REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CAP JOHN HAY TRADE AND CULTURAL CENTER, INC., *Petitioner,*	**CTA EB NO. 2923** (CTA Case No. 10014)
	Present:
- *versus* -	**RINGPIS-LIBAN,** *Acting P.J.,* **MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
HONORABLE COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: DEC 04 2025 10:25 am

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DECISION

ANGELES, J.:

Before this Court of Tax Appeals (CTA) *En Banc* (Court *En Banc*) is a *Petition for Review*[1] filed pursuant to Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals, as amended,[2] (RRCTA) on June 13, 2024. Petitioner seeks the reversal and setting aside of the ***Decision*** dated February 05, 2024[3] (assailed Decision) and the

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[1] *En Banc* (EB) Docket, pp. 6-22.

[2] Revised Rules of the Court of Tax Appeals (RRCTA), Section 4(b) provides:

SECTION 4. *Where to appeal; mode of appeal.* —

x x x

(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on appeal. *(n)*

[3] EB Docket, pp. 27-39. The Decision was penned by Associate Justice Ma. Belen M. Ringpis-Liban, and concurred in by Associate Justice Maria Rowena A. Modesto-San Pedro and Associate Justice Corazon G. Ferrer-Flores.

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Resolution dated May 02, 2024[4] (assailed Resolution), both promulgated by the Special Third Division of this Court (Court in Division) in CTA Case No. 10014, the dispositive portions of which respectively read:

Decision dated February 05, 2024:

"**WHEREFORE**, premised considered, the present Amended *Petition for Review* is **DISMISSED** for lack of jurisdiction.

SO ORDERED."

Resolution dated May 02, 2024:

"**WHEREFORE**, premises *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED."

THE PARTIES

Petitioner Cap John Hay Trade and Cultural, Inc. is a stock corporation duly created and existing under the laws of the Republic of the Philippines, with principal office at Cap John Hay, Camp John Hay Special Economic Zone, Baguio City.[5]

Respondent is the present Commissioner of Internal Revenue (CIR), with principal office at the Bureau of Internal Revenue (BIR) National Office Building, Diliman, Quezon City, where he may be served with summons and other court processes, is being impleaded in his official capacity.[6]

FACTS OF THE CASE

The relevant antecedent facts, as narrated in the assailed Decision, are as follows:

On October 18, 2022, the *Letter of Authority* (LOA) No. LOA-211-2012-00000185 was issued, authorizing certain Revenue Officers of the BIR's National Investigation Division, to examine petitioner's

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[4] *Id.* at 24-25. The Resolution was penned by Associate Justice Ma. Belen M. Ringpis-Liban, and concurred in by Associate Justice Maria Rowena A. Modesto-San Pedro. Associate Justice Corazon G. Ferrer-Flores was on leave.
[5] *Id.* at 66-67.
[6] *Id.* at 67.

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books of accounts and other accounting records for all internal revenue taxes for the period from January 01, 2006 to December 31, 2011, pursuant to the Run After Tax Evaders (RATE) Program.

On September 02, 2015, petitioner received a copy of the *Preliminary Assessment Notice* dated March 10, 2015, informing petitioner of the finding, after investigation pursuant to the above-stated LOA, that it is liable for deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), and documentary stamp tax (DST), for the period from January 01, 2006 to December 31, 2011, in the total amount of ₱22,993,951.90.

On May 19, 2016, petitioner received the *Formal Letter of Demand* (FLD) dated March 03, 2016, with *Details of Discrepancies* and *Assessment Notices*, assessing petitioner of deficiency income tax, VAT, EWT, and DST, plus interests and surcharges, for the period from January 01, 2006 to December 31, 2011, in the aggregate amount of ₱24,931,675.86.

On April 18, 2018, petitioner received copies of the *Final Notice Before Seizure* (FNBS) dated February 28, 2018, together with an undated *Preliminary Collection Letter* (PCL). Thereafter, petitioner *allegedly* submitted an answer to the said FNBS and PCL on April 27, 2018.

On September 27, 2018, petitioner filed an *Administrative Protest Letter* dated September 24, 2018, composed of thirty-four (34) pages, before the office of respondent.

On November 15, 2018, petitioner was served with individual fax copies of three (3) Warrants of Garnishment (WOGs) duly signed by Alfredo V. Misajon, Assistant Commissioner, Collection Service on September 20, 2018. These were addressed to CJH Development Corporation – No. ARMD-WG-2018-001-40; CJH Hotel Corporation – No. ARMD-WG-2018-001-41; and CJH Suites Corporation – No. ARMD-WG-2018-001-42.

On December 18, 2018, petitioner filed a *Petition for Review*, praying that the same be kindly noted and considered for the reasons therein stated, and for the reasons of due process and substantial justice, by lifting the *Garnishments* and Warrant of Distraint and/or Levy (WDL) for lack of legal basis and factual basis.

In the Resolution dated March 26, 2019, the Court ordered respondent to comment on petitioner's prayer for *Preliminary*

Injunction and/or Temporary Restraining Order and set the same for hearing on May 02, 2019. Respondent then filed his *Comment with Manifestation* posted on April 10, 2019. At the hearing held on May 02, 2019, however, the Court granted petitioner's motion to file an *Amended Petition for Review*, and thereby cancelled and reset the hearing on petitioner's prayer for *Preliminary Injunction and/or Temporary Restraining Order* to June 13, 2019.

On May 20, 2019, petitioner filed its *Amended Petition for Review (w/ Amended Judicial Affidavit).*

At the hearing held on June 13, 2019, the Court treated petitioner's prayer for *Preliminary Injunction and/or Temporary Restraining Order* as a *Motion for Suspension of Collection of Taxes*, wherein petitioner presented its testimonial and documentary evidence.

Thereafter, and within the extended period granted by the Court, respondent filed his *Answer to the Amended Petition for Review with Opposition to Motion to Lift the Warrants of Garnishment and Warrant of Distraint and/or Levy and Suspension of Collection of Tax by the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction* on June 19, 2019, raising certain special and affirmative defenses, to wit: (1) this Court has no jurisdiction over the instant case; (2) the assessment had already become final and executory; (3) assuming the Court has jurisdiction over the case, the WOGs should not be treated as a decision appealable to this Court; (4) assuming that the Court has jurisdiction over the case, issues should be limited only to the propriety of the collection process; (5) upon the same assumption, the LOA was validly issued pursuant to the RATE Program of the BIR; (6) further on the same assumption, respondent's right to assess has not yet prescribed; and (7) still on the same assumption, the assessment issued against petitioner was made in accordance with law and regulations, and is valid and lawful.

With respect to his *Opposition to Motion to Lift the Warrants of Garnishment and Warrant of Distraint and/or Levy and Suspension of Collection of Tax by the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction*, respondent mainly argued that: (1) the Court has no jurisdiction over the instant petition, hence, cannot grant ancillary remedies in relation thereto; (2) injunction to restrain the collection of national internal revenue tax is explicitly prohibited by law; and (3) petitioner miserably failed to establish the essential requisites for the issuance of *Writ of Preliminary Injunction and/or Temporary Restraining Order*.

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On June 27, 2019, petitioner filed its *Formal Offer of Evidence* (with respect to its *Motion for Suspension of Collection of Taxes*). Respondent then filed his *Comment (Re: Formal Offer of Evidence dated June 27, 2019)* on July 11, 2019. In the Resolution dated September 02, 2019, the Court denied admission of petitioner's exhibits. Correspondingly, in the Resolution dated September 11, 2019, the Court denied petitioner's *Motion for Suspension of Collection of Taxes* for lack of merit.

On October 09, 2019, petitioner posted its *Motion for Reconsideration* of the Resolution dated September 11, 2019, unto which respondent filed his *Opposition* on November 25, 2019. However, in the Resolution dated December 04, 2019, the Court denied the said *Motion for Reconsideration.*

Thereafter, the Pre-Trial Conference was held on July 28, 2021.[7]

The parties filed their *Joint Stipulation of Facts and Issues* on December 09, 2021. The Pre-Trial Order dated December 15, 2021 was then issued, thereby deeming the termination of the Pre-Trial.

Trial then ensued, with both parties presenting and offering their respective documentary and testimonial evidence.

Subsequently, on January 20, 2023, respondent manifested that he is adopting the arguments he raised in his *Answer* dated June 19, 2019 as his *Memorandum.* For petitioner, it posted its *Memorandum* on February 02, 2023.

Thereafter, the case was submitted for decision on February 16, 2023.[8]

On February 04, 2024, the Court in Division rendered the assailed Decision,[9] and on May 02, 2024, issued the assailed Resolution.[10]

On May 29, 2024, petitioner moved for an extension of time to file a Petition for Review and to pay filing and docket fees.[11] Acting thereon, the Court *En Banc*, through its Minute Resolution dated May

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[7] Division Docket – Vol. II, pp. 654-657.
[8] *Id.* at 996.
[9] *Supra* note 3.
[10] *Supra* note 4.
[11] EB Docket, pp. 1-4.

30, 2024,[12] granted the *Motion*, giving petitioner a non-extendible period of fifteen (15) days from May 29, 2024, or until June 13, 2024, within which to file the petition.

Accordingly, on June 13, 2024, petitioner timely filed the present *Petition for Review*.[13]

The Court, in a Minute Resolution dated July 16, 2024,[14] directed petitioner to submit, within five (5) days from notice, the following: *(1)* certified true copy (CTC) of the assailed Resolution dated May 02, 2024; *(2)* CTC of the Secretary's Certificate certifying the authority of Joselito M. Santos to file the *Petition for Review*; *(3)* a compliant Verification; and *(4)* an Affidavit of Service stating that a copy of the Petition for Review was duly served on respondent.

Petitioner filed its *Compliance*[15] on July 26, 2024, which the Court noted in a Minute Resolution dated August 16, 2024.[16] In the same Minute Resolution, the Court directed the respondent to file its comment on the *Petition for Review* within ten (10) days from receipt of notice.

Subsequently, in a Minute Resolution dated September 19, 2024,[17] the Court *En Banc*: *(1)* noted respondent's *Comment and Opposition (Re: Petition for Review dated 13 June 2024)*,[18] filed on August 29, 2024; and *(2)* considered the case submitted for decision.

ARGUMENTS OF THE PARTIES

Petitioner's arguments

Petitioner merely reiterated its previous arguments in its *Amended Petition for Review, Memorandum,* and *Motion for Reconsideration.*

In its *Amended Petition for Review* and *Memorandum* before the Court in Division, petitioner substantially rehashed the same arguments, to wit: *(1)* the six (6)-year assessments are void *ab initio*, and may be enjoined by the CTA; *(2)* void assessments amount to deprivation of property without due process; *(3)* the period to assess

[12] *Id.* at 5.
[13] *Id.* at 6-22.
[14] *Id.* at 101.
[15] *Id.* at 102-110.
[16] *Id.* at 113.
[17] *Id.* at 121.
[18] *Id.* at 114-119.

and collect internal revenue taxes has prescribed; *(4)* the Letter of Authority covering more than one (1) taxable year renders the assessments void; *(5)* petitioner was improperly subjected to the RATE program; *(6)* collection of taxes without legal basis constitutes unjust enrichment.

Petitioner, in its *Motion for Reconsideration,* further urged the relaxation of technical rules of procedure allegedly on the ground of compelling reasons.

In addition, petitioner cited and appended portions of the CTA case of *Justice Maria Lourdes P.A. Sereno v. Commissioner of Internal Revenue*[19] (*Sereno*) in its *Petition for Review* filed before the Court *En Banc.*

Respondent's counter-arguments

Respondent, for its part, counters that the Court in Division lacked jurisdiction over the petition, the assessment having become final, executory, and demandable due to petitioner's failure to timely file a valid protest.

Respondent further asserts that *Sereno*, being a Decision of the CTA Special Second Division, does not constitute binding precedent under Article 8 of the Civil Code. In any event, the attached portions of *Sereno* merely discussed the prescription of assessment, and did not involve the question of whether the Court in Division erred in dismissing the case for lack of jurisdiction.

Finally, respondent emphasized that when a court lacks jurisdiction over the subject matter, its sole authority is to dismiss the case.

RULING OF THE COURT *EN BANC*

Succinctly stated, the sole issue for resolution before the Court *En Banc* is whether the Court in Division erred in affirming the assailed Decision dismissing the case for lack of jurisdiction.

The *Petition for Review*, however, is devoid of merit.

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[19] CTA Case No. 10792, May 14, 2024 [Per J. Cui-David, Special Second Division].

The Court En Banc has jurisdiction over the instant Petition

Before delving into the merits, the Court *En Banc* shall first determine whether it is properly vested with jurisdiction over the present *Petition*.

Section 2(a)(1), Rule 4 of the RRCTA, provides in part:

> "SEC. 2. *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
>
> (a) Decisions or resolutions on motion for reconsideration or new trial of the **Court in Division** in the exercise of its exclusive appellate jurisdiction over:
>
> (1) Cases arising from administrative agencies — **Bureau of Internal Revenue**, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; x x x" (Emphasis supplied)

The instant *Petition* seeks the review of the assailed Decision and Resolution of the Court in Division in CTA Case No. 10014, which denied petitioner's *Amended Petition for Review* for lack of jurisdiction, and subsequently, its *Motion for Reconsideration* for lack of merit. Accordingly, appellate jurisdiction over the subject matter properly lies with the Court *En Banc*.

Moreover, the *Petition* was filed in accordance with Section 3(b), Rule 8 of the RRCTA, which states:

> "Sec. 3. *Who may appeal; period to file petition.* — x x x
>
> (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review **within fifteen days** from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. *(Rules of Court, Rule 42, sec. 1a)*" (Emphasis supplied)

The records reveal that petitioner received a copy of the assailed Resolution on May 14, 2024.[20] On May 29, 2024, petitioner timely filed a *Motion for Extension of Time to File Petition for Review and Pay Filing & Docket Fees*,[21] which this Court granted through its Resolution dated May 30, 2024,[22] thereby granting petitioner until June 13, 2024, within which to file the Petition.

The instant *Petition for Review*,[23] having been filed on June 13, 2024, was thus lodged within the reglementary period. Consequently, jurisdiction is properly vested in the Court *En Banc*.

Having thus settled the matter of jurisdiction, the Court now proceeds to resolve whether the Court in Division erred in dismissing the case for lack of jurisdiction.

Statutory basis for the Court in Division's acquisition of jurisdiction

Well-settled is the rule that jurisdiction over the subject matter is fundamental for a court to act on given controversy. It is conferred by law, not by consent of the parties. To inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the validity of its entire proceedings.[24]

The Supreme Court, in *AT&T Communications Services Phils., Inc. v. Commissioner of Internal Revenue,*[25] aptly elucidated:

> At this juncture, it bears emphasis that jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy, and 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 or nature of an action. 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. 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. (Citations omitted)

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[20] Division Docket – Vol. II, unpaginated.
[21] EB Docket, pp. 1-4.
[22] *Id.* at 5.
[23] *Id.* at 6-22.
[24] *Commissioner of Internal Revenue v. Villa*, G.R. No. L-23988, January 07, 1968 [Per J. Bengzon, J.P., *En Banc*].
[25] G.R. No. 185969, November 19, 2014 [Per J. Perez, First Division].

Jurisdiction over the present controversy is conferred by Section 7(a) of Republic Act (R.A.) No. 1125, as amended by R.A. No. 9282, which pertinently reads:

> "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**;" (Emphasis and underscoring supplied)

This jurisdictional mandate is mirrored in Section 3(a)(1), Rule 4 of the RRCTA.[26]

From the foregoing statutory and procedural provisions, it is clear that the petitioner may elevate its case before the Court in Division only under two (2) instances: ***first***, from decisions of the CIR in cases involving *disputed assessments*; and ***second***, from *other matters* arising under the National Internal Revenue Code (NIRC) or other laws administered by the BIR.

Correlatively, Section 11 of the same statute prescribes the period within which a taxpayer may seek judicial recourse from an adverse decision or inaction of the CIR, as follows:

> "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 within thirty (30) days after the receipt of such decision or ruling** or after the expiration of the

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[26] RRCTA, Rule 4, Section 3(a)(1) provides:

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

(a) Exclusive original over or appellation jurisdiction to review by appeal the following:

(1) Decision of the Commissioner of Internal Revenue in cases involving disputed assessments, refund 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; x x x

period fixed by law for action as referred to in Section 7(a)(2) herein." (Emphasis and underscoring supplied)

In the same vein, this statutory directive finds reiteration in Section 3(a), Rule 8 of the RRCTA.[27]

Thus, for the Court in Division to validly acquire jurisdiction over the present case, it is imperative that the action not only involve a subject matter expressly conferred by law, but also that the petitioner be seasonably filed within the reglementary period prescribed therefor. Jurisdiction over the subject matter and timely invocation thereof are both indispensable.

Here, however, petitioner failed to timely institute its *Petition for Review* under either of the aforementioned instances in which the CTA may properly assume jurisdiction, thereby rendering the instant case beyond the Court in Division's power to review.

***First Instance:* Decisions of the CIR in cases involving disputed assessments**

Under the *first* instance by which the Court in Division may validly acquire jurisdiction, it is jurisprudentially settled that there must first exist a **disputed assessment**. As elucidated by the Supreme Court in *St. Stephen's Association v. Collector of Internal Revenue*,[28] an assessment attains such character only when the taxpayer seasonably contests its validity and formally seeks its reconsideration or cancellation. Upon the filing of such protest, it becomes the clear duty of the CIR to resolve the same, and only upon receipt of the CIR's decision thereon may the taxpayer elevate the matter to the CTA for review, *viz.*:

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[27] RRCTA, Rule 8, Section 3(a) provides:

SEC. 3. *Who may appeal; period to file petition.* —

(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 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. 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 the two-year period prescribed by law from payment or collection of the taxes. *(n)*

[28] G.R. No. L-11238, August 21, 1958 [Per J. J.B.L. Reyes, *En Banc*].

> "Where a taxpayer questions an assessment and asks the Collector to reconsider or cancel the same because he (the taxpayer) believes he is not liable therefor, the assessment becomes a 'disputed assessment' that the Collector must decide, and the taxpayer can appeal to the Court of Tax Appeals only upon receipt of the decision of the Collector on the disputed assessment, in accordance with paragraph (1) of section 7, Republic Act No. 1125, conferring appellate jurisdiction upon the Court of Tax Appeals to review '*decisions* of the Collector of Internal Revenue in cases involving *disputed assessment* . . .'" (Emphasis supplied)

Moreover, Section 228 of the NIRC of 1997 governs the period for protesting an assessment. It mandates that failure to file a protest within thirty (30) days from receipt thereof renders the assessment final, executory, and demandable, thereby foreclosing any further administrative or judicial remedy. It pertinently provides:

> "SECTION 228. *Protesting of Assessment.* — x x x
>
> **Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation <u>within thirty (30) days</u> 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; **<u>otherwise, the assessment shall become final</u>**.
>
> 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 and underscoring supplied)

To implement the foregoing statutory mandate, Revenue Regulations (RR) No. 12-99,[29] as amended by RR No. 18-13,[30] prescribes that a taxpayer may dispute an assessment by filing an administrative protest—either a request for *(1)* reconsideration or *(2)* reinvestigation—within thirty (30) days from receipt of the FLD/Final Assessment Notice (FAN). Failure to do so renders the assessment final, executory, and demandable. The protest must explicitly state *(1)* its nature, *(2)* the date of the assessment notice, and *(3)* the factual and legal bases relied upon; otherwise, it is void and without effect. In case of reinvestigation, the taxpayer must further submit all relevant

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[29] Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty, Revenue Regulations No. 12-99, September 06, 1999.

[30] Amending Certain Sections of Revenue Regulations No. 12-99, Revenue Regulations No. 18-13, November 28, 2013.

supporting documents within sixty (60) days from the filing of the protest, failing which, the assessment likewise attains finality. Once final and executory, the assessment can no longer be reopened, reconsidered, or the subject of any further protest or reinvestigation. Thus:

> "3.1.4 *Disputed Assessment.* — **The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN <u>within thirty (30) days</u> from date of receipt thereof.** The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:
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> (i) *Request for reconsideration* — refers to a plea of re-evaluation of an assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both.
>
> (ii) *Request for reinvestigation* — refers to a plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that a taxpayer intends to present in the reinvestigation. It may also involve a question of fact or of law or both.
>
> The taxpayer shall state in his protest (i) the nature of protest whether reconsideration or reinvestigation, specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation, (ii) date of the assessment notice, and (iii) 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 FLD/FAN but the taxpayer only disputes or protests against the validity of some of the issues raised, the assessment attributable to the undisputed issue or issues shall become final, executory and demandable; and the taxpayer shall be required to pay the deficiency tax or taxes attributable thereto, in which case, a collection letter shall be issued to the taxpayer calling for payment of the said deficiency tax or taxes, inclusive of the applicable surcharge and/or interest.
>
> 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 assessment attributable thereto shall become final, executory and demandable; and the taxpayer shall be required to pay the deficiency tax or taxes attributable thereto and 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.

> For requests for reinvestigation, the taxpayer shall submit all relevant supporting documents in support of his protest within sixty (60) days from date of filing of his letter of protest, otherwise, the assessment shall become final. The term "*relevant supporting documents*" refer to those documents necessary to support the legal and factual bases in disputing a tax assessment as determined by the taxpayer. The sixty (60)-day period for the submission of all relevant supporting documents shall not apply to requests for reconsideration. Furthermore, the term "the assessment shall become final" shall mean the taxpayer is barred from disputing the correctness of the issued assessment by introduction of newly discovered or additional evidence, and the FDDA shall consequently be denied.
>
> **If the taxpayer fails to file a valid protest against the FLD/FAN within thirty (30) days from date of receipt thereof, <u>the assessment shall become final, executory and demandable</u>.** No request for reconsideration or reinvestigation shall be granted on tax assessments that have already become final, executory and demandable." (Emphasis and underscoring supplied)

Here, the records disclose that petitioner received the FLD, including the attached *Details of Discrepancies* and *Assessment Notices* dated March 03, 2016,[31] on **May 19, 2016**, yet filed its *Administrative Protest Letter* dated September 24, 2018[32] only on **September 27, 2018**, or more than two (2) years thereafter. Evidently, the protest was filed beyond the thirty (30)-day reglementary period prescribed by law, rendering the assessment final, executory, and demandable. Consequently, the same cannot be deemed a disputed assessment, and no valid decision could thereafter be rendered by respondent, there being nothing left to resolve.

In *Commissioner of Internal Revenue v. Bank of the Philippine Islands*,[33] the Supreme Court held that an assessment attains finality and becomes unappealable when the taxpayer fails to file a protest within thirty (30) days from receipt thereof. By allowing the statutory period to lapse, the taxpayer is deemed to have acquiesced to the validity of the assessments and is precluded from questioning their correctness or raising any defense to reopen its tax liability. As a necessary consequence of such finality, the CTA is divested of jurisdiction to take cognizance of the case, to wit:

> Under the former Section 270, **there were two instances when an assessment became final and unappealable**: (1) **<u>when it was not protested within 30 days from</u>**

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[31] BIR Records – Folder 2, pp. 813-846; Exhibits "R-8" and "R-8-a."
[32] Division Docket – Vol. II, p. 802, Joint Stipulation of Facts and Issues, pars. 3-4; BIR Records – Folder 1, pp. 1093-1126; Exhibit "R-9."
[33] G.R. No. 134062, April 17, 2007 [Per J. Corona, First Division].

receipt and (2) when the adverse decision on the protest was not appealed to the CTA within 30 days from receipt of the final decision:

> Sec. 270. Protesting of assessment.
>
> xxx xxx xxx
>
> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation in such form and manner as may be prescribed by the implementing regulations within thirty (30) days from receipt of the assessment; otherwise, the assessment shall become final and unappealable.
>
> If the protest is denied in whole or in part, the individual, association or corporation adversely affected by the decision on the protest may appeal to the [CTA] within thirty (30) days from receipt of the said decision; otherwise, the decision shall become final, executory and demandable.

IMPLICATIONS OF A VALID ASSESSMENT

Considering that the October 28, 1988 notices were valid assessments, BPI should have protested the same within 30 days from receipt thereof. The December 10, 1988 reply it sent to the CIR did not qualify as a protest since the letter itself stated that "[a]s soon as this is explained and clarified in a proper letter of assessment, **we shall inform you of the taxpayer's decision on whether to pay or protest the assessment.**" Hence, by its own declaration, BPI did not regard this letter as a protest against the assessments. As a matter of fact, BPI never deemed this a protest since it did not even consider the October 28, 1988 notices as valid or proper assessments.

The inevitable conclusion is that BPI's failure to protest the assessments within the 30-day period provided in the former Section 270 meant that they became final and unappealable. Thus, the CTA correctly dismissed BPI's appeal for lack of jurisdiction. BPI was, from then on, barred from disputing the correctness of the assessments or invoking any defense that would reopen the question of its liability on the merits. Not only that. There arose a presumption of correctness when BPI failed to protest the assessments:

> Tax assessments by tax examiners are presumed correct and made in good faith. The taxpayer has the duty to prove otherwise. In the absence of proof of any irregularities in the performance of duties, an assessment duly made by a Bureau of Internal Revenue

> examiner and approved by his superior officers will not be disturbed. All presumptions are in favor of the correctness of tax assessments. (Emphasis and underscoring supplied; citations omitted)

In a similar vein, the Supreme Court, in *Dayrit v. Cruz*,[34] pronounced that an assessment becomes final, executory, and demandable upon the petitioners' failure to contest it within the period prescribed by law. The petitioners' bare request for reconsideration, bereft of any factual of legal basis, and unaccompanied by supporting evidence, did not constitute a valid protest and was correctly regarded as a mere scrap of paper. Accordingly, the CIR was under no obligation to render a ruling thereon, there being, in truth, no genuine protest disputing the assessment. Thus:

> "From the date of receipt of the copy of the Commissioner's letter for collection of estate and inheritance taxes against the estates of the late Teodoro spouses, **petitioners must contest or dispute the same and, upon a denial thereof, the petitioners have a period of thirty (30) days within which to appeal the case to the Court of Tax Appeals**. This they failed to avail of.
>
> Tax assessments made by tax examiners are presumed correct and made in good faith. A taxpayer has to prove otherwise. **Failure of the petitioners to appeal to the Court of Tax Appeals in due time made the assessments in question, final, executory and demandable.**
>
> The petitioners' allegation that the Court of First Instance (CFI) lacks jurisdiction over the subject of the case is likewise untenable. The assessments having become final and executory, the CFI properly acquired jurisdiction. Neither is there merit in petitioners' claim that the exclusive jurisdiction of the Court of Tax Appeals (CTA) applies in the case. The aforesaid exclusive jurisdiction of the CTA arises only in cases of disputed tax assessments. As noted earlier, **petitioners' letter dated October 7, 1972 asking for reconsideration of the questioned assessments cannot be considered as one disputing the assessments because petitioners failed to substantiate their claim that the deficiency assessments are contrary to law**. Petitioners asked for a period of thirty (30) days within which to submit their position paper but they failed to submit the same nonetheless. **Hence, petitioners' letter for a reconsideration of the assessments is nothing but a mere scrap of paper.**
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> x x x

[34] G.R. No. L-39910, September 26, 1988 [Per J. Gancayco, First Division].

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> **The requirement for the Commissioner to rule on disputed assessments before bringing an action for collection is applicable only in cases <u>where the assessment was actually disputed</u>, adducing reasons in support thereto.** In the present case where the petitioners did not actually contest the assessments by stating the basis thereof, the respondent Commissioner need not rule on their request." (Emphasis and underscoring supplied; citations omitted)

A careful perusal of petitioner's *Administrative Protest Letter* dated September 24, 2018[35] reveals that, while it made passing reference to the FLD dated March 03, 2016,[36] its filing was in fact prompted by petitioner's receipt of the WDL on March 23, 2018. In essence, the protest merely sought the lifting of said WDL, alleging that its enforcement would constitute deprivation of property without due process and result in unjust enrichment on the part of the respondent. It bears emphasis that petitioner likewise failed to indicate the nature of its protest—whether one for reconsideration or reinvestigation—in clear disregard of the procedural requirements prescribed by the implementing regulations.

In *Commissioner of Internal Revenue v. Court of Tax Appeals-Third Division*,[37] the Supreme Court held that respondent Citysuper, Inc.'s letter dated April 29, 2015 did not comply with the mandatory requisites of a valid administrative protest under Section 228 of the NIRC of 1997, and its implementing regulations. The Supreme Court declared the protest void for failure to conform to the prescribed form and manner. Corollarily, petitioner's letter dated July 13, 2015 could not be considered a final decision on protest, there being no valid protest to resolve in the first place, *viz.*:

> Nowhere in respondent's April 29, 2015 letter did it state the assessment notice's date and the applicable law, rules and regulations, or jurisprudence on which its protest was based. Attaching copies of the audit results/assessment notices is not stating the date of the assessment notice, any more than attaching copies of assailed judgments to a petition without stating them in the petition itself complies with the rule on statements of material dates.
>
> While respondent's declaration that it was "in the process of compiling the necessary documentation to support [its] protest to said assessments" could imply that it was requesting a reinvestigation, its failure to explicitly state this means that

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[35] Division Docket – Vol. II, p. 802, Joint Stipulation of Facts and Issues, pars. 3-4; BIR Records – Folder 1, pp. 1093-1126; Exhibit "R-9."
[36] BIR Records – Folder 2, pp. 813-846; Exhibits "R-8" and "R-8-a."
[37] G.R. No. 239464, May 10, 2021 [Per J. Leonen, Third Division].

> petitioner had no way of knowing whether it should monitor the 60-day period stated in Revenue Regulations No. 18-2013.
>
> **Section 228 of the National Internal Revenue Code is clear. The administrative protest must be filed not only within the stated period, but also "in such form and manner as may be prescribed by implementing rules and regulations."** Respondent's April 29, 2015 letter did not comply with the three requirements of Revenue Regulations No. 18-2013.
>
> x x x
>
> Here, however, respondent's protest was void for failing to comply with the requirements of Revenue Regulations No. 18-2013, as mandated by Section 228 of the National Internal Revenue Code. Respondent erred in claiming that the July 13, 2015 letter was petitioner's "final decision" on its protest, there being no valid protest to speak of. Notably, the July 13, 2015 letter did not discuss the merits of any communication sent by respondent after its April 29, 2015 letter, but merely stated that no valid protest was filed. (Emphasis supplied; citations omitted)

In sum, petitioner's failure *(1)* to timely protest, and *(2)* to properly contest the assessment in the manner prescribed under Section 228 of the NIRC of 1997, and RR No. 12-99, as amended by RR No. 18-13, renders the subject assessment not a disputed one. Absent a validly disputed assessment, there was nothing for respondent or his duly authorized representative to act upon or decide. Consequently, with no decision issued by respondent, there exists no matter that may be elevated to the CTA for review under the aforementioned *first instance* contemplated in Section 7(a) of R.A. No. 1125, as amended by R.A. No. 9282.

Second instance*: *Other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue

As earlier established, the assessment has attained finality by reason of petitioner's failure to timely and properly file a protest within the period prescribed by law, thereby foreclosing any further inquiry into its validity or correctness on appeal. It must be underscored, however, that the finality of an assessment is a matter distinct and separate from the issue concerning the CIR's right to collect the assessed tax.

In the recent case of *Commissioner of Internal Revenue v. Pacific Hub Corp.*,[38] the Supreme Court reaffirmed and clarified the scope of the CTA's "other matters" jurisdiction, emphasizing that such jurisdiction extends beyond cases strictly involving tax assessments or refunds. It encompasses all controversies arising from the implementation or application of the provisions of the Tax Code or other tax laws administered by the BIR, to wit:

> "In Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc., the Court had occasion to elucidate that the term "other matters" is virtually unbridled save for the qualifying phrase that immediately follows:
>
> > Plainly, the assailed CTA *En Banc* Decision was correct in declaring that there was nothing in the foregoing provision upon which petitioner's theory with regard to the parameters of the term "other matters" can be supported or even deduced. **What is rather clearly apparent, however, is that the term "other matters" is limited only by the qualifying phrase that follows it.**
> >
> > Thus, on the strength of such observation, we have previously ruled that the appellate jurisdiction of the CTA is not limited to cases which involve decisions of the CIR on matters relating to assessments or refunds. **The second part of the provision covers other cases that arise out of the <u>National Internal Revenue Code (NIRC)</u> or related laws administered by the Bureau of Internal Revenue (BIR).** (Emphasis supplied, citation omitted)
>
> Indeed, a plain reading of the provision yields the inevitable conclusion that the CTA has the power to review not only matters arising or incidental to tax assessments or refunds, but also to *any* case arising from the application of the provisions of the Tax Code or other tax laws that are administered by the BIR. In fact, **the Court has affirmed the CTA's "other matters" jurisdiction over** cases involving: *(a)* the determination of whether the right of the CIR to collect the validly assessed tax has prescribed; *(b)* **cases seeking the cancellation and withdrawal of a warrant of distraint and/or levy**; *(c)* cases seeking a determination of the validity of waivers of the statute of limitations as well as the proper availment of tax amnesty; and *(d)* cases on the proper exercise of the CIR's power to compromise delinquent accounts and to grant an informer's reward." (Emphasis and underscoring supplied; citations omitted)

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[38] G.R. No. 252944, November 27, 2024 [Per J. Dimaampao, Third Division].

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Clearly, a WOG, being an enforcement measure issued pursuant to the provisions of the NIRC, falls squarely within the scope of "other matters" over which the CTA exercises appellate jurisdiction. As such, it is likewise subject to the same thirty (30)-day period for appeal prescribed under Section 11 of R.A. No. 1125, as amended by R.A. No. 9282.

In this case, however, the records clearly demonstrate that, whether referring to the WDL or the WOGs, petitioner failed to seek judicial recourse within the reglementary period, as summarized below.

BIR Issuance	**Date of Petitioner's Receipt**	**Last Day to File the *Petition for Review* before the CTA**	**Actual Date of Filing**
WDL	March 23, 2018	April 22, 2018	December 18, 2018
WOGs	November 15, 2018	December 17, 2018[39]	

Verily, even under the *second* instance by which the Court may validly acquire jurisdiction over the present case, petitioner failed to timely invoke the same. Hence, the Court *a quo* acted correctly in dismissing the petition for lack of jurisdiction.

Time and again, the Supreme Court has held that the perfection of an appeal, being no more than a statutory privilege, and at once both mandatory and jurisdictional, must be accomplished strictly in the manner and within the period prescribed by law; failing which, the judgment sought to be reviewed attains finality and becomes executory. Thus:

> To stress, the right to appeal is merely statutory and one who seeks to avail of it must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. Moreover, the perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well, hence failure to perfect the same renders the judgment final and executory. And, just as a losing party has the privilege to file an appeal within the prescribed period, so also does the prevailing party has the

[39] The thirtieth (30th) day, December 15, 2018, fell on a Saturday.

> correlative right to enjoy the finality of a decision in his favor.[40] (Citations omitted)

Having established the absence of jurisdiction on the part of the Court in Division, it necessarily follows that the Court cannot proceed to examine or adjudicate the merits thereof, nor may it consider the defenses asserted by petitioner to absolve itself from any tax liability.

ACCORDINGLY, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the assailed Decision dated February 05, 2024, and the assailed Resolution dated May 02, 2024, are hereby **AFFIRMED.**

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[40] *Apex Mining Co., Inc., v. Commissioner of Internal Revenue*, G.R. No. 122472, October 20, 2005 [Per J. Garcia, Third Division].

(ON OFFICIAL TIME)

MARIA ROWENA MODESTO-SAN PEDRO
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

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