REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ALPHALAND SOUTHGATE TOWER, INC., *Petitioner,*	CTA CASE No. 9610
-versus-	Members: CASTAÑEDA, JR., Chairperson, MINDARO-GRULLA, , and BACORRO-VILLENA, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 14 2020 4:19 pm

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RESOLUTION

MINDARO-GRULLA, J.:

Before the Court is a Motion for Reconsideration filed by petitioner Alphaland Southgate Tower, Inc. (ASTI),[1] seeking to set aside the Decision promulgated on December 13, 2019,[2] the dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, the Petition for Review is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED."**

In its motion, petitioner asserts that the Court has jurisdiction over the case since the ruling in *Philippine Journalists Inc., vs. Commissioner of Internal Revenue, (The "PJI Case"),*[3] where the Supreme Court reckons the 30-day

[1] Dockets, Vol. II, filed on January 2, 2020.
[2] *Ibid.*
[3] G.R. No. 162852, December 16, 2004.

period to file an appeal before this Court from receipt of the WDL, in not applicable to the instant case.

To emphasize, a WDL was subsequently issued by the Commissioner of Internal Revenue (CIR) upon issuance of the Final Assessment Notice and Formal Letter of Demand (FAN/FLD). Upon such, the WDL already constitutes an act of the CIR which may be the subject of an appropriate appeal before this Court.[4] As ruled by the Court *En Banc* in a plethora of cases:

> "Mannasoft is questioning the validity of the assessment, and consequently, the WDL that reckons the 30-day period to file a petition for review before this Court pursuant to an alleged void assessment. However, questioning the validity of WDL is neither imprescriptible nor akin to an action for declaration of a contract's nullity, reconveyances of property on void contracts, and void judgments.[5]
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> Thus, in questioning the assessment, and consequently the validity of the WDL to constitute as the final decision of the CIR on Mannasoft's protest, an appeal must first be made within the period fixed by law. Evident from the case of *Philippine Journalist, Inc. vs. Commissioner of Internal Revenue* that this Court has jurisdiction to pass upon the validity of a WDL, conditioned only on the timely filing of a petition for review.[6]
>
> The same ruling was pronounced in the *En Banc* case of *Jowelles Autoparts, Inc. vs. Bureau of Internal Revenue, represented by the Regional Director, Revenue District 15,*[7] citing the affirmed assailed Resolution[8] therein, which states that:
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> > "Note that the 30-day period to appeal before the CTA is reckoned from petitioner's receipt of the WDL No. 15-17-

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[4] *Ibid.*
[5] *Jowelles Autoparts, Inc. vs. Bureau of Internal Revenue, represented by the Regional Director, Revenue District 15,* CTA EB No. 1594, April 2, 2018.
[6] *Jowelles Autoparts, Inc. vs. Bureau of Internal Revenue, represented by the Regional Director, Revenue District 15*, CTA Case No. 9333, September 26, 2016.
[7] *Supra,* note 5.
[8] *Supra,* note 6.

> 003 on July 23, 2015. Hence, petitioner had until August 22, 2015 to seek judicial intervention through a Petition for Review, as the WDL constitutes an act of respondent on "other matters" arising under the NIRC or other laws administered by the BIR, which could be the subject of an appropriate appeal with the CTA. But it took petitioner a no less than 267 days, a period far beyond the 30-day prescriptive period, to challenge the validity of the said WDL before the Court."

Evidently, the Court in Division no longer has jurisdiction to act on the Petition for Review as it was filed out of time. A tax assessment that has become final, executory and enforceable for failure of the taxpayer to assail the same on time can no longer be contested. xxx

xxx xxx xxx

Again, We stress that, while the right to appeal a decision of the CIR to the this Court is merely a statutory remedy, nevertheless the requirement that it must be brought within thirty days after receipt of the final decision, or ruling is jurisdictional.[9] If a statutory remedy provides as a condition precedent that the action to enforce it must be commenced within a prescribed time, such requirement is jurisdictional."[10] (Underlinings supplied, citations omitted.)

More so when ASTI failed to file its protest from the FAN/FLD issued by the CIR. An important reckoning period to be observed for this Court to assume jurisdiction is the 30-day period granted to the taxpayer to file its protest from receipt of FAN/FLD.[11] Absent such protest in this case, the Court is left with no reason to deviate from its assailed Decision.

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[9] *Light Rail Transit Authority vs. Bureau of Internal Revenue, Represented by the Commissioner of Internal Revenue,* CTA EB No. 1325, April 11, 2017.
[10] *Commissioner of Internal Revenue vs. Mannasoft Technology Corporation*, CTA EB No. 1637, January 18, 2019
[11] Section 228 of the National Internal Revenue Code of 1997, as amended.

In sum, there is no compelling reason to discuss all other issues assailed by ASTI as there is nothing to invalidate that is within the jurisdiction of this Court. Evidently, its prayers are indicative that the issues raised by it all arose from the final decision that it failed to properly appeal on time. In other words, the Court is deprived of its jurisdiction to act upon the correctness and the validity of the WDL and the assessment.

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

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice