REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

DENNIS M. YAP, Petitioner,	CTA CASE NO. 10020
	Members:
-versus-	DEL ROSARIO, *P.J., Chairperson* FABON-VICTORINO, *and* MANAHAN, *JJ.*
BUREAU OF INTERNAL REVENUE, Respondent.	Promulgated:
	FEB 20 2020 3:11 pm

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RESOLUTION

This resolves petitioner's *Motion for Reconsideration* filed on November 4, 2019, assailing the Court's Resolution dated October 14, 2019, the dispositive portion of which reads:

> **WHEREFORE**, the instant Petition for Review filed by petitioner Dennis M. Yap is hereby **DISMISSED**, on jurisdictional ground.
>
> **SO ORDERED**.

Petitioner questions the dismissal of its *petition* on the ground that the Preliminary Collection Letter (PCL) issued by respondent cannot be considered as a final demand/decision appealable to the Court. Petitioner avers that the subject PCL used the word "requested" which allegedly is not similar to a demand. Quoting Black's Law Dictionary, 2nd Edition, petitioner submits that the word "demand" is defined as "*to claim one's due; to require; to ask relief*" which is not synonymous to a "request" which is defined as "*asking or petition; the expression of a desire to some person for* *something to be granted or done; particularly for the payment of a debt or performance of a contract.*" Thus, under the principle of *verba legis* in statutory construction, petitioner asserts that the subject PCL is not a final demand appealable to the Court.

Moreover, the 30-day period within which to file its appeal before the Court should be counted from receipt of the Warrant of Distraint and Levy (WDL), citing as basis thereof the ruling of the Supreme Court in *Jowelle's Auto Parts, Inc. vs. Bureau of Internal Revenue*,[1] which allegedly affirmed this Court's ruling that "*the 30-day period to appeal before the CTA is reckoned from petitioner's receipt of the WDL.*" Petitioner claims he has personal knowledge of the said ruling as the Board of Directors of Jowelle's Auto Parts, Inc. are his relatives, and that he merely followed said ruling to avoid dismissal of its P*etition*.

In his *Comment (On Petitioner's Motion for Reconsideration dated 04 November 2019)* filed on November 11, 2019, respondent joins the Court in dismissing the *Petition for Review* for lack of jurisdiction. The PCL, according to respondent, is clearly a demand to pay the tax liability, couched in clear and unequivocal terms. It indicated that the deficiency tax was already due, demandable and enforceable, and that available administrative remedies shall be enforced to ensure its collection, if payment thereof is not made. Thus, to resort to a myopic interpretation of a certain part of the letter and ignoring the rest of it is erroneous, and even improper, says respondent.

Petitioner's *motion* is bereft of merit.

To reiterate, the PCL received by petitioner on July 10, 2018 shows that the same is the final decision on petitioner's protest against the three (3) Formal Letters of Demand (FLDs) with attached Assessment Notices. As pointed out in the assailed Resolution, a demand letter from the Bureau of Internal Revenue (BIR) **<u>reiterating</u>** to the taxpayer the immediate payment of a tax deficiency assessment previously made, is tantamount to a denial of

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[1] G.R. No. 243642, July 24, 2019.

the taxpayer's request for reconsideration. Such letter amounts to a final decision on a disputed assessment and is thus appealable to this Court.[2]

The subject PCL did not only reiterate the demand for immediate payment of petitioner's tax liabilities, it also warned petitioner that failure to pay the said tax liabilities, would force him to take administrative summary remedies to ensure collection to protect the interest of the government. Clearly, the subject PCL is respondent's final decision on petitioner's protest against the three (3) Formal Letters of Demand (FLDs) with attached Assessment Notices.

Anent petitioner's assertion that the 30-day period within which to file its appeal before the Court should commence from its receipt of the WDL, citing as authority the ruling in *Jowelle's Auto Parts, Inc. vs. Bureau of Internal Revenue*, suffice it to say that there is a whale of difference in the factual milieu of the two cases. Specifically, the cited case assailed the validity of the WDL allegedly issued before the lapse of the 30-day period to request for reconsideration with respondent.

WHEREFORE, petitioner's *Motion for Reconsideration* filed on November 4, 2019 is hereby **DENIED**, for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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[2] *Commissioner of Internal Revenue vs. Isabela Cultural Corporation*, G.R. No. 135210, July 11, 2001.