REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 3001** (CTA Case No. 10937)
-*versus*-	Present: **RINGPIS-LIBAN, Acting P.J., MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
SOUTH COTABATO 1 ELECTRIC COOPERATIVE, INC., *Respondent.*	Promulgated: DEC 03 2025 4:30 pm

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a Petition for Review,[1] filed on October 15, 2024, seeking the cancellation of the Decision[2] ("Assailed Decision"), promulgated on April 18, 2024, and the Resolution[3] ("Assailed Resolution"), dated September 9, 2024, both issued by the Court's First Division ("Court in Division"); and the rendering of a new decision dismissing the Petition for Review posted by respondent on July 8, 2022 for lack of jurisdiction or in the alternative, denying the same for lack of merit.[4]

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[1] Petition for Review, *Rollo*, pp. 1-57, with annexes.
[2] Decision, dated April 18, 2024 ("Assailed Decision"), *id.* at 37-52.
[3] Resolution, dated September 9, 2024 ("Assailed Resolution"), *id.* at 54-57.
[4] See Prayer, Petition for Review, *id.* at 26.

The Parties

Petitioner Commissioner of Internal Revenue ("petitioner") is the duly appointed Commissioner of the Bureau of Internal Revenue ("BIR") who is authorized to exercise the powers and perform the duties of his office including, inter alia, the power to decide disputed assessments, refunds of internal revenue taxes, fees, other charges, and penalties imposed in relation thereto, or other matters arising under the Tax Code.[5]

On the other hand, respondent South Cotabato 1 Electric Cooperative, Inc. ("respondent") is a corporation organized and existing under Republic Act ("RA") No. 6038, otherwise known as the National Electrification Administration ("NEA") Act. It is registered with the BIR with Tax Identification Number 000-940-174.[6]

The Facts

On December 27, 2007, the BIR issued against respondent two Formal Letters of Demand ("FLD") directing the latter to pay Php19,120,471.85 for alleged deficiency income tax, percentage tax, value-added tax ("VAT"), expanding withholding tax ("EWT") and final withholding tax ("FWT"), and Php83,400 in compromise penalties, all for taxable year 2004.[7]

Petitioner then allegedly applied and paid for tax amnesty for its 2004 tax liabilities pursuant to *RA No. 9480*,[8] on March 5, 2008.

The BIR, nevertheless, issued a Preliminary Collection Letter ("PCL")[9] and Final Notice Before Seizure ("FNBS"),[10] on March 30, 2009 and August 29, 2009, respectively.

On October 22, 2009, respondent was informed through a Letter, dated September 24, 2004, that while petitioner had considered its application for tax amnesty, the latter would still enforce collection for the alleged deficiency EWT and FWT.[11]

Respondent thereafter filed a Request for Reprieve on Surcharges, Penalties and Compromise Penalties, on October 28, 2009,[12] then proceeded to pay for the basic deficiency withholding taxes on October 31, 2009.[13]

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[5] See Par. 1. The Parties, Petition for Review, *id.* at 11-12; Par. 2, The Parties, Assailed Decision, *id.*, p. 38.
[6] See Par 1, The Parties, Assailed Decision, *id.* at 38
[7] Petition for Review, par. 11, Division Docket p. 9; admitted by respondent in his Answer, par. 2, Division Docket, p. 264; formally offered by petitioner as Exhibit "P-5", but denied admission by the Court for failure of petitioner to present the originals for comparison; BIR Records, pp. 251-252
[8] Tax Amnesty Act of 2007, May 24, 2007.
[9] Petition for Review, par. 13, Division Docket p. 10.; BIR Records. p. 254.
[10] *Id.* at par. 14.
[11] *Id.* at par. 16.
[12] *Id.* at par. 17; BIR Records, p. 272.
[13] *Id.* at par. 18.

Another FNBS for the amount of Php19,203,871.85 was subsequently received by respondent, on January 13, 2011.[14]

On June 8, 2022, respondent received a Warrant of Distraint and/or Levy ("WDL") No. RR18-22-113[15] enforcing collection of the deficiency tax liabilities per the Formal Letter of Demand dated December 10, 2007.

Aggrieved, respondent posted the original Petition for Review on July 8, 2022.[16] The case was docketed as CTA Case No. 10937 and was raffled to the First Division.

After a full-blown trial, the Court in Division rendered the Assailed Decision on April 18, 2024,[17] granting the original Petition for Review upon finding that the CIR's right to collect from respondent had prescribed. The dispositive portion of the Assailed Decision states:

> **WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. Respondent Commissioner of Internal Revenue's right to collect from petitioner South Cotabato I Electric Cooperative, Inc. the alleged deficiency taxes in the amount of P56,711,558.26 including interest and surcharge, for CY 2004 is declared to have **PRESCRIBED**.
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> Accordingly, the undated Warrant of Distraint and/or Levy No. RR18-22-113 enforcing collection of the deficiency tax liabilities per the Formal Letter of Demand dated December 10, 2007, is **CANCELLED** and **SET ASIDE**, for being **NULL and VOID.**
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> Further, respondent is **ENJOINED** from proceeding with the collection of taxes in the above-captioned case.

Thereafter, on May 10, 2024, petitioner filed a Motion for Reconsideration,[18] which was likewise denied by the Court in Division on September 9, 2024.[19]

This led to the filing of the current Petition for Review on October 15, 2024.[20] Respondent, on the other hand, filed his Comment/Opposition on January 24, 2025.[21]

In view thereof, the Court submitted the instant case for decision on February 5, 2025.[22]

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[14] *Id.* at par. 19; admitted by respondent in his Answer, par. 2, Division Docket, p. 264; BIR Records, p. 277.
[15] *Id.* at par. 20; admitted by respondent in his Answer, *id.*; Exhibit "P-7", Division Docket, p. 183.
[16] Division Docket, pp. 7-22.
[17] *Supra* note 2.
[18] Motion for Reconsideration, dated May 10, 2024, Division Docket, pp. 551-564.
[19] *Supra* note 3.
[20] *Supra* note 1.
[21] Comment/Opposition (Re: Petitioner's Petition for Review filed on October 15, 2024), *Rollo*, pp. 60-72.
[22] See Notice issued by CTA *En Banc*, *id.* at 75.

The Issues

The issues, as raised by petitioner, are as follows:

I. WHETHER THE COURT IN DIVISION ERRED IN RULING THAT IT HAS JURISDICTION OVER THE ORIGINAL PETITION FOR REVIEW FILED ON JULY 8, 2022; and

II. WHETHER THE COURT IN DIVISION ERRED IN RULING THAT PETITIONER'S RIGHT TO COLLECT RESPONDENT'S DEFICIENCY TAX LIABILITY HAD PRESCRIBED.[23]

The Arguments

In its Petition for Review, the CIR argues that the Court in Division erred in ruling that it has jurisdiction over the case. Petitioner highlights that instead of filing a valid protest against the FLD, respondent applied for tax amnesty under *RA No. 9480*. According to petitioner, such application for tax amnesty is not in any manner equivalent to a valid protest to an FLD and does not comply with the requirements of *Section 228 of the Tax Code*, as implemented by *Revenue Regulations No. 18-2013* which requires that taxpayer shall state in his protest the (1) nature of protest whether reconsideration or reinvestigation specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation, (2) date of the assessment notice, and (3) the applicable law, rules and regulations or jurisprudence on which the protest is based, otherwise, his protest shall be void and without force and effect. Petitioner thus insists that due to said failure to protest, the assessment has become final, due and demandable, hence, outside the judicial scrutiny of the Court.

Also, the CIR contends that the BIR's right to collect the deficiency tax liabilities had not prescribed. Petitioner posits that as early as the issuance of the PCL on March 30, 2009, collection efforts had already begun, tolling the prescriptive period for tax collection.

On the other hand, respondent, in its Comment, counters that the Court of Tax Appeals ("CTA" or "Court") properly acquired jurisdiction over the subject matter of the case. It highlights that a perusal of the allegations in the original Petition for Review would show that the basis for its judicial appeal to the CTA is the issuance of the WDL by petitioner beyond the prescriptive period allowed by the Tax Code, as amended, for the enforcement of the BIR's right to collect, and not the validity of the FLDs nor the assessment which gave rise to the same.

[23] See Assignment of Error, Petition for Review, *Rollo*, p. 15.

Further, according to respondent, assuming that a valid protest is necessary to question the assessments contained in the WDLs, it is still well-within respondent's rights to contest the WDL before the Court due to its availment of tax amnesty.

Finally, respondent contends that petitioner's right to collect taxes had prescribed. It highlights that under *Sections 205 and 207 of the Tax Code*, the issuance of the WDL is required to initiate collection efforts. Thus, according to respondent, the PCL issued on March 30, 2009, does not, in any way, constitute as the WDL required under the Tax Code.

The Ruling of the Court

The instant Petition for Review was timely filed before the Court En Banc

We shall first look into the timeliness of the filing of the Petition for Review before the Court *En Banc*.

Section 3 (b), Rule 8 of the RRCTA provides that a party adversely affected by a decision or resolution of a Division of the CTA on a motion for reconsideration or new trial may appeal to the Court *En Banc* by filing a petition for review within 15 days from receipt of the assailed decision or resolution.

Here, the Assailed Resolution was received by the petitioner on September 16, 2024.[24] Counting 15 days therefrom, petitioner originally had until October 1, 2024 within which to file an appeal. However, on September 26, 2024, petitioner moved for an extension to elevate the case to the Court En Banc.[25] The motion was granted on September 30, 2024, giving respondent until October 16, 2024 within which to file his Petition for Review; hence, the timely filing thereof on October 15, 2024.

We shall now proceed to determine the merits of the instant case.

At the outset, the Court notes that the CIR's arguments in its Petition for Review are a mere rehash of the issues already discussed in the Assailed Decision and Assailed Resolution. Nevertheless, for the full disposal of the case, We shall pass upon the arguments of the parties.

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[24] See Notice of Resolution stamped "Received" by the BIR NOB-Litigation Division, on September 16, 2024, *Rollo*, p. 53.
[25] See Motion for Extension to File Petition for Review, dated September 26, 2024, *id.* at 1-4.

Upon judicious review of the pleadings and records, the Court *En Banc* upholds the Court in Division's jurisdiction over the original Petition for Review and the latter's ruling regarding the prescription of the BIR's right to collect the subject deficiency tax liabilities.

The Court in Division properly assumed jurisdiction over the original Petition for Review

Petitioner insists that due to respondent's failure to file a valid protest to the FLDs, the assessments had become final, due and demandable. Being such, according to petitioner, the assessments are not subject to judicial scrutiny as it is allegedly already beyond the jurisdiction of the Court.

It should be recalled that the CTA is a court of special jurisdiction which can thus take cognizance only of such matters as are clearly within its jurisdiction.[26]

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.[27]

Jurisprudence has defined jurisdiction over the subject matter as "the power to hear and determine cases of the general class to which the proceedings in question belong."[28] It is conferred by law which may either be the Constitution or a statute.[29]

For the CTA, its jurisdiction is primarily governed and conferred by *RA No. 1125*,[30] as amended by *RA No. 9282*.[31] As can be gleaned from these laws, although the jurisdiction of the Court over tax cases primarily covers decisions on disputed assessments and claims for refund, it also has jurisdiction over the CIR's decisions on "other matters" arising from the *National Internal Revenue Code of 1997, as amended* ("Tax Code"). These are specifically enshrined in *Section 7(a)(1) of RA 1125,* and implemented through *Section 3(a)(1), Rule 4 of the 2005 Revised Rules of the Court of Tax Appeals ("RRCTA"),* as amended, which respectively state:

[26] Commissioner of Internal Revenue vs. Court of Tax Appeals – Third Division, G.R. No. 239464, May 10, 2021.
[27] Mitsubishi Motors Phils. Corp. v. Bureau of Customs, G.R. No. 209830, June 17, 2015.
[28] City of Lapu-Lapu vs. Philippine Economic Zone Authority, G.R. No. 184203, November 26, 2014, as cited in the case of National Food Authority vs. City Government of Kidapawan, G.R. No. 236114, June 14, 2023.
[29] *Id.*
[30] An Act Creating the Court of Tax Appeals, June 16, 1954.
[31] 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; March 30, 2004.

Section 7(a)(1) of RA No. 1125

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 Code or other laws administered by the Bureau of Internal Revenue***;

. . . .

(Emphasis and italics supplied)

Section 3(a)(1), Rule 4 of the RRCTA

SEC. 3. *Cases within the jurisdiction of the Court in Division.* — The Court in Division shall exercise:

(a) Exclusive original over 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;***

. . . .

(Emphasis and italics supplied)

It does not escape the Court *En Banc*'s attention that the term "other matters" appears vague and could potentially be abused by parties who intend to seek remedy for controversies that are clearly outside Our jurisdiction (e.g., final and demandable assessments). However, the Supreme Court, in a few occasions, has consistently held that a Warrant of Distraint and/or Levy, including the validity thereof, is one such example of a decision on an "other matter" falling squarely under the CTA's jurisdiction. The landmark case of *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*[32] is instructive here:

> 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 [Sec. 7(1) of RA No. 1125] 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.***
> (Emphasis and italics supplied)

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

The Supreme Court has since upheld the same stance in the later cases of *Commissioner of Internal Revenue vs. Manila Medical Services, Inc.*,[33] *Commissioner of Internal Revenue vs. Court of Tax Appeals Second Division and QL Development, Inc. (QL Development case)*,[34] and *La Flor Dela Isabel, Inc. vs. Commissioner of Internal Revenue.*[35]

Based on the foregoing, it is clear that the remedy of appeal to this Court is available to respondent provided that is made within 30 days from the receipt of the WDL, pursuant to *Section 11 of RA No. 1125*, as amended by *RA No. 9282.*

Here, respondent alleged and petitioner agreed in his Answer that the WDL as received by petitioner on June 8, 2022.[36] Thus, the filing of the original Petition for Review on July 8, 2022 is well within the 30-day reglementary period, giving the Court in Division the jurisdiction over the case.

Further, while We agree with petitioner that final and demandable assessments are generally outside the Court's jurisdiction, it bears emphasis that the issue herein primarily revolves around the propriety of the BIR's collection efforts, not the validity of the assessment itself. As pointed out by respondent in its Comment, the allegations in the original Petition for Review show that the basis of the judicial appeal to the CTA is the issuance of the WDL by petitioner, including the validity thereof, and not the FLDs nor the assessments which gave rise to the same.[37]

As held by the Supreme Court in the *QL Development case*, the validity of the assessment is a separate and distinct issue from the determination of the propriety of the CIR's collection, specifically the alleged prescription thereof, to wit:

> . . . (T)he fact that an assessment has become final for failure of the taxpayer to file a protest within the time allowed only means that the validity or correctness of the assessment may no longer be questioned on appeal. However, ***the validity of the assessment itself is a separate and distinct issue from the issue of whether the right of the CIR to collect the validly assessed tax has prescribed.*** This issue of prescription, being a matter provided for by the NIRC, is well within the jurisdiction of the CTA to decide.
> (Emphasis and italics supplied)

Hence, We deem it unnecessary to touch upon petitioner's contention on the alleged failure of respondent to file a valid protest, making the assessment final. The issue on the finality of the assessment is independent of and irrelevant to the main issue aptly discussed by the Court in Division in the Assailed Decision – the

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33 G.R. No. 255473, February 13, 2023.
34 G.R. No. 258947, March 29, 2022.
35 G.R. No. 202105, April 28, 2021.
36 Petition for Review, Division Docket, par. 20; admitted by respondent in his Answer, par. 2, Division Docket, p. 264; BIR Records, p. 277.
37 See Prayer, Petition for Review, Division Docket, p. 20.

prescription of the BIR's right to collect the tax liabilities pursuant to the same assessment.

The BIR's collection efforts commence by distraint, levy or court proceedings, thus, properly initiated in this case upon the issuance of the WDL, not the PCL.

The CIR, in the instant Petition, did not put into issue the 3-year and 5-year prescriptive periods, discussed in the Assailed Decision, within which the BIR must collect the tax liabilities assessed for ordinary and fraud assessments, respectively.

However, in an attempt to convince this Court that his right to collect deficiency taxes had not yet prescribed, the CIR avers that the collection efforts have already been employed through the issuance of the PCL dated March 30, 2009 which states:

> To avoid the accumulation of interest and surcharges, it is requested that you pay the aforesaid tax liability/ies within ten (10) days from receipt hereof at the Bureau of Internal Revenue or to accredited banks of RD 111, Koronadal City. However, if payment had already been made, please furnish us your copies of the receipts of payment together with this letter to the basis for cancelling/closing your liability/ies. Otherwise, we shall be constrained to enforce the collection thereof thru the administrative summary remedies provided by law, without further notice.

We are not convinced.

The Supreme Court, in the *QL Development case*,[38] has categorically ruled that collection efforts are commenced through the issuance of WDL, to wit:

> To reiterate, ***the CIR's collection efforts are initiated by distraint, levy, or court proceeding.*** *The distraint and levy proceedings are validly begun or commenced by the issuance of a warrant of distraint and levy and service thereof on the taxpayer.* And a judicial action for the collection of a tax is initiated: (a) by the filing of a complaint with the court of competent jurisdiction; or (b) where the assessment is appealed to the CTA, by filing an answer to the taxpayer's petition for review wherein payment of the tax is prayed for. However, in this case no warrant of distraint and/or levy was served on QLDI, and no judicial proceedings were initiated by the CIR within the prescriptive period to collect.
> (Emphasis and italics supplied)

The above is clear. A collection effort must be initiated by court proceedings or, more relevant to the case at bar, by distraint or levy. A distraint or levy are validly begun through the issuance of a WDL. The same position has been upheld by the Supreme Court in the cases of *Bank of the Philippine Islands vs. Commissioner of*

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[38] *Supra* note 20.

Internal Revenue[39] and *Clara Diluangco Palance, et al vs. Commissioner of Internal Revenue, et al.*[40]

Further, in the case of *Republic of the Philippines vs. Hizon,*[41] the Supreme Court enunciated that it is the timely service of a WDL which tolls the running of the BIR's period to collect, thus:

> Petitioner's reliance on the Court's ruling in Advertising Associates Inc. v. Court of Appeals is misplaced. What the Court stated in that case and, indeed, in the earlier case of Palanca v. Commissioner of Internal Revenue, is that ***the timely service of a warrant of distraint or levy suspends the running of the period to collect the tax deficiency*** in the sense that the disposition of the attached properties might well take time to accomplish, extending even after the lapse of the statutory period for collection.
> (Emphasis and italics supplied)

All these considered, the Court cannot accept respondent's contention that collection efforts began upon the issuance of the PCL on March 30, 2009. A review of the PCL, specifically the excerpt previously quoted would reveal that the said letter merely (1) demanded payment of the alleged deficiency taxes; and (b) informed respondent that in case of failure to pay, the BIR shall be constrained to enforce collection thereof thru the administrative summary remedies provided by law, without further notice.

Clearly, nothing in the PCL implies the initiation of collection efforts via distraint or levy. It is at most a reiteration of respondent's demand for payment, asking that respondent either pay the amount assessed.

By contrast, WDL No. RR 18-22-113[42] unequivocally states the initiation of collection effort through distraint and levy, to wit:

> WHEREAS, the said taxpayer failed and refused and still fails and refuses to pay the same notwithstanding the demands made by this Office.
>
> NOW, THEREFORE, pursuant to Section 205 and in accordance with:
> A. Section 201-211 of the National Internal Revenue Code, as amended, you are hereby commanded to distrain the goods, chattels or effects, and other personal property of whatever character of the delinquent taxpayer.
> B. Section 213-217 of the National Internal Revenue Code, as amended, you are hereby commanded to levy upon the real property and interest in/or rights to real property of the delinquent taxpayer.

[39] G.R. No. 139736, October 17, 2005.
[40] G.R. No. L-16661, January 31, 1962.
[41] G.R. No. 130430, December 13, 1999.
[42] Division Docket p. 183.

and sell and/or forfeit in favor of the Republic of the Philippines so much of such personal/real property as may be necessary to satisfy in full the sum or sums due as set forth above; and to cover such expenses as may be incurred in making this distraint/levy.

All told, the Court *En Banc* finds no reason to disturb the findings of the Court in Division. The denial of the Petition for Review is in order.

ACCORDINGLY, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Decision, dated April 18, 2024, and the Resolution, dated September 9, 2024, of the Court's First Division are hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

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

CERTIFICATION

Pursuant to *Article VIII, Section 13 of the Constitution*, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice