REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

TRIONBOARD CORPORATION Petitioner,	CTA CASE NO. 9964
	Members:
- versus -	DEL ROSARIO, *P.J., Chairperson* FABON-VICTORINO, *and* MANAHAN, *JJ.*
BUREAU OF CUSTOMS and COMMISSIONER ISIDRO LAPENA in his capacity as the Commissioner of Customs, Respondents.	Promulgated: OCT 08 2019 ; 1:40 p.m.

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RESOLUTION

On October 29, 2018, a Motion for Extension of Time to File Petition for Review[1] was filed by petitioner Trionboard Corporation praying for additional thirty (30) days from October 29, 2018, or until November 28, 2018, within which to file its Petition for Review. On the same day, petitioner paid the docket fee of ₱15,827.00, which amount was based on its request for voluntary payment of customs duties and taxes[2].

On November 22, 2018, the Court issued a Resolution[3] granting petitioner's motion for extension but only for a period of fifteen (15) days from October 29, 2018 or until November 13, 2018, within which to file its Petition for Review.

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1 Docket, pp. 10-12.
2 Annex "C" of the Motion for an Extension of Time to File Petition for Review, docket, p. 42.
3 Docket, pp. 44-45.

On November 28, 2018, petitioner filed its Petition for Review[4], praying to reverse and set aside the Decision[5] and Order[6] issued by respondent Commissioner of Customs (COC) and for the release of the vessel M/V KM Alisha after its payment of custom duties and taxes thereon plus fine, as may be determined by respondent COC; or to be allowed to settle the case pursuant to Section 1124 of the Customs Modernization and Tariff Act. Evidently, the present Petition is an appeal assailing the Decision and Order issued by respondent COC, which sustained the Decision of the District Collector of Customs of Port of Cebu forfeiting in favor of the government the vessel M/V KM Alisha which was imported in the Philippines with intent to defraud the government. The assailed Order was received by petitioner on September 28, 2018.

Cases impugning the adverse decision of the COC may be filed with this Court pursuant to Section 7(a)(4) of Republic Act (R.A.) No. 1125, as amended,[7] which reads as follows:

> 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;
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> xxx xxx xxx

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

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal*. – Any party adversely affected

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4 Docket, pp. 46-66.
5 Annex "BB" of the Petition for Review, docket, pp. 188-199.
6 Annex "A" of the Motion for an Extension of Time to File Petition for Review, docket, pp. 13-25.
7 As amended by R.A. No. 9282 and R.A. No.9503.

> 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.
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> 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 (emphases supplied)

The foregoing provisions are reiterated and amplified in Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended, as follows:

> 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 supplied)

Significantly, the Rules of Court, which is suppletory to R.A. No. 1125, as amended, allows an additional period of fifteen (15) days for the aggrieved taxpayer, such as petitioner, to file a Petition for Review, upon motion and payment in full of the docket fees. A further extension of fifteen (15) days may be granted but only on compelling reasons in accordance with Section 1, Rule 42 of the Rules of Court which provides as follows:

> SEC. 1. How appeal taken; time for filing. — xxxx. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period, the Court of Appeals (Court of Tax Appeals) may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

As stated earlier, the present case is an appeal of the Order dated September 6, 2018 rendered by respondent COC, which petitioner received on September 28, 2018. Applying the foregoing rules to the instant case, petitioner therefore had 30 days from September 28, 2018 or until October 28, 2018 to file its Petition for Review before the Court. Given that October 28, 2018 fell on a Sunday, petitioner had until the next working day or on October 29, 2018 to file its Petition for Review pursuant to Section 1, Rule 22 of the Rules of Court[8]. However, instead of filing its initiatory pleading on October 29, 2018, petitioner filed a motion for extension of thirty (30) days to file its Petition for Review.

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[8] Section 1, Rule 22 of the Rules of Court states:

> **Section 1.** *How to compute time.* — In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

In the Resolution dated November 22, 2018, petitioner's motion for extension was granted but only for a period of fifteen (15) days from October 29, 2018 or until November 13, 2018 to file its Petition for Review in accordance with Section 1, Rule 42 of the Rules of Court, and not thirty (30) days as endeavored in its motion for extension. Clearly, petitioner's Petition for Review filed on November 28, 2018 was filed way beyond the reglementary period provided under the rules, thereby depriving the Court with the required competence to hear and determine the same.

Unmindful of the clear provision of the rules, petitioner apparently presumed that its request for a 30-day extension to file its Petition for Review would be granted by the Court. Note that a Motion for Extension is not granted as a matter of right, but in the sound discretion of the Court.[9]

Further, the right to appeal is neither a natural right nor a part of due process. The perfection of an appeal within the period and in the manner prescribed by law is mandatory; noncompliance with this legal requirement is fatal, and has the effect of making the questioned judgment final and executory.[10] A decision that has attained finality becomes the law of the case regardless of any claim that it is erroneous.[11] It may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land. Just as the losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his case.[12]

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9 *Bernardo v. People*, G.R. 166980, April 3, 2007, 520 SCRA 332 and *Cosmo Entertainment Management, Inc. v. La ville Commercial Corporation*, G.R. 152801, August 20, 2004, 437 SCRA 145.

10 *Bello v. NLRC*, G.R. 146212, September 5, 2007, 532 SCRA 232.

11 *Mayor Marcial Vargas vs. Cajucom*, G.R. No. 171095, June 22, 2015.

12 *Government Service Insurance System vs. The Regional Trial Court of Pasig City, Branch 71, et al.*, G.R. No. 175393, December 18, 2009

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 despite its not being raised as an issue by the parties.[13] 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.[14]

WHEREFORE, the Petition for Review filed by Trionboard Corporation on November 28, 2018 is hereby **DISMISSED** on jurisdictional ground.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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13 *Takenaka Corporation-Philippine Branch v. Commissioner of Internal Revenue*, G.R. No. 193321, October 19, 2016.

14 *Aichi Forging Company of Asia, Inc. v. Court of Tax Appeals – En Banc and Commissioner of Internal Revenue*, G.R. No. 193625, August 30, 2017.