REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

GOLDMINE RICE MARKETING, represented by its Proprietor, MR. ORLANDO C. MANUNTAG,
Petitioner,

-versus-

HON. DISTRICT COLLECTOR OF CUSTOMS, Port of Manila Int'l. Container Terminal (MICT) S Access Road, North Harbor, Port Area, Tondo, Manila; and HON. REY LEONARDO B. GUERRERO, Commissioner of Customs, G/F, OCOM Bldg. 16th St., South Harbor, Port Area, Manila,
Respondents.

CTA *EB* NO. 2617
(CTA Case No. 10559)

Present:

DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
APR 01 2024 4:08 p.m.

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RESOLUTION

For resolution is petitioner's *Motion for Reconsideration* filed on September 4, 2023, with respondents' *Comment* filed through registered mail on October 31, 2023, and received by the Court on November 8, 2023.

Petitioner prays that the Court reconsider its Decision dated August 14, 2023 (assailed Decision), with the following dispositive portion:

> **WHEREFORE,** premises considered, the instant *Petition for Review* is **DENIED** for lack of merit.
>
> **SO ORDERED.**

Petitioner argues that the Court has jurisdiction over this case because Section 11 of Republic Act (RA) No. 1125, as amended, provides that as long as the Commissioner of

Customs (COC) or the person obligated to act failed to do so, any interested person may file an appeal with the CTA after sufficient time had lapsed for the person to act on their matter. This argument, according to petitioner, is affirmed by the Supreme Court in *Nestle Philippines, Inc. v. Honorable Court of Appeals, Court of Tax Appeals, and Commissioner of Customs* (*Nestle*),[1] where it remanded the case to the CTA for hearing and reception of evidence relative to petitioner's claims for refund of alleged overpayment of customs duties, after the Collector of Customs' *inaction* for nearly six (6) years.

In their *Comment*, respondents move for the denial of the present motion as it failed to advance cogent grounds to warrant a reversal of the assailed Decision as the issues raised by petitioner have already been passed upon.

We deny the motion.

Petitioner's reliance on the case of *Nestle* is misplaced. Said case is premised on the fact that a written protest is *seasonably filed* with the Collector of Customs under the Tariff and Customs Code of the Philippines (TCCP). As discussed in the assailed Decision, petitioner's Amended Petition before the Court in Division was denied as it is bereft of any allegation that it made a timely protest with respondents, *viz.*:

> In this case, petitioner claims that on March 4, 2021, it filed its Protest and Appeal for Duty and Tax Refund (Protest) to the office of respondent COC. Petitioner did not mention if the March 4, 2021 Protest with respondent COC was made within 15 days from receipt of the adverse ruling of the District Collector or from payment, as a result of the adverse ruling. Nothing in the petition intimates that a protest was made to the District Collector. **Hence, We cannot determine if the March 4, 2021 Protest was timely filed**.
>
> Nevertheless, even if petitioner seasonably filed a protest with the concerned officers as laid down in the CMTA and CAO No. 02-2020, such that there is a supposed ruling issued by the District Collector that was "deemed affirmed" due to respondent COC's inaction within 30 days from receipt of petitioner's Protest on March 4, 2021 or until April 3, 2021, the Court in Division would still have no jurisdiction over the Amended Petition for being **<u>time-barred</u>**.

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[1] G.R. No. 134114, July 6, 2001.

> the Court in Division would still have no jurisdiction over the Amended Petition for being **time-barred**.
>
> Under Section 13 of CAO No. 02-2020, petitioner may appeal to the CTA the COC's deemed affirmed ruling of the District Collector within 30 calendar days from April 3, 2021, or until May 3, 2021. ... Thus, petitioner had seven days from May 17, 2021, or until May 24, 2021, to file its Petition for Review.
>
> Consequently, even if petitioner properly filed a *Petition for Review* instead of a Petition for Duty and Tax Refund, the Court in Division would still dismiss the same for having been filed out of time on June 25, 2021, or 32 days late.
>
> **As correctly ruled by the Court in Division, the filing beyond the prescriptive period rendered the Court without jurisdiction over the subject petition.** [*Emphasis supplied*]

Moreover, as ruled in the assailed Decision, petitioner's *repeated* failure to comply with this Court's rules[2] and lawful orders[3] warrants the dismissal of the present petition.

Accordingly, We find no compelling reason to reconsider, modify, or reverse the assailed Decision upholding the Court in Division's dismissal of petitioner's Amended *Petition for Review* for lack of jurisdiction, for insufficiency in form and substance, for failure to comply with the Court's orders, and for being time-barred.

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

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

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[2] Section 3. Rule 42. Rules of Court provides:
SEC. 3. *Effect of failure to comply with requirements.* — **The failure of the petitioner to comply with** any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and **the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.** (*Emphases supplied*)
[3] Section 3. Rule 17 of the Revised Rules of Court. provides that:
SEC. 3. *Dismissal due to fault of plaintiff.* — **If, for no justifiable cause, the plaintiff fails** to appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, or **to comply with these Rules or any order of the court, the complaint may be dismissed** upon motion of the defendant or **upon the court's own motion, without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action.** This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

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WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding 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

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice