

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

THIRD DIVISION

DAVAO CONTRACTORS
DEVELOPMENT COOPERATIVE,
Petitioner,

C.T.A. CASE NO. 8144

Members:

-versus-

BAUTISTA, Chairperson,
PALANCA-ENRIQUEZ, and
COTANGCO-MANALASTAS, JJ.

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

Promulgated:

MAR 21 2011

ABFurnant 3:30 p.m.

X ----- X

RESOLUTION

PALANCA-ENRIQUEZ, J.:

This resolves:

- 1) petitioner's "Motion for Reconsideration (of the Resolution dated 9 December 2010)" filed on January 18, 2011; and
- 2) respondent CIR's "Comment" filed on February 16, 2011.

In its motion, petitioner invokes exceptions to the rule on exhaustion of administrative remedies.

We find no merit in the motion.

aw

To reiterate, the Court dismissed the present Petition For Review on the ground that the alleged failure of the CIR to resolve petitioner's "Motion For Reconsideration" on the revocation of its exempt status cannot be considered as inaction of the CIR that is appealable to this Court under *Section 7(a)(2) of RA 9282, as amended*, in relation to *Section 3(a)(2) of Rule 4 of the 2005 Revised Rules of the CTA, as amended*, for the simple reason that the *NIRC of 1997, as amended*, and the *Cooperative Code of the Philippines, as amended*, do not provide a specific period for the CIR to act and resolve the "Motion For Reconsideration" of a taxpayer on the revocation of its exempt status.

Both *Section 7(a)(2) of RA 9282, as amended*, and *Section 3(a)(2) of Rule 4 of the 2005 Revised Rules of the CTA, as amended*, expressly provide that the CTA in Division shall exercise exclusive original or appellate jurisdiction to review by appeal the "inaction by the CIR in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the NIRC or other laws administered by the BIR where the NIRC or other applicable law provides a specific period for action." From the above provision, it is clear that the NIRC or the applicable law must provide a specific period of action in order that



the lapse of the said period maybe considered as inaction of the CIR, that is appealable to this Court.

Thus, it is clear that this Court has no jurisdiction over the subject matter of the present Petition For Review. Jurisdiction over the subject matter is conferred only by law. When the court has no jurisdiction over the case, it has no recourse, but to dismiss the same.

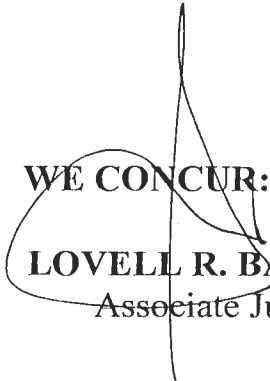
The lack of jurisdiction affects the very authority of the court to take cognizance of and to render judgment on the action; otherwise, the inevitable consequence would make the court's decision a "lawless" thing (*Municipality of Sta. Fe vs. Municipality of Aritao*, 533 SCRA 586).

WHEREFORE, premises considered, petitioner's "Motion for Reconsideration (of the Resolution dated 9 December 2010)" is hereby **DENIED** for lack of merit.

SO ORDERED.


OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:


LOVELL R. BAUTISTA
Associate Justice


AMELIA R. COTANGCO-MANALASTAS
Associate Justice