REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

BRYAN M. TORREGOSA,
Petitioner,

-*versus*-

REGIONAL DIRECTOR OF THE BUREAU OF INTERNAL REVENUE, DAVAO CITY, REVENUE REGION NO. 19,
Respondent.

CTA Case No. 9703

Members:

DEL ROSARIO, *P.J.*, *Chairperson*
and
MANAHAN, *JJ.*

Promulgated:
MAY 20 2021 10:12am

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RESOLUTION

MANAHAN, *J.:*

This resolves petitioner's **Motion for Reconsideration** filed via email on December 7, 2020, without respondent's comment, as per the Resolution dated February 22, 2021.

On September 9, 2020, the Court promulgated a Decision (Assailed Decision) dismissing petitioner's Petition for Review for lack of jurisdiction, the dispositive portion of which reads as follows:

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

In its Motion, petitioner insists that he has received respondent's Final Decision on Disputed Assessment (FDDA) on October 19, 2017.

Petitioner argues that the assessment in the said FDDA was void ab initio because it was already prescribed. Hence, this Court has jurisdiction to nullify such FDDA.

Petitioner further argues that respondent's computation of his tax liabilities was wrong because of wrong application of accounting principles, double counting, unreasonable presumptions, and incorrect appreciation of VAT returns.

We rule to deny the instant motion.

We would like to reiterate our factual findings on the said FDDA which petitioner otherwise insists to have been received by him on October 19, 2017 as stated in the Assailed Decision, to wit:

> "Clearly from the aforequoted testimony, petitioner did not present any proof that he received the subject FDDA, either on September 22, 2017 or on October 19, 2017. In fact, it is clear that petitioner points to his secretary who allegedly acknowledged receipt of the said FDDA and petitioner merely assumed receipt of the FDDA on the said dates. Oddly, petitioner did not offer the testimony of his secretary, who could have easily shed light on the matter, especially she is the one who supposedly has the first-hand knowledge of the actual receipt of the FDDAs. *Apropos*, evidence willfully suppressed would be adverse if produced.
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> On the other hand, to prove that the instant *Petition for Review* was filed out of time, respondent's Revenue Officer Shirley R. Sabornido testified that petitioner received the FDDA dated September 6, 2017 on September 14, 2017. To corroborate her testimony, respondent presented the Registry Return Receipt dated September 6, 2017 of the FDDA to show that the latter was signed and received by petitioner, through a certain Mr. Nelson Bongabong. In this connection, respondent claims that Mr. Bongabong was petitioner's authorized representative, which remained uncontroverted, and was never questioned, nor disputed by petitioner, during trial.
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> Hence, counting thirty (30) days from September 14, 2017, petitioner had until October 14, 2017 to file an appeal before this Court. Considering that the instant *Petition for Review* was filed only on October 23, 2017, it is filed out of time, and consequently, this Court has no jurisdiction to entertain the same. To reiterate, the 30-day period to appeal is jurisdictional and non-extendible; and when the court has no jurisdiction over the subject matter, the only power it has is to dismiss the action."

The abovementioned factual findings shall belie petitioner's argument that he had received said FDDA on said date. It is based on his own words as testified during trial that it was his secretary who actually received the FDDA as the records of the case will show. Hence, We retain our conclusion that the instant petition was filed out of time on October 23, 2017.

Considering that this Court has no jurisdiction on the instant petition, petitioner's other arguments will no longer be discussed.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice