REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	CTA EB No. 1637 (CTA CASE No. 8745)
-versus-	*Present*: DEL ROSARIO, P.J., CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, and MANAHAN, *JJ.*
MANNASOFT TECHNOLOGY CORPORATION, *Respondent.*	Promulgated: JUN 19 2018 3:25 p.m.

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DECISION

MINDARO-GRULLA, J.:

Submitted for decision is a Petition for Review for the Court *En Banc* under *Section 4(b), Rule 8*[1] *of the 2005 Revised Rules of the Court of Tax Appeals (RRCTA), as amended,* of the Decision dated January 13, 2017[2] and the

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[1] **SEC. 4.** *Where to appeal; mode of appeal. –*

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(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 the appeal.

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[2] Penned by Associate Justice Lovell R. Bautista, concurred in by Associate Justice Esperanza R. Fabon-Victorino and Associate Justice Ma. Belen M. Ringpis-Liban, *En Banc* Docket, pp. 20-39.

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Resolution dated March 16, 2017[3] rendered by the Third Division of this Court, the dispositive portions of which, respectively, read as follows:

> Decision dated January 13, 2017:
>
> **WHEREFORE**, premises considered, the Petition for Review is hereby **GRANTED**. Accordingly, the assessments for deficiency income tax in the amount of Php13,475,472.84, for value-added tax in the amount of Php57,102,109.92, and for expanded withholding tax in the amount of Php8,212,654.77, all inclusive of interest, surcharges, and penalties for calendar year 2008; and the Warrant of Distraint and/ or Levy are **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED.**
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> Resolution dated March 16, 2017:
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> **WHEREFORE,** respondent's Motion for Reconsideration is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

The facts of the case, as recited by the Third Division in its Decision, read as follows:

> "Petitioner Mannasoft Technology Corporation is a corporation registered with the Securities and Exchange Commission.
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> Respondent is the duly appointed Commissioner of Internal Revenue ("CIR"), empowered under the 1997 National Internal Revenue Code, as amended ("1997 NIRC") to authorize the examination of any taxpayer and the assessment of the correct amount of

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[3] Penned by Associate Justice Lovell R. Bautista, concurred in by Associate Justice Esperanza R. Fabon-Victorino and Associate Justice Ma. Belen M. Ringpis-Liban, *En Banc* Docket, pp. 41-46.

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tax, and to decide disputed assessments arising under the laws administered by the Bureau of Internal Revenue ("BIR").

Pursuant to Letter of Authority ("LOA") No. 00042459 dated September 24, 2009, respondent conducted a tax investigation on petitioner for CY 2008.

On November 22, 2011, petitioner was issued Formal Assessment Notice ("FAN") dated November 16, 2011, assessing petitioner for deficiency income tax of Php13,475,472.84, VAT of Php57,102,109.92, and EWT of Php8,212,654.77. It was further stipulated that the FAN was received by a certain Angelo Pineda, as handwritten thereon.

On December 22, 2011, petitioner filed a protest to the FAN.

Thereafter, it was informed through a letter, dated January 10, 2012, that the entire docket with the letter-protest will be forwarded to the Revenue District Officer ("RDO") of Revenue District 47-East Makati City for further evaluation and necessary action. Consequently, on February 20, 2012, petitioner submitted supporting documents.

Nonetheless, on March 16, 2012, respondent issued a letter to petitioner alleging that petitioner has not yet submitted its records.

On October 23, 2012, respondent issued a Warrant of Distraint and/ or Levy ("WDL"), which petitioner protested on October 29,2012.

On November 13, 2012, petitioner once again appealed for the reinvestigation of the CY 2008 case. On November 25, 2013, petitioner received respondent's letter denying petitioner's request for reinvestigation, with a statement that the same constitutes respondent's final decision on the matter.

Petitioner filed its appeal to the Court of Tax Appeals ("CTA") on December 10, 2013. xxx

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Petitioner argues that respondent violated its right to due process when it did not receive the NIC, the PAN, and the FAN; that the FAN and the WDL were not received by petitioner's duly authorized officer; and that the FAN failed to state the facts and law on which the assessment was made. Petitioner also argues that respondent failed to consider the documents it submitted in support of its protest.

Respondent argues that the assessments were made and issued in accordance with the law, rules and regulations; and, that the assessments were issued within the prescriptive period allowed by law.

Respondent avers that the FDDA should be the decision appealable to the Court, thus, the Court has no jurisdiction to take cognizance of the case since the Petition for Review was filed out of time." (Citations omitted.)

The Third Division ruled that the Court has jurisdiction over the case as it fall under "other matters" pursuant to Section 7(a)(1) of RA No. 1125[4] and Section 3(a)(1), Rule 4 of the Revised Rules of Court of Tax Appeals. The term "other matters" may include the following: prescription of the CIR's right to collect taxes;[5] determination of the validity

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[4] 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.

[5] *Commissioner of Internal Revenue vs. Hambrecht & Quist Philippines, Inc.,* G.R. No. 169225, November 17, 2010, 635 SCRA 162; *Jacinto-Henares vs. Atlas Consolidated Mining and Development Corporation*, CTA EB No. 1101 (CTA Case No. 8150), August 14, 2015.

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of a warrant of distraint and levy issued by the CIR;[6] and validity of a waiver of the statute of limitations.[7]

The Third Division considered the BIR Letter, replying to Mannasoft's request for reinvestigation/reconsideration as the reckoning point to file an appeal before the Court's Division, thus, the Petition for Review before it was within the prescribed 30-day period to appeal.

Lastly, the Third Division ruled that the assessment, being void for failure to comply with due process for want of authority of the person who received the Notice of Informal Conference (NIC), Preliminary Assessment Notice (PAN) and Final Assessment Notice (FAN), can never attain finality.

Petitioner's Motion for Reconsideration was denied for lack of merit, thus, the instant Petition for Review.

In his Petition, the CIR argues that the reckoning period to file an appeal before this Court must be from receipt of the WDL on October 29, 2012 thus, Mannasoft had only until November 28, 2012 to file its Petition for Review. The CIR claims Mannasoft's Petition for Review before the Court's Division was already filed out of time, which bereft this Court of jurisdiction over the case. Also, the BIR Letter cannot be covered under the term "other matters," and the filing of the request for reinvestigation/ reconsideration does not toll the running of the 30-day period to appeal before this Court.

Lastly, the CIR asserts that Mannasoft failed to present evidence as to lack of authority of Ms. Badocdoc, who received the NIC and the PAN and the insistence of Mannasoft that Mr. Angelo Pineda, the security guard who received the FAN has no authority to receive such, is actually an admission that it received the FAN from him and in fact was able to file protest thereto. The CIR claims that it was in fact admitted by Mannasoft that the NIC, PAN and FAN were

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[6] *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 162852, December 16, 2004, 447 SCRA 214; *Commissioner of Internal Revenue vs. Abundance Providers and Entrepreneurs Corporation*, CTA EB No. 999 (CTA Case No. 8040), August 18,2014.

[7] *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 162852, December 16, 2004, 447 SCRA 214.

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all received by it and Mannasoft was merely questioning the authority of those who received it.

In its Opposition/Comment,[8] Mannasoft reiterates the Court's finding that the latter has jurisdiction over the case and that the Petition was filed on time. It emphasizes moreover that the assessment is void and does not attain finality.

The period for filing an appeal before this Court is provided under Section 11 of the Republic Act No. 1125, as amended, which states:

> "Section 11. Who may appeal; effect of appeal. - Any person association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty (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) herein. xxx" (Underlining supplied)

Corollary thereto, Section 3 (a) of Rule 8 of the Revised Rules of the Court of Tax Appeals reads:

> "RULE 8
> PROCEDURE IN CIVIL CASES
>
> 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 Commissioners 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

[8] *En Banc Docket,* pp. 59-74.

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> 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. xxx" (Underlining supplied)

As stated from the facts of this case, it was on November 22, 2011 that the Formal Assessment Notice ("FAN") dated November 16, 2011, was issued and received by a certain Angelo Pineda, as handwritten thereon. On December 22, 2011, Mannasoft filed a protest to the FAN. On October 23, 2012, CIR issued a WDL, which Mannasoft protested on October 29, 2012. On November 13, 2012, Mannasoft once again appealed for the reinvestigation. On November 25, 2013, Mannasoft received Regional Director Nestor S. Valeroso's letter[9] dated November 14, 2013 denying its request for reinvestigation. Mannasoft thereafter filed its appeal to this Court on December 10, 2013.

In the case of *Philippine Journalists Inc., vs. Commissioner of Internal Revenue, (The "PJI Case"),*[10] the Supreme Court reckons the 30-day period to file an appeal before this Court from receipt of the WDL. The WDL constitutes an act of the CIR on "other matters" arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue which may be the subject of an appropriate appeal before this Court.[11] Applying the foregoing, the receipt of the WDL by Mannasoft must be the reckoning period for its 30-day period to file a petition for review before the Court's division. To emphasize:

> "The right to appeal is not a natural right. It is also not part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. Thus, one who seeks to avail of the right to appeal must comply with the requirements of the Rules. Failure to do so often leads to the loss of the right to appeal."[12]

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[9] Mannasoft Technology Corporation's Formal Offer of Evidence, *Division Docket,* Vol. I, Exhibit "P-10."
[10] *Supra* note 6.
[11] *Ibid.*
[12] *Commissioner of Internal Revenue vs. Fort Bonifacio Development Corporation,* G.R. No. 167606, August 11, 2010.

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While this Court is not unaware of the remedy of a taxpayer to question "other matters" before this Court, even those with absence of a protest but assails violation of due process in the issuance of assessments, such filing of judicial appeals must be made within the mandatory prescriptive period. If one would consider the subsequent replies of the BIR as the reckoning point of the jurisdictional period to file an appeal before this Court, then it would be in effect a never ending question as to which of the subsequent replies would be the reckoning period and a means for the taxpayer to extend a decision that is, in the eyes of the law, already considered to have attained finality, which, in this case, is the WDL.

Considering that the WDL has attained finality and in view of this Court's lack of jurisdiction to act upon the Petition for Review filed beyond the reglementary period, the collection of tax against Mannasoft must be in order.

WHEREFORE, the Petition for Review is **GRANTED**. Accordingly, the Decision promulgated on January 13, 2017 and the Resolution dated March 16, 2017 by the Third Division in CTA Case No. 8745 are **REVERSED** and **SET ASIDE**.

Accordingly, Mannasoft Technology Corporation is **ORDERED** to pay for the following:

a. assessment for deficiency income tax in the amount of Php13,475,472.84

b. value-added tax in the amount of Php57,102,109.92, and

c. for expanded withholding tax in the amount of Php8,212,654.77, all inclusive of deficiency interests and surcharges for calendar year 2008.

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In addition, Mannasoft Technology Corporation is liable to pay delinquency interest at the rate of 12%, which is double the legal interest rate for loans or forbearance of any money, on the total unpaid amount of Php78,790,237.53, consisting of deficiency income tax, value-added tax, and expanded withholding tax, inclusive of deficiency interests and surcharges, computed from December 16, 2011, the due date appearing in the Assessment Notices[13] until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN).

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO with concurring opinion
Presiding Justice

I join Justice M. R. Liban's opinion
Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

I join Justice M.R. Liban's opinion
CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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[13] *BIR Records*, Exhibit "R-8," pp. 391-396; *Petitioner's FOE, Division Dockets,* Vol. 1, Exhibit "P-2."

(With Concurring & Dissenting Opinion)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(I Concur with Justice Liban's Dissenting Opinion)
CATHERINE T. MANAHAN
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 among the members of the Court En Banc before the case was assigned to the writer of the opinion of the Court En Banc.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

MANNASOFT TECHNOLOGY CORPORATION,
Respondent.

CTA EB No. 1637
(CTA Case No. 8745)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, *and*
MANAHAN, *JJ.*

Promulgated:

JUN 19 2018 3:25 p.m.

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CONCURRING OPINION

***DEL ROSARIO, P.J.*:**

I concur with the *ponencia* of my esteemed colleague, the Honorable Associate Justice Cielito N. Mindaro-Grulla, in granting the present Petition for Review of the Commissioner of Internal Revenue (CIR) and in concluding that the Court in Division did not acquire jurisdiction over the Petition for Review filed by respondent Mannasoft Technology Corporation (MTC).

Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended,[1] gives a taxpayer adversely affected by the

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[1] SEC. 228. *Protesting of Assessment.* – xxx
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 one hundred eighty

decision of the CIR on its protests on tax assessment the option to appeal before the Court of Tax Appeals (CTA) within thirty (30) days from receipt thereof; otherwise, the decision shall become final, executory and demandable.

Section 7 of Republic Act (RA) No. 1125, as amended by RA No. 9282, likewise recognizes the exclusive appellate jurisdiction of the CTA to review on appeal decisions of the CIR in cases involving disputed assessments or other matters arising under the NIRC.[2] Moreover, Section 11 of RA 1125, as amended provides that a party adversely affected by the decision of the CIR may file an appeal with the CTA within thirty (30) days after the receipt of such decision.[3]

It is well settled that **perfection of an appeal** in the manner and within the period laid down by law is **not only mandatory but also jurisdictional**. 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**. The right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.[4] The thirty (30)-day period within which to file an appeal with the CTA is jurisdictional and failure to comply therewith would bar the appeal and deprive the CTA of its jurisdiction.[5]

Records reveal that the Court in Division reckoned the thirty (30)-day period of appeal from MTC's receipt of the November 14, 2014 Letter of Regional Director Nestor S. Valeroso on <u>November 25, 2013</u>

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(180)-day period; otherwise, the decision shall become final, executory and demandable.

[2] Sec. 7. 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 Code or other laws administered by the Bureau of Internal Revenue; xxx

[3] 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 period fixed by law for action as referred to in Section 7(a)(2) herein. xxx

[4] CIR vs. Fort Bonifacio Development Corporation, G.R. No. 167606, August 11, 2010.

[5] Rizal Commercial Banking Corporation vs. CIR, G.R. No. 168498, June 16, 2006.

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and not from MTC's receipt of the Warrant of Distraint and/or Levy (WDL) on **October 23, 2012**. While the Court in Division subtly intimated that the reglementary period should be computed from receipt of the WDL, it nonetheless considered the Petition for Review timely filed with the CTA on a finding that a void assessment, as in this case, does not attain finality. Said the Court in Division:

> "In *Philippine Journalists, Inc. v. CIR* (*'Philippine Journalists'*), the taxpayer therein denied receiving the assessment and filed a Petition for Review with the CTA after receipt of the WDL. The Supreme Court ruled that the CTA has jurisdiction to determine the validity of the WDL, thus:
>
> > The appellate jurisdiction of the CTA is not limited to cases which involve decisions of the Commissioner of Internal Revenue on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the Bureau of Internal Revenue. The wording of the provision is clear and simple. It gives the CTA the jurisdiction to determine if the warrant of distraint and levy issued by the BIR is valid and to rule if the Waiver of Statute of Limitations was validly effected.
>
> Similar to the taxpayer in the *Philippine Journalists* case, petitioner herein did not receive the assessment, as contemplated by the due process requirement, resulting to a void assessment. **However, unlike the *Philippine Journalists* case, petitioner failed to file its appeal to the CTA upon knowledge of the WDL. Instead, petitioner filed its Petition for Review within thirty (30) days from receipt of the BIR letter dated November 14, 2013, informing them that the taxpayer's request for reinvestigation is denied, and that the same constitutes the BIR's final decision on the matter. Nonetheless, the Court will consider the Petition for Review as timely filed since a void assessment does not attain finality**." (Citations omitted; boldfacing and underscoring supplied)

The Court *En Banc ponencia*, on the other hand, reckoned the thirty (30)-day period to appeal to CTA on the date of MTC's receipt of the WDL on October 23, 2012.

I concur with the *ponencia*.

The WDL constitutes the final decision of the CIR on MTC's protest. A warrant of distraint and levy is '*proof of the finality of the* *assessment'*; it '*renders hopeless a request for reconsideratio*n', which in *esse* is deemed rejected.[6]

To prevent the WDL from becoming final and executory, petitioner should have filed its appeal with the CTA within thirty (30) day from its receipt of the WDL on October 23, 2012, or on or before **November 22, 2012**. The Petition for Review before the Court in Division was filed by MTC only on **December 10, 2013**, thus, the same was clearly filed beyond the thirty (30)-day reglementary period. As a consequence, the Court in Division was deprived of its jurisdiction to act on the Petition for Review, to review the correctness and validity of the WDL and the Formal Assessment Notice, and to make a declaration that the Formal Assessment Notice is void and could not attain finality. **Otherwise stated, the Court in Division was deprived of its authority to invalidate the WDL and the Final Assessment Notice as it cannot decide the case on the merits.[7] The only power left with the Court in Division was to dismiss the case.**

Since the Court in Division did not acquire jurisdiction over the appeal of MTC, the assailed Decision and assailed Resolution of the Court in Division are void and must perforce be set aside. This was emphasized by the Supreme Court in the very recent case of ***Aichi Forging Company of Asia, Inc. vs. Court of Tax Appeals – En Banc and Commissioner of Internal Revenue***,[8] *viz.*:

> "**Considering our holding that the CTA did not acquire jurisdiction over the appeal of AICHI, the decision partially granting the refund claim must therefore be set aside as a void judgment**.
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> The rule is that where there is want of jurisdiction over a subject matter, the judgment is rendered null and void. **A void judgment is in legal effect no judgment, by which no rights are divested, from which no right can be obtained, which neither binds nor bars anyone, and under which all acts performed and all claims flowing out are void**. We quote our pronouncement in *Canero v. University of the Philippines*:
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>> A void judgment is not entitled to the respect accorded to a valid judgment, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it. It has no legal or binding effect or efficacy for any purpose or at any place. It cannot affect, impair or create rights. It is not entitled to enforcement and is, ordinarily, no

[6] CIR vs. Algue, Inc., G.R. No. L-28896, February 17, 1988.
[7] Nippon Express (Philippines) Corp. vs. CIR, G.R. No. 185666, February 4, 2015.
[8] G.R. No. 193625, August 30, 2017.

protection to those who seek to enforce. In other words, a void judgment is regarded as a nullity, and the situation is the same as it would be if there was no judgment.

Since the judgment of the CTA Division is void, it becomes futile for any of the parties to question it. xxx xxx xxx." (Boldfacing supplied)

Anent the dispositive portion in the *ponencia* which, among others, orders the payment of the deficiency taxes, interests and surcharges, suffice it to state that the same is but a necessary consequence of the finality of the Final Assessment Notices and WDL.

All told, I CONCUR with the Court *En Banc ponencia*.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1637** (CTA Case No. 8745)
- versus -	Members: **DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** *and* **MANAHAN,** *JJ.*
MANNASOFT TECHNOLOGY CORPORATION, Respondent.	Promulgated: JUN 19 2018 3:25p.m.

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CONCURRING & DISSENTING OPINION

RINGPIS-LIBAN, *J.*:

With due respect to my esteemed colleague, Associate Justice Mindaro-Grulla, I write this Opinion to reflect my view and explain why I vote to grant, albeit only partially, the present Petition for Review filed by the Commissioner of Internal Revenue.

I concur in concluding that the Court *a quo* did not acquire jurisdiction over the Petition for Review filed by Respondent in CTA Case No. 8745 for having been filed beyond the mandatory 30-day period. I concur that following *Philippine Journalists, Inc. v. CIR*[1], the 30-day period within which to file an appeal with the Court in Division pursuant to Section 7 of Republic Act ("R.A.") No. 1125, as amended by R.A. 9282, should be reckoned from the day of Respondent's receipt of the Warrant of Distraint and/or Levy on October 23, 2017, and not from its receipt of the BIR Letter dated November 14, 2013.

[1] G.R. No. 162852, December 16, 2004.

Yet I dissent as to the dispositive portion of the judgment which reads as follows:

> "Accordingly, Mannasoft Technology Corporation is **ORDERED** to pay for the following:
>
> a. assessment for deficiency income tax in the amount of Php13,475,472.84
>
> b. value-added tax in the amount of Php57,102,109.92, and
>
> c. for *[sic]* expanded withholding tax in the amount of Php8,212,654.77, all inclusive of interests, surcharges and penalties for calendar year 2008.
>
> In addition, Mannasoft Technology Corporation is liable to pay delinquency interest at the rate of 12%, which is double the legal interest rate for loans or forbearance of any money, on the total unpaid amount of Php78,790,237.53, consisting of deficiency income tax, value-added tax, and expanded withholding tax, inclusive of deficiency interests and surcharges, computed from December 16, 2011, the due date appearing in the Assessment Notices until full payment thereof pursuant to Section 249 (C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN)."

Lack or absence of jurisdiction to entertain and decide a case signifies that the court has no power or authority to grant the relief claimed. By ordering payment of the disputed assessment items, there is assumption of jurisdiction over the instant case which the Court in Division does not have, the lack of which was even discussed in extensive detail in the majority opinion.

In *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*[2], the Supreme Court patently held that when there is want of jurisdiction, the only power left is to dismiss the case, to wit:

> "Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is

[2] G.R. No. 209830, June 17, 2015.

> the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. **Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action**."[3]

Consequently, the lone action allowed for this Court is to declare that CTA Case No. 8745 should have been dismissed for lack of jurisdiction.

From all of the foregoing, I vote for the **PARTIAL GRANT** of the instant Petition for Review. Accordingly, the Decision of the Third Division of this Court in CTA Case No. 8745, dated January 13, 2017 and the Resolution, dated March 16, 2017, should be **REVERSED** and **SET ASIDE**. CTA Case No. 8745 should be **DISMISSED for lack of jurisdiction**.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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3 *Emphasis and underscoring supplied.*