REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

CITIPARKING MANAGEMENT CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9451

Members:
BAUTISTA, Chairperson
FABON-VICTORINO, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

SEP 16 2016
3:12 p.m.

X---X

RESOLUTION

On August 26, 2016, petitioner Citiparking Management Corporation filed its Petition for Review praying that the Court cancel the Formal Letter of Demand No. OA-043A-B008-07 issued against petitioner for its 2007 tax deficiency amounting to ₱3,115,172.13 for the reason that its collection has been barred by prescription; and that the Court order the permanent withdrawal and cancellation of the Warrant of Distraint and/or Levy dated July 26, 2016 issued against petitioner.

The Court of Tax Appeals is a court of special or limited jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction.[1] The jurisdiction of the CTA is conferred by Republic Act (RA) No. 1125, as amended by RA No. 9282. The provision pertinent to the instant case is quoted for ready reference:

"SEC. 7. *Jurisdiction.* – The CTA shall exercise:

---

[1] Allied Banking Corporation vs. Commissioner of Internal Revenue, G.R. No. 175097, February 5, 2010; Cathay Pacific Airways, Ltd. vs. Commissioner of Internal Revenue, CTA EB No. 717 (CTA Case No. 7876), April 17, 2012; Rizal Commercial Banking Corporation vs. Commissioner of Internal Revenue, G.R. No. 168498, Resolution dated April 24, 2007.

(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; x x x" *(Emphasis supplied)*

Moreover, Section 228 of the NIRC of 1997, as amended, provides that when a protest is denied in whole or in part, the taxpayer adversely affected by the decision may appeal to the CTA within thirty (30) days from receipt of said decision. Section 228 of the NIRC of 1997, as amended, provides:

"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:

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.

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."

Likewise, Section 3 of Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides the prescriptive period for filing a Petition for Review before the CTA, to wit:

> "SEC. 3. *Who may appeal; period to file petition.* – 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, xxx may appeal to the Court by petition for review filed 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 on the disputed assessments. xxx"

A review of allegations in the Petition and its accompanying Annexes show that respondent issued the Preliminary Assessment Notice on November 23, 2010. Subsequently, a Formal Letter of Demand was issued against petitioner on December 15, 2010.

In accordance with Sec. 228 of the NIRC, *"[s]uch assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment"*. Thus, petitioner filed its Protest with the Regional Director on March 11, 2011, requesting for reinvestigation. On April 8, 2011, respondent granted the request for reinvestigation.

Petitioner then had sixty (60) days from March 11, 2011 or until May 10, 2011 within which to submit all relevant supporting documents. It is alleged, however, that petitioner still submitted several supporting documents past the deadline, on June 17, 2011 and September 30, 2011, respectively.

Counting from the deadline to submit all relevant documents -- May 10, 2011, the 180-day period for respondent's inaction on the protest ended on November 2, 2011. It is after this date that petitioner had the option to either wait for the decision of the respondent on the protest or appeal to the CTA, despite respondent's inaction.

On November 2, 2011, respondent issued a **denial** of the protest, indicating that it was his "Final Decision" and reiterating the option of petitioner to appeal the same to the CTA within thirty (30) days from receipt thereof, otherwise its deficiency tax liabilities shall become final, executory and demandable. As petitioner alleges it received the denial of the protest on November 11, 2011, it had **until <u>December 11, 2011</u> within which to appeal to this Court**. This, it **failed to do**, hence, the assessment has become **<u>final, executory and demandable</u>**.

As regards the prescriptive period within which respondent may collect the tax, Section 222(c) of the NIRC provides:

> "**SEC. 222.** *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* -
>
> x x x x x x x x x
>
> (c) Any internal revenue tax which has been assessed within the period of limitation as prescribed in paragraph (a) hereof may be collected by distraint or levy or by a proceeding in court within five (5) years following the assessment of the tax."

Counting five (5) years from December 12, 2011, the date the assessment became final, executory and demandable, respondent has until **December 10, 2016** within which to collect the tax. The issuance by respondent of a Final Notice Before Seizure and the Warrant of Distraint and/or Levy against petitioner is timely and the Court has no jurisdiction to entertain the Petition.

WHEREFORE, the Petition for Review filed by Citiparking Management Corporation is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice