REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

FLAVOR SYSTEMS, INC., Represented by Teofilo Nipal, Jr. and Joan M. Nipal,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE, RDO Isabel A. Paulino, Group Supervisor Liza C. Ponce, RO Cezar P. Dayagdag, RO Susan Alariao, CAMS Noraida P. Dialem, & Regional Director Antonio F. Montemayor,
Respondents.

CTA CASE NO. **11499**

Members:

DEL ROSARIO, P.J., *Chairperson*,
BACORRO-VILLENA, *and*
CUI-DAVID, JJ.

Promulgated:
SEP 01 2025 4:24 pm

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RESOLUTION

At bar is petitioner Flavor Systems, Inc.'s (**petitioner**'s/**FSI**'s) Petition for Review[1] filed on 21 May 2024, wherein petitioner seeks: (**1**) the cancellation of the sale on Condominium Certificate of Title (**CCT**) No. 008-2010000976; (**2**) the reconveyance in its favor of the property covered by CCT No. 008-2023002748; and (**3**) an order by this Court requiring respondents to shoulder the expenses for the reconveyance and the facilitation of the pertinent documentary requirements, as well as the cost of the suit.

Also for the Court's resolution is respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) motion to dismiss embodied

[1] Division Docket, pp. 7-22.

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in his or her Answer[2] filed *via* registered mail and electronic mail on 10 September 2024 and 12 September 2024, respectively.

As stated in the petition, sometime in September 2023, the Property Management Office of the Condominium Corporation, Shang Properties, furnished petitioner with a copy of a letter dated 12 September 2023 from the Bureau of Internal Revenue (**BIR**) signed by Noraidah P. Dialem, informing the former that the condominium unit covered by CCT No. 008-2023002748 in petitioner's name is listed in the BIR's Inventory of Acquired Asset of the Forfeited Assets Management Unit.[3] Petitioner further declared that, upon checking with the Registry of Deeds of Mandaluyong City, it discovered that CCT No. 008-2010000976 had been cancelled and transferred in favor of the BIR *per* CCT No. 008-2023002748.[4]

Aggrieved, on 03 October 2023, petitioner filed a "Complaint for Recovery of Tax Erroneously or Illegally Collected" (**Complaint**) under Sections 228 and 229 of the National Internal Revenue Code (**NIRC**) of 1997, as amended. As petitioner represents, the CIR had not acted on the Complaint by 23 April 2024, or after the lapse of 180 days. Petitioner contends that it thus timely filed the instant Petition for Review when it did so within the next thirty (30) days thereafter, or before 23 May 2024.[5]

Meanwhile, in the motion to dismiss, respondent points out that this Court lacks jurisdiction. Making reference to Sections 204(C)[6] and 229[7] of the NIRC of 1997, as amended, respondent contends that

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2 Id., pp. 160-164.

3 Par. 10, Statement of Facts and Case, id., pp. 12-13.

4 Par. 12, Statement of Facts and Case, id., p. 13.

5 II. Prefatory Statement, id., p. 8.

6 **SEC. 204.** *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –

...

(C) *Credit or refund taxes erroneously or illegally received or penalties imposed without authority*, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty as provided under Section 229 of this Code: *Provided, however*, That a return filed showing an overpayment shall be considered as a written claim for credit or refund[.]

7 **SEC. 229.** *Recovery of Tax Erroneously or Illegally Collected.* – No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any

petitioner failed to file both an administrative claim and a judicial claim (*i.e.*, the instant petition) within the allowed two (2)-year period from the payment of the tax or penalty (with the date of the auction sale as an assumed reference point). As such, respondent moved for the dismissal of the Petition for Review.

We resolve.

Following an assiduous review of the allegations in the instant Petition for Review *vis-à-vis* the records of the proceedings that ensued thus far, the Court notes that it was filed **prematurely**. Consequently, the Court lacks jurisdiction to take cognizance of the case.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. For the court or any adjudicative body to have authority to dispose of the case, it must acquire jurisdiction over the subject matter. Thus, **when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.**[8]

It bears emphasis that the CTA, being a court of special jurisdiction, can only take cognizance of matters which are clearly within its jurisdiction.[9] Section 7(a)(1) of Republic Act (**RA**) No. 1125[10], as amended by RA 9282[11], provides:

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manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed unless there is a full or partial denial of the claim for refund or credit by the Commissioner or there is a failure on the part of the Commissioner to act on the claim within the one hundred eighty (180)-day period under Section 204 of this Code; *Provided, however*, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.

In case of full or partial denial of the claim for tax refund, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred eighty (180)-day period, appeal the decision with the Court of Tax Appeals.

8 *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. No. 209830, 17 June 2015.

9 *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, 25 March 2019, citing *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, 22 October 2014.

10 AN ACT CREATING THE COURT OF TAX APPEALS.

11 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 OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

> . . .
> **Sec. 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[.]**[12]
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> . . .

It is well-settled that the perfection of an appeal in the manner and within the period pursuant to the relevant provisions of the law is not only mandatory but jurisdictional and non-compliance with the legal requirements is fatal to a party's cause.[13]

Based on the foregoing provision, this Court has jurisdiction over the decisions of respondent in cases, not only those "involving disputed assessments, and refunds of internal revenue taxes, fees or other charges, penalties in relation thereto" but also regarding "other matters arising under the [NIRC] or other laws administered by the [BIR]."

In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*[14], the Supreme Court held as follows, to wit:

> . . .
> **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

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12 Italics in the original text, emphasis and underscoring supplied.

13 *Team Pacific Corporation v. Josephine Daza in her capacity as Municipal Treasurer of Taguig*, G.R. No. 167732, 11 July 2012.

14 G.R. No. 162852, 16 December 2004; Citations omitted, emphasis supplied and italics in the original text.

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> act on a petition to invalidate 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.
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> . . .

The foregoing jurisprudential pronouncements confirm that this Court's appellate jurisdiction is not limited to cases involving respondent's decisions on matters relating to assessments or refunds. The law also provides the Court's appellate jurisdiction over any case that could arise from the NIRC of 1997, as amended, or any other related laws that the BIR administers.

While the Court of Tax Appeals (**CTA**) would generally *not* have jurisdiction over reconveyance cases, the Supreme Court previously made a distinction when the action is brought mainly to challenge the preceding assessment and not the sale and transfer itself.

The Court is not unaware of the ruling in *Demetrio R. Alcantara v. Republic of the Philippines, et al.*[15], where the High Court held thusly:

> . . .
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> It is clear from the foregoing allegations that despite assailing the supposedly illegal confiscation of his property in order to satisfy his tax liabilities, Alcantara was really challenging the assessment and collection of taxes made against him for being in violation of his right to due process. As such, the complaint concerned the validity of the assessment and eventual collection of the taxes by the BIR. The declaration of nullity of the sale and reconveyance was founded on the validity of the assessment and eventual collection by the BIR. That the main relief sought by his complaint was *"to declare the assessments conducted by the BIR on the Income Tax Returns of [Alcantara] for 1982 and 1983 as null and void ab initio"* as well as to declare all notices and deeds in relation to collection of the assessed taxed liabilities as null and void bolsters this conclusion.
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> Accordingly, the CA correctly determined that the RTC had no jurisdiction to resolve the issues raised in Alcantara's complaint.
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> . . .
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> Alcantara contends that the CA erred in ruling that the proper appellate court to bring his appeal to was the CTA; that following Section 7 of Republic Act No. 1125, as amended by Republic Act No.

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[15] G.R. No. 192536, 15 March 2017; Citations omitted; emphasis and italics in the original text.

> 9282, the CTA had no jurisdiction to declare the certificate of titles null and void; and that the CA was instead the proper appellate court to review the adverse decision of the RTC in his case.
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> The contention lacks persuasive force.
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> The complaint was brought to assail the assessment and collection made by the Commissioner of Internal Revenue. Based on Republic Act No. 1125, prior to its amendment by Republic Act No. 9282, the CTA had exclusive appellate jurisdiction over the appeal of the decisions of the Commissioner of Internal Revenue, to wit:
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>> **Section 7. *Jurisdiction.*** — The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided.
>>
>> (1) **Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;**
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>> ...
>
> Accordingly, the CA correctly dismissed Alcantara's appeal on the ground of lack of jurisdiction to entertain the same. The erroneous appeal deserved no fate but dismissal. Section 2, Rule 50 of the *Rules of Court* expressly states: *"An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright."* In *Balaba v. People*, the Court affirmed the CA's dismissal of the appeal because the appeal had been erroneously taken to the CA instead of to the Sandiganbayan.
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> ...

In relation to the foregoing, it is evident after a reading of petitioner's statement of facts and its arguments and discussions in the Petition for Review that petitioner primarily assails the assessment's validity, interposing due process violations.[16] Though the Petition for Review ultimately prays for the cancellation of the auction sale and the reconveyance of its property, petitioner summed up its conclusion in this wise:

> ...
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> In sum, since the LOA, PAN, FAN, and LD are considered void *ab initio by Sections 228, 229*, NIRC and the pertinent Revenue Regulations cited above, the Levy conducted and initiated by the

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[16] Petition for Review, Division Docket, pp. 8-18.

> respondents and the subsequent auction sale are null and void. It follows, therefore, the transfer of the pertinent CCT No. 008-2023002748 in the name of the Republic of the Philippines is likewise void *ab initio*.[17]
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> . . .

As such, *strictly as far as the nature of the subject matter is concerned*, the Court is of view that the case *may* indeed fall within its jurisdiction.

However, anent the application of Section 7(a)(1) of RA 1125[18], as amended, as to whether there are actual matters for the Court to take cognizance, *We find differently*.

As elucidated further above, the CTA is able to exercise jurisdiction over the CIR's decisions or inactions, or "other matters" arising therefrom.

Relevantly, Section 2, Rule 6 of the Revised Rules of the CTA (**RRCTA**) sets forth the required allegations concerning the Court's jurisdiction, among others:

> . . .
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> SEC. 2. *Petition for Review; Contents.* — The petition for review shall contain **allegations showing the jurisdiction of the Court**, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. The petition shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court. A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition.[19]
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> . . .

In this regard, petitioner supposedly anchored the timeliness of its Petition for Review on the 30-day period to bring an appeal before the CTA following the lapse of a 180-day period for the CIR to act on its Complaint.

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17 Id., p. 18.
18 Supra at p. 4.
19 Emphasis supplied and italics in the original text.

Pertinently, Section 11 of RA 1125, as amended by RA 9282, in relation to Section 3(a), Rule 8 of the RRCTA, provides for the proper period during which petitioner may invoke the CTA's jurisdiction in order to question respondent's decision (or inaction), to wit:

> ...
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> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — **Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **may file an appeal with the CTA <u>within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action</u> as referred to in Section 7(a)(2) herein**.
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> ...
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> SEC. 3. *Who may appeal; period to file petition.* —
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> (a) **A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments** or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction **may appeal to the Court by petition for review filed <u>within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act</u> on the disputed assessments. In case of <u>inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes</u>.**[20]
>
> ...

Accordingly, in such cases where the CIR's adverse decision or ruling (or inaction) in a disputed assessment serves as the reckoning point, the taxpayer is given 30 days to file a Petition for Review with the CTA. The same provision addresses refund claims, specifying that the Petition for Review must be filed "within the two-year period prescribed by law from payment or collection of the taxes."

However, on 22 January 2024, RA 11976, or the Ease of Paying Taxes Act (**EOPT**), took effect. It further amended select provisions of

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[20] Italics in the original text, emphasis and underscoring supplied.

the NIRC of 1997, including Section 229[21] thereof, and resultantly deemed amended the above provision relating to jurisdiction.

In particular, the NIRC, as further amended by the EOPT, now indicates that the filing of a claim for refund with BIR must be lodged within two (2) years after the payment of tax or penalty. **It then gives the CIR a period of 180 days from submission of complete documents to act on such an application. An appeal to this Court can then be made within 30 days from the applicant's receipt of a denial, or the lapse of the 180-day period.** Consequently, through the amendment, the two-year period to file the judicial claim had been removed.[22]

Notably, EOPT's effectivity on 22 January 2024, fell between petitioner's supposed filing of a Complaint[23] on 23 October 2023 and the lapse of the 180-day period counted therefrom on 20 April 2024.

In the present case, petitioner cites *both* Sections 228[24] and 229[25] when discussing the Petition's timeliness. According to petitioner, it filed its Complaint with the Office of the CIR on 23 October 2023. From there, it began counting and gave the CIR a 180-day period to act on the said Complaint. It represented that it then filed the instant Petition in the 30-day period trailing the lapse of the earlier 180-day period, in line with what Section 11 of RA 1125, as amended, requires.

As to the 180-day period, both Sections 228 and 229 make reference to such a period, albeit counted differently.

Section 228[26] (on protesting of assessments) tells the taxpayer to file its appeal "if the protest is denied in whole or in part, or is not

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21 Supra at note 7.

22 Id.

23 Annex "A" to the Petition for Review, Division Docket, pp. 23-34.

24 **SEC. 228.** *Protesting of Assessment.*

25 Supra at note 7.

26 **SEC. 228.** *Protesting of Assessment.* - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings[.] ...

...

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

acted upon within 180 days from submission of documents." On the other hand, Section 229[27] (on recovery of tax erroneously or illegally collected) provides that "no such suit or proceeding shall be filed unless there is a full or partial denial of the claim for refund or credit by the Commissioner or there is a failure on the part of the Commissioner to act on the claim within the one hundred 180-day period under Section 204 of [the NIRC]." It further provides that the taxpayer may file its appeal after "receipt of the decision denying the claim or after the expiration of the 180-day period."

Seeing that *there is no protested assessment*, with neither petitioner's allegations nor annexed supporting documentation making reference thereto (and, in fact, argues the alternative, *i.e.*, there was nothing to protest as it did not receive a Formal Letter of Demand with Assessment Notices [**FLD/FAN**] nor Preliminary Assessment Notice [**PAN**]), the 180-day period under Section 228 cannot apply. In any case, there is no protest nor submission of supporting documentation in the administrative level (*i.e.*, in the way contemplated in filing a Request for Reconsideration or Reinvestigation with the CIR, with the latter type followed by a transmittal of supporting documents).

As to Section 229, this must be read together with Section 204 of the NIRC of 1997, as further amended by the EOPT, and Section 11[28] of RA 1125, as amended by RA 9282, in relation to Section 3(a), Rule 8 of the RRCTA, which requires that in case of **inaction** of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review **within 30 days from the lapse of the 180-day period provided for the CIR to act on the refund application**." Sections 204 and 229 of the NIRC of 1997, as amended, provide for the refund of **erroneously or illegally** collected taxes. Particularly, Section 204 applies to administrative claims for refund, while Section 229 applies to judicial claims for refund.

Thus, in cases of recovery of erroneously paid or illegally collected tax or penalty, while the old rule pre-EOPT requires that *both* the administrative claim for refund and the filing of the judicial suit

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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 one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

27 Supra at note 7.

28 Supra at p. 8.

should be made before the lapse of two (2) years from the *date of payment* (regardless of any supervening cause that may arise after payment), the new rule after EOPT's effectivity requires:

1. as before, the administrative claim must be filed within two (2) years after the payment of the tax or penalty in question *(no change)*; and,

2. the filing of the judicial claim (or the appeal before the CTA) must be filed within 30 days from receipt of the CIR's denial or the lapse of the 180-day period given to the CIR to act on the application *(amended by EOPT).*

In the case at bar, petitioner alleged that it had not caught wind of the BIR's collection efforts until sometime in September 2023, when the Condominium Corporation informed it that petitioner's property already formed part of the BIR's acquired assets. To note, the correspondence is addressed to the Condominium Corporation, not to petitioner.[29] There has not been any issuance by the BIR around this date addressed to petitioner, or at least, none has been so alleged. Petitioner supposedly received a copy of the aforementioned letter when the Condominium Corporation that originally received it (for its own information) furnished petitioner a copy.[30]

To recapitulate, it appears there is no decision or inaction, much less a protested assessment, in the context of Section 228. The same can be said as to the absence of the CIR's action or inaction, as previously expected under the pre-EOPT Section 229.

As to whether there is an appealable "inaction" by the CIR in the manner contemplated by Section 229, as amended by EOPT, it would appear that the procedure undertook by petitioner (*i.e.*, filing a complaint for recovery of tax erroneously or illegally collected then appealing the case to the CTA after the CIR's inaction after a 180-day period) aligns with the new procedural requirements leading to an appeal.

However, if We were to treat the Complaint as petitioner's administrative claim and the instant petition as its judicial claim, the

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[29] Annex "H" to the Petition for Review, Division Docket, p. 50.
[30] Supra at note 3.

petition is denied of allegation to this effect or of facts supporting this position (even if We were to entertain the present petition without such a jurisdictional allegation). None of petitioner's allegations or the attached annexes clearly reference a supposed *time of payment* from which to reckon the two (2)-year deadline to file. We thus fail to appreciate that petitioner filed the same within two (2) years after the payment of the tax or penalty (or in this case, when its property was taken to satisfy the deficiency taxes due).

What is actually concludable thus far is that **there is no decision or inaction from the CIR that may be brought as the subject matter of an action before this Court**.

Assuming that petitioner was correct in that the Complaint it filed with the CIR on **23 October 2023** initiates a 180-day period for the CIR to act and that petitioner would have a 30-day period to appeal thereafter, the 180-day period from 23 October 2023 would have ended on **20 April 2024**, and not 23 April 2024[31], as petitioner indicated. The end of the 30-day period to appeal that would have followed would thus have ended on **20 May 2024** (and not on 23 May 2024[32], as petitioner represents). The Petition for Review filed on **21 May 2024** would thus have been instead dismissed for being *filed out of time*.

Nonetheless, as discussed above, there is a remaining window for petitioner to invoke the exercise of this Court's jurisdiction premised on its capacity to take cognizance of "other matters".

Based on the allegations in the Petition for Review and the annexes attached thereto, a new CCT No. 008-2023002748[33] (for the transfer of the subject property) in the name of the Republic of the Philippines had been issued in place of the old CCT No. 008-2010000976[34] in petitioner's name. A reading of petitioner's statement of facts made clear its position that while the BIR initiated an investigation through a Letter of Authority (**LOA**), the administrative proceedings were, from its point-of-view, unexplainably shelved.[35] As petitioner alleged, it did not receive a PAN nor an FLD/FAN relative to

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31 Supra at note 5.
32 Id.
33 Annex "J" to the Petition for Review, Division Docket, p. 56.
34 Annex "I" to the Petition for Review, id., pp. 51-55.
35 Pars. 1-7, Statement of Facts and Case, id., pp. 8-10.

the purportedly ongoing audit.[36] It later learned of the dismissal of a criminal case supposedly filed against its representative and took the same to mean that the audit was similarly concluded.[37] Petitioner emphasized that it was unaware of any assessment notice nor initiation and execution of collection efforts on the BIR's part (*i.e.,* pertinent issuances by the BIR such as a Notice of Levy and documentation and notices of the trailing auction sale).[38]

Notably, in the Memorandum of Encumbrances accompanying petitioner's copy of its CCT No. 008-2010000976[39], there are three (3) entries, summarized as follows:

1. Entry No. 2012001014 dated 22 March 2012, for a real estate mortgage in favor of BPI Family Savings Bank, Inc. as mortgagee;

2. Entry No. 2015005546 dated 14 October 2015, for a Notice of Levy on Real Property pursuant to the assessment, which levies the property in satisfaction of the assessed deficiency taxes; and,

3. Entry No. 2016003600 dated 18 May 2016, for the cancellation of the earlier Entry No. 2012001014 above.

Despite the foregoing, petitioner essentially represents that it had not learned of any of the circumstances of the events (covered by the entries above, throughout the dates of entry and cancellation) that occurred between the time it had been interacting with the BIR up to when it learned of the auction sale, then only did so when it much later inquired with the Registry of Deeds of Mandaluyong City.[40]

Relevantly, in the motion to dismiss, respondent specified key events surrounding the purported auction sale of the subject property:

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> 10. The Auction Sale of the subject property took place in 28 April 2016. Said Auction Sale was even published in the Philippine STAR in its issues of March 30, April 6 and 13, 2016. The

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[36] Pars. 7 and 11, Statement of Facts and Case., id., pp. 8 and 13, respectively.
[37] Pars. 9-10, Statement of Facts and Case, id., pp. 10-13.
[38] Par. 11, Statement of Facts and Case., id., p. 13.
[39] Annex "I" to the Petition for Review, supra at note 34.
[40] Par. 12, Statement of Facts and Case., Division Docket, p. 13.

> subject property was forfeited in favor of the Republic of the Philippines on 26 May 2016 as annotated in the Condominium Certificate of Title.[41]
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> ...

On a side note, while the foregoing synthesis of the parties' respective allegations lets us take notice of certain facts and events that would paint a more detailed picture of the events leading to the present Petition, (and more crucially, a probe into the possible opportunities for petitioner to have learned of the respondent's collection efforts and/or be handed over an actionable notice, document, or equivalent that would let it invoke the Court's "other matters" jurisdiction, in default of a recognized decision or inaction by the CIR), We cannot take bare allegations at face value.

In the same light, We cannot readily afford respondent's account with a presumption of regularity in the performance of official duties in the auction sale that supposedly took place.

While penned in the context of the tax delinquency sales in the Local Government Code (**LGC**), We are able to recognize the wisdom of the ruling, by analogy, as the Supreme Court declared in *Corporate Strategies Development Corp. and Rafael R. Prieto v. Norman A. Agojo*[42]:

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> In *Spouses Sarmiento v. CA*, this Court reiterated the rule that **there could be no presumption of the regularity of any administrative action which resulted in depriving a taxpayer of his property through a tax sale. This is an exception to the rule that administrative proceedings are presumed to be regular**. This has been the rule since the 1908 case of *Valencia v. Jimenez and Fuster* where this Court held:
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>> The American law does not create a presumption of the regularity of any administrative action which results in depriving a citizen or taxpayer of his property, but, on the contrary, the due process of law to be followed in tax proceedings must be established by proof and the general rule is that the purchaser of a tax title is bound to take upon himself the burden of showing the regularity of all proceedings

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41 Par. 10, Special and Affirmative Defenses, Respondent's Answer, id., p. 162.

42 G.R. No. 208740, 19 November 2014; Citations omitted; italics and emphasis in the original text and supplied.

> leading up to the sale. The difficulty of supplying such proof has frequently lead to efforts on the part of legislatures to avoid it by providing by statute that a tax deed shall be deemed either conclusive or presumptive proof of such regularity.
>
> Those statutes attributing to it a conclusive effect have been held invalid as operating to deprive the owner of his property without due process of law. But those creating a presumption only have been sustained as affecting a rule of evidence, changing nothing but the burden of proof. (Turpin v. Lemon, 187 U.S., 51.)
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> **The tax law applicable to Manila does not attempt to give any special probative effect to the deed of the assessor and collector, and therefore leaves the purchaser to establish the regularity of all vital steps in the assessment and sale.**

In 1915, the Court reiterated this doctrine in *Camo v. Boyco.* It was written therein that no presumption of the regularity existed in any administrative action which resulted in depriving a citizen or taxpayer of his property. It further stated that on the contrary, the due process of law to be followed in tax proceedings must be established by proof and the general rule was that *the purchaser of a tax title was bound to take upon himself the burden of showing the regularity ofall proceedings leading up to the sale.*

And in the 2003 case of *Requiron v. Sinaban*, this Court likewise pronounced that it was incumbent upon the buyer at an auction sale to prove the regularity of all proceedings leading to the sale for the buyer could not rely on the presumption of regularity accorded to ordinary administrative proceedings.

. . .

Although the Court is unconvinced that the auction sale indeed transpired without petitioner's knowledge, considering the bureaucratic measures in place precisely to prevent such instances, and absent adequate supporting evidence, the fact stands that the Court cannot appreciate these allegations in determining whether it has jurisdiction. Likewise undeniable is that petitioner did not take action during the auction sale. Whether it failed to do so or that it never learned of the opportunity is not entirely relevant at this moment.

Thus, for purposes of validating the Court's jurisdiction, We arrive at an impasse. Absent a proper "trigger" or issuance by respondent couple with a proper allegation of petitioner's actual receipt or knowledge thereof (in a way permissible under the law and jurisprudence) from which to reckon an appeal, this Court is thus unable to make a proper determination if petitioner's instant Petition for Review has been timely filed.

In *Commissioner of Internal Revenue v. Leonardo S. Villa, et al.*[43], the Supreme Court held that the period to invoke judicial review must be counted from a taxpayer's receipt of the CIR's decision or ruling on the disputed assessment. It is settled that the party who alleges an affirmative fact has the burden of proving it because mere allegation of the fact is not evidence of it. Conversely put, the party who asserts, not he who denies, must prove.[44]

Incidentally, Section 2[45], Rule 6 of the RRCTA requires clear jurisdictional allegations.

Similarly, Section 2, Rule 42 of the Rules of Court (**ROC**), as amended, which supplements the RRCTA, provides -

> ...
>
> Sec. 2. *Form and Contents.* - **The petition** shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and **shall** (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) **indicate the specific material dates showing that it was filed on time**; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) **be accompanied** by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and **other material portions of the record as would support the allegations of the petition.**[46]
>
> ...

The above provision of the ROC, as amended, clearly requires that the specific material dates shall be indicated in the petition for the purpose of showing that the same was filed on time, and that the

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43 See G.R. No. L-23988, 02 January 1968.

44 *Far East Bank & Trust Company v. Robert Mar Chante, a.k.a. Robert Mar G. Chan*, G.R. No. 170598, 09 October 2013.

45 Supra at p. 7.

46 Emphasis supplied and italics in the original text.

petition be accompanied, among others, of material portions of the record that would support petitioner's allegations. The timeliness of an appeal is a factual issue that requires a review of the evidence presented.[47] In this specific case, the same facts are equally relevant in identifying the actual subject matter of the petition, in order to validate the CTA's exercise of jurisdiction.

Apropos, the CTA being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[48] Relative thereto, when it appears from the pleadings or the evidence on record that the Court has no jurisdiction over the subject matter, the Court shall dismiss the claim. The Court could not decide the case on the merits.[49]

All told, without a proper subject matter for an appeal before this Court, We are constrained to hold that the instant Petition for Review had been filed **prematurely**.

Basic is the rule that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint.[50] Thus, **the limits of this Court's jurisdiction is unaffected by petitioner's erroneous interpretation of the law**. In *Glynna Foronda-Crystal v. Aniana Lawas Son*[51], the Supreme Court aptly stated - "**[i]n law, nothing is as elementary as the concept of jurisdiction, for the same is the foundation upon which the courts exercise their power of adjudication, and without which, no rights or obligation could emanate from any decision or resolution**". In thus losing Our authority to review the instant petition for being filed prematurely, this Court deems it proper to *motu proprio* dismiss the case for lack of jurisdiction.

WHEREFORE, premises considered, the instant Petition for Review filed by petitioner Flavor Systems, Inc. on 21 May 2024 is **DISMISSED** for lack of jurisdiction.

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47 *Republic of the Philippines, represented by The Presidential Commission on Good Government (PCGG), et al. v. Augustus Albert V. Martinez, et al.*, G.R. Nos. 224438-40, 03 September 2020.

48 *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, 25 March 2019, citing *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, 22 October 2014.

49 *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue,* G.R. No. 185666, 04 February 2015.

50 *Editha Padlan v. Elenita Dinglasan, et al.*, G.R. No. 180321, 20 March 2013.

51 G.R. No. 221815, 29 November 2017.

Meanwhile, the motion to dismiss embodied in respondent's Answer filed *via* registered mail and electronic mail on 10 September 2024 and 12 September 2024, respectively, is deemed **MOOT** and **ACADEMIC**.

In view of the case's dismissal, the hearing set on 02 September 2025 is hereby **CANCELLED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice