REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

ALLAN U. GARCIA, *Petitioner*,	**CTA CASE NO. 9971**
	Members:
- versus -	**BACORRO-VILLENA**, *Acting Chairperson, and* **CUI-DAVID**, *JJ.*
THE COMMISSIONER OF CUSTOMS, *Respondent.*	Promulgated: OCT 12 2023

x- -x

1:11 p.m.

DECISION

CUI-DAVID, J.:

Before the Court is a *Petition for Review*[1] filed by Allan U. Garcia under Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA).[2] It seeks the reversal and setting aside of respondent Commissioner of Customs' (COC) *Order* dated September 10, 2018 (*assailed Order* dated September 10, 2018), affirming the June 19, 2018 *Order* (*assailed Order* dated June 19, 2018) of the District Collector of Customs, Manila International Container Port (MICP), in the case entitled *Republic of the Philippines v. Allan U. Garcia* with Docket No. S.I. No. 10-2018.

[1] Docket, pp. 21-32.
[2] SEC. 3. *Who May Appeal; Period to File Petition.* — (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 to act on the disputed assessments. In case of inaction of 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.

THE PARTIES

Petitioner Allan U. Garcia is a Filipino citizen, of legal age with residence at No. 394 Dolores St., Perpetual Heights Subdivision, Palagui, Apalit, Pampanga, represented herein by his Attorney-in-fact, Anna Caroline B. Balarbar.[3]

Respondent is the duly appointed Commissioner of the Bureau of Customs. He may be served with orders, processes, and other papers of the Court at The Office of Commissioner, Bureau of Customs, Ground Floor, OCOM Building, South Harbor, Gate 3, Port Area, Manila.[4]

THE FACTS AND THE PROCEEDINGS

As an Overseas Filipino Worker (OFW), petitioner sought to import into the country his personal motor vehicle, a White 2012 Lamborghini Gallardo with Chassis No. ZHWGE71J7CLA11526, purchased from Mega Star Motors in Dubai, United Arab Emirates (UAE).[5]

Petitioner's importation of the subject motor vehicle was covered by Bill of Lading No. HDMUAEMLO239915 and arrived at the MICP on May 17, 2017. On even date, petitioner filed Import Entry No C-129428-17 through his customs broker, Christian G. Lao.[6]

Thereafter, through a First (1st) Indorsement dated May 22, 2017, then MICP's District Collector, Atty. Vincent Philip C. Maronila (Atty. Maronila) forwarded the documents to the Director of Import Assessment Service (IAS) for value verification and clearance under Customs Memorandum Circular No. 70-2014, dated May 30, 2014.[7]

On June 2, 2017, an Authority to Release Imported Goods (ATRIG) was approved by the Bureau of Internal Revenue (BIR) for the subject motor vehicle. On even date, then IAS Director Milo D. Maestrecampo (Dir. Maestrecampo) issued a *Memorandum* recommending that the value of the imported

[3] Petition for Review, Docket, par. 2.01, p. 22.
[4] *Id.*,par. 2.02.
[5] *Id.*, par. 4.01, pp. 23 to 27.
[6] *Id.*, pars. 4.01 to 4.02.
[7] *Id.*, par. 4.03.

motor vehicle be set at US$68,388.00 instead of the declared Free on Board (FOB) value of US$62,629.00.[8]

Unfortunately, petitioner failed to process his shipment within the reglementary period. As such, the shipment was tagged "abandoned".[9]

On June 29, 2017, petitioner filed a *Request for Continuous Processing of Entry,* which was approved the following day.[10]

Again, petitioner failed to process his shipment within the allotted time. As such, the shipment was tagged anew as "abandoned."

In December 2017, petitioner requested anew for *Continuous Processing*, which Atty. Balmyrson M. Valdez (Atty. Valdez), Acting District Collector of MICP, approved on January 30, 2018, upon the recommendation of Michael Angelo D. Vargas (Mr. Vargas), then Acting Deputy Collector for Operations, MICP.[11]

Petitioner was then given an assessment notice *via* Customs electronic to mobile (Customs E2M) for Php3,940,093.00, which he allegedly paid on February 1, 2018.[12]

Subsequently, on February 5, 2018, Atty. Valdez issued *Alert Order No. A/MI/20180205-028* against the subject vehicle for suspected violations of Customs Administrative Order (CAO) No. 08-2007, Customs Memorandum Order (CMO) No. 28-2007, Revenue Regulations (RR) Nos. 2-2016 and 25-2003 and Section 1400, in relation to Section 1113 of the Customs Modernization and Tariff Act (CMTA).[13]

On February 13, 2018, Atty. Valdez issued a *Warrant of Seizure and Detention* (WSD) against the subject vehicle on the ground that the subject shipment was grossly undervalued and that the invoice submitted in support thereof was spurious.[14]

[8] *Id.*, pars. 4.06 and 4.04.
[9] *Id.*, par. 4.07.
[10] Assailed Order dated September 10, 2018, Docket, p. 35.
[11] *Petition for Review, Docket,* pars. 4.08 and 4.09.
[12] *Id.*, par. 4.10.
[13] *Id.*, par. 4.11.
[14] *Id.*, par. 4.13.

On February 20, 2018, an *Amended Warrant of Seizure and Detention* (AWSD) was issued.[15]

Several hearings were then held before the Law Division of the MICP.[16]

Thereafter, MICP's District Collector, Atty. Vener S. Baquiran (Atty. Baquiran) issued the *assailed Order* dated June 19, 2018, declaring the subject vehicle forfeited in favor of the government.[17]

Unable to agree, petitioner filed a Notice of Appeal with the District Collector of MICP, attaching a *Memorandum of Appeal* and the Appeal Fee evidenced by Official Receipt No. 01892241186, on June 24, 2018.[18]

On June 26, 2018, the District Collector of MICP forwarded the *Notice of Appeal* with the entire case folder to respondent for review and consideration.[19]

On September 18, 2018, petitioner received the equally *assailed Order* dated September 10, 2018, denying his appeal.[20]

Hence, petitioner elevated his case before the Court *via* the instant *Petition for Review* filed through registered mail on October 18, 2018, and received by the Court on November 8. 2018.

Upon perusal of the *Petition for Review*, the Court observed that petitioner failed to attach the original or certified true copies of the *Orders* he seeks to reverse and set aside. The *Verification and Certification of Non-Forum Shopping* executed by Anna Caroline B. Balarbar-Li (Ms. Balarbar-Li), petitioner's alleged Attorney-In-Fact, is also defective as there is no proof that petitioner authorized Ms. Balarbar-Li through a Special Power of Attorney (SPA), to cause the filing of the instant petition and sign the *Verification and Certification of Non-Forum Shopping* on his behalf. Thus, to avoid the dismissal of the instant petition, the Court, in a Resolution dated November 16,

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[15] *Id.*, par. 4.14.
[16] *Id.*, par. 4.15.
[17] *Id.*, par. 4.18.
[18] *Id.*, par. 4.19.
[19] *Id.*, par. 4.20.
[20] *Id.*, par. 4.21.

2018, gave petitioner ten (10) days from notice to take appropriate action on the aforesaid observations.[21]

On December 3, 2018, petitioner filed a *Motion for Extension of Time to File Compliance*,[22] which the Court granted in a Resolution promulgated on December 6, 2018.[23]

In his *Partial Compliance with Motion for Extension of Time* filed on December 17, 2018, [24] petitioner submitted the certified true copies of the assailed *Orders* dated June 19, 2018,[25] and September 10, 2018,[26] respectively. In addition, he requested fifteen (15) days from December 15, 2018, or until December 30, 2018, to submit the required SPA, alleging that the same is still pending with the Philippine Consulate in the United Arab Emirates (UAE).

In the Resolution dated December 20, 2018, the Court noted and granted petitioner's *Partial Compliance with Motion for Extension of Time.*[27]

On January 3, 2019, instead of filing the required SPA, petitioner filed *a Final Motion for Extension of Time via registered mail* on the ground that the SPA was pending with the Philippine Consulate in UAE.[28]

Again, on January 23, 2019, the Court granted petitioner's motion for extension and gave him a non-extendible period of fifteen (15) days from December 30, 2018, or until January 14, 2019, to file his compliance with a warning that the Court shall be constrained to act accordingly if petitioner still fails to comply with the said period.[29]

Despite several extensions, petitioner still failed to comply with the directives of the Court. Thus, on February 19, 2019, the Court issued a Resolution *dismissing* the instant *Petition for Review* without prejudice on procedural grounds.[30]

[21] Docket, pp. 93-94.
[22] Docket, pp. 95-97.
[23] Docket, p. 101.
[24] Docket, pp. 102-104.
[25] Docket, pp. 112-120.
[26] Docket, pp. 105-111.
[27] Docket, p. 122.
[28] Docket, pp. 124-126.
[29] Resolution dated January 23, 2019, Docket, p. 128.
[30] Docket, pp. 131-134.

On March 11, 2019, petitioner filed his *Entry of Appearance with Motion for Reconsideration (Re: Resolution dated 18 February 2019)*, attaching a copy of the required SPA.[31]

On March 15, 2019, the Court issued a Resolution[32] noting the *Entry of Appearance* of Bernardo Placido Chan & Lasam Law Offices. On the other hand, the Court granted petitioner's Motion for Reconsideration (Re: Resolution dated 18 February 2019) with attached SPA in its Resolution dated June 17, 2019. Consequently, the SPA was admitted, the Resolution dated February 19, 2019, was reconsidered, and the dismissal of the instant *Petition for Review* was recalled and set aside.[33]

The *Summons* was then issued to respondent on June 20, 2019.[34]

On August 30, 2019, petitioner filed a *Motion to Allow Settlement by Redemption*,[35] to which respondent was ordered to file his comment within ten (10) days from notice.[36]

On November 26, 2019, the Court issued a Resolution denying petitioner's *Motion to Allow Settlement by Redemption.*[37]

On December 18, 2020, petitioner was given fifteen (15) days from notice to take appropriate action to properly litigate this case, considering that respondent has filed no Answer despite the lapse of the period granted.[38]

Thereafter, or on January 28, 2021, petitioner filed a *Motion to Declare Defendant in Default and Render Judgment.*[39]

In the Resolution dated February 10, 2021, petitioner was directed to submit, within ten (10) days from notice, the registry return card or a *Postmaster's Certificate* to prove that respondent was duly notified of the motion to declare him in default.[40]

[31] Docket, pp. 135-139.
[32] Docket, p. 144.
[33] Docket, pp. 149-151.
[34] Docket, p. 152.
[35] Docket, pp. 157-159.
[36] Resolution dated September 11, 2019, Docket, p. 161.
[37] Docket, pp. 166-169.
[38] Resolution dated December 18, 2020, Docket, pp. 171-172.
[39] Docket, pp. 173-176.
[40] Docket, pp. 180-182.

The Court granted petitioner's *Motion to Declare Defendant in Default* in the Resolution promulgated on June 22, 2021. However, petitioner's *Motion to Render Judgment* was denied as the Court found it necessary for petitioner to present *ex-parte* evidence to prove his allegations.[41]

During the *ex-parte* presentation of evidence, petitioner presented his lone witness, Ms. Balarbar-Li, who testified by way of a Judicial Affidavit.[42]

Ms. Balarbar-Li testified that petitioner is an OFW based in the UAE. In 2017, he purchased a second-hand 2012 Lamborghini Gallardo in UAE, which was imported into the Philippines under Bill of Lading No. HDMUAEMLO239915 with petitioner as the designated consignee. He secured the services of a customs broker, Mr. Lao, to process the *Import Entry*[43] for his vehicle numbered C-129428-17. All the requisite documents were given to Mr. Lao, including Mega Star Motors (L.L.C.) *Receipt Voucher No. 1298* in the amount of UAE Dirhams 230,000.00. However, in the *Memorandum*[44] dated June 2, 2017, issued by Dir. Maestrecampo of the IAS, it was recommended that the valuation of the subject vehicle be set at US$68,388.00 instead of the declared FOB of US$62,629.00. He was not able to pay on time the duties and taxes that were assessed on his importation. He again requested continuous processing through his authorized representative in December 2017, which Atty. Valdez approved in a *Memorandum*[45] dated January 30, 2018, upon the recommendation of Mr. Vargas, Acting Deputy Collector for Operations of the MICP. Thereafter, he was given an Assessment Notice[46] of Php3,940,093.00 *via* the BOC's electronic-to-mobile system (E2M), which was paid on February 1, 2018, as evidenced by a debit[47] from his bank account. After he paid the assessment, he was surprised to learn that *Alert Order No. A/MI/20180205-028,* [48] dated February 5, 2018, was issued against his imported vehicle. Shortly thereafter, a Report of Seizure dated February 12, 2018, and an *Amended Warrant of Seizure and Detention*[49] with Case No. 010-2018 dated February 20, 2018, were issued against his imported vehicle. Hearings were held before the Law Division of

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[41] Resolution dated June 22, 2021, Docket, pp. 195-199.
[42] Exhibit P-16, Docket, pp. 220-232.
[43] Exhibit P-2, Docket, pp. 315-316.
[44] Exhibit P-3, Docket, pp. 318.
[45] Exhibit P-6, Docket, pp.321-322.
[46] Exhibit P-7, Docket, p.323.
[47] Exhibit P-8-1, Docket, p. 324.
[48] Exhibit P-9, Docket, p. 325.
[49] Exhibit P-10, Docket, pp. 326-327.

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the MICP, and eventually, petitioner was directed to submit his *Position Paper* in the Seizure Identification Case No. 010-2018 proceedings.[50]

Ms. Balarbar-Li further testified that on June 19, 2018, MICP District Collector Atty. Baquiran issued an *Order* directing the forfeiture of petitioner's shipment in favor of the government, which he appealed before the COC by way of a *Notice of Appeal*[51] and *Memorandum of Appeal*,[52] both dated June 24, 2018. Pending appeal with the COC, he submitted his *Affidavit of Explanation*[53] dated May 30, 2018. On September 18, 2018, the COC issued the assailed *Order* denying petitioner's appeal and affirming the *Order* of the District Collector, MICP, dated June 19, 2018, prompting petitioner to elevate his case before the Court.

There being no more witness to present, on March 25, 2022, petitioner filed his Formal Offer of Documentary Evidence, praying for the Court to admit into evidence his Exhibits P-1 to P-15, including sub-markings.[54]

However, upon perusal of petitioner's *Formal Offer of Documentary Evidence*, the court noted that petitioner's duly marked exhibits were not attached thereto and not found in the records of this case. Thus, in the Resolution dated April 22, 2022, petitioner was given five (5) days from notice to submit the duly marked exhibits and the original of the provisionally marked exhibits for comparison in the interest of justice.[55]

On April 25, 2022, petitioner filed a *Manifestation (Re: Memorandum for the Petitioner)*, stating that his *Petition for Review* dated August 20, 2018, be treated and considered as his *Memorandum*, as required per order given in open court on March 2, 2022.[56]

On April 29, 2022, petitioner filed a *Motion for Additional Time to Comply (Re: Resolution dated 22 April 2022)*,[57] which the Court granted in the Resolution dated May 5, 2022.[58]

[50] Exhibit P-11, Docket, pp. 328-332.
[51] Exhibit P-12, Docket, p. 333.
[52] Exhibit P-13, Docket, pp. 334-337.
[53] Exhibit P-15, Docket, pp. 348.
[54] Docket, pp. 271-275.
[55] Docket, pp. 279-280.
[56] Docket, pp. 281-283.
[57] Docket, pp. 285-288.
[58] Docket, p. 290.

Two more extensions of time were given.[59]

On August 9, 2022, petitioner filed a *Motion to Admit (Attached Certified True Copies of Documentary Exhibits [Re: Resolution dated 22 April 2022]),*[60] which the Court granted and admitted the attachments thereto in the Resolution [61] promulgated on September 14, 2022. In the same Resolution, the Court submitted for resolution petitioner's *Formal Offer of Documentary Evidence.*

On October 12, 2022, the Court issued a Resolution admitting, *albeit* partially, petitioner's *Formal Offer of Documentary Evidence.* Further, the Court resolved to submit the case for decision considering petitioner's *Manifestation (Re: Memorandum for the Petitioner)* filed on April 25, 2022, which the Court noted in a *Minute Resolution*[62] dated April 27, 2022.

Hence, this Decision.

ASSIGNMENT OF ERRORS[63]

Petitioner submits that he is entitled to a reversal and nullification of respondent's *Order* dated September 10, 2018, which upheld the District Collector's *Order* dated June 19, 2018, on the following grounds:

A. THE PETITIONER SUBSTANTIALLY COMPLIED WITH THE REQUIREMENTS FOR VALID IMPORTATION UNDER THE CMTA.

B. THE SUBJECT SHIPMENT IS NOT LIABLE FOR FORFEITURE.

Petitioner's Arguments:

Petitioner avers that based on the *assailed Order* dated September 10, 2018, "*he failed to explain or provide sufficient evidence that he has no knowledge or participation anent the submission of the purported spurious Commercial Invoice as supporting document to the Import Entry.*" Petitioner submits that contrary to the findings of the Customs Commissioner, he

[59] Resolutions dated June 17, 2022 and September 14, 2022, Docket, p. 292 and Docket, pp. 352-353, respectively.
[60] Docket, pp. 306-310.
[61] Docket, pp. 352-353.
[62] Docket, p. 284.
[63] Petition for Review, Assignment of Errors, Docket, p. 27.

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substantially complied with the requirements of the CMTA and the law. He was in good faith when he submitted all his commercial documents to his customs broker and relied on him in terms of preparation and submission of other documents necessary to effect the release of his shipment from the BOC.

Petitioner stresses that the issue of the alleged spuriousness of the invoice surfaced only after (i) the verification of value by the IAS, (ii) the granting of the release of the shipment through ATRIG, (iii) two requests for allowance of continuous processing, which were granted; and (iv) the payment of customs duties through the E2M. He argues that authorized officials of the BOC cannot arbitrarily exercise the extreme power of forfeiture. Citing the case of *Farolan, Jr. v. Court of Tax Appeals and Bagong Buhay Trading*,[64] he asserts that the fraud contemplated by law must be actual and not constructive. It must be intentional fraud, consisting of deception willfully and deliberately done or resorted to induce another to give up some right.

Petitioner insists that the records show that he complied with the customs processes and procedures and obtained clearances from other government agencies such as the Department of Trade and Industry (DTI) and BIR. Barring the submission of the invoice, the BOC found no other irregularity in his documentary submissions. Further, the BOC, through the IAS, already made a determination through the Memorandum dated June 2, 2017, that recommended a value of US$38,388.00 for the subject motor vehicle instead of the declared FOB value of US$62,629.00.

Petitioner also points out that when he declared the value of the subject motor vehicle, he faithfully complied with the provision of Section 701 of the CMTA, which provides for the "transaction value" of the imported goods (Method 1) - which is the "price actually paid or payable for the good when sold for export to the Philippines."

Asserting that he had satisfactorily proved the applicability of the "transaction value" method of valuation and having presented the original invoice showing the actual amount paid for the subject motor vehicle, petitioner submits that the lifting of the alert order issued against the shipment and the continuous processing thereof were warranted.

[64] G.R. No. 42204, January 21, 1993.

As regards the issue of gross undervaluation, petitioner asserts that the declared value of US$62,629.00 was actually the transaction value as it was the amount he actually paid to the seller, as shown in the Receipt Voucher submitted in this case. While the IAS has recommended the value of US$68,388.00, with corresponding duties and taxes in the amount of Php3,940,093.00, it was equally true that he readily prepared and deposited the aforesaid amount, thereby showing his willingness to comply with the recommendation of the IAS.

For petitioner, such action indicates his good faith and willingness to comply with existing rules. The sweeping allegation that he is guilty of gross undervaluation must necessarily fail under the given circumstance.

In closing, petitioner submits that to impose upon him the extreme penalty of forfeiture of his hard-earned motor vehicle would truly be an injustice.

THE COURT'S RULING

After carefully evaluating the allegations in the Petition for Review and petitioner's admitted evidence, this Court finds that it lacks jurisdiction over the subject matter.

The Court of Tax Appeals (CTA) is a court of special jurisdiction and can only take cognizance of matters clearly within its jurisdiction. The jurisdiction of the CTA regarding decisions of the COC is provided under Section 7(a)(4) of Republic Act (RA) No. 1125,[65] as amended by RA No. 9282[66] and 9503, *viz.*:

> SEC. 7. *Jurisdiction.* — The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> xxx xxx xxx

[65] AN ACT CREATING THE COURT OF TAX APPEALS.
[66] 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 OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

> 4. **Decisions of the Commissioner of Customs in cases involving** liability for customs duties, fees or other money charges, **seizure, detention** or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;... *[Emphasis supplied]*

In relation thereto, Section 3, Rule 4 of the RRCTA, as amended, specifically includes *decisions* of the COC as among the cases falling within the jurisdiction of the CTA in Division, as follows:

> "SEC. 3. *Cases within the Jurisdiction of the Court in Division.* — The Court in Division shall exercise:
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> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
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> xxx xxx xxx
>
> (4) **Decisions of the Commissioner of Customs** in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, **forfeitures** or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs; ... *[Emphasis supplied]*

However, the exercise of the Court's jurisdiction to rule on decisions of the COC is conditioned on the *timeliness* of filing the appeal. Section 11 of RA No. 1125, as amended, provides that:

> 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 actions 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**. ... *[Emphasis supplied]*

Relative thereto, Section 1126 of the CMTA provides:

> Sec. 1126. *Appeal to the Commissioner.* — **In forfeiture cases, the person aggrieved by the decision of a District Collector may, within fifteen (15) days** or five (5) days in case of perishable goods, **from receipt of the decision, file a written notice of appeal**, together with the required appeal fee to the District Collector, furnishing a copy to the Commissioner. **The District Collector shall immediately transmit all the records of the proceedings to the Commissioner, who shall review and decide on the appeal within thirty (30) days from receipt of the records**, or fifteen (15) days in the case of perishable goods: Provided, **That if within thirty (30) days, no decision is rendered, the decision of the District Collector under appeal shall be deemed affirmed.** An appeal filed beyond the period herein prescribed shall be dismissed. . . *[Emphasis supplied]*

Indeed, a person aggrieved by the decision of the District Collector has fifteen (15) days from receipt of the same to file a written notice of appeal before the Commissioner, who shall review and decide the appeal **within thirty (30) days from receipt of the records of the case. If no decision is rendered after the said 30-day period, the decision of the District Collector under appeal shall be <u>deemed affirmed</u>**.

In the instant case, records reveal that upon receipt of petitioner's *Notice of Appeal* on June 24, 2018, the District Collector of MICP, Atty. Baquiran forwarded the same with the entire case folder to respondent Commissioner of Customs on June 26, 2018. Following the above-quoted provision, respondent had thirty (30) days from June 26, 2018, or until July 26, 2018, to decide on petitioner's appeal. However, no decision was rendered by respondent within the prescribed 30-day period. Only on September 10, 2018, after seventy-six (76) days, or way beyond the prescribed 30-day period, did respondent decide on the petitioner's appeal.

Considering that respondent failed to render a decision within the 30 days prescribed by law, the District Collector's decision was deemed affirmed on July 26, 2018. Hence, petitioner had thirty (30) days therefrom to file a petition before this Court.

While respondent rendered a decision on petitioner's appeal on September 10, 2018, said decision is no longer controlling as the decision of the District Collector was deemed affirmed by him on July 26, 2018, by operation of law. Besides, the law only gives respondent 30 days to decide on petitioner's appeal. Hence, a decision rendered *outside* of the said period has no force and effect as the decision of the District Collector under appeal is "deemed affirmed" by operation of law.

Counting thirty (30) days from July 26, 2018, petitioner had until August 25, 2018, to file an appeal before this Court *via* a *Petition for Review.* Unfortunately, it was only on October 18, 2018, that petitioner filed his *Petition for Review.* Hence, the same was filed *out of time.*

Jurisprudence dictates that the right to appeal is a mere statutory privilege, not an inherent constitutional right. As aptly held in the case of *Yao vs. Court of Appeals, et al.*,[67] to wit:

> **The right to appeal is not a constitutional, natural or inherent right**. It is a statutory privilege of statutory origin and, therefore, available only if granted or provided by statute. Since the right to appeal is not a natural right nor a part of due process, **it may be exercised only in the manner and in accordance with the provisions of law. Corollary its requirements must be strictly complied with**.
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> **That an appeal must be perfected in the manner and within the period fixed by law is not only mandatory but jurisdictional**. Non-compliance with such legal requirements is fatal, for it renders the decision sought to be appealed final and executory, with the end result that no court can exercise appellate jurisdiction to review the decision. *[Emphasis supplied]*

Jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy[68] and is conferred only by law and not by the consent or waiver upon a court which would otherwise have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the

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[67] G.R. No. 132428, October 24, 2000.
[68] *Commissioner of Internal Revenue vs. Villa, et al.*, G.R. No. L-23988, January 2, 1968.

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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.[69] 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.[70]

While We are moved by petitioner's plea and understand its plight, We cannot grant the relief it seeks as the foregoing circumstances leave the Court without a choice but to dismiss this case.

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

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 2nd Division Acting Chairperson

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[69] *Laresma vs. Abellana*, G.R. No. 140973, November 11, 2004.
[70] Please refer to *De Guzman, et al. vs. Escalona, et al.*, G.R. No. L-51773, May 16, 1980.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special 2nd Division Acting Chairperson's Attestation, it is 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's Division.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice