REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

BRYAN M. TORREGOSA, *Petitioner,*	**CTA *EB* NO. 2520** (CTA Case No. 9703)
	Present:
-versus-	**DEL ROSARIO, P.J., RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
REGIONAL DIRECTOR BUREAU OF INTERNAL REVENUE DAVAO CITY REVENUE REGION NO. 19, *Respondent.*	Promulgated: DEC 13 2023 2:15pm

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is petitioner's Motion for Reconsideration ("Motion"), filed on 10 August 2023, with respondent's Opposition (Re: Motion for Reconsideration of the Decision dated 26 July 2023) ("Opposition"), filed on 4 September 2023.

In his Motion, petitioner claims that this Court's Decision, dated 26 July 2023 ("Assailed Decision"), is wrong because (a) petitioner received the assailed Final Decision on Disputed Assessment ("FDDA") on 19 October 2017, but to expect petitioner to prove such date when respondent refuses to produce the registry receipt is to burden petitioner with an impossible task; (b) the assessment is void and can thus be assailed at any time; (c) the circumstances around this case should have convinced the Court to apply the rules of procedure liberally; and (d) in any case, the assailed assessment is without basis in fact.

In his Opposition, respondent merely reiterates the finding of the Court *En Banc* and in Division that petitioner filed his Petition for Review before the Court in Division late.

The Motion must be denied.

First, petitioner's contention, that proving the date of his second receipt of a duplicate copy of the FDDA is an impossible task, is easily disputed. He could have offered the testimony of his secretary, who allegedly had first-hand knowledge of petitioner's second receipt of a copy of the FDDA, as observed by the Court in Division in its Decision.[1] Building on this observation, he could have offered any form of bookkeeping on his part to show that he did, indeed, receive a second copy of the FDDA on 19 October 2017. Neither of these involve offering a registry receipt that respondent allegedly refuses to produce, but both could have helped prove petitioner's contention, had he actually offered these as evidence.

In fact, viable evidence already exists in the records of this case. Petitioner attached the second copy of the FDDA that he received to his "Reply (To Respondent's Answer) With Manifestation",[2] filed on 19 March 2018. Importantly, he also attached an envelope[3] that appears to be marked as having been received by a Ms. Fernandez on 19 October 2017 at 1:42 p.m. This envelope in itself could have served as compelling evidence in support of petitioner's claim, had he actually offered it.

Furthermore, the ***Rules of Court*** offer multiple forms of relief that petitioner could have utilized to bolster his claim. ***Rule 53*** allows a party to file a Motion for New Trial, which is also allowed under ***Rule 15 of the Revised Rules of the Court of Tax Appeals, as amended***. Petitioner could have used such a Motion to offer the additional evidence available to him even after failing to do so earlier. Even more relevant here is ***Rule 27***, which provides for the filing of a motion for the production, by an adverse party, of a document sought by the filing party for the latter's inspection. Petitioner could have used such a motion to compel respondent to produce the controversial Registry Receipt that is supposedly at the center of this issue. If respondent still refused or failed to cooperate, petitioner could have also moved for the issuance of a subpoena *duces tecum*, under ***Rule 21***, and attempt to acquire said Registry Receipt from a representative of the Philippine Post Office from the relevant Postal Area.

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1 Decision, dated 9 September 2020, p. 15, Division Records, p. 417.
2 *Id.*, pp. 80-82.
3 *Id.*, p. 88.

In sum, both perfectly viable evidence and various forms of procedural relief were available to petitioner. The so-called "impossible" is thus easily achievable.

However, even if this Court, whether *En Banc* or in Division, were to spontaneously agree with petitioner that he received a second copy of the FDDA on 19 October 2017, the same would be of no aid to his case.

To review, under ***Section 228 of the National Internal Revenue Code of 1997, as amended***, a taxpayer has thirty (30) days from receipt of an adverse decision within which to file its judicial protest with the Court of Tax Appeals:

> "SEC. 228. Protesting of Assessment. – x x x
>
> x x x
>
> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, **the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision**, or from the lapse of the one hundred eighty (180)-day period; **otherwise, the decision shall become final, executory, and demandable.**"
> (Emphasis supplied.)

The above law pegs the start of the thirty (30)-day period to appeal to a taxpayer's receipt of the adverse decision. Notably, it is completely silent on *multiple* receipts. It does not say that the period is reset if the taxpayer receives a second, third, or n^{th} copy of the decision. It countenances only a singular receipt by the taxpayer of an adverse decision. The clearest, simplest, and most logical construction of the rule, then, is that the period begins upon a taxpayer's *first* receipt of the adverse decision. Any later receipt of any further copies of such decision is thus of no moment.

Petitioner has never addressed this silence. He has not explained why the Court should ignore the obvious and standard construction of the rule and adapt his own interpretation. He has merely insisted, impliedly or otherwise, that his second receipt of the FDDA is more relevant and controlling than his first, without providing any law, jurisprudence, or reasoned argumentation that could serve as direct basis for this view.

Meanwhile, respondent already proved, through testimony and documentary evidence, that petitioner received a copy of the FDDA on 14 September 2017. As it is indisputable, even tautological, to say that such receipt is a receipt by a taxpayer of an adverse decision, said receipt is *the* controlling event that tolled the running of the prescriptive period here. The

Court in Division thus correctly ignored the 19 October 2017 receipt as the same is irrelevant to the issue at hand. Especially considering that the two (2) copies are identical and of one and the same FDDA, any later receipt of the same does not abolish the proven fact that petitioner *first* received the decision on 14 September 2017. And *qua* receipt by petitioner of the adverse decision on his protest to the assailed assessment, such receipt marked the beginning of the prescriptive period for filing a judicial protest before the Court in Division.

The Court *En Banc* is thus constrained to reject petitioner's contention that he filed his Petition for Review on time.

As for petitioner's claims that a void assessment can be assailed at any time or that the assessment here is, in any event, devoid of factual basis, addressing the same would require inquiring into the merits of the case. However, the Court is barred from performing such. The Court in Division never acquired jurisdiction over the case. And as already mentioned in Our 26 July 2023 Decision, said lack of jurisdiction likewise prevents this Court *En Banc* from ruling on the merits.

Finally, Our 26 July 2023 Decision already contained a reminder that an invocation of the general liberality in applying rules of procedure cannot simply brush aside said rules.[4] Moreover, matters of jurisdiction are not merely technical rules of procedure; they serve as the foundation for any action taken by a court. As the Supreme Court has held in the past, "[a]ny decision rendered by a court without jurisdiction over the subject matter of the action is void".[5] The Court in Division thus did not err when it cited ***Mitsubishi Motors Philippines Corporation v. Bureau of Customs***[6] in saying that when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the case.

The Court is not unsympathetic to petitioner's plight. After the stresses of an assessment, after the tribulations of the pandemic, to have one's judicial appeal fail due to a late filing would be frustrating and disheartening beyond words, especially for an individual business owner. However, the Court cannot ignore the facts, laws, and jurisprudence relevant to this case. The Court in Division thus had no choice but to dismiss the case, the only course of action within its power, and the Court *En Banc* cannot ascribe any real error to said dismissal.

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4 Citing Land Bank of the Philippines v. The Court of Appeals and Heirs of Manuel Bolanos, G.R. No. 221636, 11 July 2016.

5 City of Lapu-Lapu v. Philippine Economic Zone Authority, G.R. Nos. 184203 & 187583, 26 November 2014.

6 G.R. No. 209830, 17 June 2015.

All told, the instant Motion lacks merit and cannot be granted by the Court *En Banc*.

WHEREFORE, petitioner's Motion for Reconsideration, filed on 10 August 2023 is hereby **DENIED** for lack of merit. The assailed Decision, dated 26 July 2023, is hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Ma. Belen R

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice