REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PAYO MANUFACTURING CORPORATION represented by its Chief Operating Officer, Clovis Jones Louis Sabornido,
Petitioner,

- versus -

COMMISSIONER OF THE BUREAU OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. UDK-SP 027

Members:

DEL ROSARIO, P.J., *Chairperson*,
FABON-VICTORINO, and
MANAHAN, *JJ.*

Promulgated:

FEB 08 2019 ; 10:45 am

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RESOLUTION

On January 4, 2019, petitioner Payo Manufacturing Corporation filed the instant Petition for Review by registered mail and received by the Court on January 15, 2019.

It appears that the case is an appeal assailing the Follow-up Collection Letter dated October 4, 2018 in which the Regional Director of Revenue Region No. 19 denied petitioner's application for compromise settlement of the balance of its deficiency tax liability amounting to P779,120.63. [1] The said Follow-up Collection Letter was received by petitioner on December 3, 2018.[2]

Section 7(a)(1) of Republic Act (R.A.) No. 1125, as amended, [3] provides for the jurisdiction of the Court, as follows:

SEC. 7. *Jurisdiction*. – The CTA shall exercise:

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[1] Nature of Petition, p. 1 of the Petition for Review dated January 2, 2018.
[2] First paragraph, p. 2 of the Petition for Review dated January 2, 2018.
[3] As amended by R.A. No. 9282 and R.A. No.9503.

(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;

x x x x x x

Further, Section 11 of R.A. No. 1125, as amended, provides the mode of appeal to the Court:

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 actions 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 provided, from the expiration of the period fixed by law to act thereon. x x x (boldfacing ours)

x x x x x x x x x

The foregoing is echoed in Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals, as as amended:

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. (boldfacing ours)
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> x x x x x x x x x

Petitioner in the present case assails the Follow-up Collection Letter dated October 4, 2018 it received on December 3, 2018. Hence, petitioner had 30 days from the said date of receipt or until January 2, 2019 to file its appeal to the Court. In view of the suspension of work in the Court on January 2, 2019, petitioner had until the next working day or until January 3, 2019 to file an appeal. But for unknown reason, petitioner posted its Petition for Review only on January 4, 2019.

Section 3, Rule 13 of the Rules of Court provides that if a pleading is filed by registered mail, then the date of mailing shall be considered as the date of filing. It does not matter when the court actually receives the mailed pleading.[4]

Considering that the Petition for Review was posted on January 4, 2019, such is deemed the date of filing. Clearly, the Petition for Review was filed out of time depriving the Court of jurisdiction to entertain the same.

The Supreme Court held that while the right to appea! a decision of the Commissioner to the Court of Tax Appeals is merely a statutory remedy, nevertheless the requirement that it must be brought within 30 days from notice of the adverse decision is jurisdictional. If a statutory remedy

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[4] Russel vs. Ebasan, G.R. No. 184542, April 23, 2010.

provides as a condition precedent that the action to enforce must be commenced within a prescribed time, such requirement is jurisdictional and failure to comply therewith may be raised in a motion to dismiss.[5]

Worst, when the Petition For Review was sent through registered mail, a Cashier's Check in the amount of P8,000.00 was included to cover the payment of docket and filing fees.

However, based on the computation prepared by the Judicial Records Division of the Court, petitioner must pay the amount of P9,047.00 as docket/filing fees. In fine, the required full amount of docket/filing fees was not paid.

The right to appeal is purely a statutory right. Not being a natural right or a part of due process, the right to appeal may be exercised only in the manner and in accordance with the rules provided therefor. For this reason, payment of the full amount of the appellate court docket and other lawful fees within the reglementary period is mandatory and jurisdictional. The Supreme Court has consistently upheld the dismissal of an appeal or notice of appeal for failure to pay the full docket fees within the period for taking the appeal. The payment of docket fees within the prescribed period is mandatory for the perfection of the appeal. Without such payment, the appellate court does not acquire jurisdiction over the subject matter of the action and the decision sought to be appealed from becomes final and executory.[6]

With the non-payment of the full amount of docket fees within the reglementary period for the filing of a petition for review, the instant appeal was not perfected thereby depriving the Court of jurisdiction.

Settled is the rule that jurisdiction over the subject matter is conferred by law and is determined by the material allegations of the complaint. It cannot be acquired through,

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[5] Rizal Commercial Banking Corporation vs. Commissioner of Internal Revenue, G.R. No. 168498, June 16, 2006.
[6] Tan vs. Link, G.R. No. 172849, December 10, 2008.

or waived by, any act or omission of the parties, neither can it be cured by their silence, acquiescence, or even express consent.[7] 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.[8]

Finally, well-settled is the rule that the issue of jurisdiction over the subject matter may at any time either be raised by the parties or considered by the Court *motu proprio*. As such, the jurisdiction of the CTA over the appeal could still be determined x x despite its not being raised as an issue by the parties.[9] In addition, courts have the power to *motu proprio* dismiss an action over which it has no jurisdiction. The grounds for *motu proprio* dismissal by the court are provided in Rule 9, Section 1 of the Revised Rules of Court x x x.[10]

WHEREFORE, the Petition for Review filed by petitioner Payo Manufacturing Corporation on January 4, 2019 is hereby **DISMISSED**, for lack of jurisdiction.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

[7] Spouses Erwin C. Santiago and Marinela A. Santiago; Spouses Gaudencio A. Manimtim, Jr. and Editha P. Manimtim; Spouses Ramiro C. Albaran and Elva C. Albaran; and Cesar F. Odan vs. Northbay Knitting, Inc., G.R. No. 217296, October 11, 2017.
[8] Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc., G.R. No. 169778, March 12, 2014.
[9] Takenaka Corporation-Philippine Branch vs. Commissioner of Internal Revenue, G.R. No. 193321, October 19, 2016.
[10] Aichi Forging Company of Asia, Inc. vs. Court of Tax Appeals – En Banc and Commissioner of Internal Revenue, G.R. No. 193625, August 30, 2017.