REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

NESTLE PHILIPPINES, INC.,
Petitioner,

-*versus*-

THE COMMISSIONER OF INTERNAL REVENUE AND THE OIC-ASSISTANT COMMISSIONER LARGE TAXPAYERS SERVICE,
Respondents.

CTA CASE NO. SCA-0016

Members:

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

Promulgated:

AUG 0 7 2025
9:10 p.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

The instant *Petition for Certiorari, Prohibition, and Mandamus (With Urgent Motion for the Issuance of a Temporary Restraining Order, Writ of Preliminary Injunction, and/or Suspension of Collection of Taxes)* ("Petition") seeks to set aside *Revenue Memorandum Circular* ("*RMC*") *No. 112-2023*, and a Bureau of Internal Revenue ("BIR") Letter, dated November 16, 2023, which sought to implement *RMC No. 112-23* against petitioner.[1]

The Parties

Petitioner, **NESTLE PHILIPPINES, INC.,** is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at Barrio Niugan, Cabuyao, Laguna.[2]

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1 Petition, *Rollo* Vol. I, at 53.
2 *Id.*, at 12.

Meanwhile, respondent **COMMISSIONER OF INTERNAL REVENUE** ("CIR") is the Commissioner of the BIR and vested under pertinent laws with the authority to carry out the functions, powers, duties, and responsibilities, including, among others, the power to decide disputed assessments, cancel and abate tax liabilities, refund taxes, and other matters pursuant to and in accordance with the *National Internal Revenue Code, as amended*, ("*NIRC*") and other applicable tax laws.[3]

On the other hand, respondent **OIC-ASSISTANT COMMISSIONER LARGE TAXPAYERS SERVICE** ("OAC-LTS") is the duly appointed Office in Charge-Assistant Commissioner Large Taxpayer Services of the BIR.[4]

The Facts

Petitioner is the Philippine manufacturer of MILO—a powdered chocolate malt flavored milk drink which is marketed in 24g, 88g, 120g, 165g, 220g, 300g, 390g, 520g, 600g, 880g, 1kg, and 1.2kg packs registered with the Food and Drug Administration ("FDA").[5]

On October 17, 2023, *RMC No. 112-23* was issued by respondent CIR supposedly clarifying the duty of the FDA to determine the classification of beverages pursuant to Section 150-B of the *NIRC*, as implemented by *Revenue Regulation* ("*RR*") *No. 20-2018*, and reiterating the power and authority of the BIR to determine taxability of beverage products.[6]

In light of this, respondents issued a BIR Letter, dated November 16, 2023, directing petitioner to pay sweetened beverage tax ("SBT") on certain MILO products.[7]

Discussions between petitioner and respondents then ensued. Petitioner sent a Letter, dated 15 January 2024, requesting in writing that respondents reconsider and set aside the BIR Letter, dated November 16, 2023 and *RMC No. 112-23*. Respondents, however, did not act on this Letter. Instead, they assigned revenue officers on premises ("ROOP") to petitioner's plant to monitor the movements of MILO products.[8]

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[3] *Ibid.*
[4] *Ibid.*
[5] Exhibits "P-27" to "P-34".
[6] Exhibit "P-1", at p. 88.
[7] *Id.*, at p. 91.
[8] Petitioner's Memorandum, *Rollo* Vol. I, at 710-711.

On January 22, 2024, petitioner filed the instant Petition seeking the nullification of RMC 112-23 and the BIR Letter, dated November 16, 2023,[9] with respondents filing their Comment thereto on March 15, 2024. Respondents filed a Comment to petitioner's Urgent Motion on March 15, 2024,[10] and a Comment to the Petition for Certiorari proper on March 25, 2024.[11]

Earlier, on March 19, 2024, petitioner presented its witnesses, Mr. Cosximo Bello, Atty. Arni A. Perlas and Ms. Ma. Josephine Bueno-Gonzales.[12] It followed this with the submission of its Formal Offer of Evidence on March 25, 2024,[13] to which respondents filed a Comment on April 17, 2024.[14] In a Resolution, dated June 10, 2024, this Court admitted all of petitioner's Exhibits.[15]

July 26, 2024 saw respondents file their Memorandum[16] and petitioner file its own Memorandum through registered mail.[17]

The instant case was submitted for decision via a Resolution on August 7, 2024.[18]

Hence, this Decision.

<u>The Issue</u>

> In totality, petitioner raises the following issue to be resolved by this Court: whether or not respondents committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing RMC 112-23 and the BIR Letter, dated November 16, 2023.[19]

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9 *Rollo* Vol. I, at 1-373.
10 *Id.*, at 405-416.
11 *Id.*, at 421-439.
12 *Id.*, at 417-420.
13 *Rollo* Vols. I-II, at 453-670.
14 *Rollo* Vol. II, at 671-675.
15 *Id.*, at 678-679.
16 *Id.*, at 680-708.
17 *Id.*, at 709-782.
18 *Rollo* Vol. II.
19 See Grounds for the Petition, *Rollo* Vol. I, at 18-19.

Arguments of the Parties

Petitioner's Arguments[20]

Petitioner avers that respondents acted with grave abuse of discretion in issuing the BIR Letter, dated November 16, 2023. The BIR Letter overstepped the bounds of the CIR and BIR, trespassed the jurisdiction of the FDA, and usurped the power of the Secretary of Finance.

Further, petitioner argues that *RMC No. 112-2023* is null and void. Consequently, the BIR Letter which relies on *RMC No. 112-2023* is likewise null and void.

Per petitioner, the BIR Letter, dated November 16, 2023, violated petitioner's right to due process.

Moreover, petitioner alleges that respondents acted with grave abuse of discretion in seeking to assess and/or collect SBT on MILO products notwithstanding the FDA classifications. With the FDA classifications of the MILO products as "flavoured fluid milk drinks", it is the ministerial duty of the respondents to exclude the milo products from the coverage of SBT pursuant to *Section 150-B(C)(1) of the NIRC* and *Section 6(A) of RR No. 20-2018* and accordingly allow petitioner to remove the MILO products from its plants without payment of SBT.

Likewise, petitioner alleges that it is entitled to an issuance of a Temporary Restraining Order, Writ of Preliminary Injunction, and/or Suspension of Collection of Taxes considering that: a) it has a clear and unmistakable legal right to due process and to produce, remove, sell, and distribute its MILO products without being subject to and paying first for SBT in accordance with the final FDA classifications classifying them as "flavoured fluid milk drinks" under the CODEX; b) petitioner's right is being materially and substantially invaded; and c) there is an urgent need for injunction and/or suspend the collection of taxes to prevent irreparable injury and jeopardy the petitioner would suffer.

Respondents' Arguments[21]

Respondents, meanwhile, argue that the Court does not have jurisdiction over the instant case since petitioner failed to exhaust administrative remedies before elevating the case to this Court. Respondents further posit that assuming that this Court has jurisdiction over the instant

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[20] See petitioner's Memorandum, *Rollo* Vol. II at 729-776.
[21] See respondents' Memorandum, *Id.*, at 680-705.

case, petitioner has no legal right to be protected. The BIR has the authority to determine the taxability of products, and the FDA has no authority on the taxability of sweetened beverages. Respondents insists that *RMC No. 112-23* did not deviate from the relevant laws, rules, and regulations. They further contend that petitioner's MILO products is not a milk product. Respondents stress that petitioner is not excluded from paying SBT on its MILO products. Accordingly, they insist that they did not commit grave abuse of discretion in requiring petitioner to pay for SBT.

The Ruling of the Court

The instant Petition is dismissed for failure to exhaust administrative remedies. Nonetheless, in ruling as such, it must be stressed that this Court does not confirm the validity of *RMC No. 112-23*, which may still be questioned in the proper forum.

In the case at bar, petitioner ultimately questions the validity of *RMC No. 112-23*. This is because the BIR Letter, dated November 16, 2023, opined that certain MILO products by petitioner are subject to SBT in accordance with the interpretations that the CIR made in *RMC No. 112-23*. Such BIR Letter has neither assessed petitioner of an actual deficiency SBT assessment nor has tried to collect a deficiency SBT assessment. Instead, it simply declared that certain MILO products by petitioner are subject to SBT in accordance with *RMC No. 112-23*. As it shows, the issuance of the BIR Letter, dated November 16, 2023, is an exercise by the CIR of its quasi-legislative powers of interpreting the *NIRC*, and its rules and regulations in relation to a specific taxpayer (*i.e.,* petitioner), which is similar to the power exercised by the CIR in issuing *RMC No. 112-23* (although in this case, the interpretation made is applicable to all taxpayers concerned and not simply to a specific one). Accordingly, in questioning the validity of the BIR Letter, dated November 16, 2023, petitioner is ultimately questioning the validity of *RMC No. 112-23*, or more specifically, whether or not respondents validly exercised their quasi-legislative power of interpreting the provisions of the *NIRC*, and its rules and regulations.

Thus, central to the present issue is *Section 4 of the NIRC*, which provides, as follows:

> SEC. 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases. - The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.
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> The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the

Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.

The present Petition is a Petition for Certiorari, Prohibition or Mandamus which seeks to invalidate an interpretation made by the CIR in *RMC No. 112-23* and in the BIR Letter, dated November 16, 2023, in relation to what can be classified under the term "milk products" that may be excluded from the coverage of SBT, which is a tax imposed by the *NIRC*. It is a direct challenge on the constitutionality or validity of *RMC No. 112-23*.

In *Banco de Oro, et al. v. Republic of the Philippines, et al.*,[22] the Supreme Court ruled that the Court of Tax Appeals ("CTA") may take cognizance of cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance, to wit:

> The Court of Tax Appeals has undoubted jurisdiction to pass upon the constitutionality or validity of a tax law or regulation when raised by the taxpayer as a defense in disputing or contesting an assessment or claiming a refund. It is only in the lawful exercise of its power to pass upon all matters brought before it, as sanctioned by Section 7 of Republic Act No. 1125, as amended.
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> *This Court, however, declares that the Court of Tax Appeals may likewise take cognizance of cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance (revenue orders, revenue memorandum circulars, rulings).*
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> Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies66 (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related problems must be brought exclusively to the Court of Tax Appeals.
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> In other words, within the judicial system, the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems. Petitions for writs of certiorari against the acts and omissions of the said quasi-judicial agencies should, thus, be filed before the Court of Tax Appeals.
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> Republic Act No. 9282, a special and later law than Batas Pambansa Blg. 12968 provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax laws or regulations. Except for local tax cases, actions directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance may be filed directly before the Court of Tax Appeals.
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> Furthermore, with respect to administrative issuances (revenue orders, revenue memorandum circulars, or rulings), these are issued by the Commissioner under its power to make rulings or opinions in connection

[22] G.R. No. 198756, August 16, 2016.

> with the implementation of the provisions of internal revenue laws. Tax rulings, on the other hand, are official positions of the Bureau on inquiries of taxpayers who request clarification on certain provisions of the National Internal Revenue Code, other tax laws, or their implementing regulations. *Hence, the determination of the validity of these issuances clearly falls within the exclusive appellate jurisdiction of the Court of Tax Appeals under Section 7(1) of Republic Act No. 1125, as amended, subject to prior review by the Secretary of Finance, as required under Republic Act No. 8424.* (Italics, Ours.)

However, while the CTA has undoubted jurisdiction to determine the validity of a revenue order, revenue memorandum circular, ruling, or any other issuance made by the CIR under its power to make rulings or opinions in connection with the implementation of the provisions of internal revenue laws, the Court cannot exercise the same in the case at bar for failure of petitioners to exhaust administrative remedies.

It must be emphasized that the instant Petition is covered by *Rule 65 of the Rules of Court*. As such, in order for this Court to take cognizance of the instant case, the prerequisites provided under *Rule 65 of the Rules of Court* must be complied with. Said rule provides:

> RULE 65
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> Certiorari, Prohibition and Mandamus
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> Section 1. Petition for certiorari. — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and *there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law,* a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.
>
> The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46. (1a)
>
> Section 2. Petition for prohibition. — When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and *there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law,* a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

> The petition shall likewise be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46. (2a)
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> Section 3. Petition for mandamus. — When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and *there is no other plain, speedy and adequate remedy in the ordinary course of law,* the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.
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> The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46. (3a)
> (Italics, Ours.)

Clearly, before a petition for certiorari, prohibition, or mandamus can prosper, it must first be established that there was no other plain, speedy and adequate remedy in the ordinary course of law available to the petitioner which prompted the former to file such petition.

As provided under *Section 4 of the NIRC*, the interpretation of tax laws is under the exclusive and original jurisdiction of respondent, subject to review by the Secretary of Finance. Meanwhile, *Sections 2 and 3 of Department of Finance* ("DOF") *Department Order No. 007-02* provides the procedure for the review by the Secretary of Finance, saying that "[a] ruling by the Commissioner of Internal Revenue shall be presumed valid until overturned or modified by the Secretary of Finance" and "[a] taxpayer who receives an adverse ruling from the Commissioner of Internal Revenue may, within thirty (30) days from the date of receipt of such ruling, seek its review by the Secretary of Finance". Accordingly, there is a remedy to appeal any adverse interpretations made by the CIR in relation to the *NIRC*, and its rules and regulations: an appeal to the Secretary of Finance.

Unfortunately, petitioner has admitted that it did not seek prior recourse to the Secretary of Finance to question the validity of *RMC No. 112-23* and the BIR Letter, dated November 16, 2023. During the Hearing, dated March 19, 2024, petitioner's witness, Atty. Arni A. Perlas, testified, as follows:

> Atty. Ramo: Then did you raise this issue with the Secretary of Finance?
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> Witness: This issue, only the demand letter?

Atty. Ramo: Yes, and the contents thereon.

Witness: No, we did not raise it with the Secretary of Finance because during the two (2) meetings we had with Atty. Sabariaga, there was already some discussions on the possibility of having it reviewed by a third-party laboratory. And then suddenly in January, we were supposed to discussed it again, they said that the meetings that are supposed to be scheduled in January to discuss further what we are going to do to avoid litigation, because we don't want to have litigation, we had already no choice but to file the Letter and the Petition because we are already at the 60th day – meaning our right to contest the validity of the demand letter will prescribe.[23]

The importance of the exhaustion of administrative remedies in the form of a review by the Secretary of Finance has been emphasized by the Supreme Court. In *Asia International Auctioneers, Inc. and Subic Bay Motors Corporation v. Han. Guillermo L. Parayno, et al.*,[24] the Supreme Court held stressed as much:

> [I]t is settled that the premature invocation of the court's intervention is fatal to one's cause of action. If a remedy within the administrative machinery can still be resorted to by giving the administrative officer every opportunity to decide on a matter that comes within his jurisdiction, then such remedy must first be exhausted before the court's power of judicial review can be sought. The party with an administrative remedy must not only initiate the prescribed administrative procedure to obtain relief but also pursue it to its appropriate conclusion before seeking judicial intervention in order to give the administrative agency an opportunity to decide the matter itself correctly and prevent unnecessary and premature resort to the court.[25]

Further, in the case of *The Philippine American Life and General Insurance Company v. The Secretary of Finance and the Commissioner of Internal Revenue*,[26] the Supreme Court explained the taxpayer's remedy adversely affected by respondent's power to interpret under Section 4 of the NIRC, as follows:

> Preliminarily, it bears stressing that there is no dispute that what is involved herein is the respondent Commissioner's exercise of power under the first paragraph of Sec. 4 of the NIRC—the power to interpret tax laws. This, in fact, was recognized by the appellate court itself, but erroneously held that her action in the exercise of such power is appealable directly to

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[23] TSN, dated March 19, 2024, at 29-30.

[24] G.R. No. 163445, December 18, 2007

[25] *Id., citing* National Irrigation Administration v. Enciso, G.R No. 142571, May 5, 2006, 489 SCRA 570, 576; Metro Drug Distribution, Inc. v. Metro Drug Corporation Employees Association-Federation of Free Workers, G.R. No. 142666, September 26, 2005, 471 SCRA 45, 58 citing Ambil, Jr. v. Commission on Elections, G.R. No. 143398, October 25, 2000, 344 SCRA 372; Zabat v. CA, G.R. No. 122089, August 23, 2000, 338 SCRA 551, 560 *citing* Jariol v. Commission on Elections, G.R. No. 127456, March 20, 1997, 270 SCRA 255, 262

[26] G.R. No. 210987, November 24,2014.

the CTA. As correctly pointed out by petitioner, Sec. 4 of the NIRC readily provides that the Commissioner's power to interpret the provisions of this Code and other tax laws is subject to review by the Secretary of Finance. The issue that now arises is this—where does one seek immediate recourse from the adverse ruling of the Secretary of Finance in its exercise of its power of review under Sec. 4?

Admittedly, there is no provision in law that expressly provides where exactly the ruling of the Secretary of Finance under the adverted NIRC provision is appealable to. However,We find that Sec. 7(a)(1) of RA 1125, as amended, addresses the seeming gap in the law as it vests the CTA, albeit impliedly, with jurisdiction over the CA petition as "other matters" arising under the NIRC or other laws administered by the BIR. As stated:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
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> 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.

Even though the provision suggests that it only covers rulings of the Commissioner, We hold that it is, nonetheless, sufficient enough to include appeals from the Secretary's review under Sec. 4 of the NIRC.

It is axiomatic that laws should be given a reasonable interpretation which does not defeat the very purpose for which they were passed. Courts should not follow the letter of a statute when to do so would depart from the true intent of the legislature or would otherwise yield conclusions inconsistent with the purpose of the act. This Court has, in many cases involving the construction of statutes, cautioned against narrowly interpreting a statute as to defeat the purpose of the legislator, and rejected the literal interpretation of statutes if to do so would lead to unjust or absurd results.

Indeed, to leave undetermined the mode of appeal from the Secretary of Finance would be an injustice to taxpayers prejudiced by his adverse rulings. To remedy this situation, We imply from the purpose of RA 1125 and its amendatory laws that the CTA is the proper forum with which to institute the appeal. This is not, and should not, in any way, be taken as a derogation of the power of the Office of President but merely as recognition that matters calling for technical knowledge should be handled by the agency or quasi-judicial body with specialization over the controversy. As the specialized quasi-judicial agency mandated to adjudicate tax, customs, and assessment cases, there can be no other court of appellate jurisdiction that can decide the issues raised in the CA petition, which involves the tax treatment of the shares of stocks sold.

Most directly pertinent to this case is that of *Oceanagold (Philippines), Inc. v. Commissioner of Internal Revenue*,[27] where the Supreme Court, drawing from *Confederation for Unity, Recognition and Advancement of Government Employees v. Commissioner, Bureau of Internal Revenue*,[28] directly affirmed the necessity of challenging a RMC with the Secretary of Finance before raising an appeal to this Court:

> However, both Banco de Oro and Courage recognize that this authority [to rule on both indirect and direct challenges to the validity of a tax law or regulation] flows from the CTA's exercise of its appellate jurisdiction. Indeed, the express recognition of the CTA's certiorari jurisdiction does not do away with the requirement of exhausting the available administrative remedies.
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> . . . .
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> With respect to the challenge on the validity of Revenue Memorandum Circular No. 17-2013, the CTA En Banc correctly held that this should have been first elevated to the Secretary of Finance.
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> Under Section 4 of the Tax Code, the CIR's power to interpret tax laws, which come in the form of various kinds of revenue issuances — including the assailed Revenue Memorandum Circular, is "subject to review by the Secretary of Finance." As emphasized by the Court in Courage, "Department of Finance Department Order No. 007-02 issued by the Secretary of Finance laid down the procedure and requirements for filing an appeal from the adverse ruling of the CIR to the said office. A taxpayer is granted a period of thirty (30) days from receipt of the adverse ruling of the CIR to file with the Office of the Secretary of Finance a request for review in writing and under oath."

Clearly, before any case can be filed with this Court in relation to the CIR's power to interpret the NIRC, and its rules and regulations, prior recourse must first be made before the Secretary of Finance. And it is only after the Secretary of Finance has been given the chance to rule upon the validity of the CIR's interpretation of the *NIRC* and its rules and regulations that an appeal before this Court can be made.

In the instant case, petitioners clearly failed to exhaust their administrative remedies for failure to elevate the case to the Secretary of Finance before resorting to this Court. That there was a possibility that the present issue could have been referred to a laboratory, avoiding potential litigation, and that petitioner's 60-day period to file the instant Petition was about to expire, as petitioner's witness has testified, are insufficient reasons to disregard prior recourse before the Secretary of Finance. Such recourse is a statutory remedy to question adverse interpretations made by the CIR in

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[27] G.R. No. 234614, June 14, 2023.

[28] G.R. Nos. 213446 & 213658, July 3, 2018.

relation to the *NIRC* and its rules and regulations and thus should have been exhausted first.

The filing of the instant Petition is consequently premature. To the point of being repetitive, the remedy of elevating the case before the Secretary of Finance under *Section 4 of the NIRC* was available to petitioner prior to resorting to this Court. Hence, petitioner had a plain, speedy, and adequate remedy in the ordinary course of law. Its failure to avail of such remedy is inescapably fatal to its Petition.

ACCORDINGLY, the instant Petition for Certiorari, Prohibition, and Mandamus filed by petitioner **NESTLE PHILIPPINES, INC.** is hereby **DISMISSED,** for lack of jurisdiction. Meanwhile, petitioner's Urgent Motion for the Issuance of a Temporary Restraining Order, Writ of Preliminary Injunction, and/or Suspension of Collection of Taxes is deemed **MOOT** and **ACADEMIC**.

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