REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

RED FOX GROUP, INC.,
Petitioner,

CTA CASE NO. 9752

- versus -

Members:

CASTAÑEDA, JR., *Chairperson,*
BACORRO-VILLENA, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
OCT 16 2020 8:05 Am

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is a Motion for Reconsideration (**MR**) filed by petitioner Red Fox Group Inc. (**petitioner/RFGI**) on 28 February 2020. It seeks the reversal of the Court's Decision in the above-captioned case promulgated on 12 February 2020. The dispositive portion of the said Decision reads:

> ...
>
> **WHEREFORE,** the foregoing considered, the petitioner's Petition for Review filed on 15 January 2018 is **DENIED** for lack of jurisdiction.
>
> **SO ORDERED.**
>
> ...

It will be recalled that in the assailed Decision, petitioner's Petition for Review was mainly denied on the ground that the Bureau of Internal Revenue's (**BIR's**) assessment against it had already lapsed into finality. In its petition, petitioner alleges receipt of the BIR's Final Assessment Notice[1] (**FAN**) and Formal Letter of Demand[2] (**FLD**) through its representative Ria A. Sablon on 06 March 2013, thereby giving the corporation thirty (30) days[3] or until 05 April 2013 within which to file its protest against the assessment. Seemingly, petitioner was able to file its protest on the last day.

However, a closer review of the records revealed that the corporation actually received the FAN and FLD on **05 March 2013** through its store manager therefore, only giving it until 04 April 2013 to file its protest. Thus, when petitioner filed its protest to the FAN and FLD, respondent's assessment had already become final. The Court also noted that despite petitioner's contentions, its protest admitted to its receipt of the FAN and FLD on 05 March 2013, to wit:

> ...
>
> "PETITION/MOTION FOR CANCELLATION/TERMINATION OF FORMAL LETTER OF DEMAND DATED JANUARY 24, 2013 **RECEIVED BY THE MANAGEMENT ON MARCH 05, 2013** IN RELATION TO ELA 201000013720 DATED SEPTEMBER 01, 2010

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[1] Exhibits "R-15" and "R-16", BIR Records, pp. 240-241.

[2] Exhibits "R-14", id., pp. 239.

[3] NATIONAL INTERNAL REVENUE CODE

> ...
>
> **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...
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> ...
>
> 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.

> COVERING TAX YEAR 2009 AND ALL NOTICES EMANATED FROM IT".[4]
>
> ...

In the instant motion, petitioner appears to no longer contend the delay in its protest's filing. Rather, it urges this Court to reconsider its decision on account of necessary hindrances inherent in the corporate structure such as the fact that its actions can only be exercised through its board of directors. We, however find such reason insufficient to disregard established principles on jurisdiction. The Supreme Court explains, thus:

> ...
>
> In law, nothing is as elementary as the concept of jurisdiction, for the same is the foundation upon which the courts exercise their power of adjudication, and without which, no rights or obligation could emanate from any decision or resolution.[5]
>
> ...

Jurisdiction is provided for by law, and this Court's power of review over respondent Commissioner of Internal Revenue's **(CIR's)** decisions is limited to those that have not yet become final. The Court cites once again the decision in *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.*[6], wherein the Supreme Court held that - "the fact that an assessment has become final for failure of the taxpayer to file a protest within the time allowed only means that the validity or correctness of the assessment may no longer be questioned on appeal".

With the above said, the Court finds it pointless to further delve into petitioner's other arguments as our factual findings regarding petitioner's actual receipt of the notices issued by the BIR have already been adequately discussed in the assailed Decision. Furthermore, neither could change in this Court's disposition regarding its findings or a re-determination of the same will work to vest Us with jurisdiction to tackle these matters.

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4 Exhibit "R-17", BIR Records, p. 274; Emphasis and underscoring supplied.
5 *Foronda-Crystal v. Son*, G.R. No. 221815, 29 November 2017.
6 G.R. No. 169225, 17 November 2010.

WHEREFORE, the foregoing considered, petitioner Red Fox Group, Inc.'s Motion for Reconsideration filed on 28 February 2020 is **DENIED** for lack of merit. Accordingly, the Decision dated 12 February 2020 in the above-captioned case is hereby, **AFFIRMED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

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