**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

**SECOND DIVISION**

**JTKC LAND, INC.,**
*Petitioner,*

- versus -

**COMMISSIONER OF INTERNAL REVENUE,**
*Respondent.*

**CTA Case No. 9597**

Members:

**CASTAÑEDA, JR.,** *Chairperson,*
and
**BACORRO-VILLENA,** *JJ.*

Promulgated:

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# RESOLUTION

**CASTAÑEDA, JR., *J.:***

For resolution of this Court is petitioner JTKC Land, Inc.'s Motion for Reconsideration (Re: Decision promulgated on 13 July 2020) filed via electronic mail on July 30, 2020.

In a Resolution dated August 24, 2020, respondent Commissioner of Internal Revenue was ordered to comment on petitioner's Motion for Reconsideration (Re: Decision promulgated on 13 July 2020) within ten (10) days from receipt thereof. Respondent, however, failed to file his comment as per the Records Verification report dated October 6, 2020 issued by this Court's Judicial Records Division.

Respondent assails the Decision dated July 13, 2020, (the "Assailed Decision") of this Court dismissing petitioner's Petition for Review for lack of jurisdiction.

In its Motion, petitioner seeks reconsideration of the Assailed Decision based on the following grounds:

1. Respondent's assessment is based on an unfounded view that the BIR Ruling was revoked and a mere presumption that investments received amounted to sales. Thus, the assessment is void and cannot become final. The Court should have resolved the question of validity of the assessment raised by Petitioner.

2. Even if the BIR Ruling were to be assumed to have been revoked, still, Respondent's assessment violates the prohibition on retroactive application of revocation of BIR Ruling. Thus, it has no legal basis and no legal effect. For these proceedings, the Respondent has not asserted that the BIR Ruling was revoked. Thus, the assessment, which presumed the revocation, is void.

3. The Decision is based on an erroneous interpretation of Commissioner of Internal Revenue vs. Isabela Cultural Corporation. The case of Isabela does not state a Preliminary Collection Letter constitutes the final decision on a disputed assessment.

4. The assessment is void because it does not state the laws and facts on which it is based. The Court should have ruled on this issue because it is one of the issues that determines jurisdiction over the dispute and it was listed in the Pre-Trial Order as among the issues to be decided by the Court.

5. Petitioner and its investors entered into Project Investment Agreements in good faith adherence to the BIR Ruling. No law or rule will evolve those agreements to sales even if the revocation were assumed.

After judicious evaluation of the arguments raised by the parties and the relevant facts gathered from the records vis-à-vis the applicable laws, rules and regulations, and jurisprudence on the matter, this Court finds no substantial matter much less any compelling reason that would warrant the modification let alone the reversal of the Assailed Decision.

This Court stands by its ruling that it has no jurisdiction over the present case. Petitioner's protest in the present case shall be considered void and without any legal effect because it utterly failed to state the facts, the applicable law, rules and regulations, or jurisprudence on which it is based. Even assuming that petitioner's protest is valid, this Court is still bereft of jurisdiction over the present case because the Petition for Review was filed out of time. This Court maintains its position that the Preliminary Collection Letter the petitioner received on July 2, 2014 essentially constitutes a final decision on the disputed assessment and thus may be proper subject of an appeal to this Court. The tenor and language of the said letter strongly suggests a character of finality. The fact that the letter reiterated petitioner's tax deficiency assessment and requested for the payment thereof with the warning that should petitioner fail to pay, respondent would be constrained to resort to administrative summary remedies to enforce collection of petitioner's deficiency taxes *without further notice* certainly indicates that it was the CIR's *final action* regarding petitioner's request for reinvestigation. As the Supreme Court had fittingly stated in one case[1] with similar issue, "How then could it have been made to believe that its request for reconsideration was still pending determination, despite the actual threat of seizure of its properties?"

While it is true that a void assessment bears no fruit,[2] it is equally and undeniably true that perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional.[3] The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case.[4] Before this Court could validly make any finding as regards the validity or correctness of the assessment, it must first be established that the appeal was duly perfected and that this Court validly acquired jurisdiction over the case. The cart cannot be placed before the horse. Given that petitioner's administrative protest is deemed

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[1] *Commissioner of Internal Revenue v. Isabela Cultural Corporation*, G.R. No. 135210, July 11, 2001, 361 SCRA 71.

[2] *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, G.R. No. 185371, December 8, 2010, 637 SCRA 647; *Commissioner of Internal Revenue v. Reyes*, G.R. Nos. 159694 & 163581, January 27, 2006, 480 SCRA 396.

[3] *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*, G.R. No. 167606, August 11, 2010, 628 SCRA 105; *China Banking Corporation v. City Treasurer of Manila*, G.R. No. 204117, July 1, 2015, 761 SCRA 238, 251; *Neypes v. Court of Appeals*, G.R. No. 141524, September 14, 2005, 469 SCRA 641.

[4] *Id.*

void and that its judicial protest is already time-barred, this Court never acquired jurisdiction over the present case. Having no jurisdiction over the present case, this Court cannot perform any action therefor except to dismiss the same.[5]

**WHEREFORE**, petitioner's Motion for Reconsideration (Re: Decision promulgated on 13 July 2020) is **DENIED** for lack of merit.

**SO ORDERED.**

Juanito C. Castañeda, Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

*I CONCUR:*

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

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[5] *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. No. 209830, June 17, 2015, 759 SCRA 313; *Katon v. Palanca, Jr.*, G.R. No. 151149, September 7, 2004, 481 Phil. 168.