**REPUBLIC OF THE PHILIPPINES**
***Court of Tax Appeals***
**QUEZON CITY**

***Third Division***

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| **B. NEVALGA ENTERPRISES CORP. BY: BENITO B. NEVALGA,** | **CTA CASE NO. 10159** |
| *Petitioner,* | Members: **UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.* |
| *-versus-* | |
| **BUREAU OF INTERNAL REVENUE,** | Promulgated: |
| *Respondent.* | OCT 22 2019 3:48 p.m. |

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## *RESOLUTION*

For resolution is petitioner's "Motion for Reconsideration (To The Resolution Dated September 17, 2019)" (hereinafter referred to as "MR") filed on October 8, 2019.

In petitioner's MR, it avers that the Preliminary Assessment Notice is invalid for having been made beyond the three (3)-year prescriptive period; that there is a pending criminal case against petitioner for alleged failure to present books of account for the years 2006 to 2010; that petitioner has no outstanding internal revenue liability per Certification from the Revenue District Office; and that the basis of the assessment by respondent for alleged tax deficiency is the alleged confidential information from an informant.

The Court finds no legal grounds to reverse its dismissal of the case. The bases of petitioner's MR delves into the merits of the case, which is beyond the jurisdiction of the Court.

As discussed in the September 17, 2019 Resolution, petitioner received the undated Final Decision on Disputed Assessments (FDDA) issued by the CIR on July 20, 2016. Hence, it had thirty (30) days from July 20, 2016 or until August 19, 2016 to elevate its protest with the CTA, pursuant to ***Section 228 of the 1997 NIRC*** and ***Revenue Regulations (RR) No. 22-1999***, as amended by ***RR No. 18-2013***. Accordingly, due to petitioner's failure to file the Petition for Review within the reglementary period, the Court has no jurisdiction to try the case on the merits and has no choice but to dismiss the same.

As provided in the case of ***Bernadette S. Bilag, et. al. v. Estela Ay-ay, et. al.***[1], to wit:

> "Jurisprudence has consistently held that '[j]urisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.' Perforce, it is important that a court or tribunal should first determine whether or not it has jurisdiction over the subject matter presented before it, considering that any act that it performs without jurisdiction shall be null and void, and without any binding legal effects."[2]

**WHEREFORE**, premises considered, petitioner's "Motion for Reconsideration (To The Resolution Dated September 17, 2019)" is hereby **DENIED** for lack of merit.

**SO ORDERED.**

**ERLINDA P. UY**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

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[1] G.R. No. 189950, April 24, 2017.
[2] Underscoring ours.