REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

MONTALBAN METHANE POWER CORPORATION,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10678

Members:

DEL ROSARIO, *P.J., Chairperson*
MANAHAN, *and*
REYES-FAJARDO, JJ.

Promulgated:

FEB 14 2022 1:15pm

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RESOLUTION

On November 16, 2021, petitioner filed a *Motion for Additional Time to File Petition for Review and to Assign Docket Number* seeking an additional period of fifteen (15) days from November 18, 2021 or until December 3, 2021within which to file the Petition for Review because it needs more time to prepare the final version and to complete the judicial affidavits of its witnesses.

Petitioner submits that it received the Final Decision on Disputed Assessment (FDDA) from the Commissioner of Internal Revenue (CIR) on October 19, 2021 finding it liable for deficiency taxes for taxable year 2018. It goes on to state that it had until November 18, 2021 within which to file an appeal via a Petition for Review with the Court.

Hence this motion.

RULING OF THE COURT

We deny the motion.

Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended, provides as follows:

> "SEC. 228. *Protesting of Assessment.*- When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: xxx xxx xxx
>
> The taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
>
> 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.
>
> 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.
>
> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty days (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction **may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180) day period; otherwise the decision shall become final, executory and demandable."** (emphasis supplied)

Section 11 of Republic Act (RA) No. 1125, as amended by RA No. 9282, provides as follows:

> "Section 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."** (emphasis supplied)

xxx xxx xxx

Section 3 (a) of Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) is quoted as follows:

> **"Rule 8**
> **Procedure in Civil Cases**
>
> Section 3. *Who may appeal; period to file petitions.* –
>
> **(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 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)

The Supreme Court in the case of *Misnet, Inc. vs. CIR,*[1] clearly ruled as follows:

> **"It bears to stress that the perfection of an appeal within the statutory period is a jurisdictional requirement** and failure to do so renders the questioned decision or decree final and executory and no longer subject to review." (emphasis supplied).

Based on the aforecited provisions of law and jurisprudence, the Court has no jurisdiction over final and executory decisions of the CIR. Petitioner should have filed a Petition for Review within the thirty (30) day period from receipt of the FDDA instead of filing a motion for extension of time. After the 30th day from receipt of the FDDA, the Court no longer has any jurisdiction over the appeal filed.

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[1] G.R. No. 210604, June 3, 2019.

WHEREFORE, the Court resolves as follows:

1. **NOTE** petitioner's *Manifestation with Motion for Additional Time to File Judicial Affidavit of Witness,* filed on December 3, 2021; and

2. **DENY** *the Motion for Additional Time to File Petition for Review and to Assign Docket Number,* filed on November 16, 2021.

Accordingly, the Petition for Review is hereby **EXPUNGED** from the records of this case.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice