REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

****

CENTRAL SERVICES INTEGRATED COOPERATIVE,
Petitioner,

- versus -

THE HONORABLE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7931

Members:

ACOSTA, *Chairperson*
BAUTISTA, and
CASANOVA, *JJ.*

Promulgated:

NOV 11 2009; 2:35pm

x -x

RESOLUTION

This resolves respondent's **"Motion to Dismiss"** filed on October 1, 2009 taking into consideration petitioner's **"Memorandum To Support Petitioner's Opposition to Motion to Dismiss"** filed on September 1, 2009; and petitioner's **"Urgent Manifestation"** filed on October 29, 2009.

Petitioner's **"Urgent Manifestation"** filed on October 29, is hereby **NOTED**. For the record, respondent's Motion to Dismiss was heard on October 9, 2009, attended by counsels of both parties, and was submitted for resolution on same date.

As regards the Motion to Dismiss, respondent argued that the instant Petition for Review by petitioner was filed out of time. It further argued that the actual purpose of petitioner in filing this Petition is for this Court to order the cancellation of respondent's ruling in "ECCP-02-2002/COOP(M-30)110-2009", which ruling has granted the recognition of the taxpayer itself as a tax exempt entity. Respondent avers that under Section 11 of

Republic Act No. 1125, as amended by Republic Act No. 9282, the receipt of respondent's decision or inaction shall commence the running of the 30-day period for the filing of any appeal to this Court.

In his Memorandum, petitioner argued that the petitioner promptly wrote respondent a letter dated February 26, 2009 requesting for reconsideration of respondent's Letter dated February 18, 2009 granting the petitioner a Certificate of Tax Exemption, and the thirty (30) days period was effectively and legally interrupted by the filing of said letter.

After considering the arguments of both parties, the Court resolves to grant the Motion to Dismiss.

In the instant case, petitioner alleged that it wrote a letter dated February 26, 2009 addressed to the respondent, thru Atty. James H. Roldan, Assistant Commissioner of Legal Services, requesting for reconsideration of the subject ruling, as contained in a letter dated February 18, 2009. To date, there was no separate response or action yet by the respondent of petitioner's request for reconsideration. However, petitioner filed the instant Petition for Review without waiting for the result of the reconsideration, which is a clear violation of the principle of exhaustion of administrative remedies.

It is settled that the premature invocation of the court's intervention is fatal to one's cause of action. If a remedy within the administrative machinery can still be resorted to by giving the administrative officer every opportunity to decide on a matter that comes within his jurisdiction, then such remedy must first be exhausted before the court's power of judicial review can be sought. The party with an administrative remedy must not only initiate the prescribed administrative procedure to obtain relief but also pursue it to its appropriate conclusion before seeking judicial intervention in order to give the administrative agency an opportunity to decide the matter itself correctly and prevent unnecessary and premature resort to the court. (***Asia International Auctioneers, Inc. and Subic Bay***

Motors Corporation vs. Hon. Guillermo L. Parayno, Jr., et al. [*G.R. No. 163445, December 18, 2007*]).

WHEREFORE, respondent's **"Motion to Dismiss"** is hereby **GRANTED** and the Petition for Review is hereby **DISMISSED**.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice