**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

***First Division***

**GOLDMINE RICE MARKETING represented by its Proprietor/General Manager, MR. ORLANDO C. MANUNTAG.,**
*Petitioner,*

*-versus-*

**HON. DISTRICT COLLECTOR OF CUSTOMS, Port of MICP, North Harbor, Port Area, Manila and HON. REY LEONARDO GUERRERO, Commissioner of Customs, South Harbor, Port Area, Manila,**
*Respondents.*

**CTA Case No. 10559**

Members:

**DEL ROSARIO,** *P.J., Chairperson,*
**MANAHAN,** *and*
**REYES-FAJARDO,** *JJ.*

Promulgated:

APR 21 2022 1:26 pm

x- - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - x

# RESOLUTION

On March 16, 2022, petitioner filed through registered mail a **Motion for Reconsideration [Re: Resolution promulgated on February 22, 2022]** praying for the reconsideration of the Court's Resolution dated February 22, 2022 where the instant case was dismissed for lack of jurisdiction.

Petitioner avers that the subject matter of the case pertains to illegal and unlawful assessment and collection of customs duties which is paid under protest and due to the failure of the respondents to act on its protest after thirty (30) days from such filing, the case should be elevated to this Court within thirty (30) days from the expiration of the period within which respondent Commissioner of Customs (COC) must act on the administrative claim.

Sections 114, 1106, 1110, and 1136 of Republic Act (RA) No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), provide:

"SEC. 114. *Right of Appeal, Forms and Ground.* – Any party adversely affected by a decision or omission of the Bureau pertaining to an importation, exportation, or any other legal claim shall have the right to appeal within fifteen (15) days from receipt of the questioned decision or order.

An appeal in writing shall be filed within the period prescribed in this Act or by regulation and shall specify the grounds thereof.

The Bureau may allow a reasonable time for the submission of supporting evidence to the appeal."

xxx xxx xxx

SEC. 1106. *Protest* – When a ruling or decision of the District Collector or customs officer involving goods with valuation, rules of origin, and other customs issues is made, except the fixing of fines in seizure cases, the party adversely affected may appeal by way of protest against such ruling or decision by presenting to the Commissioner at the time when payment of the amount claimed to be due the government is made, or within fifteen (15) days thereafter, a written protest setting forth the objection to the ruling or decision in question and the reasons therefore.

Subject to the approval of the Secretary of Finance, the Commissioner shall provide such rules and regulations as to the requirement for payment or nonpayment of the disputed amount and in case of nonpayment, the release of the importation under protest upon posting of sufficient security.

xxx xxx xxx

SEC. 1110. *Decision in Protest.* – When a protest is filed in proper form, the Commissioner shall render a decision within thirty (30) days from receipt of the protest. In case the protest is sustained, in whole or in part, the appropriate order shall be made, and the entry reassessed, if necessary.

xxx xxx xxx

SEC. 1136. *Review by the CTA.* – Unless otherwise provided in this Act or by any other law, the party aggrieved by the ruling or decisions of the Commissioner may appeal to the CTA, in the manner and within the period prescribed by law and regulations. Decisions of the Secretary of Finance when required by this Act, may likewise be appealed to the CTA.

Unless an appeal is made to the CTA in the manner and within the period prescribed by law and regulations, the ruling or decision of the Commissioner or the Secretary of Finance shall be final and executory.

Relative thereto, Section 10.3 of Customs Administrative Order No. 02-2020 or the guidelines in the "Dispute Settlements and Protest" provides:

> "10.3 When a protest is filed in proper form, the Commissioner shall render a ruling within thirty (30) days from receipt of the protest. Otherwise, the ruling of the Collector shall be deemed affirmed if the Commissioner fails to act on the same."

On the other hand, Section 11 of RA No. 1125, as amended by RA No. 9282, provides:

> "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* - Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein. ..."

As shown above, any question on the action of the Collector of the Bureau of Customs (BOC) as to the valuation or assessment and collection of custom duties, the aggrieved party may file a protest before the respondent COC within fifteen (15) days from payment of such. Similarly, respondent COC has thirty (30) days from receipt of said protest to act or render a decision thereon.

However, if respondent COC fails to render the decision within that period, the action of the Collector is affirmed by the former. Thus, the aggrieved party has 30 days from the lapse of such period to file an appeal before this Court.

As admitted by the petitioner, it filed a protest on March 4, 2021. Hence, respondent COC had 30 days or until April 3, 2021 to render a decision on said protest. However, respondent COC failed to render a decision after the lapse of said period. Thus, the action of the Collector was deemed affirmed and said protest was deemed denied.

Petitioner, therefore, had 30 days from April 3, 2021 or until May 3, 2021 to file the instant petition. However, Supreme Court (SC) Administrative Circular (AC) No. 29-2021 dated April 30, 2021, physically closed all courts from May 3 to 14, 2021, suspended the filing and service of pleadings and resumed the latter only after seven (7) days from the physical re-opening of all courts on May 17, 2021 pursuant to SC AC No. 33-2021 dated May 14, 2021. Thus, petitioner had 7 days from May 17, 2021 or until May 24, 2021 to file its Petition for Review.

Despite said extension, petitioner filed its petition for review only on June 25, 2021. Thus, the filing is beyond the prescriptive period rendering the Court without jurisdiction on the instant petition.

In *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation,*[1] the Supreme Court ruled that:

> "The right to appeal is not a natural right. It is also not part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. Thus, one who seeks to avail of the right to appeal must comply with the requirements of the Rules. Failure to do so often leads to the loss of the right to appeal.
>
> xxx xxx xxx
>
> It has been ruled that **perfection of an appeal** in the manner and within the period laid down by law is **not only mandatory but also jurisdictional**. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. At the risk of being repetitious, We declare that the right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law."

**WHEREFORE**, in view of the foregoing, petitioner's *Motion for Reconsideration [Re: Resolution promulgated on February 22, 2022]* is hereby **DENIED** for lack of merit.

**SO ORDERED.**

**ROMAN G. DEL ROSARIO**
Presiding Justice

---

[1] G.R. No. 167606, August 11, 2010.

**CATHERINE T. MANAHAN**
Associate Justice

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice