REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

G2K CORPORATION, *Petitioner,*	**CTA CASE NO. 10690**
	Members:
- versus -	**RINGPIS-LIBAN**, *Chairperson,* **MODESTO-SAN PEDRO**, *and* **FERRER-FLORES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: SEP 09 2025 11:15 a.m.

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DECISION

***MODESTO-SAN PEDRO, J.*:**

The Case

The Petition for Review ultimately prays that after due proceedings, the Court render judgment setting aside and declaring void the Final Decision on Disputed Assessment ("FDDA"), Preliminary Assessment Notice ("PAN"), and Formal Letter of Demand ("FLD") issued by the respondent.[1]

The Parties

Petitioner G2K Corporation is a corporation organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address as Unit 3301, Atlanta Centre, #31 Annapolis Street, Greenhills, San Juan and Tax Identification Number ("TIN") 222-457-167-000.[2]

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1 Statement of the Case, Pre-Trial Order, *Rollo*, p. 1595.

2 Par. 4, Petition for Review, *id.* at 7.

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue ("BIR") who has the power to decide on disputed assessments, refunds of internal revenue taxes, fees and other charges, penalties imposed in relation thereto or other matters arising under the *National Internal Revenue Code of 1997* ("*NIRC*"), its implementing rules and regulations, and other special laws administered by the BIR.[3]

The Facts

On September 25, 2013, the BIR issued Electronic Letter of Authority ("eLA") No. eLA201100038670/LOA-042-2013-00000338 of even date authorizing Revenue Officer ("RO") Lorna Ugay ("RO Ugay") and Group Supervisor Luisa Sy ("GS Sy") to conduct an examination of petitioner's books of accounts and other accounting records for all internal revenue taxes for the period covering January 1 to December 31, 2012.[4]

On November 11, 2014, petitioner, through Ms. Ana Maria V. Sanchez, filed with the BIR a Reply to the Electronic Letter of Authority, dated November 6, 2014.[5]

On December 21, 2015, petitioner received a copy of the PAN, dated December 14, 2015, assessing petitioner with deficiency income tax, value-added tax ("VAT"), and expanded withholding tax ("EWT"), increments on late payment of taxes, and compromise penalties aggregating ₱37,543,660.71.[6]

On January 4, 2016, petitioner filed its Reply to Preliminary Assessment Notice of even date to assail respondent's findings in the PAN.[7]

On January 8, 2016, petitioner received a copy of respondent's FLD, dated January 5, 2016, reiterating the findings in the PAN albeit in an increased aggregate amount of ₱37,983,989.55 due to interest adjustments.[8]

On January 25, 2016, petitioner received from the BIR a Letter, dated January 20, 2016,[9] acknowledging petitioner's reply letter to the PAN but issuing the FLD as above and requesting that petitioner submit a valid protest letter thereto. y

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3 Par. 1, Summary of Stipulated Facts, Joint Stipulation of Facts and Issues ("JSFI"), *id.* at 1578.
4 Exhibit "P-3" for petitioner, Exhibit "R-2" for respondent, *id.* at 501.
5 Exhibit "P-7" *id.* at 506 to 519.
6 Exhibit "P-8" for petitioner, Exhibit "R-5" for respondent, *id.* at 522 to 526 and 1460 to 1464, respectively.
7 Exhibit "P-9" *id.* at 530 to 551.
8 Exhibit "P-10" for petitioner, Exhibit "R-6" for respondent, *id.* at 606 to 610 and 1493 to 1481, respectively.
9 Exhibit "P-11" *id.* at 611.

On February 4, 2016, petitioner filed its Reply to Final Assessment Notice, dated February 2, 2016.[10]

In a Letter dated May 26, 2016, respondent treated petitioner's Reply to Final Assessment Notice as a request for reinvestigation and granted the same.[11]

A Memorandum of Assignment ("MOA") No. MOA0422013LOA12310, dated May 25, 2016, was issued for the "Continuation of the audit/investigation to replace previously assigned Revenue Officer(s) who resigned/retired/transferred to another district office." [12]

A FDDA was issued by respondent on March 6, 2020, upholding the assessments made in the FLD albeit in an increased aggregate amount of ₱53,905,213.10 due to interest adjustments,[13] and eventually issued a Warrant of Distraint and/or Levy ("WDL") on August 11, 2021.[14]

Alleging that no FDDA had been received by petitioner, it filed a Request for Urgent Resolution dated October 13, 2021 with the BIR on October 20, 2021, praying for the resolution of its Reply to Final Assessment Notice.[15]

Petitioner then filed a Petition for Review (with Application for the Issuance of Temporary Restraining Order and/or Preliminary Injunction) before this Court on November 29, 2021,[16] to which respondent filed his Answer on March 9, 2022.[17] Meanwhile, respondent transmitted the BIR Records on April 27, 2022.[18]

The Pre-Trial Conference was set and held on June 21, 2022.[19] Prior thereto, the petitioner's and respondent's respective Pre-Trial Briefs were filed on June 15, 2022 and June 17, 2022, respectively.[20]

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10 Exhibit "P-12", *id.* at 612 to 646.
11 Exhibit "P-13" for petitioner, Exhibit "R-8" for respondent, *id.* at 647 and 1485, respectively.
12 Exhibit "R-7", *id.* at 1484.
13 Exhibit "P-1", *id.* at 494 to 498.
14 Exhibit "R-10", *id.* at 1507.
15 Exhibit "P-14", *id.* at 648 to 650.
16 *Id.* at 9 to 37.
17 *Id.* at 398 to 414.
18 *Id.* at 1139 to 1140.
19 Notice of Pre-Trial Conference, *id.* at 445 to 446; Minutes of Pre-Trial held on, and Order dated, June 21, 2022, *id.* at 1440 and 1444 to 1445.
20 *Id.* at 1403 to 1428 and 1431 to 1435.

On July 28, 2022, the parties submitted their Joint Stipulation of Facts,[21] which was approved and admitted on August 2, 2022.[22] The Pre-Trial Order was then issued on August 15, 2022.[23]

Meanwhile, after due hearing on the matter, the Court granted petitioner's Application for Issuance of Temporary Restraining Order and/or Preliminary Injunction on September 20, 2022.[24]

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

Petitioner presented its witnesses: 1.) Ana Maria V. Sanchez,[25] petitioner's Treasurer/Chief Financial Officer; 2.) Christian Louie U. Lim,[26] a member of petitioner's legal team; and 3.) Michael L. Aguirre,[27] the Court-commissioned Independent Certified Public Accountant ("ICPA").[28]

On September 28, 2022, the ICPA filed his Report.[29]

Petitioner filed its Formal Offer of Evidence on December 6, 2022,[30] with respondent's Comment (Re: Petitioner's Formal Offer of Evidence).[31] On February 12, 2024, the Court resolved to admit all of petitioner's evidence.[32]

Respondent, on the other hand, presented his witnesses RO Ugay[33] and RO Lady Ivy Tatang.[34]

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21 *Id.* at 1578 to 1581.
22 *Id.* at *1588.*
23 *Id.* at 1594 to 1602.
24 *Id.* at 1615 to 1626.
25 Amended Judicial Affidavit and Amended Supplemental Judicial Affidavit (of Witness Ana Maria V. Sanchez), *id.* at 895 to 910 and 1088 to 1095; Minutes of hearing held on, and Order dated, September 20, 2022, *id.* at 1612 to 1613.
26 Amended Judicial Affidavit (of Witness Christian Louie U. Lim), *id.* at 1369 to 1374; Minutes of hearing held on, and Order dated, October 25, 2022, *id.* at 2025 and 2027.
27 Exhibit "P-38", *id.* at 2032 to 2043; Minutes of hearing held on, and Order dated, November 17, 2022, *id.* at 2358 to 2360.
28 Oath of Commission (For a CPA Firm) and Minutes of hearing held on, and Order dated, August 11, 2022, *id.* at 1589 to 1592.
29 *Id.* at 1629 to 1697.
30 *Id.* at 2361 to 2379.
31 *Id.* at 2407 to 2408.
32 *Id.* at 2483 to 2484.
33 Exhibit "R-14", *id.* at 1448 to 1456; Minutes of hearing held on, and Order dated, March 21, 2024, *id.* at 2485 to 2486.
34 Exhibit "R-15", *id.* at 1503 to 1506; Minutes of hearing held on, and Order dated, March 21, 2024, *id.*

Respondent then filed his Formal Offer of Evidence on April 4, 2024,[35] without petitioner's Comment/Objection (to Respondent's Formal Offer of Evidence dated 13 April 2024)[36] On June 27, 2024, the Court resolved to admit all of respondent's evidence.[37]

On August 9, 2024, the Memorandum (for the Petitioner),[38] while respondent failed to file his memorandum.[39] Thus, in the Resolution dated September 9, 2024, the case was deemed submitted for decision.

Hence, this Decision.

The Issues

Petitioner and respondent submit the following issues for the resolution of the Court:

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

b. Whether petitioner is liable for deficiency income tax, value-added tax, expanded withholding tax, and the additional surcharges, interests, and penalties for the taxable year 2012.[40]

Arguments of the Parties

Petitioner's Arguments:

Petitioner argues that the deficiency tax assessments were issued in violation of petitioner's right to due process because the eLA and FDDA were improperly served to petitioner, respondent failed to consider and address the explanations raised in the Reply to Preliminary Assessment Notice, and the ROs who continued the audit of its books were not authorized under an eLA. Assuming the assessments were issued without violation of petitioner's right to due process, the same are nevertheless invalid because respondent's right to collect deficiency taxes from petitioner already prescribed, and the tax assessments have no legal and factual bases.

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35 *Id.* at 2487 to 2494.
36 *Id.* at 2495 to 2509.
37 *Id.* at 2513 to 2514.
38 *Id.* at 2515 to 2569.
39 Judicial *Records Verification dated August 29, 2024, id.* at 2572.
40 Issues for Resolution, JSFI, *id.* at 1579.

Respondent's Counter-arguments:

Respondent counter-argues that the Court has no jurisdiction over the subject matter since the Petition for Review was filed out of time making the assessment already final, executory, and demandable; assuming the Court has jurisdiction herein, the assessments are valid as the eLA was served to an authorized representative of petitioner, the ROs are authorized to conduct the audit investigation, and that the requirement of due process was properly complied with in issuing the PAN, FLD, and FDDA. Further, respondent asserts that its assessment has factual and legal basis and his right to collect has not prescribed.

The Ruling of the Court

The Petition must be **DISMISSED**.

The Court can properly take cognizance of this case.

Section 7(a)(1) of Republic Act ("RA") No. 9282 vests the Court of Tax Appeals ("CTA") with exclusive appellate jurisdiction to review by appeal the *decisions of the Commissioner of Internal Revenue ("CIR") 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 BIR. While *Section 11* thereof provides that any party adversely affected by a decision, ruling, or inaction of the CIR, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, the Central Board of Assessment Appeals, or the Regional Trial Courts *may file an appeal with the CTA within 30 days after the receipt of such decision* or ruling or after the expiration of the period fixed by law for action as referred to in *Section 7(a)(2) of RA No. 9282*.

Relatively, *Section 228 of the NIRC, as amended*, provides that if the protest is denied in whole or in part, or is not acted upon within 180 days from submission of documents, the taxpayer adversely affected by the decision or inaction *may appeal to the CTA within 30 days from receipt of the said decision*, or from the lapse of 180-day period; *otherwise, the decision shall become final, executory, and demandable.* The same is echoed in *Revenue Regulations ("RR") No. 18-13*, where *Section 3.1.4* thereof provides that if the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may either: *(i) appeal to the Court of Tax Appeals (CTA) within 30 days from date of receipt of the said decision*; or (ii) elevate its protest through request for reconsideration to the Commissioner within 30 days from date of receipt of the said decision.

Based on the foregoing, the taxpayer has 30 days *from receipt* of the adverse decision of the CIR's duly authorized representative on the disputed assessment to file its appeal by way of Petition for Review before the CTA.

Thus, for purposes of establishing jurisdiction over this case, it is crucial for petitioner to establish the date of receipt of respondent's adverse decision on its disputed assessment, through the FDDA, in order to determine when the 30-day period to appeal before this Court commences and ends.

On this score, *Section 228 of the NIRC, as amended*, mandates that 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. On the other hand, *Section 3.1.6 of RR No. 18-13* provides the modes of service of assessment notices and prescribes that the assessment notices shall primarily be served to the taxpayer personally to its registered or known address. Only in instances when personal service is impracticable shall BIR resort to substituted service or by mail.

Accordingly, substituted service can only be resorted to when the party is not present at the registered or known address and it shall be left thereat with the taxpayer's clerk or with a person having charge thereof.

In this case, petitioner is questioning the service of FDDA allegedly on March 6, 2020 to an unauthorized representative of petitioner, as petitioner insists that its only authorized representative is Ms. Sanchez.

Interestingly, however, petitioner acknowledged the receipt of the PAN and FLD, as categorically asserted and admitted in its Petition and as testified by its witness Ms. Sanchez. It is notable that both assessment notices were signed received by petitioner's front desk receptionist Marisa Borsal and Administrative Supervisor Sheena dela Torre, respectively, as evidenced by the photographs taken by RO Ugay when she served the same at petitioner's front desk prominently displaying "G2K Corporation".[41] The Court is thus curious as to why petitioner suddenly denies receipt of the FDDA even if it was also signed received by its own administrative officer Jesamiah Sangcap, as evidenced by a photocopy of said officer's G2K Corporation Employee Identification Card obtained by RO Ugay when she served the same to petitioner.[42]

To this Court's mind, petitioner is now estopped from invoking the defense of improper service of the FDDA. Since the FDDA, as the evidence warrants, was received by petitioner on March 6, 2020,[43] it thus had 30 days

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41 Exhibit "R-5-G", "R-5-H", "R-6-E" and "R-6-F", *id.* at 1471 to 1472 and 1482 to 1483.
42 Exhibit "R-9-B", *id.* at 1492.
43 Exhibit "R-9", *id.* at 1486 to 1492.

therefrom to file its Petition for Review before the Court, or until April 5, 2020. On this basis, the Petition for Review was filed belatedly on November 29, 2021 and thereby warrants dismissal of the case.

Even assuming that there was indeed improper service of the FDDA, petitioner still failed to show that the Court acquired jurisdiction herein when it failed to establish when to reckon the commencement of the 30-day period to file an appeal before the Court.

Petitioner anchors on the time when it allegedly gained knowledge on the several Warrants of Garnishment ("WOGs") issued by respondent to banks where petitioner holds depositary accounts. This could have been a proper basis in acquiring jurisdiction in this case if considered as "other matters arising under the National Internal Revenue or other laws administered by the BIR" of *Section 7(a)(1) of RA No. 9282*. However, none from the records of the case would show at what particular date petitioner gained this alleged knowledge on the WOGs. Even if the Court relies on the date of filing of the Request for Urgent Resolution on October 20, 2021, the instant Petition would still be belatedly filed as the 30-day period to appeal such would have lapsed on November 19, 2021.

Likewise, even if the Court relies on the alleged date of service of the WDL on August 11, 2021, assuming it was validly served to petitioner, the instant Petition would still be belatedly filed as the 30-day period to appeal the same would have lapsed on September 10, 2021.

A taxpayer's right to contest assessments, particularly the right to appeal to the Court of Tax Appeals, is a mere statutory right that may be waived or lost, as in this case.[44] It is settled that the right to appeal is not a natural right or a part of due process; it is merely a statutory privilege, and may be exercised only in the matter and in accordance with the provisions of law. A party who seeks to avail of the right must, therefore, comply with the requirements of the rules, failing which the right to appeal is invariably lost.[45]

With the foregoing circumstances, the instant Petition for Review was filed out of time, thereby divesting the Court of jurisdiction over it. Hence, the only course of action is to dismiss the same.

ACCORDINGLY, the *Petition for Review* is **DISMISSED** for lack of jurisdiction. y

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44 *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*, G.R. No. 225809, March 17, 2021.

45 *Rodriguez y Cabangon v. People*, G.R. No. 257933 (Notice), March 14, 2022.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

On leave
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
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.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice
Acting 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