REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

CCSO TOLLING SERVICE INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 11481

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.*

Promulgated:

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RESOLUTION

For the Court's resolution is petitioner CCSO Tolling Service Inc.'s *Motion to Suspend Collection of Taxes* (the "*Motion*") integrated with its *Petition for Review* filed on April 19, 2024 with respondent Commissioner of Internal Revenue (CIR)'s *Comment and Opposition (Re: Petitioner's Motion to Suspend Collection of Taxes)* (the "*Comment*") filed on June 4, 2024.

In its *Motion*, petitioner prays of the Court, among others, to order the suspension of the collection of taxes pending the final resolution of the case without the need of filing a bond. In support thereof, petitioner contends that the issuance of the Warrant of Garnishment (WOG) and Warrant of Distraint and/or Levy (WDL) in this case is premature given that the respondent has yet to rule on petitioner's *Appeal to Commissioner*. The timely filing and the pendency of such *Appeal to Commissioner* thereby precludes the subject assessment from becoming delinquent. Petitioner also claims that the premature collection of the subject assessment will seriously prejudice its business operations considering that petitioner's total assets as reflected in its Audited Financial Statements for taxable year 2023 would not even be sufficient to cover the basic tax assessed.

Petitioner likewise posits that the method employed by the respondent in the collection of the subject assessment was not sanctioned by law and that the posting of cash or surety bond equivalent to the amount of the subject assessment is beyond petitioner's financial means.

Respondent in his *Comment* counters that this Court has no jurisdiction over the present *Petition for Review* as the period to appeal has already prescribed. Having no jurisdiction over the main petition, this Court is also bereft of jurisdiction to take cognizance of the present *Motion*, being a mere ancillary remedy. Even assuming that this Court has jurisdiction over the *Petition for Review* and the present *Motion*, petitioner is still not entitled to the relief prayed for.

During the scheduled hearing held on June 6, 2024, petitioner's counsel presented Mr. Alejandro S. Saw who testified on direct examination by way of his Judicial Affidavit dated April 19, 2024. After the presentation of petitioner's witness and upon motion, petitioner was granted a period of five (5) days until June 11, 2024 within which to file its Formal Offer of Evidence (FOE) in support of its *Motion*. Respondent was also given the same period from receipt of petitioner's FOE within which to file any comment thereto, after which, the incident will be submitted for resolution.

On June 10, 2024, petitioner filed its *Formal Offer of Evidence (Re: Motion to Suspend Collection of Taxes dated April 19, 2024) with Manifestation* while respondent filed his *Comment/Opposition (Re: Petitioner's Formal Offer of Evidence Re: Motion to Suspend Collection of Taxes dated April 19, 2024 with Manifestation)* on June 13, 2024.

In a Resolution dated August 29, 2024, this Court admitted Exhibits **"P-2"**, **"P-3"**, **"P-4"**, **"P-5"**, **"P-6"**, **"P-7"**, **"P-7-A"**, **"P-8"**, **"P-9"**, **"P-9-A"**, **"P-10"**, **"P-11"**, **"P-11-A"**, **"P-11-B"**, **"P-11-C"**, **"P-11-D"**, **"P-12"**, **"P-12-A"**, **"P-13"**, **"P-14"**, **"P-14-A"**, **"P-14-B"**, **"P-14-C"**, **"P-14-D"**, **"P-15"**, **"P-16"**, **"P-16-A"**, **"P-17"**, **"P-18"**, **"P-18-A"**, **"P-19"**, **"P-20"**, **"P-20-A"**, **"P-20-B"**, **"P-20-C"**, **"P-21"**, **"P-22"**, **"P-23"**, **"P-23-A"**, **"P-24"**, **"P-24-A"**, **"P-25"**, **"P-25-A"**, and **"P-27"**, subject to this Court's final evaluation and/or appreciation of their probative value relative to petitioner's *Motion*. In the same Resolution, the incident was likewise submitted for resolution.

After due consideration of the pleadings and evidence on record, this Court is constrained to deny petitioner's *Motion* and to dismiss the present *Petition for Review* for lack of jurisdiction.

In *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*,[1] the Supreme Court emphatically provides:

> "Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. It is axiomatic that

[1] G.R. No. 209830, June 17, 2015, 760 Phil 954.

> jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it 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 has no jurisdiction over the subject matter, the only power it has is to dismiss the action.**" *(Emphasis supplied and citations omitted)*

Well-settled is the rule that the issue of jurisdiction over the subject matter may, at any time, be raised by the parties or *motu proprio* considered by the court.[2] A court has a clearly recognized right to determine its own jurisdiction in any proceeding, and to inquire the presence or absence thereof at any point in the case where that fact is developed.[3]

Petitioner made the following averments purportedly to establish the material dates of its *Petition for Review*, to wit:

> "15. On March 20, 2024, CCSO was first apprised of the garnishment made by Respondent when it received the Garnishment Advisory from Metrobank with an attached WOG collecting alleged deficiency Income Tax, Value Added Tax ('VAT'), and improperly accumulated earnings tax ('IAET') liabilities for taxable year TY 2018 in the total amount of Forty-Five Million Sixty-Nine Thousand Two Hundred Eighteen Pesos and 5/100 (₱45,069,218.05), inclusive of penalties and interests.
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> 16. Upon receipt of the Final Decision on Disputed Assessment dated June 19, 2023 signed by Regional Director V C. Cadangen, Revenue Region No. 10, Legazpi City, Petitioner timely filed its appeal to Respondent, which was received by the latter on July 28, 2023. On July 21, 2023, Petitioner furnished Regional Director V C. Cadangen, Revenue Region No. 10, Legazpi City a copy of CCSO's appeal to Respondent.
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> **17. Despite the pendency of Petitioner's appeal to Respondent, Petitioner was surprised to be informed about the Warrant of Distraint and/or Levy No. WDL-RR10-AMS-2023-061 dated August 17, 2023 ('WDL'), signed by Regional Director V C. Cadangen, Revenue Region No. 10, Legazpi City. The WDL bore the hand-written annotation that it was 'served constructively' to Petitioner allegedly on August 25, 2023 at 11:41 a.m. and was signed by three persons, namely: Revenue Officer Rachelle Joanne L. Santiago, Barangay Kagawad Ronald M. Maraño, and Revenue Officer Liza Marie A. Rebutica.**
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> **The original copy of Warrant of Distraint and/or Levy No. WDL-RR10-AMS-2023-061 dated August 17, 2023 is attached hereto and marked as Annex 'C'.**

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[2] *Salera, Jr. v. A-1 Investors, Inc.*, G.R. No. 141238, February 15, 2002, 427 Phil 440.
[3] *Fabian v. Desierto*, G.R. No. 129742, September 16, 1998.

18. Petitioner objected to the issuance of the WDL for being premature considering the pendency of CCSO's appeal to Respondent.

19. During the meeting on September 11, 2023, it was established that the Collection Division, Revenue Region No. 10, Legazpi City, will not implement collection efforts until there is a final decision on the appeal pending before the office of Respondent; and that Petitioner must submit proof of filing the appeal at the office of Respondent, to which request CCSO promptly complied with by submitting a copy of said appeal in a Letter dated September 25, 2023.

20. On the basis of the pendency of the appeal to Respondent and putting faith onto the guarantee extended by the Collection Division, Revenue Region No. 10, Legazpi City last September 11, 2023, Petitioner was lead to believe that no collection efforts will be attempted before a decision on the appeal by Respondent has come out.

21. In fact, on March 11, 2024, in a text message conversation with Revenue Officer Liza Rebutica, Collection Division, Revenue Region No. 10, Legazpi City, Petitioner reiterated the fact that its appeal to Respondent was still pending. However, despite said pendency, the Collection Division informed Petitioner that the former will serve warrants of garnishment.

22. On March 20, 2024, the Collection Division, Revenue Region No. 10, Legazpi City served the WOG to Metrobank. Hence, as of said date, the accounts of CCSO in Metrobank were prematurely garnished in violation of prevailing laws and the right to due process of Petitioner." *(Emphasis supplied)*

In addition, petitioner categorically admitted its receipt of the WDL on August 25, 2023 in its Letter dated September 25, 2023[4] addressed to Jocelyn A. Aringo, Chief Collection Division of BIR Revenue Region No. 10 – Legazpi City, as follows:

"Pursuant to your meeting with our Abner Ty and Roberto Centus, on September 11, 2023, regarding the warrant of distraint and/or levy (WDL) under WDL-RR10-AMS-2023-061, issued on August 17, 2023, for the Honorable Commissioner by Regional Director Hon. V. C. Cadangen, of Revenue Region 10, Legazpi **<u>and received by our company CCSO Tolling Service, Inc. on August 25th 2023</u>**. xxx" *(Emphasis and underscoring supplied)*

Based on the foregoing, it is clear that prior to the issuance of the WOG, petitioner was served, albeit constructively, with a WDL as early as **August 25, 2023.**

[4] Exhibit "P-16".

In *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*,[5] the Supreme Court reckoned the 30-day period to file an appeal before this Court from receipt of the WDL. The WDL constitutes an act of the CIR on "other matters" arising under the National Internal Revenue Code of 1997, as amended, or other laws administered by the Bureau of Internal Revenue (BIR) which may, in turn, be the subject of an appropriate appeal before this Court.

Counting thirty (30) days from August 25, 2023, petitioner had until **September 24, 2023** within which to file its *Petition for Review* before this Court. Accordingly, the filing of the present *Petition for Review* on **April 19, 2024** was already time-barred.

It is quite erroneous for the petitioner to reckon the filing of its *Petition for Review* on the date in which it received the WOG considering its prior receipt of the WDL. To be sure, it is the issuance of the WDL that effectively triggered petitioner's right to assail the validity of the collection effort being implemented by the respondent *via* the "other matters" jurisdiction of this Court. The collection effort by the BIR in this case is comprised of both the WDL and the WOG. In fact, the *Petition for Review* is challenging not only the validity of the WOG but of the WDL as well.

Having found that it is devoid of jurisdiction to take cognizance of the present *Petition for Review,* this Court has no other option but to dismiss the same.

WHEREFORE, petitioner's *Motion to Suspend Collection of Taxes* is **DENIED**. The present *Petition for Review* is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[5] G.R. No. 162852, December 16, 2004.

(On Leave)

CORAZON G. FERRER-FLORES
Associate Justice