REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>SECOND DIVISION</u>

SUBURBIA AUTOMOTIVE VENTURES, INC., Petitioner,	**CTA CASE NO. 10128**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 03 2025

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DECISION

***FERRER-FLORES, J.*:**

The **Petition for Review** prays that:

1. the period for respondent to make a valid assessment be declared as prescribed or made beyond the Statute of Limitations under the National Internal Revenue Code (NIRC) of 1997, as amended;

2. the *Preliminary Assessment Notice* (PAN) dated September 6, 201[8][1] and *Formal Letter of Demand* (FLD) and *Assessment Notice* (FAN) dated October 11, 2018 be declared void for the violation of petitioner's right to due process, and thereafter, be cancelled;

3. the PAN dated September 6, 201[8][2], FLD and FAN dated October 11, 2018 and the *Final Decision on Disputed Assessment* (FDDA) dated May 23, 2019 be declared void for failure to state the factual

[1] The actual date is September 6, 2010 based on Exhibit "R-9", BIR Records, pp. 380 to 383.
[2] *Id.*

and legal bases of the assessment as stated by the NIRC of 1997, as amended, and thereafter, be cancelled; and,

4. the FLD and FAN dated October 11, 2018 be declared void for failure to state the date of payment of the alleged deficiency tax assessment, and thereafter, be cancelled.[3]

THE PARTIES

Petitioner Suburbia Automotive Ventures, Inc. is a corporation duly registered with the Securities and Exchange Commission (SEC) to operate as a domestic corporation with principal place of business at G13 Km 23 Ortigas Avenue Extension, Taytay, Rizal 1920.[4] It is established primarily to engage in automotive and non-automative repair and exterior, interior and engine detailing business; to sell, export and import automotive parts and products, and to engage as service contractor or automotive dealers.[5] Petitioner is duly registered with the Bureau of Internal Revenue (BIR) under Tax Identification Number (TIN) 002-303-414-000.[6]

Respondent Commissioner of Internal Revenue is the head of the BIR with office address at the Office of the Commissioner of Internal Revenue, BIR National Office Building, Diliman, Quezon City, Metro Manila.[7] He is vested with the power to decide tax cases, including disputed assessments pursuant to Section 4 of the NIRC of 1997, as amended.[8]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

The BIR, through Regional Director Alfredo V. Misajon, issued the *Letter of Authority* (LOA) No. LOA-046-2016-00000082 (SN: eLA201200025l4) dated September 27, 2016,[9] authorizing Revenue Officer (RO) Lina Romero and Group Supervisor (GS) Evelyn Valenzona, to examine petitioner's books of accounts and other accounting records for all internal revenue taxes, including documentary stamp tax, and other miscellaneous taxes, for the period from January 1, 2015 to December 31, 2015.

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3 Statement of the Case, Pre-Trial Order dated November 15, 2021, Docket – Vol. 3, pp. 1132 to 1133.
4 Par. 1, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. II, p. 984.
5 Par. 6, *Id.* at 985.
6 Par. 5, *Id.* at 985.
7 Par. 2, *Id.* at 984.
8 Par. 3, *Id.* at 984.
9 Exhibit "P-15", Docket – Vol. 3, pp. 1362 to 1363; Exhibit "R-1", BIR Records, p. 3; Par. 7.1, Stipulation of Facts, JSFI, Docket – Vol. II, p. 985.

Respondent then issued the PAN dated September 6, 2010,[10] assessing petitioner for deficiency income tax, value-added tax (VAT), and expanded withholding tax (EWT), in the total amount of ₱45,745,423.40, including interests.

On October 2, 2018, petitioner filed its letter-reply of even date,[11] requesting for the reinvestigation and/or reconsideration of the assessment based on the issues raised therein, and for the setting aside of the said PAN.

Thereafter, respondent issued the assailed FLD, with *Details of Discrepancies*[12] and FAN,[13] all dated October 11, 2018, assessing petitioner of the same deficiency taxes in the aggregate amount of ₱46,059,701.11, inclusive of interests.

On November 15, 2018, petitioner filed its protest letter of even date against the FLD/FAN,[14] requesting for a reinvestigation, and the cancellation or setting aside of the said FLD/FAN.

Subsequently, on June 21, 2019, petitioner received the assailed FDDA dated May 23, 2019, with *Details of Discrepancies*, reiterating the assessment, upon the ground that petitioner failed to submit and/or present relevant documents during reinvestigation to refute the validity of the BIR's findings.[15]

PROCEEDINGS BEFORE THIS COURT

Petitioner filed the present *Petition for Review* on July 22, 2019.[16]

In the Resolution dated August 5, 2019,[17] the Court ordered petitioner to submit a complete *Special Power of Attorney* within five days from receipt thereof.

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10 Should be 2018. Exhibit "R-9", BIR Records, pp. 380 to 383; Par. 7.2, Stipulation of Facts, JSFI, Docket – Vol. II, p. 985.
11 Exhibit "P-22", Docket – Vol. 3, pp. 1380 to 1385.
12 Exhibits "P-23" and "P-23-A", *Id.* at 1386 to 1387; Exhibit "R-10", BIR Records, pp. 399 to 403; Par. 7.3, Stipulation of Facts, JSFI, Docket – Vol. II, p. 985.
13 Exhibits "P-23-B" to "P-23-D", Docket – Vol. 3, pp. 1391 to 1393; Exhibits "R-10-A" to "R-10-C", BIR Records, pp. 404 to 406.
14 Exhibit "P-24", Docket – Vol. 3, pp. 1394 to 1402.
15 Exhibits "P-25" and "P-25-A", *Id.* at 1403 to 1407; Exhibit "R-12", BIR Records, pp. 480 to 484; Par. 7.4, Stipulation of Facts, JSFI, Docket – Vol. II, p. 985; Par. 3, *Petition for Review* vis-à-vis par. 1, *Answer,* Docket – Vol. I, p. 10 and Docket – Vol. II, p. 540, respectively.
16 Docket – Vol. I, pp. 9 to 35.
17 *Id.* at 161 to 162.

On August 9, 2019, petitioner filed a *Motion to Admit Amended Petition for Review (with attached Amended Petition for Review).*[18] Petitioner then filed on August 14, 2019 a *Manifestation,*[19] stating that it filed a copy of its *Motion to Admit Amended Petition for Review (with attached Amended Petition for Review)* through registered mail on August 9, 2019 and submitting a copy of the said motion as Annex "A". In the Resolution dated September 5, 2019,[20] the Court granted petitioner's *Motion* and admitted the *Amended Petition for Review* attached thereto.[21]

Petitioner then filed on September 24, 2019 a *Manifestation and Compliance,*[22] praying that the Secretary's Certificate attached thereto be considered admitted for all purposes for which it is being offered in support of petitioner's *Amended Petition for Review.* In the Resolution dated October 4, 2019,[23] the Court ordered petitioner to submit a completely filled out Secretary's Certificate within five days from receipt thereof. On October 15, 2019, petitioner filed a *Manifestation and Submission,*[24] praying for the Court to note the same and to consider and admit the Secretary's Certificate attached thereto for all purposes for which it is being offered in support of its *Amended Petition for Review.*

On October 25, 2019, petitioner filed an *Urgent Omnibus [Motion] to: [1] lift Warrants of Garnishment; [2] declare that the execution of the Warrants of Garnishment failed to comply with due process, and thus null and void; [3] suspend collection of taxes; [4] order the return of cash unlawfully delivered to the enforcing revenue officer/sheriff on account of the warrants; and [5] upon review, order to exempt petitioner from payment of surety bond.*[25] In the Resolution dated November 12, 2019,[26] the Court noted and deemed compliant petitioner's *Manifestation and Submission* and set for hearing on November 27, 2019 petitioner's *Urgent Omnibus Motion to Suspend Collection of Taxes.*

Within the extended period,[27] respondent filed his *Answer* on December 2, 2019.[28]

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[18] Docket – Vol. I, pp. 393 to 425.
[19] *Id.* at 163 to 164.
[20] *Id.* at 428 to 429.
[21] *Id.* at 396 to 425.
[22] *Id.* at 433 to 434.
[23] *Id.* at p. 442.
[24] *Id.* at 446 to 447.
[25] *Id.* at 451 to 468.
[26] Docket – Vol. II, pp. 533 to 534.
[27] *Motion for Additional Time to File Answer with Entry of Appearance,* Docket – Vol. I, pp. 438 to 440; Resolution dated October 14, 2019, Docket – Vol. I, pp. 444 to 445; *Motion for Additional Time to File Answer,* Docket – Vol. II, pp. 528 to 530; Resolution dated November 12, 2019, Docket – Vol. II, pp. 533 to 534; *Urgent Motion for Additional Time to File Answer,* Docket – Vol. II, pp. 535 to 537; Resolution dated November 21, 2019, Docket – Vol. II, p. 539.
[28] December 2, 2019, Docket – Vol. II, pp. 540 to 561.

Respondent also filed, on December 2, 2019, an *Opposition (Re: Petitioner's Urgent Motion for Suspension of Collection of Tax).*[29]

At the hearing held for the *Urgent Motion to Lift Warrant of Garnishment* on November 27, 2019, petitioner moved to set a Commissioner's Hearing to mark the documentary exhibits of petitioner, which the Court granted.[30] Meanwhile, the hearing was cancelled and reset to December 5, 2019. On even date, petitioner presented various documentary evidence, which its witness, Mr. Roger S. De Los Reyes, identified,[31] and filed its *Formal Offer of Evidence.*[32] Respondent then filed his *Comment [Re: Petitioner's Formal Offer of Evidence]* on December 6, 2019.[33] In the Resolution dated January 30, 2020,[34] the Court admitted the exhibits of petitioner.

On March 2, 2020, respondent transmitted the *BIR Records* of this case.[35]

The Pre-Trial Conference was initially set on March 19, 2020,[36] but the same was later cancelled and reset to, and was eventually held on, June 15, 2021.[37] Prior thereto, *Respondent's Pre-Trial Brief* was filed on March 2, 2020,[38] while *Petitioner's Pre-Trial Brief* was submitted on March 11, 2020.[39]

In the Resolution dated July 17, 2020,[40] the Court granted petitioner's *Urgent Omnibus [Motion] to: [1] lift Warrants of Garnishment; [2] declare that the execution of the Warrants of Garnishment failed to comply with due process, and thus null and void [3] suspend collection of taxes; [4] order the return of cash unlawfully delivered to the enforcing revenue officer/sheriff*

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29 Docket – Vol. II, pp. 562 to 568.
30 Minutes of the hearing held on, and Order dated, November 27, 2019, Docket – Vol. II, pp. 569 to 570.
31 Exhibit "P-11", Docket – Vol. II, pp. 574 to 587; Minutes of the hearing held on, and Order dated, December 5, 2019, Docket – Vol. II, pp. 658 to 660.
32 Docket – Vol. II, pp. 663 to 667.
33 *Id.* at 733 to 734.
34 *Id.* at 740 to 741.
35 Respondent's *Compliance* dated February 28, 2020, *Id.* at 771 to 772.
36 Minutes of the hearing held on, and Order dated, December 5, 2019, *Id.* at 658 to 660.
37 Notice of Resetting dated March 13, 2020, *Id.* at 778; Petitioner's *Manifestation with Motion to Reset [1] Commissioner's Hearing set on March 12, 2020; [2] Commissioning of Independent Certified Public Accountant (CPA) set on March 19; 2020 and [3] Pre-Trial Conference set on March 19,2020* dated June 5, 2020, *Id.* at 798 to 803; Resolution dated June 23, 2020, *Id.* at 806 to 807; Petitioner's *Urgent Motion to Reset Pre-Trial Conference* dated October 2, 2020; *Id.* at 865 to 868; Resolution dated October 7, 2020, *Id.* at 859 to 860; Petitioner's *Urgent Motion for the Resetting of Hearing* dated March 15, 2021, *Id.* at 952 to 954; Resolution dated March 16, 2021, *Id.* at 957 to 958; Minutes of hearing held on, and Order dated, June 15, 2021, *Id.* at 961 to 964.
38 *Id.* at 756 to 759.
39 *Id.* at 923 to 936.
40 *Id.* at 812 to 819.

on account of the warrants; and [5] upon review, order to exempt petitioner from payment of surety bond. The Court, thus, ordered respondent to lift all Warrants of Garnishment issued and executed against petitioner's bank accounts for the purpose of satisfying the alleged deficiency taxes in the total amount of ₱48,500,591.25 pending the resolution of this case. In the same Resolution, the Court ordered respondent and any of his officers and/or employees to cease and desist from committing any or all acts to collect the alleged deficiency taxes, provided that, within 10 days from receipt thereof, petitioner files a cash bond equal to the principal amount of the deficiency taxes (*i.e.*, basic deficiency taxes) or in the amount of ₱31,864,266.96, or posts a surety bond in the amount or ₱47,796,400.44, in accordance with CTA *En Banc* Resolution No. 02-2015.

On September 16, 2020, petitioner filed a *Manifestation with Omnibus Motion [1] Motion for Partial Reconsideration (To the Resolution dated July 17, 2020); [and] [2] To Reduce Rate of Surety Bond; [3] To Suspend the ten (10)-day compliance period for the posting of cash or surety bond until the resolution of Petitioner's Motion for Partial Reconsideration*,[41] which the Court noted in the Resolution dated September 30, 2020.[42]

The *Report* of the Court-commissioned[43] Independent Certified Public Accountant (ICPA) was filed on December 17, 2020.[44]

On July 15, 2021, the parties submitted their *Joint Stipulation of Facts and Issues*,[45] which was admitted and approved by the Court in its Resolution dated July 27, 2021,[46] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated November 15, 2021 was then issued.[47]

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

Petitioner presented and offered the testimonies of the following individuals, namely: (1) Mr. Roger De Los Reyes,[48] petitioner's Asset and

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[41] Docket – Vol. II, pp. 831 to 837.
[42] *Id.* at 842 to 843.
[43] *Oath of Commission* dated October 8, 2020, Docket – Vol. II, pp. 875, Minutes of hearing held on, and Order dated, October 8, 2020, Docket – Vol. II, pp. 861 to 863.
[44] Docket – Vol. I, pp. 878 to 895.
[45] Docket – Vol. II, pp. 984 to 987.
[46] *Id.* at 1024 to 1025.
[47] Docket – Vol. 3, pp. 1132 to 1143.
[48] Exhibit "P-27", Docket – Vol. 3, pp. 1408 to 1421; Minutes of hearing held on, and Order dated, October 5, 2021, Docket – Vol. II, pp. 1030 to 1032.

Finance Manager; (2) Atty. Vicente Rovero, Jr.,[49] the Court-commissioned ICPA;[50] and, (3) Ms. Irish Laganzon,[51] petitioner's Accounting Staff.

The *Amended Report* of the ICPA was filed on July 26, 2022.[52]

Thereafter, petitioner filed a *Submission with Motion to Admit (Formal Offer of Evidence)* on February 8, 2023.[53] Respondent, however, failed to file his comment thereon.[54] In the Resolution dated March 1, 2023,[55] the Court granted petitioner's *Motion to Admit,* noted the submission, and admitted the *Formal Offer of Evidence*[56] and its attachments as part of the records of this case. Thereafter, in the Resolution dated June 23, 2023,[57] the Court admitted petitioner's offered exhibits, *except* Exhibits "P-13-W-ICPA", and "P-13-W-1-ICPA" to "P-13-W-328-ICPA", for failure to submit the same.

For his part, respondent presented the testimony of RO Valenzona.[58]

On October 27, 2023, *Respondent's Formal Offer of Evidence* was filed,[59] to which petitioner filed its *Comment (To Respondent's Formal Offer of Evidence dated October 26, 2023)* on November 13, 2023.[60] In the Resolution dated January 16, 2024,[61] the Court admitted all of respondent's offered exhibits.

Petitioner's *Memorandum* was filed via accredited courier on March 4, 2024.[62] Respondent, however, failed to file his memorandum.[63]

The case was considered submitted for decision on March 14, 2024.[64]

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[49] Exhibit "P-14", Docket – Vol. 3, pp. 1229 to 1247; Minutes of hearing held on, and Order dated, September 20, 2022, Docket – Vol. 3, pp. 1333 to 1335.
[50] *Oath of Commission* dated October 8, 2020, Docket – Vol. II, pp. 875, Minutes of hearing held on, and Order dated, October 8, 2020, Docket – Vol. II, pp. 861 to 863.
[51] Exhibit "P-28", Docket – Vol. 3, pp. 1044 to 1074; Minutes of the hearing held on, and Order dated, September 20, 2022, Docket – Vol. 3, pp. 1333 to 1335.
[52] Exhibits "P-13-ICPA" and "P-13-TT-ICPA", Docket – Vol. 3, pp. 1254 to 1324.
[53] Docket – Vol. 3, pp. 1341 to 1343.
[54] Records Verification Reports dated March 17, 2023 and May 3, 2023 issued by the Judicial Records Division of this Court, Docket – Vol. 3, pp. 1510 and 1514, respectively.
[55] Docket – Vol. 3, pp. 1508 to 1509.
[56] *Id.* at 1344 to 1361.
[57] *Id.* at pp. 1517 to 1518.
[58] Exhibit "R-13", Docket – Vol. II, pp. 763 to 770; Minutes of the hearing held on, and Order dated, October 12, 2023, Docket – Vol. 3, pp. 1523 to 1524.
[59] Docket – Vol. 3, pp. 1525 to 1529.
[60] *Id.* at 1530 to 1534.
[61] *Id.* at 1538.
[62] *Id.* at 1546 to 1607.
[63] Records Verification Report dated March 12, 2024 issued by the Judicial Records Division of this Court, Docket – Vol. 3, pp. 1610.

THE STIPULATED ISSUES

The parties submit the following issues for this Court's resolution, to wit:

> ***8.1.*** ***Whether or not petitioner is liable for deficiencies in Income Tax, Value Added Tax, and Expanded Withholding Tax in the amount of Forty-Five Million Seven Hundred Fifty-Seven Thousand Four Hundred Twenty-Three Pesos and 40/100 (PhP45,757,423.40) inclusive of surcharge and interest for the taxable year 2015;***
>
> ***8.2.*** ***Whether or not the right of the BIR to issue and/or serve a valid assessment has already been barred by the statute of limitations;***
>
> ***8.3.*** ***Whether or not the Preliminary Assessment Notice and Final Letter of Demand and Assessment Notices are deemed invalid for lack of the requisite factual and legal basis pursuant to the tax code;***
>
> ***8.4.*** ***Whether or not the Final Assessment Notice is deemed invalid for failure to state the date of payment of the alleged deficiency taxes; and***
>
> ***Whether or not Respondent BIR [has] failed to consider the financial records and documents submitted by Petitioner prior to the issuance of the assessment notices.***[65]

Petitioner's arguments:

Petitioner argues that the right of the BIR to issue a valid assessment has already been barred by prescription. It also raises as an issue the ROs' failure to exercise the proper mode of service which is in violation of procedural due process. Petitioner further claims that the evident irregularity and/or inconsistency regarding the service of notices deprives it of its right to due process of law, thus, constituting the lack of factual and legal grounds for the assessment. It also contends that the PAN, FLD/FAN, and FDDA are void and without legal effect for lack of the requisite factual and legal basis and for BIR's failure to state the date of payment. Finally, it posits that it is not liable for deficiencies in income tax, VAT, and EWT, in the amount of ₱45,757,423.40, inclusive of surcharge and interest, for taxable year 2015.

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64 Minute Resolution dated March 14, 2024, Docket – Vol. 3.
65 Stipulation of Issues, JSFI, Docket – Vol. II, pp. 985 to 986.

Respondent's counter-arguments:

In his *Answer*, respondent maintains that this Court has no jurisdiction over the *Petition*, and that the assessment has already become final, executory and demandable. Respondent counter-argues that assuming without admitting that this Court has jurisdiction to rule on the validity of the assessment, respondent's right to assess petitioner has not yet prescribed. According to respondent, the power of judicial review of this Court over his decisions is by nature exclusive and appellate; hence, petitioner should not be allowed to raise issues for the first time on appeal. Respondent alleges that the issue on the certain date of payment and the alleged improper service of the FLD and FDDA are undisputed, the assessment issued against petitioner is valid. Lastly, respondent avers that the Court has no jurisdiction to rule on the validity of the assessment, and even assuming the Court has jurisdiction, the assessment issued against petitioner for deficiency income tax, VAT, and EWT has bases both in fact and in law.

THE COURT'S RULING

The present *Petition for Review* must be dismissed as this Court lacks jurisdiction to entertain the same.

Section 228 of the NIRC of 1997, as amended, reads:

> Section 228. *Protesting of Assessment.* – When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: xxx
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> xxx xxx xxx
>
> The taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
>
> **Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment <u>in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.</u>**

> 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 the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable. *(Emphases and underscoring added)*

Based on the foregoing provision, a tax assessment issued by the BIR may be protested administratively, within 30 days from receipt thereof, by filing either a request for reconsideration or reinvestigation, **in such form and manner as may be prescribed by implementing rules and regulations.** Moreover, within 60 days from the filing of a protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

Implementing the above-quoted Section 228, particularly as regards the *form and manner* of filing of the requests for reconsideration and for reinvestigation, Section 3 of Revenue Regulations (RR) No. 12-99,[66] as amended by RR No. 18-2013,[67] provides, in part, as follows:

> SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* –
>
> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
>
> xxx xxx xxx
>
> 3.1.4 *Disputed Assessment.* — **The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN within thirty (30) days from date of receipt thereof.** The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:
>
> (i) **Request for reconsideration** – refers to a plea of re-evaluation of an assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both.
>
> (ii) **Request for reinvestigation** – refers to a plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that a taxpayer intends to

[66] SUBJECT: Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

[67] SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

present in the reinvestigation. It may also involve a question of fact or of law or both.

The taxpayer shall state in his protest (i) the nature of protest whether reconsideration or reinvestigation, **specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation,** (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based, **otherwise, his <u>protest</u> shall be considered *void and without force and effect.***

xxx xxx xxx

For <u>requests for reinvestigation</u>, the taxpayer shall submit all relevant supporting documents in support of his protest within sixty (60) days from date of filing of his letter of protest, otherwise, the assessment shall become final. The term 'relevant supporting documents' refer to those documents necessary to support the legal and factual bases in disputing a tax assessment as determined by the taxpayer. **The sixty (60)-day period for the submission of all relevant supporting documents shall not apply to requests for reconsideration.** Furthermore, the term *'the assessment shall become final'* shall mean the taxpayer is barred from disputing the correctness of the issued assessment by introduction of newly discovered or additional evidence, and the FDDA shall consequently be denied.

xxx xxx xxx. *(Emphases and underscoring added)*

On the basis of the foregoing provisions, the form and manner of protests to be filed by the concerned taxpayer have been clearly and distinctively defined. Particularly, a distinction has been made between the two types of protest, *i.e.*, a *request for reconsideration* and a *request for reinvestigation*. Thus, the two types of protest can no longer be used interchangeably and their differences so lightly brushed aside.[68]

Clearly, in a *request for reconsideration*, the plea for re-evaluation of the assessment is *on the basis of existing records without need of additional evidence*, while in a *request for reinvestigation*, such plea for re-evaluation is *on the basis of newly discovered or additional evidence that the taxpayer intends to present in the reinvestigation*. Furthermore, it must be pointed out that the distinction between a *request for reconsideration* and a *request for reinvestigation* is significant for the purpose of identifying which request triggers the application or operation of the 60-day period, within which to submit all relevant supporting documents, as determined by the concerned taxpayer. Apparently, the said 60-day period applies only to *requests for reinvestigation*.

[68] Refer to *Bank of the Philippine Islands vs. Commissioner of Internal Revenue*, G.R. No. 139736, October 17, 2005.

Moreover, it must be emphasized that *requests for reinvestigation* must specify the newly discovered or additional evidence the taxpayer intends to present. This is the logical outcome relevant to said *requests* since by their nature, the plea for re-evaluation of the assessment is on the basis of the said evidence.

A review of the records shows that petitioner was only able to establish that it filed a protest on November 15, 2018, stating therein that it is a *request for reinvestigation.*[69] As such, petitioner has 60 days from the said date of filing, or until January 14, 2019, to submit all relevant supporting documents. However, petitioner failed to show that it did so. It merely alleged that it asked for the reinvestigation of the assessment and made reservations to allow it to submit additional evidence, whenever warranted, in support of the protest.[70] Further, although petitioner stated in its protest that it requests "that xxx the FAN xxx for the taxable year-ending December 31, 2015 be subject to **RE-INVESTIGATION** and thereafter be **CANCELLED OR SET ASIDE**, *based on* the ground raised in the discussions herein and *subsequent documents in support hereof,*"[71] it failed to fulfill the same. Such being the case, the subject tax assessments, as embodied in the FLD/FAN dated October 11, 2018, for taxable year 2015, have already become final.

Moreover, in *Commissioner of Internal Revenue vs. Court of Tax Appeals-Third Division, et al.*,[72] the Supreme Court ruled as follows:

> **When a taxpayer files a petition for review before the Court of Tax Appeals without validly contesting the assessment with the Commissioner of Internal Revenue, the petition is premature and the Court of Tax Appeals has no jurisdiction.**
>
> xxx xxx xxx
>
> Section 228 of the National Internal Revenue Code is clear. **The administrative protest must be filed not only within the stated period, <u>but also 'in such form and manner as may be prescribed by implementing rules and regulations.'</u>** Respondent's April 29, 2015 letter did not comply with three requirements of Revenue Regulations No. 18-2013.
>
> The Court of Tax Appeals is a court of special jurisdiction. Section 7 of Republic Act No. 9282 states what matters involving

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[69] Exhibit "P-24", Docket – Vol. 3, pp. 1394 to 1402.
[70] Par. 9.10, *Petition for Review*, Docket – Vol. I, p. 14.
[71] Exhibit "P-27", Docket – Vol. 3, p. 1402.
[72] G.R. No. 239464, May 10, 2021.

Commissioner of Internal Revenue are within its exclusive appellate jurisdiction:

> SECTION 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;
> >
> > (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds or internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial[.]

In respondent's Petition for Review, it contended that its Petition was timely filed because it was assailing the July 13, 2015 letter, which it claimed was petitioner's 'final decision on the matter of petitioner's protest against the deficiency tax assessments for the taxable year 2011.'

This argument is inaccurate.

In *Commissioner of Internal Revenue v. Villa*, this Court held that the Court of Tax Appeals' jurisdiction was over the Commissioner of Internal Revenue's decision on the protest against an assessment, and not the assessment itself. Thus, the period to invoke judicial review must be counted from receipt of the Commissioner's decision on the disputed assessment.

Here, however, <u>respondent's protest was void for failing to comply with the requirements of Revenue Regulations No. 18-2013, as mandated by Section 228 of the National Internal Revenue Code</u>. Respondent erred in claiming that the July 13, 2015 letter was petitioner's 'final decision' on its protest, there being no valid protest to speak of. xxx.

xxx xxx xxx

When a taxpayer files a petition for review before the Court of Tax Appeals without validly contesting the assessment with the

> **Commissioner of Internal Revenue, the appeal is premature and the Court of Tax Appeals has no jurisdiction:**
>
> > Since in the instant case the taxpayer appealed the assessment of the Commissioner of Internal Revenue without previously contesting the same, the appeal was premature and the Court of Tax Appeals had no jurisdiction to entertain said appeal. For, as stated, the jurisdiction of the Tax Court is to review by appeal decisions of Internal Revenue on disputed assessments. The Tax Court is a court of special jurisdiction. As such, it can take cognizance only of such matters as are clearly within its jurisdiction. (Citation omitted)
>
> **Section 228 of the National Internal Revenue Code requires that administrative protests against assessments conform to the rules and regulations issued by the Bureau of Internal Revenue.** Respondent's April 29, 2015 letter did not comply with the requirements set down in Revenue Regulations No. 18-2013. **There was no administrative protest to speak of, and no decision on a disputed assessment to assail. Thus, the Court of Tax Appeals had no jurisdiction over the Petition for Review assailing the July 13, 2015 letter.** *(Emphases and underscoring added)*

Based on the foregoing jurisprudential pronouncements, it is clear that Section 228 of the NIRC of 1997, as amended, requires that administrative protests against assessments conform with RR No. 12-99, as amended by RR No. 18-2013. Failing which, there is no administrative protest to speak of, and no decision on a disputed assessment to assail. As such, when a petition for review is filed before this Court, without validly contesting the assessment, the appeal is premature, and the Court of Tax Appeals has no jurisdiction under Section 7(a)(1) of Republic Act (RA) No. 1125, as amended.[73]

In this case, in addition to the fact that petitioner has not validly contested the subject tax assessments for its failure to submit all relevant documents within the 60-day period from the filing of its request for reinvestigation/letter dated November 15, 2018, as required under the aforequoted provisions of RR No. 12-99, as amended by RR No. 18-2013, petitioner also has failed to specify in the same letter the newly discovered or additional evidence it intends to present, as required under the same

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[73] SECTION 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;
xxx xxx xxx

provisions. Correspondingly, the present appeal assailing the subject FDDA is deemed premature and this Court has no jurisdiction to entertain the same.

It bears emphasis that this Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[74] Moreover, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[75]

WHEREFORE, premises considered, the present *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[74] *Commissioner of Internal Revenue vs. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019.

[75] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

ATTESTATION

I attest that the conclusion in the above Decision was reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Second Division Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusion in the above Decision was reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice