

OHIO BOARD OF TAX APPEALS

Heng Song Tang and)	
Sochien Tang,)	
)	Case No. 01-J-411
Appellants,)	
)	(REMISSION)
vs.)	
)	DECISION AND ORDER
Thomas M. Zaino,)	
Tax Commissioner of Ohio,)	
)	
Appellee.)	

APPEARANCES:

For the Appellant	- Heng Song Tang <i>Pro Se</i> 550 Woodbay Drive Gahanna, Ohio 43230
For the Appellee	- Betty D. Montgomery Attorney General of Ohio Richard C. Farrin Assistant Attorney General State Office Tower, 16 th Floor 30 East Broad Street Columbus, Ohio 43215

Entered September 28, 2001

Mr. Johnson, Ms. Jackson, and Ms. Margulies concur.

The Board of Tax Appeals is considering this matter pursuant to a purported notice of appeal filed by Heng Song Tang and Sochien Tang. (“Appellants”) Appellants have attempted to appeal from a final determination of the Tax Commissioner that denied appellants’ application for the remission of real property and manufactured home tax penalties. The matter has been submitted to

the Board of Tax Appeals upon the purported notice of appeal and the evidence adduced at the hearing conducted herein.

At the hearing counsel for the Tax Commissioner submitted the following Certification:

“I, Thomas M. Zaino, do hereby certify that I am the duly appointed and qualified Tax Commissioner of the State of Ohio, and as such have custody of all of the records of the Department of Taxation and that a diligent search of those records discloses no filing in this Office of a notice of appeal to the Board of Tax Appeals from the final determination entered in the matter of Application for the Remission of Real Property and Manufactured Home Tax Penalties, Case No. FR 5938, by the Commissioner and issued to Tang Heng Song & Sochien, 550 Woodbay Drive, Gahanna, Ohio, 43230. The final determination issued by the Tax Commissioner on May 17, 2001, and submitted as Attachment A, is certified as a true and complete copy of the original entry.

“I further certify that Attachment B attached hereto is a true and complete copy of the original return receipt card from the certified mail delivery of the Tax Commissioner’s Final Determination for the herein referenced Case No. FR 5938.”

The return receipt card indicates that Sochien Tang n signed for the mailing that contained the document denying the application for the Remission of Real Property and Manufactured Home Tax Penalties on May 26, 2001. On June 5, 2001 the appellants filed a copy of a notice of appeal dated June 3, 2001 from the Commissioner’s determination with this Board. However, the appellants have

conceded that they failed to file a copy of the notice of appeal with the Tax Commissioner.

R.C. 5717.02 provides in pertinent part:

“Such appeals shall be taken by the filing of a notice of appeal with the board, and with the tax commissioner if his action is the subject of the appeal * * * within thirty days after notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner * * * has been given or otherwise evidenced as required by law.”

The evidence has clearly established that the appellants filed no notice of appeal with the Tax Commissioner. The Ohio Supreme Court has held that strict compliance with the requirements of R.C. 5717.02 is essential to invoke the jurisdiction of this Board. *House of Good Shepherd, Inc. v. Limbach* (1988), 37 Ohio St.3d 244; *Hanson Machinery Co. v. Limbach* (1986), 22 Ohio St.3d 209.

Since the appellants have failed to comply with the mandatory requirements of R.C. 5717.02, the Board lacks jurisdiction to address the merits of appellants' claim. The Board therefore finds and determines that the within matter should be, and hereby is, dismissed.

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