REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

YOKOHAMA TIRE SALES PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 11590**
	Members:
-versus-	**MANAHAN,** ***Chairperson,*** **REYES-FAJARDO, and ANGELES, JJ.**
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated:
	JAN 17 2025 1:20 p.m.

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RESOLUTION

For this Court's Resolution is petitioner's *Motion for Reconsideration* filed on October 11, 2024, seeking the reconsideration of the Court's Resolution denying the Motion for Additional Time to File Petition for Review, on the ground that the Court has no jurisdiction over final and executory decisions of the Commissioner of Internal Revenue (CIR).

Petitioner cites Rules 7 and 8 the Revised Rules of the Court of Tax Appeals (RRCTA) providing for the procedure in elevating an appeal with the Court of Tax Appeals (CTA) which is akin to filing an appeal with the Court of Appeals as provided in Rule 42 of the Rules of Court. According to petitioner, Rule 42 of the Rules of Court allows an extension of fifteen (15) days to file a Petition for Review with the Court of Appeals. Petitioner reasons that filing a Petition for Review with the CTA may be extended for a maximum period of thirty (30) days and that it has jurisdiction to act on the same as long it is filed within the extended period.

RULING OF THE COURT

We deny the motion.

The jurisprudence cited by petitioner refers to appeals filed against a decision of the RTC which may be extended in accordance with the applicable provisions of the Rules of Court (also cited by petitioner). This Court finds however, that reliance on said cases is misplaced as the basis for the dismissal of the out-of-time filing of the Petition for Review is grounded on substantive law and not procedural law. The case on hand involves an appeal from a Final Decision on a Disputed Assessment (FDDA) that has a definite and distinct prescriptive period provided under the law. Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended, provides quite clearly that an appeal to the CTA must be made within thirty (30) days from receipt of said decision, and that failure to appeal within the said period renders the assessment final, executory and demandable. We quote Section 228 of the 1997 NIRC, as amended, as follows:

> "SEC. 228. *Protesting of Assessment.*- When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings:
>
> xxx xxx xxx
>
> The taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
>
> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations.
>
> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty days (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction **may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180) day period otherwise the decision shall become final, executory and demandable.**" (emphasis supplied)

The afore-quoted Section 228 is implemented by Revenue Regulations (RR) No. 12-99 as amended by RR No. 18-2013 issued on November 28, 2013. Relevant portions of Section 3.1.4 of RR 18-2013 are quoted hereinbelow as follows:

Section 3.1.4 *Disputed Assessment-*

xxx xxx xxx

If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may either: **(i) appeal to the Court of Tax Appeals (CTA within thirty (30) days from date of receipt of the said decision;** or (ii) elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision. No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.

If the protest is not acted upon by the Commissioner's duly authorized representative within one hundred eighty days (180) days counted from the date of the filing of the protest in case of a request for reconsideration or from date of submission of the required documents within sixty (60) days from the date of filing of the protest in case of a request for reinvestigation, the taxpayer may either: (i) appeal to the CTA within thirty (30) days after the expiration of the one hundred eighty day period; or (ii) await the final decision of the Commissioner's duly authorized representative on the disputed assessment.

If the protest or administrative appeal, as the case may be, is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision. Otherwise, the assessment shall become final, executory and demandable. A motion for reconsideration of the Commissioner's denial of the protest or administrative appeal, as the case may be, shall not toll the thirty (30) day period to appeal to the CTA.

If the protest or administrative appeal is not acted upon by the Commissioner of Internal Revenue within one hundred eighty (180) days counted from the date of filing of the protest, the taxpayer may either : (i) appeal to the CTA within thirty (30) days from the expiration of the one hundred eighty (180) day period: or (ii) await the final decision of the Commissioner on the disputed assessment and appeal such final decision to the CTA within thirty (30) days after the receipt of a copy of such decision.

It must be emphasized, however, that in case of inaction on protested assessment within the 180 day period, the option of the taxpayer to either: (1) file a petition for review with the CTA within thirty (30) days after the expiration of the 180 day period; or (2) await the final decision of the Commissioner or his duly authorized representative on the disputed assessment and appeal such final decision to the CTA within thirty (30) days after receipt of a copy of such decision, are mutually exclusive and the resort to one bars the application of the other." (emphasis supplied)

It is well-settled that the perfection of an appeal in the manner and within the period pursuant to the relevant provisions of the law is not only mandatory but jurisdictional and non-compliance with these legal requirements is fatal to a party's cause.[1] We again quote for emphasis the ruling of the Supreme Court in the case of *Misnet, Inc., vs. CIR*,[2] to wit:

"**It bears to stress that the perfection of an appeal within the statutory period is a jurisdictional requirement** and failure to do so renders the questioned decision or decree final and executory and no longer subject to review." (emphasis supplied).

Finally, the Supreme Court has acknowledged that compliance with Section 228 of the 1997 NIRC, as amended, is a *substantive* requirement and not merely a matter of formality.[3]

WHEREFORE, in light of the foregoing considerations, the *Motion for Reconsideration* filed by petitioner on October 11, 2024 is **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

[1] *Team Pacific Corporation vs. Daza*, G.R. No. 167732, July 11, 2012.
[2] G.R. No.210604, June 3, 2019.
[3] *CIR vs. Fitness by Design, Inc.*, G.R. No. 215957, November 9, 2016.