Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

JOWELLES AUTOPARTS, INC.,
Petitioner,

-versus-

BUREAU OF INTERNAL REVENUE, REPRESENTED BY THE REGIONAL DIRECTOR, REVENUE DISTRICT 15,
Respondent.

CTA EB NO. 1594
(CTA Case No. 9333)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, *JJ.*

Promulgated:
DEC 1 1 2018
3:52 p.m.

x---x

RESOLUTION

MINDARO-GRULLA, J.:

This resolves petitioner's "Motion for Reconsideration" of the Decision dated April 2, 2018 of this Court *En Banc*, the pertinent portion of which states:

> *"Evidently, the Court in Division no longer has jurisdiction to act on the Petition for Review filed on April 15, 2016 as it was filed out of time.*
>
> *In sum, there is no compelling reason to disturb the findings and conclusion of the Court in Division as it is supported by the evidence on record.*
>
> ***WHEREFORE**, the Petition for Review is **DENIED,** for lack of merit. Accordingly, the Resolutions dated September 26, 2016 and January 11, 2017 promulgated by the Third Division of this Court in CTA Case No. 9333 are **AFFIRMED**. No pronouncement as to costs.*

SO ORDERED."

In assailing this Court's Decision, petitioner insists that both the warrant of distraint (WDL) and levy and the warrant of garnishment are premature, considering that there is a pending appeal before the Commissioner of Internal Revenue (CIR). Petitioner claims that petitioner has thirty (30) days after receipt of the dismissal of his appeal by the CIR or the denial of its motion for reconsideration, if any, within which to file a petition for review and considering that the CIR has yet to dismiss petitioner's appeal, the reglementary period to file a petition for review has yet to prescribe.

In the Resolution dated October 11, 2018, the Court directed respondent to file Comment on petitioner's "Motion for Reconsideration". Despite an ample period to file the Comment, respondent instead filed a "Motion for Extension of Time to File Comment". In order not to delay the proceedings, respondent's "Motion for Extension of Time to File Comment" is denied. Nonetheless, on November 6, 2018, respondent filed an "Opposition (To Petitioner's Motion For Reconsideration dated 22 August 2018)"

Petitioner's motion is bereft of merit.

To reiterate, the power and authority of this Court to act on petitions for the annulment of distraint orders by the CIR may not be denied[1] and an appeal to this Court may be exercised only in the manner and in accordance with the provisions of the law[2]. The alleged premature issuance of warrants is of no moment; it is not imprescriptible. Appeal must be made within the period fixed by law. In this case, **the thirty (30)-day period to appeal before this Court in Division is reckoned from petitioner's receipt of WDL No. 15-17-003 on July 23, 2015. Hence, petitioner had until August 22, 2015 within which to file its Petition for Review. The petition before the Court in Division was filed on April 15, 2016. Thus, petitioner failed to comply with the prescriptive period.**

---

[1] Pantoja vs. David, G.R. No. L-10765 February 28, 1961 (111 Phil. 197).
[2] Commissioner on Internal Revenue v. Fort Bonifacio Development Corporation, G.R. No. 167606, August 11,2010.

In sum, We find that no substantial argument was raised to merit reconsideration of our Decision promulgated on April 2, 2018.

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

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice