REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Second Division

ALEX I. TAM represented by his Attorney-in-fact-Gilbert I. Tam,
Petitioner,

- versus -

BUREAU OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10948

Members:

RINGPIS-LIBAN, *P.J., Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:
4:21 PM

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RESOLUTION

RINGPIS-LIBAN, P.J.:

Before this Court is petitioner's **Motion for Reconsideration** filed through an accredited courier service on February 18, 2026, and received by the Court on February 20, 2026, with respondent's **Comment/Opposition (Re: Petitioner's Motion for Reconsideration dated 18 February 2026)** filed on April 20, 2026.

On January 27, 2026, the Court promulgated a Decision dismissing the *Petition for Review* for lack of jurisdiction due to being filed out of time, the dispositive portion of which reads as follows:

> "**ACCORDINGLY,** in light of the foregoing considerations, the present *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.
>
> **SO ORDERED.**"

In his Motion, petitioner prays that the above Decision, and the conclusions initially found therein, be reconsidered and set aside arguing that by expressly admitting in the first paragraph of his *Petition for Review* that the Bureau of Internal Revenue (BIR) letter dated June 30, 2022, which denied his *Motion for Reinvestigation*, was received by petitioner on July 6, 2022, such statement constitutes judicial admission. Petitioner explains that a judicial admission need not be offered in evidence since it is not evidence. It is superior to evidence and shall be considered by the court as established.

Petitioner also insists that the *Formal Letter of Demand* (FLD) dated February 21, 2022 was not properly served to him. In Revenue Memorandum Order (RMO) No. 40-2019,[1] petitioner states that the service of the FLD has been clearly set out. However, since the BIR cannot find petitioner or solicit its address abroad, they resorted to substituted service which was improperly made. Petitioner expounds that he only came to know of the FLD when the barangay officials of Dinaga, City of Naga, provided the copy to his sibling who is not authorized to receive the same in view of lack of authority. With the information provided by the barangay official to petitioner's brother, petitioner avers that he was then prompted to file the *Motion for Reinvestigation* before the BIR to reconsider whether petitioner has indeed business dealing for 2010 taxable period.

On the other hand, in his Comment, respondent asserts that the Court correctly dismissed the *Petition for Review* for lack of jurisdiction. Respondent contends that petitioner's claim of receipt of the BIR Letter on July 6, 2022, must be substantiated with sufficient proof being a jurisdictional requirement. Respondent also assails petitioner's allegation of receipt in its *Petition for Review* constitutes judicial admission, since for a statement to be considered as judicial admission, it must be contrary to an essential fact or defense asserted by the person giving the testimony. A statement that is not contrary to such essential fact or defense is not a judicial admission, but rather a corroborative statement, which necessitates proof. Respondent continues that petitioner alleged that it received the BIR letter on July 6, 2022 –which is not contrary to respondent's assertion that he received the letter on the same date. For such statement to become a judicial admission, petitioner must make a statement contrary to such fact, that is, he did not receive such letter on July 6, 2022. Respondent submits that making the same statement only amounts to a corroboration, which must still be substantiated by competent proof.

Respondent likewise avers that the FLD was properly served to petitioner. Respondent maintains that the cited RMO provides that substituted service is a valid mode of service that respondent's agent may resort to. The inclusion of the rule on service of notice in RR No. 18-2013 expresses its mandatory nature, but the mode of service to be adopted by the respondent or his duly authorized

[1] SUBJECT: Prescribing the Procedures for the Proper Service of Assessment Notices in Accordance with the Provisions of Section 3.1.6 of Revenue Regulations (RR) No. 18-2013

representative is directive in nature, so long as the chosen mode of service is compliant with the prescribed rules for their service.

More so, respondent stresses that by expressly admitting that petitioner is outside the Philippines at the time of the service of the FLD, that he is not present in his residence or place of business, then the FLD may be served through substituted service. This is in compliance with the applicable BIR rules and regulations enacted in accordance with the National Internal Revenue Code (NIRC), as amended. Respondent argues that to follow petitioner's assertion–requiring the receipt of the taxpayer who clearly cannot receive it because of the apparent physical impossibility–would lead to an absurd situation where the BIR cannot enforce collection because the taxpayer could choose to remain outside of the country for an indefinite amount of time. Although the law and rules and regulations impose strict compliance with due process requirements, it must not be extremely strict which may cause absurdity.

After due consideration, the Court finds petitioner's Motion for Reconsideration bereft of merit.

In *Tranquilino Agbayani v. Lupa Realty Holding Corporation*,[2] the Supreme Court laid down the parameters on judicial admission, as follows:

> "On the other hand, American jurisprudence sets the following parameters on judicial admissions:
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> > A judicial admission is a formal statement, either by party or his or her attorney, in course of judicial proceeding which removes an admitted fact from field of controversy. It is a voluntary concession of fact by a party or a party's attorney during judicial proceedings.
> >
> > Judicial admissions are used as a substitute for legal evidence at trial. Admissions made in the course of judicial proceedings or judicial admissions waive or dispense with, the production of evidence, and the actual proof of facts by conceding for the purpose of litigation that the proposition of the fact alleged by the opponent is true. xxx
> >
> > A judicial admission is a deliberate, clear, unequivocal statement of a party about a concrete fact within that party's peculiar knowledge, not a matter of law. xxx In order to constitute a judicial admission, the statement must be one of fact, not opinion. **To be a judicial admission, a statement must be contrary to an essential fact or defense asserted**

[2] G.R. No. 201193 (Resolution), June 10, 2019.

> **by the person giving the testimony; it must be deliberate, clear and unequivocal** xxx.
>
> **Judicial admissions are evidence against the party who made them, and are considered conclusive and binding as to the party making the judicial admission. A judicial admission bars the admitting party from disputing it.** Xxx." *(Emphases added)*

Verily, the term "admission" embraces any statement of fact made by a party which is against his/her interest or unfavorable to the conclusion for which the party contends or inconsistent with the facts alleged.[3] In this case, however, the allegation in the *Petition for Review* that July 6, 2022 is the date of receipt of the BIR letter dated June 30, 2022,[4] which was the basis of the appeal of petitioner to this Court, cannot constitute as a judicial admission since the statement as to the date of receipt is not a statement of fact that is against the interest of petitioner, or is it a statement that is unfavorable or inconsistent with the facts alleged by him.

To reiterate, the thirty (30)-day period within which to file an appeal is jurisdictional and failure to comply therewith would bar the appeal and deprive this Court of its jurisdiction to entertain and determine the correctness of the assessments. Such period is not merely directory but mandatory and it is beyond the power of the courts to extend the same.[5] Simply put, the 30-day period to appeal is jurisdictional and non-extendible.[6]

Similarly, the timeliness of an appeal is a factual issue that requires a review of the evidence presented.[7] It is a basic rule that mere allegation is not evidence and is not equivalent to proof, the allegation is essentially self-serving and devoid of any evidentiary weight.[8] To be sure, bare allegations, unsubstantiated by evidence, are not equivalent to proof.[9]

Correspondingly, the date of receipt of the BIR letter on July 6, 2022– that was merely alleged in the *Petition for Review*, unsupported by any evidence on record, is not equivalent to proof. Petitioner having failed to prove the timeliness of the filing of the *Petition for Review* before this Court, which is a jurisdictional

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[3] Federico B. Moreno, Philippine Law Dictionary, Third Edition (1988), p. 35.

[4] First paragraph, *Petition for Review*, Docket, p. 6.

[5] *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*, G.R. No. 168498, April 24, 2007.

[6] *Pangasinan Transportation Co. Inc. v. Blaquera*, G.R. No. L-13101, April 29, 1960; *Filipinas Investment and Finance Corporation v. Commissioner of Internal Revenue*, G.R. No. L-23501, May 16, 1967.

[7] Refer to *Republic of the Philippines represented by The Presidential Commission on Good Government (PCGG) and Mid-Pasig Land Development Corp. v. Augustus Albert V. Martinez, et al.*, G.R. Nos. 224438-40, September 3, 2020.

[8] *Sillano v. JGC Philippines, Inc., et al.*, G.R. No. 273562, February 24, 2025.

[9] *Nuñez, Jr., et al. v. Spouses Oscar and Norma Nuñez, et al.*, G.R. No. 267108, February 5, 2025.

requirement, this Court has no other recourse but to dismiss the petition for lack of jurisdiction. As a corollary, the taxpayer's failure to file a petition for review with this Court within the statutory period renders the disputed assessment final, executory and demandable, thereby precluding said taxpayer from interposing the defenses of legality or validity of the assessment and prescription of the Government's right to assess.[10]

Anent petitioner's argument that the FLD was not properly served to him through substituted service, suffice it to say that that petitioner eventually received the FLD Parts I and II dated February 21, 2022, as he filed a protest thereto. However, petitioner's *Motion for Reinvestigation* dated May 16, 2022,[11] protesting the FLD, is silent as to when he received the subject FLD. No other evidence was presented to prove the actual date when the FLD was received by petitioner, to which this Court could have determined whether the said *Motion for Reinvestigation* was indeed timely filed with the BIR.

To reiterate, pursuant to Section 3.1.5[12] of RR No. 12-99,[13] as amended by RR No. 18-13, and renumbered by RR No. 07-18, if the taxpayer fails to file a valid protest against the FLD and assessment notice within 30 days from date of receipt thereof, the assessment shall become final, executory and demandable.

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10 *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*, supra.

11 Exhibit "R-11", BIR Records (Exhibit "R-10"), pp. 295 to 296.

12 "SEC. 3. Due Process Requirement in the Issuance of a Deficiency Tax Assessment.—

x x x.

3.1.5 Disputed Assessment. — The taxpayer or its authorized representative or tax agent may **protest administratively against the aforesaid FLD/FAN within thirty (30) days from date of receipt thereof**. The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:

(i) *Request for reconsideration* — refers to a plea of re-evaluation of an assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both.

(ii) *Request for reinvestigation* — refers to a plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that a taxpayer intends to present in the reinvestigation. It may also involve a question of fact or of law or both.

The taxpayer shall state in his protest (i) the nature of protest whether reconsideration or reinvestigation, specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based, otherwise, his protest shall be considered void and without force and effect.

x x x.

If the taxpayer fails to file a valid protest against the FLD/FAN within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable. No request for reconsideration or reinvestigation shall be granted on tax assessments that have already become final, executory and demandable. x x x." *(Emphases supplied)*

13 SUBJECT: Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

Thus, it behooves petitioner to show that he indeed file his *Motion for Reinvestigation* within the said thirty 30-day period. Furthermore, the subject protest, which is apparently for *reinvestigation*, did not also specify the newly discovered or additional evidence the taxpayer intends to present, and did not state the date of the assessment notice in violation of the said Section 3.1.5. To be sure, when a taxpayer files a petition for review before this Court without validly contesting the assessment with the Commissioner of Internal Revenue, the petition is premature and this Court has no jurisdiction.[14]

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner in his Motion for Reconsideration, the Court finds no compelling reason to reverse or modify the Decision promulgated on January 27, 2026.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

We Concur:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

[14] *Commissioner of Internal Revenue v. Court of Tax Appeals-Third Division and Citysuper, Incorporated*, G.R. No. 239464, May 10, 2021.