REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

COUNTRY BANK, RURAL BANK OF BONGABONG, INC., *Petitioner,*	**CTA CASE NO. 10864**
	Members:
-versus-	**UY,** *Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ*.
BUREAU OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 31 2023

x- -x
9:N a.m.

RESOLUTION

For resolution of this Court is respondent's ***Motion for Early Resolution of the Issue of Jurisdiction of the Honorable Court*** filed on 21 October 2022, together with petitioner's ***Comment/Opposition [To Respondent's Motion for Early Resolution of the Issue of Jurisdiction of the Honorable Court dated October 20, 2022]*** filed on 4 November 2022.

In his *Motion*, respondent alleges that the assessment has already become final and executory and is no longer appealable before this Court. Respondent points out that the Formal Letter of Demand ("**FLD**")/Final Assessment Notice ("**FAN**") was received by Mr. Raul Verian, the branch head of petitioner's bank, on 29 March 2021.[1] Thus, according to respondent, petitioner only had until 28 April 2021, or 30 days from the date of receipt, to file its protest against the FLD/FAN.[2] However, petitioner only filed its protest on 14 May 2021.[3]

[1] Motion for Early Resolution of the Issue of Jurisdiction of the Honorable Court, par. 10.
[2] *Id.*, par. 11.
[3] *Id.*, par. 12.

Respondent further submits that even assuming the protest was timely filed, the instant *Petition for Review* must be dismissed for not being timely filed. Respondent points to a letter signed by Regional Director ("**RD**") Florante R. Aninag dated 28 June 2021[4] and another letter of denial from RD Aninag dated 22 October 2021 denying petitioner's request to have the warrants of garnishment lifted.[5] According to respondent, petitioner only opted to file the present *Petition for Review* from receipt of the 4 April 2022 letter.[6]

Petitioner counterargues that this Court has jurisdiction on "other matters,"[7] and such includes respondent's issuance of Warrants of Garnishment ("**WOG**").[8] Petitioner emphasizes that the challenged decision of respondent dated 4 April 2022 pertains to the denial with finality of petitioner's request to lift the WOGs he issued.[9]

Petitioner further argues that to resolve the issue regarding the validity of the WOGs, the issue of whether it has filed a valid protest should likewise be resolved,[10] which further requires resolution on procedural matters, particularly as to which mode of service should be preferred in computing the 30-day period to file a protest.[11] Petitioner likewise points out that other issues must be resolved, such as the propriety of the amount in the WOGs[12] and the validity of the assessment.[13]

Two issues must perforce be resolved: *first*, whether this Court has jurisdiction to rule on the validity of the subject WOGs; and *second*, if the answer to the first issue is in the affirmative, whether the instant *Petition for Review* was timely filed.

We resolve.

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[4] *Id.*, par. 15.
[5] *Id.*, par. 21.
[6] *Id.*, par. 29.
[7] Comment/Opposition [To Respondent's Motion for Early Resolution of the Issue of Jurisdiction of the Honorable Court dated October 20, 2022], par. 5
[8] *Id.*, par. 6.
[9] *Id.*, par. 8.
[10] *Id.*, par. 13.
[11] *Id.*, par. 14.
[12] *Id.*, pars. 17-18.
[13] *Id.*, pars. 19-23.

Section 7 of Republic Act ("**RA**") No. 1125,[14] as amended by RA No. 9282,[15] provides the jurisdiction of the Court of Tax Appeals ("**CTA**"). Section 7(a)(1) reads:

> *Section 7. Jurisdiction.* — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or **other matters** arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue.[16]

The same provision is likewise reflected in Section 3(a)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals ("**RRCTA**").[17]

Based on the foregoing, the jurisdiction of the CTA is not limited to decisions of the Commissioner of Internal Revenue ("**CIR**") involving assessments and refunds but also includes "**other matters**" arising under the NIRC of 1997, as amended, or other laws administered by the Bureau of Internal Revenue ("**BIR**").

In *CIR vs. Bank of the Philippine Islands*,[18] the Supreme Court held that the WDL falls within the CTA's jurisdiction to review by appeal "**other matters**" arising under the NIRC, to wit:

> First, the CTA can take cognizance of BPI's petition. The questions surrounding the CIR's right to assess and collect deficiency taxes which stemmed from the CIR's issuance of the **warrant of distraint and/or levy falls within the CTA's exclusive appellate jurisdiction to review by appeal "other matters** arising under the [NIRC] or other laws administered by the [BIR].[19]

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[14] An Act Creating the Court of Tax Appeals, 16 June 1954.
[15] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes, 30 March 2004.
[16] Emphasis and underscoring supplied.
[17] *Section 3. Cases Within the Jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:
(a) Exclusive original or appellate jurisdiction to review by appeal the following:
(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue.
[18] G.R. No. 227049, 16 September 2020.
[19] Emphasis and underscoring supplied; citations omitted.

In its analysis in the same case, the Supreme Court has this to say:

> **The law expressly vests the CTA the authority to take cognizance of "other matters"** arising from the 1977 Tax Code and other laws administered by the BIR **which necessarily includes rules, regulations, and measures on the collection of tax**. Tax collection is part and parcel of the CIR's power to make assessments and prescribe additional requirements for tax administration and enforcement.[20]

Even more recently, the Supreme Court echoed the above pronouncements in *La Flor Dela Isabela, Inc. vs. Commissioner of Internal Revenue (La Flor),*[21] to wit:

> In *Philippine Journalists*, we ruled that the CTA's appellate jurisdiction is not limited to cases involving decisions of the CIR on matters relating to assessments or refunds. Section 7 (a) (2) of RA 9282 also covers "**other matters** arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue." Clearly, the CTA has jurisdiction to determine whether the WDL issued by the BIR is valid and rule on the validity of the five waivers of the statute of limitations and La Flor's application for tax amnesty under RA 9480.[22]

In *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue (Philippine Journalists)*[23] cited in *La Flor*, the Supreme Court held that the CTA's appellate jurisdiction encompasses the determination of whether the WDL issued by the BIR is valid, *viz.*:

> The appellate jurisdiction of the CTA is not limited to cases which involve decisions of the Commissioner of Internal Revenue on matters relating to assessments or refunds. **The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the Bureau of Internal Revenue. The wording of the provision is clear and simple. It gives the CTA the jurisdiction to determine if the warrant of distraint and levy issued by the BIR is valid** and to rule if the Waiver of Statute of Limitations was validly effected.
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> This is not the first case where the CTA validly ruled on issues that did not relate directly to a disputed assessment or a claim for refund. **In *Pantoja v. David*, we upheld the jurisdiction of the CTA to act on a petition to invalidate**

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[20] Emphasis and underscoring supplied.
[21] G.R. No. 202105, 28 April 2021.
[22] Emphasis and underscoring supplied.
[23] G.R. No. 162852, 16 December 2004, 488 SCRA 218-235

> **and annul the distraint orders of the Commissioner of Internal Revenue**. Also, in *Commissioner of Internal Revenue v. Court of Appeals*, the decision of the CTA declaring several waivers executed by the taxpayer as null and void, thus invalidating the assessments issued by the BIR, was upheld by this Court.[24]

Based on the foregoing rules and jurisprudential pronouncements, the issue relative to the validity of a WDL, or in the instant case, a WOG, falls within the ambit of the CTA's jurisdiction under "other matters arising under the NIRC or other laws administered by the BIR."

Therefore, petitioner is correct in its contention that the validity of the subject WOGs falls under "other matters" over which this Court can validly exercise jurisdiction.

The next matter to be resolved is whether the *Petition for Review* was timely filed.

Records reveal that petitioner filed the present Petition for Review on 23 May 2022.[25] Petitioner alleges in the *Petition* that it timely filed its *Petition* within 30 days from receipt of the *Letter* from RD Aninag denying with finality its request for the lifting of the subject WOGs. Petitioner alleges that it received the *Letter* on 21 April 2022.[26]

For clarity, we lay down the timeline of correspondence from petitioner and from respondent:

Date	Correspondence
18 March 2021	Date of the FLD/FAN issued by respondent against petitioner.[27]
29 March 2021	Petitioner's branch was given an "advanced photocopy" of the FLD.[28] Respondent avers that this is the date of receipt of petitioner of the FLD.[29]
14 April 2021	Petitioner alleges to have "officially received" the FLD.[30]

[24] Emphasis and underscoring supplied; citations omitted.
[25] Division Docket, p. 22.
[26] Petition for Review, par. 3.1
[27] Annex "L", Petition for Review; Division Docket, p. 49.
[28] *Id.*, par. 4.10.
[29] *Supra* at note 1.
[30] Petition for Review, par. 4.11.

Date	Correspondence
14 May 2021	Petitioner filed its *Protest* against the FLD, addressed to RD Aninag.[31]
28 June 2021	Respondent issues a *Letter* denying petitioner's *Protest* for being allegedly filed out of time.
28 July 2021	Date of issuance of the WOGs.[32]
13 August 2021	Banco de Oro informs petitioner of the WOGs.[33]
16 August 2021	Development Bank of the Philippines informs petitioner of the WOGs.[34]
23 August 2021	Petitioner writes a *Letter* to RD Aninag in response to the 28 June 2021 *Letter*.[35]
31 August 2021	Counsel for petitioner writes a *Letter* addressed to Atty. Abo of RDO 63, requesting for the lifting of the WOGs.[36]
2 November 2021	Petitioner receives a *Letter of Denial* signed by RD Aninag in relation to petitioner's 23 August 2021 and 31 August 2021 *Letters*. The *Letter* is dated 22 October 2021.[37]
26 November 2021	Petitioner writes a *Letter* to RD Aninag for the lifting of the WOGs in response to respondent's 22 October 2021 *Letter*.[38]
18 March 2022	Counsel for petitioner files an *Affidavit-Complaint* before the Presidential Anti-Corruption Commission praying for the removal from service of the involved BIR officers.[39]
21 April 2022	Petitioner received a *Letter* signed by RD Aninag denying with finality its request for lifting of the WOGs. The *Letter* is dated 4 April 2022.[40]
23 May 2022	Petitioner filed its *Petition for Review*.

From the above timeline, We agree with the respondent that the instant *Petition for Review* was **filed out of time**.

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[31] Annex "M", Petition for Review; Division Docket, pp. 65-66.
[32] Division Docket, pp. 68 and 70.
[33] Annex "N", Petition for Review; Division Docket, p. 67.
[34] Annex "O", Petition for Review; Division Docket, p. 69.
[35] Annex "P", Petition for Review; Division Docket, pp. 71-72.
[36] Annex "Q", Petition for Review; Division Docket, pp. 73-74.
[37] Annex "T", Petition for Review; Division Docket, p. 131.
[38] Annex "U", Petition for Review; Division Docket, p. 132-133.
[39] Annex "S", Petition for Review; Division Docket, pp. 78-85.
[40] Annex "B", Petition for Review; Division Docket, pp. 26-27.

In *CIR vs. South Entertainment Gallery, Inc.* (*South Entertainment Gallery* case),[41] the Supreme Court ruled that the 30-day period to appeal before the CTA shall be counted from the receipt of the WDL. We quote:

> "...Failure to comply with the **30-day period** would deprive the Court of Tax Appeals of jurisdiction to hear and try the case.
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> ...On June 22, 2010, a Warrant of Distraint and Levy was issued and served against respondent.
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> The Warrant of Distraint and Levy on June 22, 2010 constitutes a constructive denial or rejection of respondent's claim in its June 19, 2008 letter. It is petitioner's final decision on respondent's belated protest that is appealable to the Court of Tax Appeals. **Respondent should have filed its appeal to the Court of Tax Appeals <u>within 30 days</u> from June 22, 2010, or on July 22, 2010, but it failed to do so**. Instead, respondent filed a request for withdrawal and cancellation of the Warrant of Distraint and Levy on September 29, 2010, or 99 days from receipt of the Warrant.
>
> ... ...
>
> At any rate, in instances when the Commissioner, without categorically deciding the taxpayer's protest or request for reconsideration or reinvestigation, proceeds with distraint and levy or institutes an action for collection in the ordinary courts, <u>this Court has considered this as an implied denial</u>. The taxpayer's remedy then was to **appeal to the Court of Tax Appeals <u>within 30 days</u> from the date that it was notified of the warrant** or collection suit.
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> ... ...
>
> In this case, respondent's request for withdrawal and cancellation of the Warrant of Distraint and Levy was filed on September 29, 2010, or only after **99 days** from receipt of the Warrant. Petitioner does not deny receipt of respondent's reply letter (containing its protest) to the preliminary collection letter. Finally, there was no such categorical statement in the letter-response dated February 3, 2011 of the Bureau of Internal Revenue Regional Director Romulo L. Aguila, Jr..
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> Parenthetically, the **<u>30-day period to appeal</u>** had long lapsed when respondent filed its petition for review on March 31, 2011. **<u>Respondent's belated request for cancellation and withdrawal of the Warrant did not serve to extend the thirty (30)-day period to appeal</u>**. "A taxpayer's right to contest assessments, particularly the right to appeal to the Court of Tax Appeals, is a mere statutory right that may be

[41] G.R. No. 225809, 17 March 2021.

> waived or lost, as in this case." Considering that the petition for review was filed way beyond the **30-day prescriptive period**, the Court of Tax Appeals should have **dismissed the appeal on the ground of lack of jurisdiction**.[42]

In *Jowelles Autoparts, Inc. vs. BIR (Jowelles Autoparts)*,[43] the Supreme Court stated:

> ... Since petitioner questioned the validity of the warrant of distraint and/or levy, the period to file an appeal commenced from the date of receipt of said warrant.

In the *South Entertainment Gallery* case, the taxpayer received a PCL, to which it wrote the CIR a Letter in response. Receiving no reply thereto, the taxpayer received a WDL issued by the CIR through the RDO. The Supreme Court considered the WDL as the decision of the CIR in relation to the Letter written by respondent against the PCL.

In the instant case, petitioner seeks to assail the validity of the WOGs. The WOGs were dated 28 July 2021. Even if such date could not be considered as the date of petitioner's receipt of the WOGs, it was informed as early as 13 August 2021 that the WOGs were issued, and petitioner obtained copies of the WOGs from its banks. In fact, by 31 August 2021, petitioner was able to write a *Letter* to respondent requesting the lifting of the said WOGs.

To emphasize, **the WOG constitutes the implied denial of respondent on petitioner's protest**.

Even if it will be argued that the WOG is not an implied denial considering that it is premised on an erroneous assertion that the BIR may already proceed to collection, it must be underscored that a *Letter* requesting for the lifting of the WOGs has been sent on 31 August 2021,[44] to which a *Letter of Denial* signed by RD Aninag was received on 2 November 2021.[45] Even at the most lenient of interpretations, petitioner should have filed its *Petition for Review* within 30 days from receipt of the *Letter of Denial.*

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[42] Emphasis and underscoring supplied; citations omitted.
[43] G.R. No. 243642 (Notice), 21 January 2019.
[44] Annex "Q", Petition for Review; Division Docket, pp. 73-74.
[45] Annex "T", Petition for Review; Division Docket, p. 131.

It bears to emphasize that petitioner wrote respondent twice, on 31 August 2021 and on 26 November 2021, requesting for the lifting of the subject WOGs, despite such procedure not being written and sanctioned in pertinent regulations. Likewise, the *Letters* were denied twice as received by petitioner on 2 November 2021 and 21 April 2022. It is only with the second *Letter of Denial* that petitioner thought of elevating the matter before this Court.

Likewise noteworthy is the fact that recourse was first made to the Presidential Anti-Corruption Commission by filing an *Affidavit-Complaint* before the said office praying for the removal from service of the involved BIR officers before the filing of the instant *Petition for Review.*

Applying the above *South Entertainment Gallery* and *Jowelles Autoparts* cases, this Court finds that the filing of the instant *Petition for Review* on 23 May 2022 was already time-barred. Consequently, this Court is precluded from acquiring jurisdiction over the present case.

While the right to appeal a decision of the CIR to the Court of Tax Appeals is a statutory remedy, the requirement that **appeal must be brought within the prescribed 30-day period is jurisdictional**.[46] 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.[47]

It is a well-entrenched doctrine that an appeal is not a matter of right but is a mere statutory privilege. It may be availed of only in the manner provided by law and the rules. Thus, a party who seeks to exercise the right to appeal must comply with the requirements of the rules; otherwise, the privilege is lost.[48] Appeal is a matter of sound judicial discretion.[49]

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[46] *Philippine Dream Company, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 216044 (Notice), August 2020, citing *CIR vs. Villa*, 130 Phil. 3, 7 (1968) and *RCBC vs. CIR*, 524 Phil. 524, 532 (2006).
[47] *CIR vs. Fort Bonifacio Development Corporation*, G.R. No. 167606, August 11, 2010.
[48] *Lepanto Consolidated Mining Corp. vs. Icao*, G.R. No. 196047, 15 January 2014, 724 SCRA 646-660, citing *BPI Family Savings Bank, Inc. vs. Pryce Gases, Inc.*, G.R. No. 188365, 29 June 2011, 653 SCRA 42, 51; *National Power Corporation vs. Spouses Laohoo*, G.R. No. 151973, 23 July 2009, 593 SCRA 564; *Philux, Inc. vs. National Labor Relations Commission*, G.R. No. 151854, 3 September 2008, 564 SCRA 21, 33; *Cu-unjieng vs. Court of Appeals*, 515 Phil. 568 (2006); *Stolt-Nielsen Services, Inc. vs. NLRC*, 513 Phil. 642 (2005); *Producers Bank of the Philippines vs. Court of Appeals*, 430 Phil. 812 (2002); *Villanueva vs. Court of Appeals*, G.R. No. 99357, 27 January 1992, 205 SCRA 537; *Trans International vs. Court of Appeals*, 348 Phil. 830 (1998); *Acme Shoe, Rubber & Plastic Corporation vs. Court of Appeals*, 329 Phil. 531 (1996); and *Ozaeta vs. Court of Appeals*, 259 Phil. 428 (1989).
[49] *Muñoz vs. People*, G.R. No. 162772, 14 March 2008, 572 SCRA 258-270.

Accordingly, when a court or tribunal has no jurisdiction over the subject matter, the only power it has is to **dismiss** the action.[50]

WHEREFORE, premises considered, respondent's *Motion for Early Resolution of the Issue of Jurisdiction of the Honorable Court* is **GRANTED**. Accordingly, the instant *Petition for Review* is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

ERLINDA P. UY
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

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[50] Velasquez, Jr. vs. Lisondra Land, Inc., G.R. No. 231290, 27 August 2020.