REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB No. 2466** (CTA Case No. 9607)
	Present:
-versus-	**DEL ROSARIO**, *PJ*, **RINGPIS-LIBAN**, **MANAHAN**, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, **FERRER-FLORES**, and **ANGELES**, *JJ*.
CEBU LIGHT INDUSTRIAL PARK, INC., *Respondent.*	Promulgated: OCT 2 5 2023 3:59 p.m.

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RESOLUTION

REYES-FAJARDO, *J.*:

On March 8, 2023, a Decision[1] was rendered, disposing CTA EB No. 2466 as follows:

> **WHEREFORE**, the Petition for Review dated April 15, 2021, in CTA EB No. 2466, filed by the Commissioner of Internal Revenue, is **DENIED**. The Decision dated September 16, 2020 and Resolution dated February 26, 2021, rendered by the Court in Division in CTA Case No. 9607, are **AFFIRMED**.
>
> **SO ORDERED**.

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1 *Rollo,* pp. 100-109.

In so ruling, we explained: *first,* the Court in Division successfully acquired jurisdiction over CTA Case No. 9607 because respondent timely filed its Petition for Review, within thirty (30) days from receipt of petitioner's Final Decision on Disputed Assessment (FDDA), in the form of a Preliminary Collection Letter (PCL); and *second,* respondent is exonerated from the Bureau of Internal Revenue's Documentary Stamp Tax imposition because the former is a duly-registered Philippine Economic Zone Authority entity, enjoying 5% special tax on its gross income in lieu of national and local taxes.

In his Motion for Reconsideration posted on March 27, 2023,[2] petitioner again claims that the PCL challenged by respondent before the Court in Division is *not* his FDDA. Instead, it is Assistant Regional Director Teresita M. Dizon (ARD Dizon)'s Letter dated March 10, 2016, and received by respondent on April 10, 2016, which is his FDDA. Counting thirty (30) days from April 10, 2016, respondent had until May 10, 2016 to appeal with the Court in Division. Therefore, the latter's belated filing of its Petition for Review on June 2, 2017 robbed the Court in Division of jurisdiction over CTA Case No. 9607.

Petitioner further concedes that the parties judicially admitted the PCL received on May 5, 2017 is his FDDA. He nonetheless asserts that his admission falls under the exception under Section 4, Rule 129 of the Rules of Court, as amended, *i.e.,* it was made through palpable mistake. Such mistake was manifested by his argument in his Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court,[3] *i.e.,* ARD Dizon's Letter dated March 10, 2016 is the matter appealable before the Court in Division.

Through its Comment/Opposition (To the Motion for Reconsideration dated March 25, 2023), filed on June 19, 2023,[4] respondent echoes our conclusion that the Court in Division acquired jurisdiction over CTA Case No. 9607.

We deny the Motion.

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2 *Id.* at pp. 145-160.
3 *Infra* note 7.
4 *Rollo,* pp. 165-174.

First. As discoursed in pages 6-8 of the impugned Decision, the parties judicially admitted that it is the PCL which is petitioner's FDDA. Counting thirty (30) days from respondent's receipt of said PCL on May 5, 2017, the latter has until June 4, 2017 to seek judicial redress. Therefore, respondent timely lodged its Petition for Review on June 2, 2017, conferring the Court in Division with jurisdiction over CTA Case No. 9607.

Second. On the assumption that such judicial admission falls under the exceptions thereon, the conclusion would still be the same. Particularly, jurisdiction over the subject matter is determined by the averments in respondent's Petition for Review, filed before the Court in Division. *Malabanan v. Republic of the Philippines (Malabanan)*[5] ordained:

> The basic rule is that the jurisdiction of a court over the subject matter is determined from the allegations in the [petition for review], the law in force at the time the [petition for review] is filed, and the character of the relief sought, irrespective of whether the [petitioner (now respondent)] is entitled to all or some of the claims averred. Jurisdiction over the subject matter is not affected by the pleas or the theories set up by the [respondent (now petitioner)] in the answer or motion to dismiss; otherwise, jurisdiction becomes dependent almost entirely upon the whims of the [respondent (now petitioner)].

Consistent with *Malabanan,* respondent's Petition for Review in CTA Case No. 9607 reveals that the event which prompted the latter to seek redress before the Court in Division is the PCL it received on May 5, 2017.[6] This fortifies the conclusion that indeed, the subject matter appealable to the Court in Division is the PCL, and *not* ARD Dizon's Letter dated March 10, 2016.

Third. True, in his Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court, filed before the Court in Division, petitioner theorizes that ARD Dizon's Letter dated March 10, 2016 is the matter appealable before the Court in Division.[7] Notably, said motion seeks for the dismissal of CTA Case No. 9607. Following *Malabanan,* the jurisdiction of the Court in Division over

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5 G.R. No. 201821, September 19, 2018.

6 Paragraph 25 thereof. Docket (CTA Case No. 9607), p. 17.

7 Pages 10-11, respondent (now petitioner)'s Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court. *Id.* at pp. 824-825.

CTA Case No. 9607 may not be made to depend on such theory; hence, should be ignored outright.

Fourth. In its Letter dated April 26, 2016,[8] respondent sought clarification if ARD Dizon's Letter dated March 10, 2016 is petitioner's FDDA. If petitioner's intention all along was to treat ARD Dizon's Letter dated March 10, 2016, as his or her final decision, he or she could have expressly said so. However, petitioner turned deaf on respondent's simple query. To overlook the inattention exhibited by petitioner would foster the circumstance which jurisprudence seeks to obviate - unfairly making the taxpayer grope in the dark and speculate as to which action constitutes the decision appealable to the tax court.[9]

In finis, respondent treated the PCL it received on May 5, 2017, as the FDDA appealable to the Court in Division.

Rightfully so.

WHEREFORE, petitioner's Motion for Reconsideration posted on March 27, 2023, is **DENIED**, for lack of merit. The Decision dated March 8, 2023, is **AFFIRMED**.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

We Concur:

I reiterate my Concurring Opinion.
ROMAN G. DEL ROSARIO
Presiding Justice

Ma. Belen M
I reiterate my Concurring Opinion.
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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8 Exhibit "P-31." Docket (CTA Case No. 9607), pp. 692-693.

9 See *Commissioner of Internal Revenue v. Bank of the Philippine Islands,* G.R. No. 134062, April 17, 2007.

I join PJ's Concurring Opinion.
CATHERINE T. MANAHAN
Associate Justice

I join PJ's Concurring Opinion.
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I reiterate my position in the Decision.
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

With due respect, I maintain my Dissenting Opinion.
LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

I join the Concurring Opinion of Justice Liban.
HENRY S. ANGELES
Associate Justice