REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

SOLID-ONE MILLS PHILIPPINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8559

Members:

BAUTISTA, Chairperson;
FABON-VICTORINO, and
RINGPIS-LIBAN, ***JJ.***

Promulgated:

JUN 2 1 2016
10:45 a.m.

x---x

DECISION

RINGPIS-LIBAN, J.

STATEMENT OF THE CASE

This is a Petition for Review[1] filed by Solid-One Mills Phils., Inc., praying that the assessment against it be declared void for being issued beyond the required period, or in the event that the assessment is not deemed to have prescribed, that the deficiency tax assessment should only be as follows:

1. Income Tax Deficiency – ₱262,483.89;
2. Expanded Withholding Tax Deficiency – ₱5,701.29; and
3. No interest or penalties.[2]

[1] Docket, vol. 1, pp. 6-24
[2] Pre-Trial Order, docket, vol. 1, p. 211

STATEMENT OF FACTS

Petitioner Solid-One Mills, Phils., Inc. is a corporation organized and existing under and by virtue of Philippine laws, with address at Km. 68 Laurel Highway, Barangay Darasa, Tanauan City, Batangas.

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR) vested under the appropriate laws with the authority to carry out the functions, duties and responsibilities of said office, including, *inter alia*, the power to decide disputed assessments and cancel and abate tax liabilities, pursuant to the provisions of the National Internal Revenue Code (NIRC) of 1997 and other tax laws, rules and regulations. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner filed its Annual Income Tax Return[3] (ITR) for taxable year 2007 on April 15, 2008.

On August 5, 2008, petitioner received a Letter of Authority[4] dated July 16, 2008 issued by BIR Revenue Region No. 9, authorizing the examination of petitioner's books of accounts and other accounting records for all internal revenue taxes from January to December 2007.

In the letter[5] dated February 15, 2010, Revenue Officers Aileen Grace Parra and Thelma Hernandez were assigned to continue the examination of petitioner's tax liabilities for taxable year 2007.

A Notice of Informal Conference[6] dated November 23, 2010 was issued to petitioner, stating that after investigation it was found that petitioner has the following deficiency taxes:

Income Tax	₱ 796,847.51
Expanded Withholding Tax	10,894.01
Withholding Tax on Compensation	144,979.92
Improperly Accumulated Earnings Tax	1,917,611.31
GRAND TOTAL	₱2,870,332.75

Subsequently, a Details of Discrepancy for Taxable Year 2007[7] dated March 31, 2011 was issued to petitioner, which indicated a reduced assessment of the total deficiency taxes in the amount of ₱461,381.34, detailed as follows:

[3] Exhibit "P-7", docket, vol. 1, pp. 315-316
[4] Exhibit "P-8", docket, vol. 1, p. 324
[5] Exhibit "P-9", docket, vol. 1, p. 325
[6] Exhibit "P-10", docket, vol. 1, pp. 327-329

Income Taxes	₱437,974.22
Expanded Withholding Tax	23,407.12
TOTAL DEFICIENCY TAXES	₱461,381.34

On July 25, 2011, petitioner received a Formal Letter of Demand[8] dated June 30, 2011 from respondent, assessing it for various tax liabilities covering taxable year 2007, as follows:

TAX TYPE	PARTICULARS		TOTAL AMOUNT DUE
Income Tax	Tax Due Interest Compromise	₱ 511,083.89 327,093.69 20,000.00	₱ 858,711.58
Expanded Withholding Tax	Tax Due Interest Compromise	₱ 5,701.29 3,933.11 2,000.00	₱ 11,634.40
Withholding Tax on Compensation	Tax Due Interest Compromise	₱ 85,243.54 58,806.37 12,000.00	₱ 156,049.91
Improperly Accumulated Earnings Tax	Tax Due Surcharge Interest	₱1,717,611.93 429,402.98 1,190,563.89	₱ 3,337,578.80
TOTAL			**₱4,363,440.69**

Consequently, petitioner filed a protest letter dated August 16, 2011[9], with the BIR Revenue Region No. 9 on August 24, 2011.

On September 30, 2011, petitioner received a letter[10] dated September 6, 2011 issued by BIR Revenue Region No. 9, stating that the docket will be forwarded to Revenue District Office (RDO) No. 59–Lipa City for further evaluation. On the same date, petitioner received a letter[11] dated September 20, 2011 issued by RDO No. 59, stating that the docket was being referred to them for reinvestigation.

On March 16, 2012, petitioner received a letter[12] dated January 11, 2012 issued by BIR Revenue Region No. 9, stating that since petitioner failed to submit supporting documents, the assessment was deemed final and executory.

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[7] Exhibit "P-11", docket, vol. 1, p. 330
[8] Exhibit "P-2", docket, vol. 1, p. 304; Par. 3, Petition for Review, docket, vol. 1, p. 7
[9] Exhibit "P-3", docket, vol. 1, pp. 305-308
[10] Exhibit "P-4", docket, vol. 1, p. 312
[11] Exhibit "P-5", docket, vol. 1, p. 313
[12] Exhibit "P-6", docket, vol. 1, p. 314; Par. 7, Petition for Review, docket, vol. 1, p. 8

Petitioner received a Warrant of Distraint and/or Levy[13] dated May 14, 2012 on May 31, 2012, issued against it by respondent for its alleged tax liabilities for taxable year 2008.

Finally, on September 19, 2012, petitioner received a Demand Letter dated September 17, 2012[14], stating that its internal revenue tax liabilities in the assessment notice dated June 30, 2011 remains unpaid and must be paid immediately.

Consequently, on October 18, 2012, petitioner filed the instant Petition for Review[15] before this Court.

Respondent filed her Answer[16] on January 2, 2013, interposing that the right of respondent to assess petitioner has not prescribed; that petitioner miserably failed to substantiate its protest with sufficient documents to prove the validity of its claim; that the assessments issued against petitioner have legal and factual bases; and that the assessments issued against petitioner are valid and lawful.

On January 9, 2013, petitioner filed a Motion to Declare Respondent in Default[17] for the belated filing of her Answer. However, on February 6, 2013, petitioner filed a Withdrawal of Motion to Declare Respondent in Default[18], which was granted by the Court in the Resolution[19] dated February 14, 2013.

In the Notice of Pre-Trial Conference[20], the Pre-Trial Conference was set on March 15, 2013. Thereafter, on May 27, 2013, both the petitioner's Pre-Trial Brief[21] and the respondent's Pre-Trial Brief[22] were filed. However, during the hearing on May 30, 2013, petitioner's incomplete Pre-Trial Brief was considered withdrawn and the pre-trial conference was reset to June 20, 2013. On June 4, 2013, petitioner filed, through registered mail, its Pre-Trial Brief[23]; which was received by the Court on June 19, 2013.

On August 12, 2013, the parties filed their Joint Stipulation of Facts and Issues[24]. Subsequently, on August 30, 2013, the Court issued the Pre-Trial Order[25] which terminated the pre-trial.

[13] Exhibit "P-12", docket, vol. 1, p. 331
[14] Exhibit "P-1", docket, vol. 1, p. 303; Par. 9, Petition for Review, docket, vol. 1, p. 8
[15] Docket, vol. 1, pp. 6-24
[16] Docket, vol. 1, pp. 87-102
[17] Docket, vol. 1, pp. 106-109
[18] Docket, vol. 1, p. 116
[19] Docket, vol. 1, p. 119
[20] Docket, vol. 1, p. 117
[21] Docket, vol. 1, pp. 139-141
[22] Docket, vol. 1, pp. 177-180
[23] Docket, vol. 1, pp. 191-194
[24] Docket, vol. 1, pp. 206-208
[25] Docket, vol. 1, pp. 211-218

During the September 26, 2013 hearing for the initial presentation of petitioner's evidence, petitioner and its witness failed to appear. Thus, in the Resolution[26] dated September 27, 2013, the Court dismissed the case for failure to prosecute. On October 10, 2013, petitioner filed a Motion for Reconsideration[27]. This was granted by the Court in the Resolution[28] dated November 19, 2013.

Thereafter, petitioner presented Mr. Ronnie N. Arojado, its accountant, as its lone witness.[29]

Petitioner filed its Formal Offer of Evidence[30] on January 28, 2014. In the Resolution[31] dated February 12, 2014, the Court admitted petitioner's Exhibits "P-1", "P-2", "P-3", "P-3H", "P-4", "P-5", "P-6", "P-7", "P-8", "P-9", "P-10", "P-11", "P-12", "P-16", "P-17", and "P-18". The Court, however, denied the admission of Exhibits "P-3-G" and "P-3-G-1" for failure of petitioner to present the original documents for comparison. Petitioner then filed a Motion for Reconsideration[32] on February 25, 2014, which was denied by the Court in the Resolution[33] dated March 26, 2014.

On the other hand, respondent presented Revenue Officers Aileen Grace C. Parra[34] and Ana Marie D. Perez[35] as her witnesses.

On August 8, 2014, respondent filed a Motion for Leave to File and Admit Attached Formal Offer of Evidence[36]. This was granted by the Court in the Resolution[37] dated September 24, 2014, which also resolved respondent's Formal Offer of Evidence. The Court admitted respondent's Exhibits "R-9", "R-9-A", "R-10", and "R-10-A" but denied her Exhibits "R-1", "R-1-A", "R-2", "R-3", "R-4", "R-5", "R-5-A", "R-6", "R-6-A", "R-7", "R-7-A", and "R-8". On October 13, 2014, respondent filed an Omnibus Motion (Motion for Reconsideration and Motion to Set Commissioner's Hearing). However, this was denied for lack of merit via Court's Resolution[38] dated November 25, 2014.

Subsequently, on February 2, 2015, respondent filed an Offer of Proof[39] and prayed that her excluded evidence, Exhibits "R-1", "R-1-A", "R-2", "R-3",

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[26] Docket, vol. 1, p. 286
[27] Docket, vol. 1, pp. 287-288
[28] Docket, vol. 1, pp. 293-295
[29] Minutes of the Hearing dated January 20, 2014, docket, vol. 1, p. 296
[30] Docket, vol. 1, pp. 297-302
[31] Docket, vol. 1, p. 349
[32] Docket, vol. 1, pp. 350-351
[33] Docket, vol. 1, pp. 356-358
[34] Minutes of the Hearing dated May 26, 2014, docket, vol. 1, p. 360
[35] Minutes of the Hearing dated July 7, 2014, docket, vol. 1, p. 363
[36] Docket, vol. 1, pp. 365-377
[37] Docket, vol. 1, pp. 410-411
[38] Docket, vol. 1, pp. 428-431
[39] Docket, vol. 1, pp. 433-436

"R-4", "R-5", "R-5-A", "R-6", "R-6-A", "R-7", "R-7-A", and "R-8" be put and made part of the records of the case. This was noted by the Court in the Order[40] dated February 17, 2015, which deemed respondent's Offer of Proof as a tender of excluded evidence.

Both parties were given a non-extendible period of until March 30, 2015 within which to file their Memorandum. On March 31, 2015, petitioner filed its Memorandum[41] but with insufficient number of copies. Respondent, on the other hand, only filed her Memorandum[42] on April 6, 2015. Thus, in the Resolution[43] dated April 14, 2015, the Court deemed respondent's Memorandum as not filed and stricken off from the records of the case.

Petitioner filed its Compliance with Submission (Re: Notice of Receipt of Resolution dated 07 April 2015)[44] on April 15, 2015, submitting four (4) additional copies of its Memorandum. This was noted by the Court in the Resolution[45] dated April 20, 2015 and the subject copy was admitted as part of the records of the case.

On April 24, 2015, respondent filed a Motion for Leave to Admit Attached Memorandum[46]. This was granted by the Court in the Resolution[47] dated June 10, 2015. As a result, respondent's Memorandum dated April 1, 2015[48] was admitted as forming part of the records of the case.

Thus, in the Resolution[49] dated July 9, 2015, the instant case was declared by the Court as submitted for decision.

STATEMENT OF ISSUES

The parties interposed the following issues[50] for resolution of this Court:

1. Whether or not the assessment has prescribed;

2. In the event it has not prescribed, whether or not the tax should be assessed and how much, if at all:

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[40] Docket, vol. 1, p. 440
[41] Docket, vol. 2, pp. 459-479
[42] Docket, vol. 2, pp. 482-499
[43] Docket, vol. 2, p. 503
[44] Docket, vol. 2, pp. 504-505
[45] Docket, vol. 2, p. 528
[46] Docket, vol. 2, pp. 529-533
[47] Docket, vol. 2, p. 557
[48] Docket, vol. 2, pp. 535-552
[49] Docket, vol. 2, p. 559
[50] Joint Stipulation of Issues, docket, vol. 1, p. 208

a. Income Tax;
b. Withholding Tax on Compensation;
c. Improperly Accumulated Earnings; and
d. Interest and Penalties for the above.

ARGUMENTS

Petitioner claims that the assessment against it has prescribed. It also contends that in the event that the assessment has not prescribed, the assessment of taxes was still improper. Petitioner points out that the amount demanded is starkly different from the adjusted assessment per the Details of Discrepancy dated March 31, 2011 in the amount ₱461,381.34.

Respondent, on the other hand, argues that the period has not prescribed. She contends that on October 27, 2010, petitioner has waived the defense of prescription by executing, through its accountant, Mr. Ronnie N. Arojado, a Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code (NIRC) of 1997, as amended. Respondent also alleges that the withholding tax assessment, being penalties and not taxes, are not covered by the period of limitation prescribed in Section 203 of the NIRC of 1997, as amended. Lastly, respondent asserts that the assessments had long become final and executory.

RULING OF THE COURT

Jurisdiction of the Court

It must be emphasized that jurisdiction over the subject matter or nature of an action is fundamental for a Court to act on a given controversy, and is conferred only by law and not by the consent or waiver upon a Court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. The lack of jurisdiction of the Court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties. If the Court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The Court could not decide the case on the merits.[51] Needless to state, to obviate the possibility that its decision may be rendered void, the Court can, by its own initiative, raise the question of jurisdiction, although not raised by the parties.[52]

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[51] *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015

[52] *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 185969, November 19, 2014

Pertinent in determining whether this Court has jurisdiction over the present case is Section 228 of the NIRC of 1997, as amended, and Section 3.1.5 of Revenue Regulations (RR) No. 12-99[53], the applicable portions of which are quoted hereunder for ready reference:

> "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: *Provided, however*, That a preassessment notice shall not be required in the following cases:
>
> xxx xxx xxx
>
> **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.**
>
> **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 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)*
>
> "3.1.5 *Disputed Assessment.* – The taxpayer or his duly authorized representative may protest administratively against the aforesaid formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof. If there are several issues involved in the formal letter of demand and assessment notice but the taxpayer only disputes or protests against the validity of some of the issues raised, the taxpayer shall be required to pay the deficiency tax or taxes attributable to the undisputed issues, in which case, a collection letter shall be issued to the taxpayer calling for payment of the said deficiency tax, inclusive of the applicable surcharge and/or interest. No action shall be taken on the taxpayer's disputed issues until the taxpayer has paid the

[53] 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, dated September 6, 1999

deficiency tax or taxes attributable to the said undisputed issues. The prescriptive period for assessment or collection of the tax or taxes attributable to the disputed issues shall be suspended.

xxx xxx xxx

The taxpayer shall submit the required documents in support of his protest within sixty (60) days from date of filing of his letter of protest, otherwise, the assessment shall become final, executory and demandable. The phrase 'submit the required documents' includes submission or presentation of the pertinent documents for scrutiny and evaluation by the Revenue Officer conducting the audit. The said Revenue Officer shall state this fact in his report of investigation.

If the taxpayer fails to file a valid protest against the formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable.

If the protest is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become final, executory and demandable. xxx" *(Emphasis supplied)*

Based on the foregoing, petitioner may administratively protest the assessment against it within thirty (30) days from receipt thereof. If the protest is denied or is not acted upon by respondent within the required period of time, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, or from the lapse of the 180-day period, otherwise, the assessment shall become final, executory, and demandable.

In this case, petitioner received from respondent the Formal Letter of Demand dated June 30, 2011[54], assessing it for various tax liabilities covering taxable year 2007, on July 25, 2011[55]. Thus, petitioner had 30 days from July 25, 2011 or until August 24, 2011 within which to file its administrative protest. Petitioner timely filed its administrative protest[56] on August 24, 2011.

The Court notes that petitioner's protest letter is considered a request for reinvestigation considering the last sentence thereof:

[54] Exhibit "P-2", docket, vol. 1, p. 304
[55] Exhibit "P-16", docket, vol. 1, p. 333
[56] Exhibit "P-3", docket, vol. 1, pp. 305-308

> "xxx The Corporation further reserves the right to submit additional arguments and documents to further contest the aforesaid assessments."[57]

RR No. 12-85, the Procedure Governing Administrative Protests of Assessment of the Bureau of Internal Revenue, issued on November 27, 1985, defines the two types of protest, the request for reconsideration and the request for reinvestigation, and distinguishes one from the other in this manner:

> "SECTION 6. *Protest.* – The taxpayer may protest administratively an assessment by filing a written request for reconsideration or reinvestigation specifying the following particulars:
>
> xxx xxx xxx
>
> For the purpose of protest herein –
>
> (a) *Request for reconsideration* – refers to a plea of re-evaluation of the 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.
>
> (b) *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 re-investigation**. It may also involve a question of fact or law or both." *(Emphasis supplied)*

Based on Section 228 of the NIRC of 1997, as amended, and Section 3.1.5 of RR No. 12-99, petitioner is mandated to submit the required documents in support of its protest within sixty (60) days from date of filing of its letter of protest, otherwise, the assessment shall become final. Since petitioner filed its protest letter on August 24, 2011, it had until October 23, 2011 within which to submit the relevant supporting documents to its protest.

However, records show that petitioner failed to submit any supporting documents in connection to its request for reinvestigation. Thus, for failure to submit any relevant supporting documents, the assessments against petitioner were deemed final and executory by respondent.

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[57] Exhibit "P-3", docket, vol. 1, p. 308

In the letter dated January 11, 2012[58], the BIR, through Regional Director Jose N. Tan, informed petitioner that the assessment has become "final and executory", the significant parts of which are quoted hereunder:

> "This refers to your 2007 tax liabilities involving the amount of P858,177.58, P156,049.91 and P3,337,578.80 representing deficiency income, expanded withholding, withholding on compensation and accumulated earnings taxes, respectively per assessment notice dated June 30, 2011.
>
> **Please be informed that your failure to respond on the letter dated September 20, 2011 of the Revenue District Officer, RDO No. 59-Lipa City on the submission of supporting documents in connection with your request for reinvestigation made our assessment final and executory.**
>
> xxx xxx xxx
>
> In view of the foregoing your case will be forwarded to the Collection Division, this Region, for the enforcement of collection in accordance with law." *(Emphasis supplied)*

In the case of *Oceanic Wireless Network, Inc. vs. Commissioner of Internal Revenue, et al.*[59], which has some factual similarities to the present case, the Supreme Court considered the denial of the taxpayer's request for reinvestigation by the Chief of the BIR Accounts Receivable and Billing Division as the final action taken by the BIR and subject to an appeal to the Court of Tax Appeals. The relevant parts of the decision are quoted as follows:

> "Acting in behalf of the BIR Commissioner, then Chief of the BIR Accounts Receivable and Billing Division, Mr. Severino B. Buot, reiterated the tax assessments while denying petitioner's request for reinvestigation in a letter dated January 24, 1991, thus:
>
> > 'Note: Your request for re-investigation has been denied for failure to submit the necessary supporting papers as per endorsement letter from the office of the Special Operation Service dated 12-12-90.'
>
> Said letter likewise requested petitioner to pay the total amount of P8,644,998.71 within ten (10) days from receipt thereof, otherwise the case shall be referred to the Collection

[58] Exhibit "P-6", docket, vol. 1, p. 314
[59] G.R. No. 148380, December 9, 2005

Enforcement Division of the BIR National Office for the issuance of a warrant of distraint and levy without further notice.

Upon petitioner's failure to pay the subject tax assessments within the prescribed period, the Assistant Commissioner for Collection, acting for the Commissioner of Internal Revenue, issued the corresponding warrants of distraint and/or levy and garnishment. xxx

On November 8, 1991, petitioner filed a Petition for Review with the Court of Tax Appeals (CTA) to contest the issuance of the warrants to enforce the collection of the tax assessments. This was docketed as CTA Case No. 4668.

The CTA dismissed the petition for lack of jurisdiction in a decision dated September 16, 1994, declaring that said petition was filed beyond the thirty (30)-day period reckoned from the time when the demand letter of January 24, 1991 by the Chief of the BIR Accounts Receivable and Billing Division was presumably received by petitioner, *i.e.*, within a reasonable time from said date in the regular course of mail pursuant to Section 2(v) of Rule 131 of the Rules of Court.

xxx xxx xxx

A demand letter for payment of delinquent taxes may be considered a decision on a disputed or protested assessment. The determination on whether or not a demand letter is final is conditioned upon the language used or the tenor of the letter being sent to the taxpayer.

xxx xxx xxx

In this case, the letter of demand dated January 24, 1991, unquestionably constitutes the final action taken by the Bureau of Internal Revenue on petitioner's request for reconsideration when it reiterated the tax deficiency assessments due from petitioner, and requested its payment. Failure to do so would result in the issuance of a warrant of distraint and levy to enforce its collection without further notice. In addition, the letter contained a notation indicating that petitioner's request for reconsideration had been denied for lack of supporting documents."

Pursuant to Section 228 of the NIRC of 1997, as amended, and Section 3.1.5 of RR No. 12-99, petitioner may appeal to the Court of Tax Appeals the denial of its administrative protest within thirty days from receipt of the denial. Moreover, Section 3(a) of Rule 8 of the Revised Rules of the Court of Tax Appeals, as amended, provides that a party adversely affected by a decision of the Commissioner of Internal Revenue on disputed assessment may appeal to this Court by Petition for Review filed within thirty days after receipt of the copy of such decision.

In this case, petitioner received the denial of its protest on March 16, 2012[60]. Thus, petitioner had until April 15, 2012 within which to file its appeal with the Court of Tax Appeals. The instant Petition for Review was filed only on October 18, 2012. Clearly, the assessment issued against petitioner for taxable year 2007 has become final, executory and demandable. The Court therefore has no jurisdiction over the present case.

From the foregoing, the Court finds that it is no longer necessary to discuss the other issues raised in this case.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

Ma. Belen M. —

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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[60] Exhibit "P-16", docket, vol. 1, p. 334; Par. 7, Petition for Review, docket, vol. 1, p. 8

ATTESTATION

I attest that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, is it hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice