**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

*EN BANC*

**KUEHNE + NAGEL, INC.,**
*Petitioner,*

**CTA EB No. 2208**
(CTA AC No. 206)

Present:

Del Rosario, P.J.,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, JJ.

- *versus* –

**CITY OF PARAÑAQUE and ANTHONY I. PULMANO, in his capacity as the City Treasurer of Parañaque,**
*Respondents.*

Promulgated:

MAR 02 2021 3:50 p.m.

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## RESOLUTION

**CASTAÑEDA, JR., J.:**

For resolution of the Court *En Banc* is petitioner's Motion for Reconsideration (Re: Decision dated September 9, 2020)[1] filed on October 6, 2020, with respondents' Comment/Opposition (To the Motion for Reconsideration)[2] filed via registered mail on November 11, 2020.

[1] Court *En Banc*'s Docket., pp. 125-133.
[2] *Id.*, pp. 139-149.

The aforementioned Motion seeks reconsideration of the Decision of the Court *En Banc* promulgated on September 9, 2020,[3] (Assailed Decision) denying the present Petition for Review for lack of merit.

In its Motion for Reconsideration, petitioner insists that its judicial protest to the Regional Trial Court (RTC) of Parañaque was correctly filed within the period prescribed under Section 195 of the Local Government Code (LGC), in line with the ruling in *Lascona Land Co., Inc. v. CIR.*[4]

Petitioner also argues that while it is true that failure to appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case, the same admits of exceptions.[5] It contends that the above rule may be relaxed when there is no indication of intent to delay and the pleading is meritorious on its face, or on the basis of strong and compelling reasons when it would serve the ends of justice to prevent the grave miscarriage thereof.[6] In the present case, petitioner posits that there exists strong and compelling reasons to allow its appeal.[7]

Petitioner also argues that the assessment against it is void *ab initio*, and the denial of petitioner's case would give rise to an absurdity wherein a taxpayer is arbitrarily made to pay for a tax which is expressly prohibited by law.[8]

Petitioner postulates that the strict application of the rules of procedure will be tantamount to a deprivation of its property through mere technicality, as the tax assessment involves millions of pesos.[9]

Finally, petitioner maintains that it believed in good faith that it was entitled to wait for a decision from the City Treasurer of Parañaque, applying the doctrine of *Lascona.*[10]

On the other hand, respondents, in their Comment/Opposition submit that none of the arguments raised by petitioner is meritorious enough to warrant the reversal of the Assailed Decision and that the cases relied upon by petitioner are not applicable to the present case.[11] Respondents assert that the issue of the taxability of petitioner was not raised before the RTC and

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[3] *Id.*, pp. 107-122.
[4] *Id.*, pp. 126-127.
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*, pp. 127-129.
[9] *Id.*, pp. 129-130.
[10] *Id.*, pp. 131-132.
[11] *Id.*, p. 140.

hence, it cannot be raised on appeal or review for the first time.[12] Respondents also maintain that the dismissal of petitioner's appeal is based on law and evidence.[13] Lastly, respondents point out that the cases cited by petitioner in support of its Motion for Reconsideration are inapplicable to the present case.[14]

Petitioner's Motion for Reconsideration lacks merit.

A careful review of the case records and the arguments raised by petitioner in his Motion for Reconsideration reveals that the arguments relied upon are mere reiterations or restatement of the matters which have already been thoroughly discussed and passed upon by the Court *En Banc* in the Assailed Decision. Petitioner failed to raise any new or substantial matter or any compelling reason that will justify reversal or even modification of the Court *En Banc*'s findings.

The Court *En Banc* stands by its ruling that petitioner's judicial protest is already time-barred. Accordingly, the RTC, much less this Court, never acquired jurisdiction over the present case. The Court *En Banc* is not persuaded that there are "strong and compelling reasons" in the present case that warrant the relaxation of the established doctrine regarding appeals. On this point, the Supreme Court's dictum in *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*,[15] is enlightening, to wit:

> "Although appeal is an essential part of our judicial process, it has been held, time and again, that the right thereto is not a natural right or a part of due process but is merely a statutory privilege. Thus, the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and failure of a party to conform to the rules regarding appeal will render the judgment final and executory. **Once a decision attains finality, it becomes the law of the case irrespective of whether the decision is erroneous or not and no court - not even the Supreme Court - has the power to revise, review, change or alter the same. The basic rule of finality of judgment is grounded on the fundamental principle of public policy and sound practice that, at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law.**" *(Emphasis supplied)* ge

[12] *Id.*
[13] *Id.*, p. 141.
[14] *Id.*, pp. 143-145.
[15] G.R. No. 209830, June 17, 2015.

In sum, the Court *En Banc* finds no plausible reason to deviate from its ruling in the Assailed Decision.

**WHEREFORE**, petitioner's Motion for Reconsideration is **DENIED**, for lack of merit.

**SO ORDERED.**

**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

*WE CONCUR:*

**ROMAN G. DEL ROSARIO**
Presiding Justice

**ERLINDA P. UY**
Associate Justice

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

**CATHERINE T. MANAHAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

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