REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

HIMLAYANG PILIPINO PLANS, INC.,
Petitioner,

CTA CASE NO. 8727

- versus-

Members:

Castañeda, Jr., *Chairperson*
Casanova, and
Cotangco-Manalastas, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

AUG 2 2 2016 4:20 pm

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RESOLUTION

COTANGCO-MANALASTAS, *J.:*

For resolution is petitioner's Motion for Reconsideration[1], filed on July 18, 2016, with respondent's Comment/Opposition[2] filed on August 5, 2016.

Petitioner prays for the reconsideration of this Court's Decision[3], dated July 1, 2016, which dismissed the Petition for Review for lack of jurisdiction, due to petitioner's failure to file a timely protest to the assessment issued against it.

Petitioner argues that the Court has the power to relax the interpretation of Section 228 of the National Internal Revenue Code (NIRC) and Section 3.1.5 of Revenue Regulations No. 12-99 since the rigid application of the procedural rules and the circumstances of the case will deprive the petitioner of its substantive right to due process. Petitioner argues that the respondent's findings and basis for the assessments are contrary to law.

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[1] Docket, pp. 1169-1179.
[2] Docket, pp. 1182-1190.
[3] Docket, pp. 1158-1168.

Respondent, on the other hand, argues that the Court correctly dismissed the petition for failure of the petitioner to timely file its protest. Respondent further argues that the assessment is valid and that petitioner was accorded due process.

The Court reiterates that petitioner belatedly filed its protest to the assessment. For failure of petitioner to timely protest, the assessment in question became final, executory and demandable. The fact that an assessment has become final for failure of the taxpayer to file a protest within the time allowed only means that the validity or correctness of the assessment may no longer be questioned on appeal. An assessment that has become final, executory and demandable is not within the jurisdiction of this Court, said jurisdiction being limited to decisions or inaction by the Commissioner Internal Revenue in cases involving disputed assessments.

WHEREFORE, the instant Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice