REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

IMAGINET INTERNATIONAL, INC.,
Petitioner,

CTA Case NO. 9777

Members:

CASTAÑEDA, JR., *Chairperson,*
MINDARO-GRULLA, and
BACORRO-VILLENA, *JJ.*

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

FEB 2 1 2020

9:11 a.m.

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DECISION

CASTAÑEDA, JR., *J.:*

This is a *Petition for Review*[1] filed by petitioner Imaginet International, Inc. pursuant to Section 4, Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) in relation to Rule 42 of the Rules of Court seeking the review of the Decision of respondent Commissioner of Internal Revenue (CIR) dated January 23, 2018 denying its administrative appeal against the Final Decision on Disputed Assessment (FDDA) dated December 23, 2014. The said FDDA found petitioner liable for deficiency income tax, value-added

[1] Docket, Vol. I, pp. 10-44.

tax (VAT), and expanded withholding tax (EWT) in the total amount of ₱50,870,729.48, inclusive of increments.

THE FACTS

Petitioner Imaginet International, Inc. is a corporation duly organized and existing under the laws of the Philippines.[2] It is engaged in the Information Technology business with principal office located at #101 Zodiac St., Palm Village, Makati City, Philippines.[3]

Respondent Commissioner of Internal Revenue is the head of the Bureau of Internal Revenue (BIR), vested under the appropriate laws with the authority to carry out the functions, duties and responsibilities of said office including, *inter alia*, the power to decide disputed assessments and to cancel and abate tax liabilities, pursuant to the pertinent provisions of the National Internal Revenue Code of 1997, as amended (1997 NIRC) and other tax laws, rules and regulations. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

On December 7, 2010, petitioner received, through Ms. Maricar Jabidando, a Letter of Authority (LOA) No. LOA-049-2010-00000471 dated November 26, 2010 covering all internal revenue taxes for taxable period 2009.[4] On October 21, 2011, a Memorandum of Agreement (MOA) was issued transferring the case to Revenue Officer Leonilo Lopez (RO Lopez) under the supervision of Group Supervisor Eduardo P. Carcellar (GS Carcellar). Petitioner was informed of such MOA through one of its employees, Ms. Cherry Tuasy.[5]

On August 14, 2012, petitioner received the Notice of Informal Conference from the BIR.[6]

On December 12, 2012, the Preliminary Assessment Notice (PAN) was issued.[7]

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[2] Paragraph 1, Joint Stipulation of Facts, Docket, Vol. VI, p. 3853.
[3] *Id.*
[4] Paragraph 3, Joint Stipulation of Facts, Docket, Vol. VI, p. 3854.
[5] *Id.*
[6] Paragraph 4, Joint Stipulation of Facts, Docket, Vol. VI, p. 3854.
[7] *Id.*

On December 19, 2012, petitioner executed a Waiver of Defense of Prescription under the Statute of Limitations of the NIRC (Waiver), where the defense of prescription for assessment and/or collection of all its internal revenue taxes for the year 2009 was waived by the petitioner until December 31, 2013.[8] Such Waiver was accepted by the BIR on December 21, 2012.[9]

On December 21, 2012, petitioner filed its Reply to the PAN.[10]

On May 29, 2013, the Formal Assessment Notice (FAN) with Assessment Nos. IT-ELA37066-09-13-0253, VT-ELA37066-09-13-0253, and WE-ELA37066-09-13-0253 was issued by the BIR for the supposed tax deficiency of ₱42,849,632.02 representing deficiency income tax, VAT and EWT for the taxable year 2009 computed as follows:

INCOME TAX				
Taxable Income (Loss) per return				P4,436,567.50
Add:	Adjustments/disallowances per investigation			
•	Disallowed Expenses based on Best Evidence Obtainable (Schedule 1)		P1,328,981.85	
•	Disallowed Expenses due to Non-Withholding (Schedule 2)		P55,088,419.45	P56,417,401.30
Taxable Income per Investigation				P60,853,968.80
Basic Income Tax Due				P18,256,190.64
Less:	Allowable Tax Credits/Payments			
•	Prior Year's Excess Credit		P159,215.90	
•	Tax Paid Per Return		493,782.51	
•	Creditable Withholding Tax		677,971.84	1,330,970.25
Basic Tax Due				P16,925,220.39
Add:	Interest (4.16.10-7.05.13)			P10,906,333.80
Total Amount Due				**P27,831,554.19**

[8] Paragraph 5, Joint Stipulation of Facts, Docket, Vol. VI, p. 3854.
[9] *Id.*
[10] *Id.*

VALUE ADDED TAX				
Taxable Sales per Return				P50,493,918.52
Add:	Receipts not subjected to VAT (Schedule 3)		P5,628,413.73	
	Unsupported Zero-rated and Exempt Sales (Schedule 4)		21,165,586.08	26,793,999.81
Taxable Sales per Investigation				P77,287,918.33
Output Tax				P9,274,550.20
Less:	Allowable Input Tax Credits			
	Input Tax Credit Claimed		P5,085,926.26	
Add:	Input Tax Carried Over from Previous Period		523,308.72	
Total Input Tax Available			P5,609,234.98	
Less:	Disallowed Input Tax	P5,085,926.26		
Excess Input Tax carried over to succeeding period		38,528.69	5,124,454.95	484,780.03
VAT payable				P8,789,770.17
Less:	VAT payments			996,037.68
Basic Tax Due				P7,793,732.49
Add:	Interest (1.26.10-7.05.13)			5,363,796.17
Total Amount Due				**P13,157,528.66**
EXPANDED WITHHOLDING TAX				
Basic Tax Due				P1,098,512.53
Add:	Interest (1.16.10-7.05.13)			762,036.64
Total Amount Due				**P1,860,549.17**

On June 3, 2013, petitioner, through Ms. Arlene Camara, received the FAN.[11]

On July 4, 2013, petitioner filed its protest to the FAN.[12] ൠ

[11] Paragraph 7, Joint Stipulation of Facts, Docket, Vol. VI, p. 3856.
[12] Exhibits "P-1" and "P-1-1", Docket, Vol. IV, pp. 1134-1135; Exhibits "R-4" and "R-4-a", BIR Records, pp. 1335-1336.

On December 23, 2014, the Final Decision on Disputed Assessment (FDDA) was issued by BIR Revenue Region No. 8-Makati City.[13]

On January 27, 2015, petitioner filed its request for reconsideration of the FDDA with the Office of the Commissioner.[14]

On January 23, 2018, respondent issued its assailed Decision.[15]

On March 2, 2018, the present Petition for Review was filed.

Within the extended period granted by the First Division of this Court,[16] respondent filed his Answer[17] via registered mail on May 18, 2018 wherein he interposed the following Special and Affirmative Defenses, to wit:

"**<u>SPECIAL AND AFFIRMATIVE DEFENSES</u>**

> 10) Respondent reiterates and re-pleads the preceding paragraphs of the Answer as part of the Special and Affirmative Defenses.
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> 11) Respondent prays for the dismissal of the instant Petition for Review on the ground of lack of jurisdiction because the Formal Assessment Notice (FAN) [dated] May 29, 2013 was already final, executory and demandable because petitioner's Request for Re-investigation of the FAN was untimely filed. Moreover, based on the BIR records, the petitioner requested for re-investigation, however, it failed to submit documents and evidences (sic) in support of its protest within 60 days from the date of filing of protest as required by Revenue Regulations No. 12-99. Thus, the petitioner can no longer appeal with the Honorable Court of Tax Appeals because petitioner failed to comply with Section 3.1.5 of Revenue Regulations No. 12-99, thus, this Honorable Court of Tax Appeals has no jurisdiction over this instant Petition for Review. ✓

[13] Exhibit "R-11", Docket, Vol. VII, pp. 4407-4408.
[14] Exhibit "R-12", Docket, Vol. VII, pp. 4413-4425.
[15] Exhibit "R-13", Docket, Vol. VII, pp. 4426-4434.
[16] Order dated May 4, 2018, Docket, Vol. III, pp. 1092-1093.
[17] Docket, Vol. III, pp. 1094-1102.

12) Applicable in this case is Section 3.1.5 of Revenue Regulations No. 12-99 which provides:

> 3.1.5 Disputed Assessment. – The taxpayer or his duly authorized representative may protest administratively against the aforesaid formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof. If there are several issues involved in the formal letter of demand and assessment notice but the taxpayer only disputes or protests against the validity of some of the issues raised, the taxpayer shall be required to pay the deficiency tax or taxes attributable to the undisputed issues, in which case, a collection letter shall be issued to the taxpayer calling for payment of the said deficiency tax, inclusive of the applicable surcharge and/or interest. No action shall be taken on the taxpayer's disputed issues until the taxpayer has paid the deficiency tax or taxes attributable to the said undisputed issues. The prescriptive period for assessment or collection of the tax or taxes attributable to the disputed issues shall be suspended.
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> The taxpayer shall state the facts, the applicable law, rules and regulations, or jurisprudence on which his protest is based, otherwise, his protest shall be considered void and without force and effect. If there are several issues involved in the disputed assessment and the taxpayer fails to state the facts, the applicable law, rules and regulations, or jurisprudence in support of his protest against some of the several issues on which the assessment is based, the same shall be considered undisputed issue or issues, in which case, the taxpayer shall be required to pay the corresponding deficiency tax or taxes attributable thereto.
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> **The taxpayer shall submit the required documents in support of his protest within sixty (60) days from date of filing of his letter of protest, otherwise, the assessment shall**

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> **become final, executory and demandable.** The phrase 'submit the required documents' includes submission or presentation of the pertinent documents for scrutiny and evaluation by the Revenue Officer conducting the audit. The said Revenue Officer shall state this fact in his report of investigation.
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> **If the taxpayer fails to file a valid protest against the formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable.** (Emphasis Supplied)

13) Jurisdiction is the power and authority of the court to hear, try and decide a case (Cuenca vs. PCGG, 535 SCRA 102, 114).

14) Courts are bound to take notice of limits of their authority and they may act accordingly by dismissing the action even though the issue on jurisdiction is not raised in the pleadings or not even suggested by counsel (Ace Publications vs. Commissioner of Customs, 11 SCRA 147, 153).

15) The law limits the jurisdiction of this Honorable Court to decisions of the Commissioner 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 NIRC or other laws administered by the BIR. Hence, this Honorable Court has no jurisdiction to entertain and determine the correctness of an assessment that had attained finality, as such assessment ceases to be a disputed assessment. Accordingly, the legality and validity of said assessment can no longer be the subject of a judicial inquiry in this Petition for Review.

16) The respondent adopts and maintains as Answer the entire computations of tax deficiencies and findings of the Final Assessment Notice (FAN) dated May 29, 2013, the FDDA dated September 23, 2014, and the Decision of

the Commissioner of Internal Revenue (CIR) against the petitioner. The respondent admits the due execution and authenticity of the aforementioned Final Assessment Notice (FAN) dated May 29, 2013, the FDDA dated December 23, 2014, and the Decision of the Commissioner of Internal Revenue (CIR) against the petitioner.

17) Assessment are presumed correct and official functions are regularly done. The burden of proving that the assessments are not correct rests on the petitioner.

18) All presumptions are in favor of the correctness of tax assessments. (Interprovincial Autobus vs. Collector of Internal Revenue, 98 Phil. 290)."

The case was set for a pre-trial conference on July 12, 2018.[18] Petitioner filed its Pre-Trial Brief[19] on July 6, 2018 while respondent filed his Pre-Trial Brief[20] on July 9, 2018.

On August 1, 2018, the parties filed their Joint Stipulation of Facts and Issues[21], which this Court approved in a Resolution[22] dated August 10, 2018. This Court issued the Pre-Trial Order on September 12, 2018.[23]

In a Resolution[24] dated September 18, 2018, the First Division of this Court held that pursuant to CTA Administrative Circular No. 02-2018 entitled "Reorganizing the Three (3) Divisions of the Court" dated September 18, 2018, the present case was transferred to this Court's Second Division.

During trial,[25] petitioner presented the following witnesses: (1) Ms. Arlene Camara – petitioner's Accounting Head; (2) Mr. Roque Ipanag, Jr. – petitioner's Messenger; (3) Mr. Mark Madali – employee

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[18] Notice of Pre-Trial Conference, Docket, Vol. III, pp. 1104-1105; Order dated July 12, 2018, Docket, Vol. V, pp. 2407-2410.
[19] Docket, Vol. IV, pp. 1106-1115.
[20] Docket, Vol. IV, pp. 2318-2325.
[21] Docket, Vol. VI, pp. 3853-3857.
[22] Docket, Vol. VI, pp. 3877-3878.
[23] Docket, Vol. VI, pp. 3879-3891.
[24] Docket, Vol. VI, p. 3901.
[25] Minutes of the Hearing dated December 3, 2018, Docket, Vol. VI, p. 4024; Minutes of the Hearing dated January 28, 2019, Docket, Vol. VI, pp. 4048-4049.

of UHY ML Aguirre & Co.; and (4) Ms. Maricel Ammogawen – the Court-commissioned Independent Certified Public Accountant (ICPA).

On February 18, 2019, petitioner filed its Formal Offer of Evidence and Compliance.[26]

On March 25, 2019,[27] this Court resolved petitioner's Formal Offer of Evidence.

In support of his defense, respondent presented Revenue Officers Leonilo G. Lopez and Emilio O. Romero as witnesses.[28]

Respondent filed his Formal Offer of Evidence via registered mail on March 29, 2019[29] which this Court resolved in a Resolution dated May 16, 2019.[30]

On June 21, 2019, petitioner filed its Memorandum.[31] Respondent, on the other hand, filed his Memorandum[32] via registered mail on September 16, 2019.

In a Resolution dated September 27, 2019,[33] the present case was submitted for decision.

THE ISSUES

The issues submitted for consideration by this Court are as follows:[34]

a. Whether or not this Honorable Court has jurisdiction over the case; and

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[26] Docket, Vol. VI, pp. 4061-4080.
[27] Docket, Vol. VII, pp. 4345-4350.
[28] Minutes of the Hearing dated March 27, 2019, Docket, Vol. VII, p. 4350.
[29] Docket, Vol. VII, pp. 4371-4381.
[30] Docket, Vol. VII, pp. 4462-4464.
[31] Docket, Vol. VII, pp. 4480-4514.
[32] Docket, Vol. VII, pp. 4524-4535.
[33] Docket, Vol. VII, p. 4537.
[34] Pre-Trial Order, Docket, Vol. VI, p. 3882.

b. Whether or not petitioner is liable for Php42,849,632.02 representing deficiency income tax, deficiency value added tax and expanded withholding tax under Assessment Nos. IT-ELA370666-09-13-0253, VT-ELA370666-09-13-0253, and WE-ELA370666-09-13-0253 issued with the FAN dated May 29, 2013 and the Details of Discrepancies dated May 29, 2013 for the taxable period of 2009.

THE COURT'S RULING

The Court of Tax Appeals lacks jurisdiction to entertain the present case.

Jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy.[35] It is conferred only by law and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter of an action.[36] Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties.[37] If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits.[38]

The Court of Tax Appeals (CTA) is a court of special and limited jurisdiction. As such, the CTA can only take cognizance of matters which are clearly within its jurisdiction. Section 7(a)(1) of Republic Act (RA) No. 1125, as amended, provides:

> "Sec. 7. *Jurisdiction.* — The CTA shall exercise:
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> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided: *ye*

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[35] *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015, 749 SCRA 570.

[36] *Commissioner of Internal Revenue v. Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.),* G.R. No. 169778, March 12, 2014, 718 SCRA 533 citing *Commissioner of Internal Revenue v. Villa,* 130 Phil. 3, 4 (1968).

[37] *Id.,* citing *Laresma v. Abellana,* G.R. No. 140973, November 11, 2004, 442 SCRA 156, 169.

[38] *Id.*

> (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;"

In the exercise of its appellate jurisdiction over tax assessment cases, the CTA is guided by Section 228 of the 1997 NIRC which prescribes the rules to be observed for the issuance of a deficiency tax assessment and of protesting the same. The said provision, in part, reads as follows:

> "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: *Provided, however,* That a preassessment notice shall not be required in the following cases:
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> xxx xxx xxx
>
> The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
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> **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.

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)*

Corollarily, Section 3 of RR No. 12-99, as amended,[39] implements Section 228 of the 1997 NIRC as it lays down a more detailed procedure relative to the issuance and protest of deficiency tax assessments.

Sections 3.1.3 and 3.1.4 of RR No. 12-99, as amended, in part, provides as follows:

3.1.3 *Formal Letter of Demand and Final Assessment Notice (FLD/FAN).* — The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued by the Commissioner or his duly authorized representative. The FLD/FAN calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based; otherwise, the assessment shall be void (see illustration in ANNEX "B" hereof).

3.1.4 *Disputed Assessment.* — **The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN within thirty (30) days from date of receipt thereof.**

xxx xxx xxx

[39] As amended by Revenue Regulations (RR) No. 18-2013.

> **If the taxpayer fails to file a valid protest against the FLD/FAN within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable. No request for reconsideration or reinvestigation shall be granted on tax assessments that have already become final, executory and demandable.** *(Emphasis supplied)*

Pursuant to the above provision, the rule is that an administrative protest against FAN, whether it be a request for reconsideration or a request for re-investigation, shall be filed within thirty (30) days from the date of receipt of the FAN. Otherwise, the tax assessment becomes final, executory and demandable. As such, it can no longer be contested.[40]

After careful evaluation of the allegations vis-à-vis the evidence presented by the parties, this Court finds that petitioner's protest to the FAN was filed out of time. Counting thirty (30) days from June 3, 2013 would reveal that petitioner's protest letter should have been filed not later than July 3, 2013. However, the records clearly show that petitioner's protest to the FAN was filed only on July 4, 2013.[41] By reason of petitioner's failure to timely file a valid protest, the FAN already became final, executory and demandable. Accordingly, the said assessment did not become a "disputed assessment" subject to this Court's review under the law.

In the Petition for Review, petitioner alleged the following:

> "6. On July 3, 2013, Ms. Camara instructed the company messenger to file the Request for Re-Investigation and its supporting documents, hereto attached as **ANNEX 'D'**, with RO Lopez at Revenue District Office No. 49 of the BIR. Unfortunately, RO Lopez was absent that day and no one in the Revenue District Office No. 49 of the BIR would receive the Request for Re-Investigation and its supporting documents. Ms. Camara informed RO Lopez of the Petitioner's intention to file the Request for Re-Investigation and its supporting documents. RO Lopez instructed Ms. Camara to place the Request for Re-

[40] *Oceanic Wireless Network, Inc. v. Commissioner of Internal Revenue*, G.R. No. 148380, December 9, 2005, 447 SCRA 215.
[41] Exhibit "P-1", Docket, Vol. IV, pp. 1134-1135; Exhibits "R-4" and "R-4-a", BIR Records, pp. 1335-1336.

> Investigation and its supporting documents on his table at Revenue District Office No. 49 of the BIR, so that he can stamp it, as received on July 3, 2013, when he finally goes to work the next day (July 4, 2013). Ms. Camara, relying on the assurances of RO Lopez, relayed RO Lopez' instructions to the company messenger who thus placed the Request for Re-Investigation and its supporting documents on RO Lopez' table on the same day, July 3, 2013."[42]

To buttress the foregoing allegations, petitioner presented Mr. Roque Ipanag, Jr., the company messenger, who testified to that effect in his Judicial Affidavit.[43]

Respondent, however, specifically denied the same in his Answer.[44] Moreover, respondent's witnesses, which includes RO Lopez, testified in their respective Judicial Affidavits that petitioner filed its Letter Protest to the FAN on July 4, 2013.[45]

In the aforequoted allegations, petitioner essentially implies that RO Lopez performed his duty irregularly or anomalously by giving Ms. Camara an assurance that the protest allegedly filed on July 3, 2013 will be stamped received with the said date when RO Lopez goes back to work on the next day, July 4, 2013. But as it turned out, the said protest was stamped received on July 4, 2013.

This Court finds petitioner's allegations incredible.

As a general rule, official acts of authorized official enjoy the presumption of regularity, and the presumption may be overthrown only by evidence to the contrary.[46] When an act is official, a presumption of regularity exists because of the assumption that the law tells the official what his duties are and that he discharged these duties accordingly.[47] As aptly held by the Supreme Court in *Bustillo v. People*,[48] to wit: gr

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[42] Docket, Vol. I, pp. 14-15.
[43] Exhibit "P-46"; Docket, Vol. IV, pp. 1116-1120.
[44] Docket, Vol. III, pp. 1095-1096.
[45] Exhibit "R-14", Docket, Vol. IV, pp. 2308-2317; Exhibit "R-15", Docket, Vol. V, pp. 2346-2353.
[46] *Reyes, Jr. v. Belisario*, G.R. No. 154652, August 14, 2009, 596 SCRA 51-52.
[47] *Id.*
[48] G.R. No. 160718, May 12, 2010, 634 Phil. 547-556, 620 SCRA 492.

> "x x x **The presumption of regularity of official acts may be rebutted by affirmative evidence of irregularity or failure to perform a duty. The presumption, however, prevails until it is overcome by no less than clear and convincing evidence to the contrary. Thus, unless the presumption in rebutted, it becomes conclusive.** Every reasonable intendment will be made in support of the presumption and in case of doubt as to an officer's act being lawful or unlawful, construction should be in favor of its lawfulness." *(Emphasis and underscoring supplied; citation omitted)*

In this Court's view, the testimony of petitioner's witness is not sufficient to overcome the presumption of regularity of official duty considering that the said testimonial evidence was effectively cancelled out by the testimonies of respondent's witnesses. At any rate, the testimony of petitioner's witness does not constitute clear and convincing evidence necessary to rebut the presumption of regularity in the present case, as required by law and jurisprudence.[49] Thus, in addition to the presumption of regularity of official duty, what remains for this Court to consider is the letter-protest itself which clearly shows that it was actually stamped received by the BIR on July 4, 2013.[50]

It may not be amiss to point out that petitioner could have resorted to other legal means to ensure that its protest will be filed on time. It is true that RR No. 12-99, as amended, is silent regarding the mode of filing an administrative protest against a FAN. However, in cases where the applicable rules and regulations in quasi-judicial proceedings are silent or deficient, the provisions of the Rules of Court may be suppletorily applied.[51]

Under Section 3, Rule 13 of the Rules of Court, pleadings, motions, and other papers may be filed either personally or by registered mail. The said provision reads:

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[49] *Yap v. Lagtapon*, G.R. No. 196347, January 23, 2017, 815 SCRA 108-113; *People v. Cabiles*, G.R. No. 220758, June 7, 2017, 827 SCRA 98; *Guanzon v. Arradaza*, G.R. No. 155392, December 6, 2006, 510 SCRA 318; *Gatmaitan v. Gonzales*, G.R. No. 149226, June 26, 2006, 492 SCRA 604; *Fernando v. Sto. Tomas*, G.R. No. 112309, July 28, 1994, 234 SCRA 552.
[50] Exhibit "P-1", Docket, Vol. IV, pp. 1134-1135; Exhibits "R-4" and "R-4-a", BIR Records, pp. 1335-1336.
[51] Rule 1, Section 4, Rules of Court; *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008, 546 SCRA 162; *M.E. Holding Corporation v. The Honorable Court of Appeals, et. al.*, G.R. No. 160193, March 3, 2008, 547 SCRA 396.

> Sec. 3. *Manner of filing.* — The filing of pleadings, appearances, motions, notices, orders, judgments and all other papers shall be made by presenting the original copies thereof, plainly indicated as such, personally to the clerk of court, or by sending them by registered mail. In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second case, the date of the mailing of motions, pleadings, or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case.

Based on the above rule, if filing is done personally, the date of filing is the date when the court receives the pleading. **On the other hand, if filing is done by registered mail, the date of filing is the date of mailing.**

Given the importance of the timely filing of its protest, petitioner could have resorted to filing by registered mail as soon as it found out that personal filing is unavailing. Failing in this regard, petitioner has no one else to blame but itself.

Having found that it has no jurisdiction to take cognizance of the present Petition for Review, this Court finds it unnecessary to discuss the other issues raised.

WHEREFORE, the present Petition for Review is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

I attest 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's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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.

ROMAN G. DEL ROSARIO
Presiding Justice