

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

CTA CRIM. CASE NO. O-522
For: Violation of Section 254 of
the NIRC of 1997, as amended
(Tax Evasion)

KINGSAM EXPRESS
INCORPORATION and SAMUEL
S. SANTOS,
With address at No. 415 Miranda
Building, McArthur Highway,
Malinta, Valenzuela City,
Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

CTA CRIM. CASE NO. O-524
For: Violation of Section 255 of
the NIRC of 1997, as amended
(Failure to Supply Correct and
Accurate Information)

Members:

KINGSAM EXPRESS
INCORPORATION and SAMUEL
S. SANTOS,
With address at No. 415 Miranda
Building, McArthur Highway,
Malinta, Valenzuela City,
Accused.

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
COTANGCO-MANALASTAS, JJ.

Promulgated:

JAN 27 2016

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RESOLUTION

For this Court’s resolution is prosecution’s **Motion for Reconsideration with Compliance** for CTA Crim. Case No. O-524, filed on January 7, 2016.

The prosecution prays that the Court's Resolution promulgated on December 10, 2015, dismissing CTA Crim. Case No. O-524 for its failure to comply with the submission of the original or certified true copy of the Resolution in NPS Docket 13J-00370 and the approval of the filing of Information, be set aside and reconsidered. The prosecution claims that it failed to submit the documents required by the Court because the Court's Resolution dated October 14, 2015 was mixed up with other pleadings due to the number of orders and resolutions that had been received recently by them. The prosecution further claims that it was informed and personally received the Court's Resolution dated December 10, 2015 only on January 6, 2016.

As contained in the records, the Office of the Prosecution Staff of the Department of Justice and the Bureau of Internal Revenue received the Notice of Resolution on December 16, 2015 and December 22, 2015, respectively. Considering that the prosecution has fifteen (15) days from receipt of the order disposing of the action or proceeding within which to appeal or move to reconsider the same, it had until January 4, 2016¹, if We are to reckon the 15-day period to appeal from December 16, 2015, or it had until January 6, 2016, if We are to reckon the 15-day period to appeal from December 22, 2015. However, records reveal that the prosecution's Motion for Reconsideration was filed only on January 7, 2016, hence, it was filed out of time.

In the case of *PNB Credit Card Corporation vs. Rodriguez*², the Supreme Court held that:

The treatment by the trial court of petitioners motion for reconsideration as one for revival is of course erroneous. For *Bañares II v. Balising* instructs:

This Court has previously held that an order dismissing a case without prejudice is a final order if no motion for reconsideration or appeal therefrom is timely filed.

¹ The 15th day fell on a holiday while the next working day fell on January 4, 2016.

² G.R. No. 156336, August 31, 2006.

In *Olympia International vs. Court of Appeals*, we stated, thus:

The dismissal without prejudice of a complaint does not however mean that said dismissal order was any less final. Such order of dismissal is complete in all details, and though without prejudice, nonetheless finally disposed of the matter. It was not merely an interlocutory order but a final disposition of the complaint.

The law grants an aggrieved party a period of fifteen (15) days from his receipt of the courts' decision or order disposing of the action or proceeding to appeal or move to reconsider the same.

After the lapse of the fifteen-day period, an order becomes final and executory and is *beyond the power or jurisdiction of the court which rendered it to further amend or revoke*. A final judgment or order cannot be modified in any respect, even if the modification sought is for the purpose of correcting an erroneous conclusion by the court which rendered the same.

After the order of dismissal of a case without prejudice has become final, and therefore becomes outside the courts power to amend and modify, a *party who wishes to reinstate the case has no other remedy but to file a new complaint*.

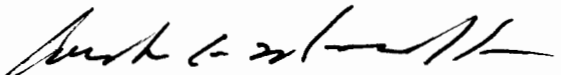
Clearly, with the Motion for Reconsideration filed out of time, the Court's Resolution dated December 10, 2015, dismissing CTA Crim. Case No. O-524 for failure to submit the original or certified true copy of the Resolution in NPS Docket 13J-00370 and approval of the filing of Information, has become final.

WHEREFORE, premises considered, the prosecution's **Motion for Reconsideration with Compliance** is **DENIED**. The Court's Resolution dated December 10, 2015 is hereby **AFFIRMED** without prejudice to the refile of the subject case.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


CAESAR A. CASANOVA
Associate Justice


AMELIA R. COTANGCO-MANALASTAS
Associate Justice