REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

AUTOSTRADA MOTORE, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondents.

CTA Case No. 9624

Members:

DEL ROSARIO, *P.J., Chairperson,* *and*
MANAHAN, *JJ.*

Promulgated:

OCT 15 2020 2:13 pm

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RESOLUTION

For resolution is respondent's **Motion for Reconsideration [Decision dated July 10, 2020]** filed on July 30, 2020, with petitioner's **Comment/Opposition (To Respondent's Motion for Reconsideration)** filed on August 24, 2020.

Respondent seeks reconsideration of the Decision dated July 10, 2020 (assailed Decision),[1] the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **GRANTED**. Accordingly, the Preliminary Assessment Notice dated January 26, 2015, Formal Letter of Demand dated October 10, 2016, Final Decision on Disputed Assessment dated February 20, 2017 assessing petitioner of deficiency taxes in the aggregate amount of ₱341,366,628.70, inclusive of interest and penalties for taxable years 2011, 2012 and 2013, and the Letter of the Commissioner of Internal Revenue dated May 11, 2017, are **CANCELLED** and **SET ASIDE.**
>
> **SO ORDERED**."

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[1] Docket, pp 1481-1499.

Respondent moves for reconsideration of the assailed Decision on the ground that the Court erred in ruling that the assessment issued by respondent against petitioner is void. According to respondent, the conduct of assessment was authorized under existing laws and rules. He also contends that petitioner is liable for the payment of deficiency excise tax, value-added tax (VAT) and administrative penalties in the aggregate amount of ₱341,366,828.70.

Petitioner, on the other hand, argues that the Revenue Officers were not duly authorized to conduct an audit or issue assessment against petitioner for the said taxable year. It also maintains that it is not liable for deficiency excise taxes, VAT and administrative penalties.

Respondent's motion for reconsideration is denied for being filed out of time.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals states:

> "**RULE 15**
> **MOTION FOR RECONSIDERATION OR NEW TRIAL**
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> **SECTION 1.** *Who may and when to file motion.* – Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court by filing **a motion for reconsideration or new trial within fifteen days from the date of receipt of notice of the decision,** resolution or order of the Court in question." (*Boldfacing supplied*)

Contrary to respondent's claim that he received the assailed Decision on July 15, 2020, a perusal of the records, particularly the Notice of Decision,[2] shows that respondent received the assailed Decision on July 14, 2020. Respondent had fifteen (15) days or until July 29, 2020 within which to file his motion for reconsideration. However, respondent posted his **Motion for Reconsideration [Decision dated July 10, 2020]** only on July 30, 2020, or one (1) day late.

Although appeal is an essential part of our judicial process, it has been held, time and again, that the right thereto is not a natural right or a part of due process but is merely a statutory privilege. Thus, the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and failure of a party

[2] Docket, unpaginated. It can be found after p. 1479.

to conform to the rules regarding appeal will render the judgment final and executory.[3]

Moreover, even assuming that respondent's motion for reconsideration was filed on time, the Court notes that no new argument has been adduced to warrant the reconsideration sought. The arguments interposed by respondent are mere rehash of the arguments he raised in his Answer filed on October 4, 2017 and Memorandum filed on December 19, 2019 which have all been squarely passed upon and resolved by the Court.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration [Decision dated July 10, 2020]** is hereby **DENIED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

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[3] *Land Bank of the Philippines vs. The Court of Tax Appeals*, G.R. No. 221636, July 11, 2016.