REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ORTIZ MEMORIAL CHAPEL, INC., Petitioner,	**CTA CASE NO. 9805**
	Members:
- versus -	**CASTAÑEDA, JR.**, *Chairperson,* **BACORRO-VILLENA**, *and* **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 08 2022 3:42 pm

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RESOLUTION

CASTAÑEDA, JR., J.:

Before this Court is petitioner's **Motion for Reconsideration (to the Decision of the Honorable Court-Second Division promulgated dated 10 March 2022)** filed through registered mail on March 25, 2022, and received by the Court on April 7, 2022, without respondent's comment as per Records Verification dated May 17, 2022.

On March 10, 2022, the Court promulgated a Decision dismissing the present case for petitioner's failure to validly contest respondent's assessment thereby resulting in the premature filing of the its *Petition for Review*, the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, premises considered, the present *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.
>
> **SO ORDERED.**"

In its Motion, petitioner insists that respondent failed to strictly comply with the due process requirement prescribed under Section 228 of the National Internal Revenue Code (NIRC), as implemented by Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-2013. Petitioner argues that respondent failed to inform petitioner of the facts and law on which the assessment is based. It continues that the Court, on numerous occasions, took cognizance of a case despite failure of the taxpayer to timely file a protest since the persuasiveness of the right to due process reaches both substantial and procedural rights and respondent's failure to strictly comply with the requirements laid down by law and its own rules is a denial of the right to due process.

The Court finds petitioner's Motion for Reconsideration bereft of merit.

Again, in order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, when a court or tribunal has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[1]

The rule is that for this Court to acquire jurisdiction, an assessment must first be disputed by the taxpayer and ruled upon by the respondent to warrant a decision from which a petition for review may be taken to this Court.[2] Otherwise, the tax assessment becomes final, executory and demandable – and a tax assessment that has become final for failure of the taxpayer to assail the same can no longer be contested thereby depriving the Court of its jurisdiction to resolve the merits of the case.

In the case of *Commissioner of Internal Revenue v. Court of Tax Appeals-Third Division, et al.,*[3] the Supreme Court stresses that Section 228 of the NIRC of 1997, as amended, requires that administrative protests against assessments conform to RR No. 12-99, as amended by RR No. 18-2013. These provisions mandate that a tax assessment issued by the Bureau of Internal Revenue may be protested administratively, within thirty (30) days from receipt thereof, by filing

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[1] *Perfefcto Velasquez, Jr. v. Lisondra Land Incorporated, et al.,* G.R. No. 231290, August 27, 2020.
[2] *Oceanic Wireless Network, Inc. v. Commissioner of Internal Revenue, et al.,* G.R. No. 148380, December 9, 2005.
[3] G.R. No. 239464, May 10, 2021.

either a *request for reconsideration* or *reinvestigation*, in such **form and manner** as may be prescribed by implementing rules and regulations. Failing which, there is no administrative protest to speak of, and no decision on a disputed assessment to assail. In other words, when a petition for review is filed before this Court, without validly contesting the assessment, the appeal is premature, and the Court has no jurisdiction.

As found by the Court herein, petitioner's *Letter-Protest* dated February 7, 2017 failed to state the nature of the protest (whether for reconsideration or reinvestigation) and the date of the assessment notice. Similarly, the *Letter-Protest* dated February 23, 2018 likewise failed to state the nature of the protest (whether for reconsideration or reinvestigation), the date of the assessment notice, and even the applicable law, rules and regulations, or jurisprudence on which the protest is based. Such being the case, there is no administrative protest to speak of, and no decision on a disputed assessment to assail, in this case. Correspondingly, petitioner's judicial appeal is premature and the Court has no jurisdiction to entertain the same.

In law, nothing is as elementary as the concept of jurisdiction, for the same is the foundation upon which the courts exercise their power of adjudication, and without which, no rights or obligation could emanate from any decision or resolution.[4] The CTA, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[5] Although appeal is an essential part of our judicial process, it has been held, time and again, that the right thereto is not a natural right or a part of due process but is merely a statutory privilege. Thus, the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and failure of a party to conform to the rules regarding appeal will render the judgment final and executory.[6]

In view of the foregoing disquisitions, the Court has no other recourse but to dismiss the case for lack of jurisdiction.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration (to the Decision of the Honorable Court-Second Division promulgated dated 10 March 2022) is **DENIED** for lack of merit. *gr*

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[4] *Glynna Foronda-Crystal v. Aniana Lawas Son*, G.R. No. 221815, November 29, 2017.
[5] *Allied Banking Corporation v. Commissioner of Internal Revenue*, G.R. No. 175097, February 5, 2010.
[6] *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

SO ORDERED.

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

We Concur:

(I reiterate my Separate Concurring Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice