REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

NANOX PHILIPPINES, INC., Petitioner,	**CTA CASE NO. 8433**
- versus -	Present: **BAUTISTA,** *Chairperson* **FABON-VICTORINO,** *and* **RINGPIS-LIBAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 02 2017 3:01 p.m.

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For the Court's resolution is petitioner's Motion for Reconsideration (Re: 24 November 2016 Decision of the Honorable Court of Tax Appeals – Third Division) filed on December 14, 2016 (Motion for Reconsideration), without comment from respondent.[1]

Petitioner seeks reconsideration of the Decision[2] promulgated on November 24, 2016 (assailed Decision), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **DISMISSED** for lack of jurisdiction.[3]

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1 The Court ordered respondent to comment on petitioner's Motion for Reconsideration within ten (10) days from notice in a Resolution dated January 4, 2017. The Judicial Records Division issued a Records Verification Report on February 2, 2017 stating that respondent failed to file his Comment.

2 Docket, vol. III, pp. 1140-1155.

3 Id. at p. 1155.

In its Motion for Reconsideration, petitioner argues that the Court has jurisdiction to hear and decide the merits of this case.

After a careful consideration of the ground raised in the Motion for Reconsideration, the Court finds that the arguments raised therein had already been amply discussed, passed upon and considered by the Court in the assailed Decision. Petitioner's arguments constitute neither compelling nor cogent reason to modify, much less reverse our Decision dated November 24, 2016.

We reiterate our finding that –

> Indeed, the Court has jurisdiction over the decisions of the Commissioner of Internal Revenue in cases involving disputed assessments. However, this does not cover an assessment which has become final, executory, and demandable. The rule is that for the Court to acquire jurisdiction, an assessment must first be disputed by the taxpayer and ruled upon by the Commissioner of Internal Revenue to warrant a decision from which a petition for review may be taken to the Court. [4]
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> In *Commissioner of Internal Revenue vs. Hambrecht & Quist Philippines, Inc.*[5], the Supreme Court held that the fact that an assessment has become final for failure of the taxpayer to file a protest within the time allowed means that the validity or correctness of the assessment may no longer be questioned on appeal.
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> x x x
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> Since petitioner failed to file a protest to the Formal Letter of Demand, the assessment issued against petitioner for fiscal year ended March 31, 2007 has become final, executory, and demandable. Hence, the Court is without jurisdiction to rule on the validity or correctness of the subject assessments.

WHEREFORE, finding no compelling reason to reverse the ruling of the Court in the assailed Decision, petitioner's Motion for Reconsideration (Re: 24 November 2016 Decision of the Honorable Court of Tax Appeals – Third Division) is hereby **DENIED** for lack of merit.

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4 *Oceanic Wireless Network, Inc. vs. Commissioner of Internal Revenue, et al.*, G.R. No. 148380, December 9, 2005.

5 G.R. No. 169225, November 17, 2010.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice