REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

SIGRID CARANDANG *Petitioner,*	**CTA CASE NO. 10523**
	Members:
-versus-	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
HON. REY LEONARDO B. GUERRERO, COMMISSIONER OF CUSTOMS, AND DISTRICT COLLECTOR FOR PORT OF NAIA, *Respondent.*	Promulgated:

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before Us is a **Petition for Review,**[1] filed on May 20, 2021, praying for the Court to reverse and set aside the Decisions dated April 5, 2021,[2] and February 26, 2021,[3] issued by the Commissioner of Customs ("COC"), and to render a new judgement declaring the customs duties and taxes of **Php1,136.00** as proper and the imposition of 500% surcharge as without proper basis, and ordering the release of the subject seized articles after payment of proper duties and taxes.

The Parties

Petitioner Sigrid Carandang (hereinafter referred as "petitioner") is a Filipino residing at Unit 18-D Sonata Tower 2, San Miguel Avenue Corner Lourdes Street, Mandaluyong City.[4] She operates a business registered with the Department of Trade and Industry under the name Minted MNL[5] and is

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1 Docket, pp. 10-102, with annexes.
2 Exhibit "P-1", *id.*, pp. 244-247.
3 Exhibit "P-2", *id.*, pp. 248-251.
4 See Petition for Review, II. The Parties, par. 1, *id.*, p. 12.
5 Exhibit "P-10b", *id.*, p. 314.

the local franchise holder and authorized dealer of the Numismatic Guaranty Corporation (NGC), a company based in Florida, United States of America.[6]

Public respondent Hon. Rey Leonardo B. Guerrero is impleaded as the Commissioner of Customs, with office at the Bureau of Customs ("BOC") G/F OCOM Building, 16th Street, South Harbor, Port Area, Manila City.[7]

Public respondent District Collector of NAIA Port is likewise impleaded as a nominal party, with office address at BOC District Collector c/o Law Division, Room 304, NAIA Customhouse, Pasay City.[8]

<u>The Facts</u>

On July 27, 2020, a shipment covered by FEDEX Airway Bill (AWB) No. 771094237958 was transported from Harbour City, Hongkong to petitioner's address in the Philippines. The same airway bill indicated Johnny Chang of NGC Hongkong Limited as sender, and described the parcel as containing collectible magazines with total declared value of US$100.00.[9]

On August 3, 2020, petitioner received a FEDEX SMS notification[10] stating that the subject shipment was recommended for seizure as the declaration of seven pieces of collectible magazines was allegedly found to be 70 pieces instead. The said SMS notification is reproduced as follows:

> FedEx AWB 771094237958 please be advsie *(sic)* that shipment was recommended for seizure as declared 7 pcs, *(sic)* but as found is 70 pcs kindly email 3874081@fedex.com Thank you.

On even date, petitioner then sent email[11] to Rochelle Andal ("Andal"), FEDEX Clearing Department representative, to clarify that, per inquiry made with the shipper, the shipment in truth and fact contained seven pieces of magazines with collectible notes, to wit:

> I asked my friend in HK and she mentioned she sent 7pcs of magazines below with collectible notes. She used a big UPS box (as there's no smaller one available) to protect the magazines as well.

The above explanation was reiterated by petitioner in her email, dated August 6, 2020,[12] addressed again to Andal.

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6 Exhibit "P-10a", *id.*, p. 313.
7 See Petition for Review, II. The Parties, par. 2, *id.*, p. 12.
8 See Petition for Review, II. The Parties, par. 3, *id.*, p. 13.
9 Exhibit "P-6aa", *id.*, p. 283.
10 Exhibit "P-6c", *id.*, p. 286.
11 Exhibit "P-6d", *id.*, p. 287.
12 Exhibit "P-6dd", *id.*, p. 288.

After multiple follow-ups,[13] petitioner received an email[14] from Andal on October 21, 2020, informing the former that the subject shipment was still recommended for seizure as per customs examiner.

On October 27, 2020, the BOC, through respondent District Collector, issued a Warrant of Seizure and Detention (Warrant)[15] ordering the subject shipment seized for violation of *Section 1400*[16] in relation to *Section 1113*[17] *of the Customs Modernization and Tariff Act (CMTA)*.

According to the Warrant, on August 7, 2020, Customs Operation Officer (COO) Jerry Jovencio A. Ebio, Jr. conducted an actual examination of the shipment and found out that it contained seven pieces of magazines. However, he found inserted in between the pages of those magazines several collectible notes[18] described as follows:

CURRENCY	SERIAL NUMBER
SAMPUNG PISO Pick#161a (ND 1978) 10 Peso Printer: G&D	JY888888-SigN#8-Seal Type 4
TEN PESO (VICTORY SERIES) Pick#97 ND (1944) 10 Pesos Printer: USBEP	F00000002 pp-A – Sign, S. Osmeña-J. Hernandez

13 Exhibits "P-6e" to "P-6eeeeeeee", *id.*, pp. 289-296.

14 Exhibit "P-6f", *id.*, p. 297.

15 Exhibit "P-7", *id.*, pp. 298-299.

16 SEC. 1400. Misdeclaration, Misclassification, Undervaluation, in Goods Declaration. – Misdeclaration as to quantity, quality, description, weight, or measurement of the goods, or misclassification through insufficient or wrong description of the goods or use of wrong tariff heading resulting to a discrepancy in duty and tax to be paid between what is legally determined upon assessment and what is declared, shall be subject to a surcharge equivalent to two hundred fifty percent (250%) of the duty and tax due. .. .

...

When the misdeclaration, misclassification or undervaluation is intentional or fraudulent, such as when a false or altered document is submitted or when false statements or information are knowingly made, a surcharge shall be imposed equivalent to five hundred percent (500%) of the duty and tax due and that the goods shall be subject to seizure regardless of the amount of the discrepancy without prejudice to the application of fines or penalties provided under Section 1401 of this Act against the importer and other person or persons who willfully participated in the fraudulent act.

17 SEC. 1113. Property Subject to Seizure and Forfeiture. – Property that shall be subject to seizure and forfeiture include:

...

(i) Any package of imported goods which is found upon examination to contain goods not specified in the invoice or goods declaration including all other packages purportedly containing imported goods similar to those declared in the invoice or goods declaration to be the contents of the misdeclared package;

...

(l) Goods sought to be imported or exported:

...

(3) Through a false declaration or affidavit executed by the owner, importer, exporter, or consignee concerning the importation of such, goods;
(4) On the strength of a false invoice or other document executed by the owner, importer, exporter, or consignee concerning the importation or exportation of such goods; or . . .

18 Joint Stipulation of Facts, dated March 14, 2022, *id.*, pp. 214-215.

FIFTY PESOS (VICTORY SERIES) Pick#99a ND (1944) 50 Pesos Printer: USBEP	F00000002 pp-A – Sign, S. Osmeña-J. Hernandez
ONE HUNDRED PESOS (VICTORY SERIES) Pick#100a ND (1944), 100 Pesos Printer: USBEP	F00000002 pp-A – Sign, S. Osmeña-J. Hernandez
FIVE HUNDRED PESOS (VICTORY SERIES) Pick#101a ND (1944) 500 Pesos Printer: USBEP	F00000002 pp-A – Sign, S. Osmeña-J. Hernandez
ISAANDAAN LIBONG PISO (COMMEMORATIVE) Pick#190a 1998 100,000 Piso – Wmk, Bank Seal & BSP	GS0555-Sign#14

In a Letter dated October 30, 2020,[19] petitioner offered to settle the subject seizure case through payment of the assessed customs duty and tax plus fine, if any. She explained that her friend, the shipper of the collectible magazines and notes, acknowledged the failure to declare the same properly but claimed that it was only for security reasons and without intention to mislead. Petitioner further clarified that the collectible notes were given to her as tokens of friendship, nothing more.

On November 6, 2020, the BOC Prosecution and Litigation Division filed its Comment[20] in which it declined/opposed said offer of settlement due to petitioner's failure to rebut the presumption of fraud. According to the BOC, the defense of good faith should not apply in cases where the goods were seized for willful or negligent misdeclaration under *Section 1400 of the CMTA*.

In response to such Comment, petitioner filed a Letter, dated November 18, 2020,[21] reiterating good faith on the part of the sender in the failure to declare the goods properly. Further, she raised for the first time the nature of registered business which she operates (i.e., Minted MNL, the local franchise holder of NGC), and explained that the commemorative bills were sent by NGC Hongkong for viewing at her office by interested numismatic collectors.

19 Exhibit "P-8", *id.*, p. 306.
20 Exhibit "P-9", *id.*, pp. 307-310.
21 Exhibit "P-10" - "P-10d", *id.*, p. 311-316.

However, on December 3, 2020,[22] respondent District Collector issued a decision denying petitioner's offer of settlement and declaring the subject shipment forfeited in favor of the government due to failure to controvert findings of fraud, to wit:

> Accordingly, for claimant's miserable failure to rebut the foregoing findings and badges of fraud against the subject importation, this Office finds the subject Commemorative Notes are liable for forfeiture for violation of Section 1400 in relation to Section 1113 of the Customs Modernization and Tariff Act (CMTA), and Republic Act 7653 or the New Central Bank Act and the Foreign Exchange Transaction Manual.
>
> **WHEREFORE**, by virtue of the authority vested by law in this Office, and in compliance with applicable customs laws, rules and regulations, it is hereby ordered and decreed that the six Commemorative Notes consigned to Sigrid Carandang which arrived at this Port from Hongkong via Federal Express be, as they are hereby declared forfeited in favor of the government, to be disposed of in the manner provided for by law.

Aggrieved, petitioner appealed, by way of Notice of Appeal,[23] to respondent COC the above Decision of the District Collector, on January 11, 2021. However, the same was denied in a Decision, dated February 26, 2021,[24] of the COC, the dispositive portion of which states:

> **WHEREFORE**, premises considered, the Decision dated 03 December 2020 of the District Collector, NAIA Customhouse, which ordered the forfeiture of the subject shipment consigned to **SIGRID CARANDANG** is hereby AFFIRMED. Further, the claimant is hereby directed to pay the 500% surcharge of the applicable duties and taxes as an administrative penalty for violation of Section 1400 of the CMTA.

Undeterred, petitioner moved for reconsideration[25] of the afore-cited Decision of the COC, only to be denied again in the Decision dated April 5, 2021,[26] to wit:

> WHEREFORE, premises considered, the Motion for Reconsideration dated 11 March 2021 filed by the Consignee, SIGRID CARANDANG of the 26 February 2021 decision of the Commissioner of Customs is hereby DENIED for lack of merit.

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[22] Exhibit "P-3", *id.*, pp. 252-255.
[23] Exhibit "P-4", *id.*, p. 256.
[24] Exhibit "P-2", *id.*, pp. 248-251.
[25] Exhibit "P-5", *id.*, pp. 270-280.
[26] Exhibit "P-1", *id.*, pp. 244-247..

Petitioner then filed the instant Petition before the Court on May 20, 2021.[27] Respondents, through the Office of the Solicitor General (OSG), thereafter posted their Verified Answer (to the Petition for Review dated May 20, 20211), on July 30, 2021.[28]

After a full-blown trial, petitioner[29] and respondent[30] submitted their respective memoranda on February 19 and 26, 2024.

Upon noting such submission, the instant case was submitted for decision on February 27, 2024.

The Issues

The issues, as stipulated by the parties during the hearing held on January 18, 2023[31] and as belatedly incorporated in the Pre-Trial Order,[32] are:

> I. WHETHER THERE WAS WILLFUL MISDECLARATION OF GOODS INVOLVED IN THE SUBJECT SHIPMENT; AND
>
> II. WHETHER THE GOODS WERE LAWFULLY SEIZED AND FORFEITED IN FAVOR OF THE GOVERNMENT.

Arguments of the Parties

Petitioner's Arguments[33]

Petitioner advances that there is no willful and intentional misdeclaration of goods in this case. She argues that the clear intent of the law in imposing fines and penalties in cases for misdeclaration is to punish the importer or persons who actually made and submitted false entries of the documents accompanying the goods being shipped or imported. Being on the receiving side of the courier shipped to her, she insists that she could not have taken any direct or indirect participation or involvement in the act of declaring, making or submitting the alleged false entries in the description of the FEDEX courier. y

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27 *Supra* note 1.
28 Docket, pp. 115-131.
29 Memorandum (with Notice of Change of Address), *id.*, pp.397-425.
30 Memorandum, *id.*, pp. 426-444.
31 See Minutes of Hearing, dated January 18, 2023, *id.*, p. 360.
32 See Pre-Trial Order, *id.*, p. 219.
33 See Memorandum (with Notice of Change of Address), VII. Arguments/Discussions, *id.*, pp.409-423.

Further, petitioner raises that the factual and legal bases for the seizure of the subject shipment were not justified and/or not properly established. She claims that the subject commemorative notes, having been demonetized, could no longer be worth any value contrary to what was assessed by the examiner. Thus, according to petitioner, there is basis for the shipper to declare the value of the subject goods only in the amount of US$100, and the consequential taxes and duties thereof in the amount of Php1,136.

Finally, petitioner argues that since there is no absolute prohibition of the seized goods and its release is not contrary to law, as well as in keeping with the intention of the law (i.e., to expedite the collection of revenues and hasten the release of cargoes under seizure proceedings to the end that importers and exporters will benefit in the form of reduction in expenditure and assurance of return of their investments that have been tied up with their importations), respondent COC should have allowed the offer of settlement by petitioner as consignee, pursuant to *Section 1124 of the CMTA.*

Respondents' Counter-Arguments[34]

On the other hand, respondents maintain that the seized commemorative bank notes should be forfeited in favor of the government for having been fraudulently misdeclared in the subject shipment, in violation of *Section 1400* in relation to *Section 1113 of the CMTA*. They argue that petitioner failed to controvert the *prima facie* evidence of fraud against her, as the fraud was presumed when COO Ebio found a discrepancy of more than 95% in duties and taxes based on the values of the declared collectible magazines and the undeclared commemorative bank notes.

Moreover, according to respondents, even assuming arguendo that petitioner was indeed a mere receiver in good faith of the articles imported and that she had no participation in the fraudulent entries made in the import documents, the commemorative bank notes were nonetheless correctly seized based on the principle that forfeiture proceedings are in rem and thus attached primarily to the thing itself rather than the offender. Accordingly, respondents emphasize that the only query to be resolved herein is whether the articles were imported in violation of the customs laws, without regard to the character or conduct of the shipper of consignee.

Lastly, respondents argue that the fact that the commemorative notes were demonetized does not exempt the same from payment of import duties. Respondents highlight that demonetization does not render the bank notes devoid of value for purposes of commercial transactions. Further, there is nothing in the CMTA which exempts collections of numismatic interest from payment of import duties, as opposed to *Section 104 (99.05)* of the repealed *Tariff and Customs Code of the Philippines (TCCP).*

34 See Memorandum, Arguments and Discussions, *id.*, pp. 432-440.

Concomitantly, according to respondents, the seized commemorative bank notes should be forfeited in favor of the government and petitioner should be held liable to pay surcharge equivalent to 500% of the duties and taxes due.

The Ruling of the Court

After carefully evaluating the parties' submissions and evidence, the Court finds that it lacks jurisdiction over the subject matter of the instant Petition.

The Court of Tax Appeals (CTA) is a court of special jurisdiction. It can only take cognizance of matters clearly within its jurisdiction.[35] Thus, although the question of jurisdiction over the subject matter was not raised at bench by either of the parties, the Court has the duty to look into such issue. Moreover, jurisprudence hold that courts are bound to take notice of the limits of their authority and, even if such question is neither raised by the pleadings nor suggested by counsel, they may recognize the want of jurisdiction and act accordingly by staying pleadings, dismissing the action, or otherwise noticing the defect, at any stage of the proceedings.[36]

In relation to the foregoing, *Section 7(a)(4) of Republic Act No. 1125*,[37] as amended by *RA No. 9282*[38] provides:

> SEC. 7. Jurisdiction. — The CTA shall exercise:
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> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> . . .
>
> (4) ***Decisions of the Commissioner of Customs*** in cases involving liability for customs duties, fees or other money charges, ***seizure***, detention or release of property affected, fines, ***forfeitures or other penalties in relation thereto***, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs; y
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> . . .
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> (Emphasis and italics supplied)

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35 Commissioner of Internal Revenue vs. V.Y. Domingo Jewellers, Inc., G.R. No. 221780, March 25, 2019, citing CIR vs. Burmeister and Wain Scandinavian Contractor Mindanao Inc., G.R. No. 190021, October 22, 2014.

36 Bureau of Customs v. Devanadera, G.R. No. 193253, September 8, 2015, citing ACE Publication, Inc., vs. The Commissioner of Customs and the Collector of Customs, G.R. No. L-18808, May 29, 1964.

37 An Act Creating the Court of Tax Appeals, June 16, 1954.

38 An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections or Republic Act No. 1125, As Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes; March 30, 2004.

Consistent thereto, *Section 3, Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA)*, as amended, specifically includes decisions of the COC as among the cases falling within the jurisdiction of the CTA in Divisions, to wit:

> SEC. 3. Cases within the jurisdiction of the Court in Division. — The Court in Division shall exercise:
>
> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
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> . . .
>
> (4) ***Decisions of the Commissioner of Customs*** in cases involving liability for customs duties, fees or other money charges, ***seizure,*** detention or release of property affected, fines, ***forfeitures or other penalties in relation thereto,*** or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;
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> . . .
>
> (Emphasis and italics supplied)

It should be emphasized, however, that the CTA's jurisdiction is conditioned upon the timeliness of the filing the appeal, as also provided under *RA No. 1125,* specifically *Section 11* thereof which states:

> 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, the ***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 Courts ***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.
>
> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA ***within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon***. . . .
> (Emphasis and italics supplied)

The same 30-day period mandated above is incorporated in *Section 3, Rule 8 of the RRCTA* which prescribes:

> SEC. 3. Who may appeal; period to file petition. —
>
> (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a ***decision or ruling of the Commissioner of Customs***, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the

exercise of its original jurisdiction may appeal to the Court by ***petition for review filed within thirty days after receipt of a copy of such decision or ruling,*** or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.
(Emphasis and italics supplied)

In relation to the above, *Section 1126 of the CMTA* provides:

SEC. 1126. Appeal to the Commissioner. – ***In forfeiture cases, the person aggrieved by the decision of a District Collector may, within fifteen (15) days*** or five (5) days in case of perishable goods, from receipt of the decision, file a written notice of appeal, together with the required appeal fee to the District Collector, furnishing a copy to the Commissioner. *The District Collector shall immediately transmit all the records of the proceedings to the Commissioner, who shall review and decide on the appeal* ***within thirty (30) days*** *from receipt of the records,* or fifteen (15) days in the case of perishable goods: Provided, That *if within thirty (30) days, no decision is rendered, the decision of the District Collector under appeal shall be* ***deemed affirmed.*** An appeal filed beyond the period herein prescribed shall be dismissed.

Appeals to protest cases shall be governed by Section 114 of this Act.

The decision of the Commissioner may be served through the recognized modes of service under existing law.
(Emphasis and italics supplied)

Gleaning from the foregoing, a person aggrieved by the decision of the District Collector may elevate an appeal to the COC within 15 days from the receipt of the decision. The COC shall have 30 days from the receipt of the records to decide on the case. If no such decision is rendered within the said 30-day period, the decision of the District Collector shall be ***deemed affirmed.***

This "deemed affirmed" provision of law serves as the action of the COC which is appealable to the CTA.

In the instant case, the decision, issued by respondent District Collector on December 3, 2020, was alleged to have been received by petitioner on January 4, 2021.[39] A Notice of Appeal,[40] with attached Memorandum on Appeal, was thereafter filed on January 13, 2021. Records reveal that the appeal, together with the entire case folder, was forwarded to respondent COC on January 14, 2021.[41]

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[39] See Notice of Appeal, Exhibit "P-4", *id.*, p. 256.
[40] *Id.*
[41] Letter dated January 13, 2021, stamped received on January 14, 2021, BOC Records, p. 129.

Following the above-cited provisions, respondent had 30 days from January 14, 2021, or until February 13, 2021, to decide on petitioner's appeal. However, no decision was rendered by respondent within the prescribed period. Only on February 26, 2021, or 13 days after the lapse of the 30-day period, did respondent decide on petitioner's appeal. Such decision of the COC can no longer be considered as controlling as the decision of the District Collector was deemed affirmed by the COC by operation of law.[42]

Considering that respondent failed to render a decision within the 30 days prescribed by law, the District Collector's decision was deemed affirmed on February 13, 2021. Hence, petitioner had 30 days therefrom, or until March 15, 2021 to file a petition before this Court via Petition for Review.

Unfortunately, petitioner disregarded the "deemed affirmed" provision of the law and instead filed a Motion for Reconsideration before the COC on March 11, 2021.

It does not escape the Court's attention that petitioner's filing of Motion for Reconsideration before elevating a judicial appeal finds no basis from the CMTA or other rules and regulations related to disputes involving seizures and forfeiture of imported goods. Such procedural infirmity was also recognized by the COC in his Decision on the Motion for Reconsideration, dated April 5, 2021.[43] Considering that the remedy of a motion for reconsideration is not provided under the relevant laws, rules, and regulation, and that the motion was filed in relation to the Decision, dated February 26, 2021, which, as mentioned above, is no longer controlling, the resulting Decision, dated April 5, 2021, could not likewise be deemed controlling for purposes of determining the timeliness of filing a judicial appeal.

In light of the foregoing, the Petition for Review filed before the Court on May 20, 2021 was not timely.

Jurisprudence elucidates that the right to appeal is a mere statutory privilege, not a constitutional right. Apropos on this point is the Supreme Court's reminder in the case of *Yao vs. Court of Appeals*,[44] as reiterated in the case of *Dasmariñas Village Association, Inc. vs. Office of the President and C.F. Arnaldo, Inc.*,[45] with respect to how the non-compliance with the statutory requirements of an appeal is fatal to it:

> ***The right to appeal is not a constitutional, natural or inherent right.*** It is a statutory privilege of statutory origin and, therefore, available only if granted or provided by statute. Since the right to appeal is not a natural right nor a part of due process, it may be exercised only in the

[42] Allan U. Garcia vs. The Commissioner of Customs, CTA Case No. 9971, October 12, 2023.
[43] *Supra* note 2.
[44] G.R. No. 132428, October 24, 2000.
[45] G.R. No. 211909, October 13, 2021.

> manner and in accordance with the provisions of law. Corollarily, its requirements must be strictly complied with.
>
> *That an appeal must be perfected in the manner and within the period fixed by law is not only mandatory but jurisdictional.* ***Non-compliance with such legal requirements is fatal, for it renders the decision sought to be appealed final and executory,*** with the end result that no court can exercise appellate jurisdiction to review the decision. (Emphasis and italics supplied)

Clearly, petitioner's failure to timely file an appeal strips the Court of its jurisdiction to review the decision or action sought to be examined.

At this juncture, it must be emphasized that jurisdiction over the subject matter is conferred by law, and the lack of it affects the very authority of the Court to take cognizance of the render judgment on the action.[46] Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties.[47] If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits.[48]

Therefore, this Court is left without a choice but to dismiss this case, and will no longer belabor to discuss the merits of petitioner's claim.

ACCORDINGLY, premises considered, the instant Petition for Review is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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46 Conchita Carpio-Morales, in her capacity as the Ombudsman vs. Court of Appeals, G.R. No. 217126-27, November 10, 2015.

47 Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue, G.R. No. 185666, February 4, 2015 (*Nippon case*), citing Justino Laresma vs. Antonio P. Abellana, G.R. No. 140973, November 11, 2004.

48 Nippon case, citing Lt. Col. Rodrigo S. De Guzman vs. Municipal Circuit Judge Marcelino M. Escalona, et al., G.R. No. L-51773, May 16, 1980.

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest that the conclusion in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice