REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ADELC TRADING / RYAN DOMINIQUE L. TANJUTCO, *Petitioner,*	**CTA EB No. 2469** *(CTA Case No. 10117)*
	Present:
- versus -	**DEL ROSARIO,** *PJ,* **UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID,** *and* **FERRER-FLORES,** *JJ.*
THE HONORABLE REY LEONARDO B. GUERRERO, in his capacity as Commissioner of the Bureau of Customs, *Respondent.*	
	Promulgated: FEB 02 2023 11:50am

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DECISION

REYES-FAJARDO, J.:

This is a Petition for Review[1] filed by petitioner Adelc Trading / Ryan Dominique L. Tanjutco on April 29, 2021, praying for the reversal and setting aside of the Resolution of the Third Division of this Court (Court in Division) promulgated on January 31, 2020[2] and Resolution of the Court in Division promulgated on March 9, 2021[3] and that the November 23, 2012 Decision of the Acting District Collector of the Port of Davao be affirmed and reinstated. The respective dispositive portions of the assailed Resolutions read as follows:

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1 *Petition for Review,* CTA EB No. 2469 Docket, pp. 4-28.

2 *Resolution dated January 31, 2020,* CTA Case No. 10117 Docket, pp, 202-209.

3 *Resolution dated March 9, 2021,* CTA Case No. 10117 Docket pp. 268-269.

Assailed Resolution promulgated on January 31, 2020

> **WHEREFORE,** premises considered, respondent's Motion to Dismiss is **GRANTED**. The Petition for Review docketed as CTA Case No. 10117, entitled *ADELC Trading / Ryan Dominique L. Tanjutco v. The Honorable Rey Leonardo B. Guerrero, in His Capacity as Commissioner of the Bureau of Customs* is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**

Assailed Resolution promulgated on March 9, 2021

> **WHEREFORE,** premises considered, petitioner's **Motion for Reconsideration** is hereby denied for lack of merit.
>
> **SO ORDERED.**

FACTS

As found by the Court in Division in its Resolution promulgated on January 31, 2020, the facts are as follows:

> In his Petition for Review, petitioner alleges that he is the consignee of a 1x40' container shipment bearing Container Van No. TEXU706966. The shipment contains one (1) unit Rolls Royce motor vehicle (hereinafter referred to as "Subject Shipment"). The Subject Shipment arrived at the Port of Davao ("POD") on 23 July 2012.
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> On 17 September 2012, the District Collector-POD issued a Warrant of Seizure and Detention against the Subject Shipment for violation of Executive Order No. 156 ("EO 156") in relation to Section 105 (No Dollar Importation of Personally Owned Used Vehicle) of the Tariff and Customs Code of the Philippines ("TCCP").
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> Thereafter, a hearing was conducted on 17 October 2012 where petitioner presented his Authority to Import dated 11 July 2012 issued by the Department of Trade and Industry-Bureau of Import Services. On 19 October 2012, petitioner submitted a letter to the District Collector-POD offering to pay the settlement value and fine, if any, of the Subject Shipment in accordance with Section 2307 of the TCCP.
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> On 23 November 2012, the Acting District Collector-POD Atty. Martiniano B. Bangcoy issued a Decision accepting petitioner's settlement offer and ordering the release of the Subject Shipment upon payment of the settlement value of Four Million One Hundred

> Seventy One Thousand Five Hundred Sixty One Pesos (Php4,171,561,00) (hereinafter referred to as "2012 Decision").
>
> The 2012 Decision was then forwarded to the respondent for his review pursuant to Section 2307 of the TCCP. On 26 August 2016, respondent issued the 2016 Decision reversing the 2012 Decision and ordering the forfeiture of the Subject Shipment. Petitioner avers that he received a copy of the 2016 Decision via e-mail. Based on Annex "P" submitted by the petitioner with the Petition for Review, he received the e-mail on 28 February 2017.
>
> Subsequently, petitioner filed his Motion for Reconsideration on 13 March 2017.[4] However, this was subsequently denied by respondent in his Order dated 17 November 2017 (hereinafter referred to as "2017 Order"). A physical copy of the 2016 Decision and 2017 Order were both received by the petitioner on 17 January 2018.
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> Unknown to the petitioner that the respondent already issued the 2017 Order, he filed a Letter for Reconsideration to respondent dated 8 January 2018. On 28 May 2019, respondent denied petitioner's letter for reconsideration and treated it as petitioner's second Motion for Reconsideration (hereinafter referred to as "2019 Decision"). Aggrieved, the petitioner filed the instant Petition for Review on 8 July 2019 assailing the 2019 Decision of the respondent.

On September 18, 2019, respondent filed a *Motion to Dismiss* with the Court in Division.[5]

On December 6, 2019, the Court in Division issued a Resolution submitting respondent's *Motion to Dismiss* for resolution there being no comment filed by petitioner despite the period granted.[6]

On January 31, 2020, the Court in Division issued a Resolution granting respondent's Motion to Dismiss and dismissing petitioner's *Petition for Review.*

On March 4, 2020, petitioner filed a *Motion for Reconsideration* with the Court in Division.[7]

On September 23, 2020, respondent filed a *Comment (On Petitioner's Motion for Reconsideration)* with the Court in Division.[8]

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4 *Petition for Review,* Annex "P-1", CTA Case No. 10117 Docket, p. 168, however bears a transaction date of "4/7/2017."

5 *Motion to Dismiss,* CTA Case No. 10117 Docket, pp. 187-194.

6 *Resolution dated December 6, 2019,* CTA Case No. 10117 Docket, p. 200.

7 *Motion for Reconsideration,* CTA Case No. 10117 Docket, pp. 213-224.

8 *Comment,* CTA Case No. 10117 Docket, pp. 235-244.

On December 9, 2020, petitioner's *Motion for Reconsideration* was submitted for resolution.

On March 9, 2021, the Court in Division issued a Resolution denying petitioner's *Motion for Reconsideration.*

On April 29, 2021, petitioner filed a *Petition for Review* with the Court *En Banc.*

On October 19, 2021, respondent filed a *Comment.*[9]

On February 3, 2022, the case was submitted for decision.[10]

RULING

The Petition for Review is denied.

It is settled that jurisdiction over the subject matter is fundamental for a court to act on a given controversy. It is conferred by law and not by the consent of the parties.[11]

Republic Act (RA) No. 1125, as amended by RA Nos. 9282 and 9503, creating the Court of Tax Appeals (CTA), did not grant the CTA blanket authority to decide any and all tax disputes. In defining the CTA's jurisdiction, RA No. 1125, as amended,[12] limited the CTA's authority to those matters enumerated therein. Section 7 of RA No. 1125, as amended, provides:

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

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[9] *Comment,* CTA EB No. 2469 Docket, pp. 121-137.Due to the suspension of time for filing and service of pleadings during the physical closure of appellate collegiate courts within the National Capital Region and the resumption thereof seven (7) days from October 20, 2021, *i.e.,* on October 27, 2021, pursuant to Supreme Court Administrative Circular No. 72-2021, and since respondent received the Court in Division's Resolution directing respondent to file a Comment only on August 2, 2021, respondent had ten (10) days from October 27, 2021 or until November 6, 2021 to file a Comment. *See* Resolution dated February 3, 2022, CTA EB No. 2469 Docket, pp. 145-147.

[10] *Resolution dated February 3, 2022,* CTA EB No. 2469 Docket, pp. 145-147.

[11] *Mitsubishi Motors Philippines Corporation v. Bureau of Customs,* G.R. No. 209830, June 17, 2015.

[12] An Act Creating the Court of Tax Appeals.

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided

...

(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.

In relation to the foregoing, Section 3 of Rule 4 of the Revised Rules of the CTA (RRCTA),[13] provide:

SEC. 3. *Cases within the jurisdiction of the Court in Division.* - The Court in Division shall exercise:

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

...

(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;

However, the exercise of the Court's jurisdiction to rule on the decisions of the Commissioner of Customs is conditioned on the timeliness of the filing of the appeal. Section 11 of RA No. 1125, as amended, states that:

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 after the expiration of the period fixed by law for action as referred to in Sec. 7(a)(2) herein.

Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein

[13] A.M. No. 05-11-07-CTA.

provided, from the expiration of the period fixed by law to act thereon...

As alleged by petitioner, on September 17, 2012, the District Collector-Port of Davao (POD) issued a Warrant of Seizure and Detention against the subject shipment for violation of Executive Order No. 156 in relation to Section 105 (No Dollar Importation of Personally Used Vehicle) of the Tariff and Customs Code of the Philippines (TCCP).[14] On November 23, 2012, the Acting District Collector-POD issued a Decision accepting petitioner's settlement offer and ordering the release of the subject shipment upon the settlement of Four Million One Hundred Seventy-One Thousand Five Hundred Sixty-One Pesos (₱4,171,561.00).[15]

Pursuant to Section 2307[16] of the TCCP, the District Collector's Decision was forwarded to respondent. On August 26, 2016 respondent issued a Decision reversing the District Collector's Decision. Petitioner avers that he received respondent's August 26, 2016 Decision through electronic mail on February 28, 2017.[17]

Thereafter, petitioner filed a Motion for Reconsideration[18] with respondent on April 4, 2017,[19] which was subsequently denied by

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14 *Petition for Review*, CTA Case No. 10117 Docket, p. 24; *Resolution dated January 31, 2022*, CTA Case No. 10117 Docket, pp. 202-203.

15 *Petition for Review*, CTA Case No. 10117 Docket, p. 24; *Resolution dated January 31, 2022*, CTA Case No. 10117 Docket, p. 203.

16 SEC. 2307. Settlement of Case by Payment of Fine or Redemption of Forfeited Property. - Subject to approval of the Commissioner, the district collector may, while the case is still pending, except when there is fraud, accept the settlement of any seizure case provided that the owner, importer, exporter, or consignee or his agent shall offer to pay to the collector a fine imposed by him upon the property, or in case of forfeiture, the owner, exporter, importer or consignee or his agent shall offer to pay for the domestic market value of the seized article. The Commissioner may accept the settlement of any seizure case on appeal in the same manner.

Upon payment of the fine as determined by the district collector which shall be in amount not less than twenty percentum (20%) nor more than eighty percentum (80%) of the landed cost of the seized imported article or the F.O.B. value of the seized article for export, or payment of the domestic market value, the property shall be forthwith released and all liabilities which may or might attach to the property by virtue of the offence which was the occasion of the seizure and all liability which might have been incurred under any cash deposit or bond given by the owner or agent in respect to such property shall thereupon be deemed to be discharged.

Settlement of any seizure case by payment of the fine or redemption of forfeited property shall not be allowed in any case where the importation is absolutely prohibited or where the release of the property would be contrary to law.

17 *Resolution dated January 31, 2022*, CTA Case No. 10117 Docket, p. 203.

18 *Petition for Review*, Annex "P", CTA Case No. 10117 Docket, pp. 147-159.

19 *Petition for Review*, Annex "P-1", CTA Case No. 10117 Docket, p. 168, however bears a transaction date of "4/7/2017."

respondent in an Order dated November 17, 2017.[20] However, unknown to petitioner that the November 17, 2017 Order had been issued, petitioner filed a Letter for Reconsideration dated January 8, 2018.[21]

On January 17, 2018, the physical copies of respondent's August 26, 2016 Decision and November 17, 2017 Order were received by petitioner.[22] However, petitioner did not reckon the 30-day period for filing of the Petition for Review from physical receipt of the decision on January 17, 2018.

Petitioner only filed its Petition for Review with the CTA on July 8, 2019. Petitioner reasons that it could not file its Petition for Review earlier since its Letter for Reconsideration dated January 8, 2018 has not been resolved when it received on **January 17, 2018**, the physical copy of respondent's August 26, 2016 Decision.[23]

Petitioner instead reckoned the 30-day period from **June 6, 2019**,[24] when it received respondent's Resolution dated May 28, 2019, denying petitioner's Letter for Reconsideration.[25] On July 8, 2019, petitioner filed a Petition for Review with the CTA assailing respondent's May 28, 2019 Resolution.[26]

Petitioner's reasoning is unavailing.

Again, petitioner is reckoning the counting of the period to appeal with the CTA from **June 6, 2019**, the date of receipt respondent's May 28, 2019 Resolution, which resolved the Letter for Reconsideration dated January 8, 2018 filed by petitioner assailing respondent's August 26, 2016 Decision. It must be noted that as of January 8, 2018, petitioner has not yet received the physical copy of the August 26, 2016 Decision but rather the copy received through electronic mail on February 28, 2017. Verily, the August 26, 2016 Decision referred by petitioner in its Letter for Reconsideration dated January 8, 2018 pertains to the decision it received by electronic mail on February 28, 2017.

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20 *Resolution dated January 31, 2022*, CTA Case No. 10117 Docket, p. 203.
21 *Id.*
22 *Id.*
23 *Id.* at p. 17.
24 *Petition for Review*, CTA Case No. 10117 Docket, p. 19.
25 *Petition for Review*, Annex "A", CTA Case No. 10117, p. 59.
26 *Id.* at pp. 16-58.

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Here is the flaw in petitioner's argument. Petitioner disavows the receipt of the August 26, 2016 Decision on February 28, 2017 through electronic mail. Yet, at the same time, it proffers that the counting of the reglementary period to file an appeal is from its physical receipt of respondent's May 28, 2019 Resolution. This May 28, 2019 Resolution resolved petitioner's Letter of Reconsideration assailing the August 26, 2016 Decision, the very same decision, the electronic receipt of which it rejects.

Finally, this Court notes that the filing of a motion for reconsideration is not an available remedy in seizure proceedings.[27] In case of seizure proceedings, the only remedies provided by the TCCP and the Customs Modernization and Tariff Act (CMTA) are as follows:

> [TCCP] SEC. 2307. *Settlement of Case by Payment of Fine or Redemption of Forfeited Property.* - **Subject to approval of the Commissioner,** the district collector may, while the case is still pending, except when there is fraud, accept the settlement of any seizure case provided that the owner, importer, exporter, or consignee or his agent shall offer to pay to the collector a fine imposed by him upon the property, or in case of forfeiture, the owner, exporter, importer or consignee or his agent shall offer to pay for the domestic market value of the seized article. The Commissioner may accept the settlement of any seizure case on appeal in the same manner.
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> ...
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> SEC. 2313. *Review by Commissioner.* - ...If in any seizure proceedings, the Collector renders a decision adverse to the Government, such decision shall be automatically reviewed by the Commissioner and the records of the case elevated within five (5) days from the promulgation of the decision of the Collector....
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> ...
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> [CMTA] SEC. 1124. Settlement of Pending Seizure Case by Payment of Fine or Redemption of Forfeited Goods. - **Subject to the approval of the Commissioner,** the District Collector may allow the settlement by payment of fine or the redemption of forfeited goods, during the course of the forfeiture proceeding....

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[27] *Sergio Carbonilla, et al. v. Board of Airlines Representatives, et al.,* G.R. Nos. 193247 and 194276, September 14, 2011 as cited in *Vertex International Product and Exchange Corporation v. Commissioner of Customs,* CTA EB Case No. 1160 (CTA Case No. 8193), March 4, 2015 citing *Sabino Rigor, et al., v. Sps. Eduardo Rosales and Flora Rosales, et al.,* G.R. No. L-33756, October 23, 1982 citing *Andres Señeres, et al. v. Hon. Vicente Frias, et al.,* G.R. Nos. L-32921-40, June 10, 1971.

...

SEC. 1127. Automatic Review in Forfeiture Cases. - The Commissioner shall automatically review any decision by the District Collector adverse to the government. The entire records of the case shall be elevated within five (5) days from the promulgation of the decision. The Commissioner shall decide on the automatic review within thirty (30) days, or within ten (10) days in the case of perishable goods, from receipt of the records. When no decision is rendered within the prescribed period or when a decision adverse to the government is rendered by the Commissioner involving goods with FOB or FCA value of ten million pesos (P10,000,000.00) or more, the records of the decision of the Commissioner, or of the District Collector under review, as the case may be, shall be automatically elevated within five (5) days for review by the Secretary of Finance. The decision issued by the Secretary of Finance, whether or not a decision was rendered by the Commissioner within thirty (30) days, or within ten (10) days in the case of perishable goods, from receipt of the records, shall be final upon the Bureau.

Besides, even assuming that a motion for reconsideration was available to petitioner under the TCCP and the CMTA and even assuming petitioner's assertion that the reckoning of the thirty (30)-day period to appeal with the CTA is from June 6, 2019, the date it received respondent's May 28, 2019 Resolution, the Court in Division has already ruled that the appeal was filed out of time in its Resolution dated January 31, 2020, to wit:

Given the foregoing, petitioner's assertion that the counting of the reglementary period started when it received the physical copy respondent's 2019 Decision is untenable. It should be counted from the receipt of the 2016 Decision via e-mail on 28 February 2017. The Motion for Reconsideration and Letter for Reconsideration merely suspended the counting of the reglementary period in accordance with jurisprudence and Book VII, Chapter 4, Section 20 (2) of the Administrative Code of 1987, to wit:

Section 20. Perfection of Administrative Appeals.

...

(2) **<u>If a motion for reconsideration is denied, the movant shall have the right to perfect his appeal during the remainder of the period for appeal, reckoned from receipt of the resolution of denial.</u>** If the decision is revered on reconsideration, the aggrieved party shall have fifteen (15) days from receipt of the resolution of reversal within which to perfect his appeal.

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> From the time petitioner received the 2016 Decision until the filing of the Motion for Reconsideration, a total of thirteen (13) days had already lapsed. Therefore, when petitioner received the 2019 Decision on 6 June 2019, it only had seventeen (17) days or until 23 June 2019 to file the Petition for Review. However, since 23 June 2019 fell on a Sunday, the appeal should have been filed on 24 June 2019.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter. Jurisdiction is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief that it exists. Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[28]

WHEREFORE, in light of the foregoing, the Petition for Review is **DENIED** for lack of merit.

SO ORDERED.

MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[28] *Mitsubishi Motors Philippines Corporation v. Bureau of Customs,* G.R. No. 209830, June 17, 2015.

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice