164-2012, which gave effect to the CIR's June 29, 2012 Letter interpreting Section 148 (e) of the NIRC as to include alkylate among the articles subject to customs duties, hence, Petron's petition before the CTA ultimately challenging the legality and constitutionality of the CIR's aforesaid interpretation of a tax provision. In line with the foregoing discussion, however, the CIR correctly argues that the CTA had no jurisdiction to take cognizance of the petition as its resolution would necessarily involve a declaration of the validity or constitutionality of the CIR's interpretation of Section 148 (e) of the NIRC, which is subject to the exclusive review by the Secretary of Finance and ultimately by the regular courts. In *British American Tobacco v. Camacho*,[24] the Court ruled that the CTA's jurisdiction to resolve tax disputes excludes the power to rule on the constitutionality or validity of a law, rule or regulation, to wit:

> While the above statute confers on the CTA jurisdiction to resolve tax disputes in general, this does not include cases where the constitutionality of a law or rule is challenged. Where what is assailed is the validity or constitutionality of a law, or a rule or regulation issued by the administrative agency in the performance of its quasi-legislative function, the regular courts have jurisdiction to pass upon the same. x x x.[25]

In asserting its jurisdiction over the present case, the CTA explained that Petron's petition filed before it "simply puts in question" the propriety or soundness of the CIR's interpretation and application of Section 148 (e) of the NIRC (as embodied in CMC No. 164-2012) "in relation to" the imposition of excise tax on Petron's importation of alkylate; thus, the CTA posits that the case should be regarded as "other matters arising under [the NIRC]" under the second paragraph of Section 4 of the NIRC, therefore falling within the CTA's jurisdiction:[26]

---

[24] 584 Phil. 489 (2008).

[25] *Id.* at 511.

[26] See *rollo*, pp. 40, 44, and 61.

SEC. 4. *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* – The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or **other matters arising under this Code** or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the commissioner, **subject to the exclusive appellate jurisdiction of the Court of Tax Appeals**. (Emphases and underscoring supplied)

The Court disagrees.

As the CIR aptly pointed out, the phrase "other matters arising under this Code," as stated in the second paragraph of Section 4 of the NIRC, should be understood as pertaining to those matters directly related to the preceding phrase "disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto" and must therefore not be taken in isolation to invoke the jurisdiction of the CTA.[27] In other words, the subject phrase should be used only in reference to cases that are, to begin with, subject to the exclusive appellate jurisdiction of the CTA, *i.e.*, those controversies over which the CIR had exercised her quasi-judicial functions or her power to decide disputed assessments, refunds or internal revenue taxes, fees or other charges, penalties imposed in relation thereto, not to those that involved the CIR's exercise of quasi-legislative powers.

In *Enrile v. Court of Appeals*,[28] the Court, applying the statutory construction principle of *ejusdem generis*,[29] explained

---

[27] See *id.* at 18.

[28] 140 Phil. 199 (1969).

[29] The rule of *ejusdem generis* states that "[w]here general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are held to be as applying only to persons or things of the same kind or class as those specifically mentioned." (*Republic v. Migriño*, 267 Phil. 337, 345 [1990], citing *Smith, Bell and Co., Ltd. v. Register of Deeds of*

Supreme Court E-Library

the import of using the general clause "other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs" in the enumeration of cases subject to the exclusive appellate jurisdiction of the CTA, saying that:

> [T]he 'other matters' that may come under the general clause should be **of the same nature as those that have preceded them** applying the rule of construction known as *ejusdem generis*.[30] (Emphasis and underscoring supplied)

Hence, as the CIR's interpretation of a tax provision involves an exercise of her quasi-legislative functions, the proper recourse against the subject tax ruling expressed in CMC No. 164-2012 is a review by the Secretary of Finance and ultimately the regular courts. In *Commissioner of Customs v. Hypermix Feeds Corporation*,[31] the Court has held that:

> The determination of whether a specific rule or set of rules issued by an administrative agency contravenes the law or the constitution is within the jurisdiction of the regular courts. Indeed, the Constitution vests the power of judicial review or the power to declare a law, treaty, international or executive agreement, presidential decree, order, instruction, ordinance, or regulation in the courts, including the regional trial courts. This is within the scope of judicial power, which includes the authority of the courts to determine in an appropriate action the validity of the acts of the political departments. x x x.[32]

Besides, Petron prematurely invoked the jurisdiction of the CTA. Under Section 7 of RA 1125, as amended by RA 9282, what is appealable to the CTA is the decision of the COC over a customs collector's adverse ruling on a taxpayer's protest:

Davao, 96 Phil. 53, 58 [1954], further citing Black on Interpretation of Laws, 2nd Ed., p. 203.)

[30] *Enrile v. Court of Appeals*, *supra* note 28, at 205, citing *Ollada v. CTA*, 99 Phil. 604, 609-610 (1956).

[31] *COC v. Hypermix Feeds Corporation*, G.R. No. 179579, February 1, 2012, 664 SCRA 666.

[32] *Id.* at 672, citing *Smart Communications, Inc. v. National Telecommunications Commission*, 456 Phil. 145, 158-159 (2003).

Supreme Court E-Library

SEC. 7. *Jurisdiction*. - The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

> 1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;
>
> xxx xxx xxx
>
> 4. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;
>
> xxx xxx xxx

Section 11 of the same law is no less categorical in stating that what may be the subject of an appeal to the CTA is a decision, ruling or inaction of the CIR or the COC, among others:

SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal*. – Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

xxx xxx xxx

In this case, there was even no tax assessment to speak of. While customs collector Federico Bulanhagui himself admitted during the CTA's November 8, 2012 hearing that the computation he had written at the back page of the IEIRD served as the final assessment imposing excise tax on Petron's importation

Supreme Court E-Library

of alkylate,[33] the Court concurs with the CIR's stance that the subject IEIRD was not yet the customs collector's final assessment that could be the proper subject of review. And even if it were, the same should have been brought first for review before the COC and not directly to the CTA. It should be stressed that the CTA has no jurisdiction to review by appeal, decisions of the customs collector.[34] The TCC prescribes that a party adversely affected by a ruling or decision of the customs collector may protest such ruling or decision upon payment of the amount due[35] and, if aggrieved by the action of the customs collector on the matter under protest, may have the same reviewed by the COC.[36] It is only after the COC shall have made an adverse ruling on the matter may the aggrieved party file an appeal to the CTA.[37]

Notably, Petron admitted to not having filed a protest of the assessment before the customs collector and elevating a possible adverse ruling therein to the COC, reasoning that such a procedure would be costly and impractical, and would unjustly delay the resolution of the issues which, being purely legal in nature anyway, were also beyond the authority of the customs collector to resolve with finality.[38] This admission is at once decisive of the issue of the CTA's jurisdiction over the petition. There being no protest ruling by the customs collector that was appealed to the COC, the filing of the petition before the CTA was premature as there was nothing yet to review.[39]

---

[33] See *rollo*, p. 44.

[34] See *Lopez & Sons, Inc. v. CTA*, 100 Phil. 850, 856-857 (1957).

[35] See Section 2308 of RA 1937, entitled "AN ACT TO REVISE AND CODIFY THE TARIFF AND CUSTOMS LAWS OF THE PHILIPPINES" (July 1, 1957).

[36] See Section 2313 of RA 1937.

[37] See Section 2402 of RA 1937.

[38] See *rollo*, p. 118.

[39] See *CMS Estate, Inc. v. COC*, 119 Phil. 420 (1964).

Supreme Court E-Library

Verily, the fact that there is no decision by the COC to appeal from highlights Petron's failure to exhaust administrative remedies prescribed by law. Before a party is allowed to seek the intervention of the courts, it is a pre-condition that he avail of all administrative processes afforded him, such that if a remedy within the administrative machinery can be resorted to by giving the administrative officer every opportunity to decide on a matter that comes within his jurisdiction, then such remedy must be exhausted first before the court's power of judicial review can be sought, otherwise, the premature resort to the court is fatal to one's cause of action.[40] While there are exceptions to the principle of exhaustion of administrative remedies, it has not been sufficiently shown that the present case falls under any of the exceptions.

WHEREFORE, the petition is **GRANTED**. The Resolutions dated February 13, 2013 and May 8, 2013 of the Court of Tax Appeals (CTA), Second Division in CTA Case No. 8544 are hereby **REVERSED** and **SET ASIDE**. The petition for review filed by private respondent Petron Corporation before the CTA is **DISMISSED** for lack of jurisdiction and prematurity.

SO ORDERED.

Sereno, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Perez, JJ.,* concur.

---

[40] *Province of Zamboanga Del Norte v. Court of Appeals*, 396 Phil. 709, 717 (2000).