REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

MILLIONSTAR GRAINS CORP., represented by its President/General Manager, MS. JAENA BAUTISTA-MANUNTAG,
Petitioner,

CTA Case No. 10769

- versus -

HON. DISTRICT COLLECTOR OF CUSTOMS, Port of Manila International Container Terminal (MICT) S Access Road, North Harbor, Port Area, Tondo, Manila; and

HON. REY LEONARDO GUERRERO, Commissioner of Bureau of Customs, Ground Floor, OCOM Building, 16th Street, South Harbor, Port Area, Manila,
Respondents.

Members:

DEL ROSARIO, *PJ, Chairperson,*
MANAHAN, and
REYES-FAJARDO *JJ.*

Promulgated:
AUG 05 2022 9:20am

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RESOLUTION

On April 21, 2022, petitioner filed through registered mail a Motion for Reconsideration (Re: Resolution of Dismissal Promulgated March 28, 2022) praying for the reconsideration of the Court's Resolution dated March 28, 2022, where the instant case was dismissed for lack of jurisdiction.

Petitioner alleged that this Court has jurisdiction over the instant case. According to petitioner, this Court is mandated and vested with the statutory power and authority of exclusive appellate jurisdiction to review an unreasonable delay or unjustifiable inaction (not just specific ruling, resolution, or decision) of the Commissioner of the Bureau of Customs (BOC) involving its responsibilities under the Customs Law.

Petitioner further alleged that after the lapse of the thirty (30) day period to act on its Petition and Appeal for Customs Duty and Tax Refund and there is inaction on the part of respondent BOC Commissioner, the inaction shall be deemed a denial. Hence, petitioner elevated the instant case to this Court within thirty (30) days from the expiration of the aforementioned period.

While this Court agrees with petitioner that respondent BOC Commissioner's inaction shall be deemed a denial and hence appealable to this court; however, the instant petition shall likewise fail.

Section 1110 of Republic Act No. 10863 otherwise known as the Customs Modernization and Tariff Act (CMTA) provides:

> SEC. 1110. *Decision in Protest.* - When a protest is filed in proper form, **the Commissioner shall render a decision within thirty (30) days from receipt of the protest.** In case the protest is sustained, in whole or in part, the appropriate order shall be made, and the entry reassessed, if necessary. (Boldfacing supplied)

Relative thereto, Section 10.3 of Customs Administrative Order (CAO) No. 02-2020 provides:

> Section 10. Protest.
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> 10.3 When a protest is filed in proper form, **the Commissioner shall render a ruling within thirty (30) days from receipt of the protest. Otherwise, the ruling of the Collector shall be deemed affirmed if the Commissioner fails to act on the same**. (Boldfacing supplied)

As shown above, the Commissioner of Customs (COC) has thirty (30) days from receipt of the protest to act or render a decision thereon. However, if the COC fails to render a decision after the lapse of said period, the ruling of the Collector shall be deemed affirmed. This deemed denial decision is appealable to this Court pursuant to

Section 7(a)(4) of Republic Act (RA) No. 1125, as amended by RA No. 9282[1] and Section 3(a)(4), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA) which provide:

> 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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> xxx xxx xxx
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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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> xxx xxx xxx.
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> **RULE 4**
> **JURISDICTION OF THE COURT**
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> **SEC. 3.** *Cases within the jurisdiction of the Court in Divisions.* - The Court in Divisions shall exercise:
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> (a) Exclusive original or appellate jurisdiction to review by appeal the following:
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> xxx xxx xxx
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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 of 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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> xxx xxx xxx.

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1 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 OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

As admitted by petitioner, it filed a protest on October 20, 2021. Hence, respondent has until November 19, 2021 to decide on said protest. However, respondent BOC Commissioner failed to render a Decision after the lapse of said period. Thus, the action of the Collector was deemed affirmed and said protest was deemed denied. Petitioner, therefore, had 30 days from November 19, 2021 or until December 19, 2021 within which to file its Petition for Review before this Court. However, petitioner filed its Petition for Review only on February 16, 2022. Thus, the filing is beyond the thirty (30) day period to appeal rendering the Court without jurisdiction to take cognizance of the present Petition for Review.

Section 1136 of the CMTA further provides that the party aggrieved by the ruling or decisions of the Commissioner may appeal to the CTA, in the manner and within the period prescribed by law and regulations otherwise the ruling or decision of the Commissioner shall be final and executory, to wit:

> SEC. 1136. *Review by the CTA.* - Unless otherwise provided in this Act or by any other law, the party aggrieved by the ruling or decisions of the Commissioner may appeal to the CTA, in the manner and within the period prescribed by law and regulations. Decisions of the Secretary of Finance when required by this Act, may likewise be appealed to the CTA.
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> **Unless an appeal is made to the CTA in the manner and within the period prescribed by law and regulations, the ruling or decision of the Commissioner or the Secretary of Finance shall be final and executory.** (Boldfacing supplied)

Further, even assuming that the instant Petition is timely filed, the same should nonetheless be dismissed on the ground that the ruling of the District Collector of Customs has become final and conclusive.

Sections 1106 and 1107 of the CMTA provide:

> SEC. 1106. *Protest* - When a ruling or decision of the District Collector or customs officer involving goods with valuation, rules of origin, and other customs issues is made, except the fixing of fines in seizure cases, **the party adversely affected may appeal by way of protest against such ruling or decision by presenting to the Commissioner at the time when payment of the amount claimed to be due the government is made, or within fifteen (15)**

> **days thereafter, a written protest setting forth the objection to the ruling or decision in question and the reasons therefore.**
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> SEC. 1107. *Protest Exclusive Remedy in Protestable Case.* - In all cases subject to protest, **the interested party who desires to have the action of the District Collector reviewed, shall file a protest as provided in Section 1106 of this Act, otherwise the action of the District Collector shall be final and conclusive.** (Boldfacing supplied)

From the foregoing provisions, the remedy of the party adversely affected by the ruling of the District Collector of Customs is to file a written protest to the BOC Commissioner at the time when payment of the amount claimed to be due the government is made, or within fifteen (15) days thereafter, otherwise, the action of the District Collector shall be final and conclusive.

In the present case, petitioner admitted in its Petition for Review of Protest and Appeal for Duty and Tax Refund that it paid the customs duties on September 9, 2021.[2] Petitioner had fifteen (15) days therefrom or until September 24, 2021, within which to file a protest before the BOC Commissioner. Petitioner only filed its protest on October 20, 2021, or twenty-six (26) days late.

For petitioner's failure to file a timely protest, the ruling of the District Collector of Customs became final and conclusive. As a consequence, the correctness of the valuation of the customs duties may no longer be questioned on appeal.

The right to appeal is not a natural right. It is also not part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. Thus, one who seeks to avail of the right to appeal must comply with the requirements of the Rules. Failure to do so often leads to the loss of the right to appeal.

The failure to timely perfect an appeal cannot simply be dismissed as a mere technicality, for it is jurisdictional.[3]

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[2] Par. 6, Petition for Review of Protest and Appeal for Duty and Tax Refund.
[3] *Commissioner Of Internal Revenue v. Fort Bonifacio Development Corporation*, G.R. No. 167606, August 11, 2010.

WHEREFORE, in view of the foregoing, petitioner's Motion for Reconsideration (Resolution of Dismissal Promulgated March 25, 2022) is hereby denied for lack of merit.

SO ORDERED.

ON LEAVE
ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice