REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

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SANVAR PHARMA SALES CO., Petitioner,	**CTA Case No. 10517**
	Members:
- versus -	**UY,** *Chairperson,* **BACORRO-VILLENA,** and **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	***Promulgated:*** MAY 18 2023 10:19 AM

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RESOLUTION

For resolution is respondent's ***Answer with Motion to Dismiss*** filed on December 5, 2022 praying that the instant petition be dismissed for lack of jurisdiction, or in the alternative be denied for utter lack of merit, and that judgment be rendered ordering petitioner to pay the amount of ₱881,391.01 representing 2016 deficiency assessment for income tax as well as surcharge, compromise penalty, deficiency and delinquency interest pursuant to Section 248 and 249 of the NIRC of 1997 until 31 December 2017, as well as twelve percent (12%) interest on the total unpaid amount computed from January 1, 2018 until full payment thereof, pursuant to Section 249(C) of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 10963 and as implemented by Revenue Regulation (RR) No. 21-2018.

In the Resolution dated January 4, 2023, petitioner was ordered to file its Comment on respondent's Motion to Dismiss (embodied in the Answer) within ten (10) days from notice.[1]

A Records Verification Report dated February 6, 2023 was issued stating that petitioner failed to file its Comment despite due

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[1] Docket, p. 273.

notice.[2] Thus, in the Resolution dated February 10, 2023[3], the instant *Motion to Dismiss* was considered submitted for resolution.

Subsequently on April 4, 2023 however, petitioner filed a *Comment to Motion to Dismiss.* In the Resolution dated April 18, 2023, the Court noted said comment and submitted anew the instant *Motion to Dismiss.*

Hence, this Resolution.

Respondent's *Motion to Dismiss*

In his ***Motion to Dismiss***, respondent contends that the Court has no jurisdiction over the Petition for Review as the same was filed out of time, and therefore prays for the dismissal of the instant Petition.

Allegedly, the one hundred eighty (180) day period under Section 228 of the NIRC of 1997, as amended, and Section 3.1.4 of RR No. 18-2013 should be counted from the time petitioner filed its protest, or on August 24, 2020. From August 24, 2020, the 180-day period ends on February 20, 2021 and petitioner had thirty (30) days from the said date, or until March 22, 2021, to appeal to the Court. Considering that the instant Petition for Review was filed only on May 19, 2021, which is beyond the reglementary period, thus, this court has no jurisdiction over the instant petition for review.

Moreover, respondent avers that a motion for additional time/extension to file a Petition for Review with the CTA Division is not allowed by the Revised Rules of the Court of Tax Appeals (RRCTA). Allegedly, petitioner's motion for additional time/extension to file a petition for review before the CTA division should not have been allowed as the law and rules do not allow for such motion to be filed before the CTA division.

Further, respondent cites the decision of the CTA in the case of *Montalban Methane Power Corporation vs. Commissioner of Internal Revenue*[4], wherein the CTA First Division clarified that no extension for filing a petition for review before the CTA Division may be granted

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[2] Records Verification Report dated February 6, 2023 issued by Records Officer I, Leocadia D. Victoria, Records Officer III, Jasmin L. Mejia and noted by Supervising Judicial Staff Officer, Florisa L. Tagalog, Docket, p. 274.
[3] Docket, p. 278.
[4] CTA Case No. 10678, February 14, 2022.

considering that an appeal from a final decision on disputed assessment has a definite and distinct prescriptive period as provided by law. Hence, an appeal before the CTA Division must be made within thirty (30) days from receipt of the decision, and that failure to appeal within the said period renders the assessment final, executory and demandable.

Petitioner's *Comment to Motion to Dismiss.*

In its ***Comment to Motion to Dismiss***, petitioner alleges that it committed a mistake in counting the one hundred eighty (180) day period from the date of indorsement dated October 6, 2020 issued by Atty. Jethro M. Sabariaga as the reckoning period of the one hundred eighty (180) day period, instead of the mailing date of the Petition for Review on August 24, 2020. Petitioner's counsel explains that he had the wrong impression from the documents handed to him that the Administrative Protest was first received by Atty. Sabariaga, which was then indorsed to respondent Commissioner of Internal Revenue (CIR) for final decision. Admittedly, petitioner failed to see the registry receipt evidencing the separate mail sent to the CIR.

Given the foregoing, petitioner moves that the Court relax the rules in order to serve the ends of justice and to relieve the petitioner of an injustice not commensurate with the degree of its counsel's thoughtlessness in not complying with the rules of procedure.

THE ISSUE

As raised in respondent's motion to dismiss, the issue for the Court's resolution is whether or not the instant Petition for Review should be dismissed for lack of jurisdiction.

THE COURT'S RULING

In resolving the jurisdictional issue raised by respondent, it becomes necessary to look into the factual antecedents prior to the filing of the instant Petition for Review.

Culled from the *Petition For Review,*[5] the antecedent factual circumstances are as follows:

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[5] Petition for Review, Docket – pp. 26 to 33.

1. On March 2, 2018, petitioner received the *Letter of Authority* dated February 22, 2018 to examine the books of accounts and other accounting records for all internal revenue taxes including documentary stamp tax, other taxes, covering taxable period January 1, 2016 to December 31, 2016;

2. On the same date, petitioner received a request for presentation of accounting records dated February 22, 2018, in connection with the investigation of the company's internal revenue tax liabilities for taxable year 2016.

3. Petitioner received through its representative, Ma. Natividad D. Sabando, a *Notice of Informal Conference* dated November 26, 2018, requesting petitioner to appear for an informal conference within thirty (30) days before the Bureau of Internal Revenue (BIR) Revenue District Office No. 36 to present her side on the computation/assessment of deficiency taxes. On even date, Ms Sabando presented herself to the BIR to explain her side.

4. On October 2, 2019, petitioner received a *Preliminary Assessment Notice* (PAN) stating that petitioner is liable for deficiency taxes with details as follows:

Deficiency Income Tax	₱1,126,301.15
Deficiency Value-Added Tax	139,314.76
Withholding Tax	14,519.99
Compromise Penalty	1,000
Total	₱1,281,135.90

5. On October 23, 2019, petitioner paid the amount of ₱19,144.37;

6. On November 4, 2019, petitioner filed a *Protest Letter* on the disputed assessment;

7. On November 14, 2019, petitioner received a *Formal Letter of Demand* (FLD) stating that petitioner is liable for deficiency taxes, to wit:

Deficiency Income Tax	₱1,140,201.62
Deficiency Value-Added Tax	140,980.40
Expanded Withholding Tax	14,692.92
Compromise Penalty	1,000
Total	₱1,296,874.94

8. On December 11, 2019, petitioner filed its *Protest Letter* on the FLD requesting for reconsideration on the deficiency income tax;

9. Petitioner paid the amount of ₱109,347.61 and ₱140,980.40 on December 11, 2019;

10. On July 23, 2020, petitioner received a *Final Decision on Disputed Assessment* issued by Atty. Jethro M. Sabariaga, Regional Director of Revenue Region No. 6, stating that petitioner is liable for deficiency income tax in the total amount of ₱881,391.01 inclusive of interest.

11. On August 24, 2020, petitioner filed via registered mailed its *Administrative Appeal/Protest Letter* addressed to respondent Commissioner of Internal Revenue (CIR).

12. On February 2, 2021, petitioner received the *Letter* dated October 6, 2020 issued by Atty. Jethro M. Sabariaga informing petitioner of the receipt of its protest letter on September 29, 2020, and that the entire tax docket together with the protest letter will be forwarded to the Chief, Appellate Division of the BIR National Office in Quezon City.

13. Due to alleged inaction of respondent, petitioner filed the instant *Petition* on May 19, 2021 counting one hundred eighty (180) days from the October 6, 2020 letter issued by Atty. Jethro M. Sabariaga.

Petitioner's motion for extension was granted pursuant to Administrative Circulars issued by the Supreme Court due to the then rise of Covid 19 cases in the country.

Respondent asserts that the Court was not allowed to grant a motion for extension under the law/rules.

We do not agree.

Records show that on May 19, 2021, the Court received petitioner's *Motion for Extension of Time to File Petition for Review* filed via private courier LBC. In the said motion, petitioner alleged that due to respondent's inaction, petitioner was constrained to file a Petition for Review from April 4, 2021 or on or before May 4, 2021. However, petitioner prayed for an extension period of fifteen (15) days from May 4, 2021 to file its Petition for Review. Allegedly, due to the current rise of Covid-19 cases in Puerto Princesa, it has limited petitioner's ability to consult a lawyer or certified public accountant for the intelligent and sufficient preparation of the Petition for Review.

Notably, the Supreme Court issued various Administrative Circulars in view of the surge of cases of Covid-19 in the National Capital Judicial Region and nearby provinces, thereby ordering courts to be physically closed, and the period of filing of pleadings, service of motions, pleadings and other court submissions were suspended until May 14, 2021, to wit:

Administrative Circular (AC) No.	Issued on	Contents
AC No. 14-2021	March 28, 2021	*Re: Extension of Filing of Periods for Pleadings/ Court Submissions for Court in the National Capital Judicial Region and Nearby Provinces Placed Under Enhanced Community Quarantine from March 29 to April 4, 2021.* The filing periods of pleadings and other court submissions that fall during the period from March 29 to March 31, 2021 are hereby extended for three (3) calendar days, counted from April 5, 2021.
AC No. 15-2021	April 3, 2021	*Re: Extension of the Physical Closure of Courts and the filing periods for pleadings and other court submissions in light of the further extension of the enhanced community quarantine from April 5 to April 11, 2021.* The filing periods of pleadings and other court submissions that fell due or would fall due during the period beginning from March 29 to April 11, 2021 are hereby EXTENDED for seven (7) calendar days, counted from April 12, 2021. Accordingly, Administrative Circular No. 14-2021 is hereby modified in this respect.
AC No. 21-2021	April 10, 2021	*Re: Extension of Physical Closure of Courts* All the courts and the judicial offices in the National Capital Region and the provinces of Bulacan, Cavite, Laguna, and Rizal (NCJR+) shall remain physically closed until April 18, 2021. The time for filing and service of pleadings and motions during this period is suspended and shall resume seven (7) calendar days counted from the first day of physical reopening of the relevant court.
AC No. 22-2021	April 14, 2021	*Re: Physical Closure of Courts in Enhanced Community Quarantine and Modified Enhanced Community Quarantine Areas* The physical closure of courts in the areas of NCR among others is likewise extended to April 30, 2021.

		The time for filing and service of pleadings and motions during this period is suspended and shall resume seven (7) calendar days counted from the first day of physical reopening of the relevant court.
AC No. 29-2021	April 30, 2021	*Re: Work arrangements in Courts on May 3-14, 2021* The time for filing and service of pleadings and motions during this period in these areas is suspended and shall resume after seven (7) calendar days counted from the first day of the physical reopening of the relevant court.
AC No. 33-2021	May 14, 2021	*Re: Court operations starting May 17, 2021* All first and second level courts, and appellate collegiate courts (except the Supreme Court), and the judicial offices in these areas under GCQ shall be physically opened with a skeleton force of at least thirty percent (30%) to at most fifty percent (50%), beginning 17 May 2021 until further notice.

Based on the foregoing circulars, the period for filing and service of motions, pleadings, and other court submissions were suspended beginning March 29, 2021 until May 17, 2021 when the courts reopened. However, the period for filing and service of motion, pleadings, and other court submissions was extended for seven (7) days from May 17, 2021, or until May 24, 2021.

Considering the foregoing directives of the Supreme Court and in light of the different levels of community quarantine then imposed within the National Capital Region and nearby provinces, the Court in the interest of justice, considered petitioner's motion for extension of time as deemed granted.

The Petition for Review was prematurely filed, hence, the Court has no jurisdiction to entertain the instant Petition.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. Jurisdiction over the subject matter of a case is conferred by law.[6]

[6] *City of Iloilo vs. Philippine Ports Authority and Development Bank of the Philippines,* G.R. No. 233861, January 12, 2021.

The CTA, being a court of special jurisdiction, can take cognizance only of matters that are within its jurisdiction. Sections 7(a)(1) and (2), and 11 of RA No. 1125, as amended by RA No. 9282 expressly provides that the CTA exercises exclusive appellate jurisdiction to review by appeal, decisions of the CIR in cases involving disputed assessments, to wit:

> "SEC. 7. *Jurisdiction.* – The CTA shall exercise:
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> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (1) **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees, or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
>
> (2) **Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees, or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, **where the National Internal Revenue Code provides for a specific period for action, in which case, the inaction shall be deemed a denial.**" (Emphases added)
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> "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Court may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein."

As gleaned from the foregoing, the CTA exercises appellate jurisdiction over decisions, rulings or inactions of respondent Commissioner of Internal Revenue, and the same must be appealed within thirty (30) days from receipt of such decision, ruling or after the expiration of the period fixed by law for action.

With regard to the procedure and period fixed by law to dispute an assessment, Section 228 of the NIRC of 1997, as amended, specifies 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: *Provided, however,* That a preassessment notice shall not be required in the following cases:
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> xxx xxx xxx
>
> The taxpayers 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. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.
>
> **If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (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)*

Relative thereto, Section 3.1.4 of RR No. 12-99,[7] as amended by RR No. 18-2013,[8] sets the procedure in filing the filing of a protest against a disputed assessment (FLD/FAN).The pertinent provisions are quoted below:

> " SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* –
>
> 3.1 Mode of procedures in the issuance of a deficiency tax assessment:
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> xxx xxx xxx

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[7] SUBJECT: Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of the National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

[8] SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

3.1.4 *Disputed Assessment.* – The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN within thirty (30) days from date of receipt thereof. The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation as follows:

xxx xxx xxx

If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may <u>either</u>: (1) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from receipt of the said decision; **or <u>(ii) elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision.</u>** 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 <u>is not acted upon</u> <u>by the Commissioner's duly authorized representative</u> within one hundred eighty (180) days counted from the date of filing of the protest in case of a request for reconsideration; xxx, the taxpayer may either: (i) appeal to the CTA within thirty (30) days after the expiration of the one hundred eighty (180)-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 <u>appeal is not acted upon by the Commissioner</u> within one hundred eighty (180) days counted from the date of filing of the protest, the taxpayer may <u>either</u>: (i) appeal to the CTA within thirty (30) days from after the expiration of the 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 180-day period,

> **the option of the taxpayer to either: (1) file a petition for review with the CTA within 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 30 days after the receipt of a copy of such decision, <u>are mutually exclusive and the resort to one bars the application of the other.</u>"** (*Emphasis and underscoring supplied*)

In summary, the foregoing provisions present the options available to the concerned taxpayer when the protest is denied by the CIR himself, or by the latter's duly authorized representative, to wit:

1. If the protest is wholly or partially denied by the CIR or his duly authorized representative, the taxpayer may immediately appeal to the CTA within thirty (30) days from receipt of the whole or partial denial of the protest.[9]

2. If the protest in wholly or partially denied by the CIR's authorized representative, then the taxpayer may appeal to the CIR within thirty (30) days from receipt of the whole or partial denial of the protest[10] (administrative appeal);

3. In case of inaction by the CIR's duly authorized representative on the protest within one hundred eighty (180) days from submission of the required supporting documents (in case of a request for reinvestigation) or from the date of the filing of the protest (in case of a request for reconsideration), the taxpayer may either appeal the inaction to the CTA within thirty (30) days from the lapse of the 180-day period, or await the final decision of the CIR's duly authorized representative on the disputed assessment.

4. In case of inaction by the CIR on the protest or the administrative appeal within one hundred eighty (180) days counted from the date of filing of the protest, the taxpayer may either appeal the inaction to the CTA within thirty (30) days after the expiration of the 180-day period, or await the final decision of the CIR on the disputed assessment and appeal such final decision to the CTA within thirty (30) days from receipt of said final decision.

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[9] *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019.
[10] *Id.*

To determine which option is available to petitioner in the instant case, We find the following dates and circumstances relevant, to wit:

Date	***Action taken***
November 14, 2019	Petitioner received the FLD.[11]
December 11, 2019	Petitioner filed a protest letter to the FLD in the form of a request for reconsideration.[12]
July 23, 2020	Petitioner received the Final Decision on Disputed Assessment dated June 25, 2020 issued by respondent's authorized representative, Regional Director, Atty. Jethro M. Sabariaga.[13]
August 24, 2020	Petitioner filed a request for reconsideration or an administrative appeal on the FDDA addressed to respondent Commissioner. [14]
February 2, 2021	Petitioner received Letter dated October 6, 2020 issued by Atty. Jethro M. Sabariaga informing petitioner of the receipt of its protest letter on September 29, 2020, and that the entire tax docket together with the protest letter will be forwarded to the Chief, Appellate Division of the BIR National Office in Quezon City.[15]
May 19, 2021	Petitioner filed the instant Petition for Review

Considering that the CIR has not acted upon petitioner's request for reconsideration (or administrative appeal) on the FDDA[16], the fourth option is applicable in the instant case.

It bears noting however that the 180-day period of inaction under Section 228 of the NIRC of 1997, as amended, and Section 3.1.4 of RR No. 12-99, as amended by RR No. 18-2013, speaks of only one (1) "**180-day statutory period of inaction**" counted from the date of filing of the protest against the FLD/FAN (in case of a request for reconsideration), or from the submission of the relevant supporting documents (in case of a request for reinvestigation). This means that in cases of administrative appeal, there is no fresh "180-day period of inaction" on the part of the CIR to reckon, prior to

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[11] Paragraph 12, Petition for Review, Docket, pp. 26 to 33, at p. 29 vis-à-vis Paragraph 7, Answer with Motion to Dismiss, Docket, pp. 211 to 225, at p. 212
[12] Paragraph 13, Petition for Review, Docket, pp. 26 to 33, at p. 29 vis-à-vis Paragraph 7, Answer with Motion to Dismiss, Docket, pp. 211 to 225, at p. 212.
[13] Paragraph 16, Petition for Review, Docket, pp. 26 to 33, at p. 29 vis-à-vis Paragraph 8, Answer with Motion to Dismiss, Docket, pp. 211 to 225, at p. 212
[14] Paragraph 17, Petition for Review, Docket, pp. 26 to 33, at p. 29.
[15] Paragraph 1.b, Petition for Review, Docket, pp. 26 to 33, at p. 26.
[16] Paragraph 1, Petition for Review, Docket, pp. 26 to 33, at p. 26.

judicial recourse, as the only option left for the taxpayer is to await the decision of the CIR.

Relative thereto, the pronouncement in the case of *Nueva Ecija II Electric Cooperative Inc. Area II (NEECO II) vs. Commissioner of Internal Revenue*[17]*(or NEECO II case),* is instructive, to wit:

> "As correctly ruled by the CTA EB, Section 228 of Republic Act (RA) No. 8424, or the National Internal Revenue Code, as amended (hereafter, Tax Code) unmistakably provides that the one hundred eighty (180)-day period should be reckoned from the "submission of documents," which in this case was on 19 September 2016. Perforce, the statutory 180-day period lapsed on 18 March 2017. From such point, petitioner had thirty (30) days, or until 17 April 2017, to elevate the case to the CTA. However, it filed its Petition only on 2 June 2017, which is beyond the reglementary period provided by the law. **Notably, Section 3.1.4 of Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-13, which implements Section 228 of the Tax Code, provides for alternative courses of action to the taxpayer upon its receipt of the Final Decision on Disputed Assessment issued by the authorized representative of respondent Commissioner on Internal Revenue (respondent), including the option of elevating the protest to the respondent himself through a request for reconsideration. However, nowhere in said provision does it provide that a fresh 180-day period is granted to the respondent to act on such administrative appeal.** As aptly observed by the CTA EB, upholding petitioner's argument would run contrary to the clear language of Section 228 and would unduly expand the period provided by the law. Necessarily, taxpayers must exercise their rights in the manner and within the periods provided by statute and the pertinent regulations. "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." *(Emphases and underscoring ours*)

In the present case, an administrative appeal was filed by petitioner before the CIR, and therefore, pursuant to the *NEECO II*

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[17] G.R. No. 258101, April 19, 2022.

ruling, there is no fresh "180-day statutory period" to await prior to judicial recourse, as the only option left for the taxpayer is to wait for the decision of the CIR, and then file an appeal with the CTA within thirty (30) days from receipt of the decision.

It appears however that, to this date, respondent had not rendered a decision on petitioner's administrative appeal. Hence, considering that respondent has yet to issue a final decision on petitioner's administrative appeal, the instant Petition for Review must be dismissed for being filed prematurely.

It is well-settled that if the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The courts could not decide the case on the merits.[18]

WHEREFORE, in light of the foregoing considerations, respondent's *Answer with Motion to Dismiss* is **GRANTED**. The instant *Petition for Review* is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

ERLINDA P. UY
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

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[18] *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015.