

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

YOKOHAMA TIRE SALES
PHILIPPINES, INC.,

Petitioner,

CTA CASE NO. 11590

Members:

-versus-

MANAHAN, Chairperson,
REYES-FAJARDO, and
ANGELES, JJ.

COMMISSIONER OF
INTERNAL REVENUE,

Respondent

Promulgated:

OCT 03 2024

10:32 a.m.

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RESOLUTION

On August 13, 2024, petitioner filed a *Motion for Extension of Time to File Petition for Review* seeking an additional period of fifteen (15) days from August 14, 2024 or until August 29, 2024 within which to file the Petition for Review because it needs more time to prepare the petition for the following reasons:

- i. The reconciliation income was not attached to or shown in the Preliminary assessment Notice, Final Assessment Notice, nor in the Final Decision on Disputed Assessment Notice (FDDA). There is a need to review voluminous company records from calendar year 2019 in order to resolve the discrepancies in the reconciliation and the FDDA;
- ii. The certified true copy of the FDDA is not yet available; and
- iii. Counsel is burdened by the demands of other equally and important and urgent matters.

Petitioner submits that it received the FDDA from the Commissioner of Internal Revenue (CIR) on July 15, 2024 finding it liable for deficiency taxes for taxable year 2019. It goes on to state

that it had until August 14, 2024 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:

Section 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 taxpayers 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.

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 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 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.** (emphasis supplied)

The Supreme Court in the case of *Misnet, Inc. vs. Commissioner of Internal Revenue*,¹ clearly ruled as follows:

¹ G.R. No. 210604, June 3, 2019.

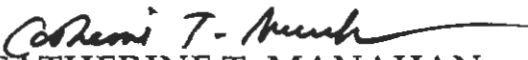
It bears to stress that the perfection of an appeal *within the statutory period* is a jurisdictional requirement and failure to do so renders the questioned decision or decree final and executory and no longer subject to review.

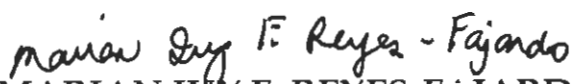
Based on the forecited provisions of law and jurisprudence, the court has no jurisdiction over final and executory decisions of the CIR. Petitioner should have filed a Petition for Review within the thirty (30) day period from receipt of the FDDA instead of filing a motion for extension of time. After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

WHEREFORE, the Court resolves to **DENY** petitioner's Motion for Extension of Time to File Petition for Review filed on August 13, 2024.

Accordingly, the **Petition for Review (with Motion for Suspension of Collection of Tax)** filed on August 29, 2024 is hereby **EXPUNGED** from the records of this case.

SO ORDERED.


CATHERINE T. MANAHAN
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


HENRY S. ANGELES
Associate Justice