REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

EDSEL HOJAS SALVAÑA, *Petitioner,*	**CTA CASE NO. 9339** (formerly UDK-SP No. 11)
– versus –	Members: ***Bautista,*** Chairperson, ***Fabon-Victorino,*** and ***Ringpis-Liban, JJ.***
GLEN A. GERALDINO, Regional Director, Bureau of Internal Revenue, Revenue Region No. 16, Cagayan de Oro City, *Respondent.*	Promulgated: MAY 20 2016 3:50 p.m.

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R E S O L U T I O N

On April 21, 2016, petitioner filed, by registered mail, its "Petition for Review", which was received by the Court on April 28, 2016, praying that judgment be rendered reversing and setting aside the Final Decision on Disputed Assessment issued on February 11, 2016 by Regional Director Glen A. Geraldino of the Bureau of Internal Revenue, Revenue Region No. 16, Cagayan de Oro City, and in effect cancelling its 2011 deficiency income tax and value added tax liabilities amounting to Php333,899.23 and Php206,937.63, respectively.

A perusal of the Petition for Review shows that the Court has no jurisdiction over the subject matter.

Section 228 of the 1997 National Internal Revenue Code, as amended, provides for the procedure to be followed in protesting an assessment, to wit:

> SEC. 228. *Protesting of Assessment.* – xxx
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> xxx xxxx xxx

> 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.
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> 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.
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> <u>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 (30) days from receipt of the said decision</u>, or from the lapse of the one hundred eighty (180)-day period; otherwise the decision shall become final, executory and demandable.[1]

In the instant case, petitioner received respondent's Final Decision on Disputed Assessment on February 29, 2016, it filed an Opposition to the Final Decision on Disputed Assessment with Supporting Documentary Evidences and Justifications on March 22, 2016, and later on filed the instant Petition for Review on April 21, 2016.

The Court of Tax Appeals is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction. *Section 7 of Republic Act (R.A.) No. 1125*[2], as amended by *R.A. No. No. 9282*[3], and *R.A. No. 9503*[4], provides:

> Sec. 7. *Jurisdiction.* — The CTA shall exercise:

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[1] Underscoring ours.
[2] An Act Creating the Court of Tax Appeals
[3] 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
[4] An Act Enlarging the Organizational Structure of the Court of Tax Appeals, Amending For The Purpose Certain Sections of The Law Creating The Court of Tax Appeals, And For Other Purposes

(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 or other laws administered by the Bureau of Internal Revenue;

(2) Inaction by 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, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

xxx xxx xxx

Section 3, Rule 4 and Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals state:

RULE 4
JURISDICTION OF THE COURT

SEC. 3. Cases within the jurisdiction of the Court in Divisions. - The Court in Division shall exercise:

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

(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;

xxx xxx xxx

In addition, *Section 3(a)*[5], *Rule 8 of the Revised Rules of the Court of Tax Appeals* provide that appeal to the Court of Tax Appeals shall be made by filing a Petition for Review which shall be in the form and manner as provided under *Section 11 of R.A. No. 1125*, as amended by *R.A. No. No. 9282*, to wit:

> *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 action 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 herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: Provided, however, That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that provided for under rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case *en banc*.
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> xxx xxx xxx[6]

Petitioner filed its appeal only on April 21, 2016, or twenty two (22) days beyond the period prescribed by law, by then the decision by respondent has become final, executory and demandable, thus, the

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[5] *SEC. 3. Who may appeal; period to file petition.* – (a) A party adversely affected by a decision, ruling or 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 (30) 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 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. xxx

[6] Underscoring ours.

Court no longer has the jurisdiction to entertain the instant petition.

WHEREFORE, premises considered, petitioner's "Petition for Review," filed by registered mail on April 21, 2016, is hereby **DISMISSED** for being filed out of time.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(Took No Part)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice