REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

DANILO N. MATIAS,
Petitioner,

CTA Case No. 11025

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.*

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

JUL 10 2023 9:47 AM

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RESOLUTION

Records show that the present Petition for Review assails the respondent's denial of petitioner's request to lift Warrant of Distraint and/or Levy (WDL) and Warrant of Garnishment issued against the petitioner.

The Petition for Review states the following material allegations, to wit:

1. Sometime in March or April 2022, petitioner received a copy of a letter dated March 28, 2022 from the branch manager of BPI Vigan Branch and attached thereto is the copy of the Warrant of Garnishment dated March 21, 2022.

2. On May 2, 2022, petitioner sent a letter addressed to the Office of the Regional Director, BIR Revenue Region No. 1 in Calasiao, Pangasinan. In the said letter, petitioner requested, among others, the lifting of the Warrant of Distraint and/or Levy dated March 7, 2022 and Warrant of Garnishment dated March 21, 2022.

3. In response to petitioner's letter dated May 2, 2022, the Regional Director of BIR Revenue Region No. 1 issued a letter dated July 7, 2022 denying petitioner's request for the lifting of the Warrant of Distraint and/or Levy dated March 7, 2022 and Warrant of Garnishment dated March 21, 2022.

4. On August 30, 2022, petitioner through counsel sent a follow-up letter of even date also addressed to the Office of the Regional Director, BIR Revenue Region No. 1 in Calasiao, Pangasinan reiterating his previous request for the lifting of the Warrant of Distraint and/or Levy dated March 7, 2022 and Warrant of Garnishment dated March 21, 2022.

5. On September 26, 2022, petitioner received a copy of a letter dated September 15, 2022 issued by Regional Director Douglas A. Rufino of the Office of the Legal Division, BIR Revenue Region No. 1 denying the request for the lifting of the Warrant of Distraint and/or Levy dated March 7, 2022 and Warrant of Garnishment dated March 21, 2022.

After careful evaluation of the allegations in the present Petition for Review, this Court finds that the same was belatedly filed, and thus, dismissible for lack of jurisdiction.

Basic is the rule that jurisdiction of a court may be questioned at any stage of the proceedings.[1] Moreover, it is the duty of the courts to consider the question of jurisdiction before they look into other matters involved in the case, even though such question is not raised by any of the parties.[2] Lack of jurisdiction is one of those excepted grounds where the court may dismiss a claim or a case at any time when it appears from the pleadings or the evidence on record that any of those grounds exists, even if they were not raised in the answer or in a motion to dismiss.[3] The reason is that jurisdiction is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action.[4] If the court has no jurisdiction over the nature of an action, it has no other option but to dismiss the case.

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[1] *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation (now TeaM Energy Corporation)*, G.R. No. 180434, January 20, 2016, 781 SCRA 371; *Republic v. Bantigue Point Development Corporation*, G.R. No. 162322, March 14, 2012, 668 SCRA 163, 164.

[2] *Bureau of Customs v. Devanadera*, G.R. No. 193253, September 8, 2015, 770 SCRA 24.

[3] Section 1, Rule 9 of the Rules of Court; *Heirs of Jose Fernando v. De Belen*, G.R. No. 186366, July 3, 2013, 700 SCRA 562; *Geonzon Vda. De Barrera v. Heirs of Vicente Legaspi*, G.R. No. 174346, September 12, 2008, 565 SCRA 192, 198.

[4] *Bernardo v. Heirs of Eusebio Villegas*, G.R. No. 183357, March 15, 2010, 615 SCRA 474-475; *Sales v. Barro*, G.R. No. 171678, December 10, 2008, 573 SCRA 464.

It is also a settled rule that jurisdiction over the nature of an action is determined by the averments of the complaint or other initiatory pleading, not by the defenses contained in the answer.[5]

In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*,[6] the Supreme Court held that the CTA's appellate jurisdiction is not limited to cases involving decisions of the CIR on matters relating to assessments or refunds. Section 7(a)(2) of RA 9282 also covers "other matter arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue." Notably, the Supreme Court in the said case reckoned the 30-day period to file an appeal before this Court from date of receipt of the WDL.[7]

Based on the allegations in the Petition for Review, petitioner received the WDL and the Warrant of Garnishment "sometime in March or April 2022". Even assuming that the said warrants were received on the last day of April 2022, petitioner should have appealed to this Court on or before May 30, 2022. Instead of doing so, petitioner merely sent letters twice to the Regional Director of BIR Revenue Region No. 1 requesting for the lifting of the foregoing warrants. These letter-requests to the Regional Director did not interrupt the running of the reglementary period let alone serve to extend the 30-day period to appeal. It was only when petitioner's request was denied by the Regional Director that he was prompted to file the present Petition for Review on October 26, 2022. By that time, the 30-day period to appeal had long elapsed.

Perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional.[8] The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case.[9]

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

SO ORDERED.

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[5] *Penta Pacific Realty Corporation v. Ley Construction and Development Corporation*, G.R. No. 161589, November 24, 2014, 741 SCRA 440.

[6] G.R. No. 198146, August 8, 2017 ("*PSALM*").

[7] See also *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 227049, September 16, 2020; *La Flor Dela Isabela, Inc. v. Commissioner of Internal Revenue*, G.R. No. 202105, April 28, 2021; *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*, G.R. No. 225809, March 17, 2021.

[8] *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*, G.R. No. 167606, August 11, 2010, 628 SCRA 105; *China Banking Corporation v. City Treasurer of Manila*, G.R. No. 204117, July 1, 2015, 761 SCRA 238, 251; *Neypes v. Court of Appeals*, G.R. No. 141524, September 14, 2005, 469 SCRA 641.

[9] *Id.*

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice