REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

GOODYEAR STEEL PIPE CORPORATION, Petitioner,	**CTA CASE NO. 10541**
	Members:
-versus-	**RINGPIS-LIBAN,** *Chairperson, and* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: NOV 2 5 2024 9:10 a.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a *Petition for Review*,[1] filed on May 27, 2021, assailing the Final Decision on Disputed Assessment ("FDDA"), dated April 21, 2021, assessing petitioner for various deficiency taxes for taxable year ("TY") 2012.

The Parties

Petitioner Goodyear Steel Pipe Corporation is a domestic corporation duly organized under and by virtue of Philippine law.[2]

Respondent, meanwhile, is the duly appointed Commissioner of Internal Revenue ("CIR") empowered to perform the duties of his office, including, among others, acting on disputed assessments as provided by law.[3]

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1 *Rollo* Vol. 1, pp. 10-48.
2 Pre-Trial Order, p. 2, *Rollo* Vol. 2, p. 495.
3 *Id.*

The Facts

Petitioner filed its Annual Income Tax Return ("AITR") for TY 2012 on April 18, 2013.[4]

On July 8, 2013, respondent issued Letter of Authority ("LOA") LOA-116-2013-00000162, authorizing Revenue Officers ("RO") Felina Guimbao, Josa Gomez, Aurora Pelayo, and Olivia Sison, and Group Supervisor ("GS") Olivia Aviles to examine petitioner's books of accounts for TY 2012.[5]

Petitioner then filed an amended AITR for TY 2012 on August 1, 2013.[6]

Later, on October 7, 2016, petitioner executed a Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code to a period not later than June 30, 2017. Respondent accepted the Waiver on October 25, 2016.[7]

Respondent then issued a Preliminary Assessment Notice ("PAN") on November 3, 2016. Disagreeing with respondent's assessment, petitioner engaged the services of an external auditor, Danac and Associates, and filed a protest to the PAN on November 29, 2016.[8]

On December 13, 2016, respondent issued a Formal Letter of Demand ("FLD"). Still dissatisfied, petitioner sent a protest letter to the Bureau of Internal Revenue ("BIR") on January 3, 2017.[9]

On July 8, 2020, respondent issued a new LOA, LOA-116-2020-00000176, authorizing RO Francis Elvin Ordoñez and GS Ma. Theresa Carillo to examine petitioner's books of accounts to continue the BIR's audit of petitioner's alleged tax liabilities for TY 2012. Shortly thereafter, on October 29, 2020, petitioner sent another letter to the BIR, reiterating its protest to the FLD[10]

Respondent issued the assailed FDDA on April 14, 2021.[11] Allegedly, petitioner received the same on April 27, 2021.[12]

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4 Petition for Review, p. 3, *Rollo*, Vol. 1, p. 12.
5 *Id.*
6 *Id.*
7 *Id.*
8 Petition for Review, p. 4, *id.* at 13.
9 Petition for Review, p. 5, *id.* at 14.
10 *Id.*
11 *Id.*
12 Petition for Review, p. 3, *id.* at 12.

Aggrieved, petitioner filed the instant Petition on May 27, 2021, while respondent filed his Answer[13] thereto on October 27, 2021.

After a failed attempt at mediation[14] and a full-blown trial, during which both parties presented one witness each,[15] petitioner filed its Memorandum[16] on January 17, 2024. Respondent, meanwhile, simply manifested that he would adopt the arguments raised in his Answer in place of a Memorandum.[17]

The Court then submitted the case for decision on January 18, 2024. Hence, this Decision.

<u>The Issues</u>[18]

The case presents two issues for the Court's resolution:

(1) Whether petitioner is liable to pay the assessed amount representing deficiency income tax ("IT"), value-added tax ("VAT"), documentary stamp tax, expanded withholding tax, improperly accumulated earnings tax, and compromise penalties, inclusive of surcharge and interest, for taxable year 2012, plus further surcharges and deficiency and delinquency interest for late payment, and further interest accumulated per annum from January 1, 2018 until the amount is fully paid; and

(2) Whether respondent violated petitioner's right to due process of law.

<u>Arguments of the Parties</u>

<u>Petitioner's Arguments</u>

Petitioner raises the following general arguments:

(1) The FDDA did not comply with the due process requirement of including a definite date on which the demanded taxes must be paid, as it set the due date for March 31, 2021, despite being issued on April 14, 2021, violating petitioner's rights;[19]

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13 *Id.* at 409-422.
14 *See* PMC-CTA Form 6 – No Agreement to Mediate, dated May 18, 2022, *Rollo* Vol. 2, p. 468.
15 *See* Minutes of the Hearing, held on October 19, 2022, *id.* at 544; *see also* Minutes of the Hearing, held on September 14, 2023, *id.* at 798.
16 *Id.* at 831-870.
17 Manifestation, p. 1, *id.* at 827.
18 *See* Pre-Trial Order, p. 3, *id.* at 496..
19 Memorandum, pp. 7-10, *id.* at 837-840.

(2) The deficiency assessments should be cancelled due to a consistent failure, on respondent's part, to provide solid factual and legal bases for these, violating petitioner's rights, among other substantial, computational, and procedural errors;[20] and

(3) Petitioner is not liable to pay compromise penalties as the imposition of such requires consent from the taxpayer, which petitioner has not given.[21]

Respondent's Arguments

Respondent counters the above with the following:

(1) The FDDA is valid as it identified March 31, 2021, as the due date for the payment of the taxes demanded and substantially complied with other similar due process requirements;[22]

(2) The assessments imposed all have specific factual and legal bases;[23] and

(3) The burden of proof is on the taxpayer to refute the assessment, which is presumed correct and made in good faith.[24]

The Ruling of the Court

Before addressing any other issue or argument, the Court must first determine if We have jurisdiction over this case. Such determination is vital, for, as declared by the Supreme Court, "[a]ny decision rendered by a court without jurisdiction over the subject matter of the action is void."[25]

Under *Section 7(a) of Republic Act No. 1125, as amended*, this Court can take cognizance of appeals from decisions of the CIR on disputed assessments:

> SEC. 7. Jurisdiction. — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

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[20] Memorandum, pp. 11-37, *id.* at 841-867.
[21] Memorandum, pp. 38-39, *id.* at 868-869.
[22] Answer, pp. 2-6, *Rollo* Vol. 1, pp. 410-414.
[23] Answer, pp. 6-9, *id.* at 414-419. Note that two blank pages were included in the Answer, and that while these were not counted in the pagination of the Answer, they were labelled as pp. 416-417 of the Court's *rollo*.
[24] Answer, p. 9, *id.* at 419.
[25] *City of Lapu-Lapu v. Philippine Economic Zone Authority*, G.R. Nos. 184203 & 187583, November 26, 2014.

(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;

. . . .

(Italics supplied.)

However, this jurisdiction is given a temporal restriction in the form of a 30-day prescriptive period by, for example, *Rule 8, Section 3(a) of the Revised Rules of the Court of Tax Appeals, as amended*:

SEC. 3. Who may appeal; period to file petitioner. —

(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 Commissioner of Customs, the Secretary 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 petitioner for review* ***filed within thirty days after the receipt of a copy of such decision*** or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. . . .

. . . .

(Emphasis and italics supplied.)

This 30-day period is provided by the law itself, specifically the final paragraph of *Section 228 of the National Internal Revenue Code of 1997, as amended*:

If the [administrative] 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***.
(Emphasis and italics supplied.)

Significantly, a failure to file a judicial appeal within the 30-day period renders the assailed assessment final, executory, and demandable. The timely filing of a petition for review is consequentially essential and necessary for the success of a judicial protest to an assessment.

Unfortunately, petitioner failed to prove that it timely filed the instant Petition.

To recall, petitioner claims to have received the FDDA on April 27, 2021. This would give it until May 27, 2021 within which to raise its appeal. It filed the present Petition on that exact date. As such, if it truly received the FDDA on April 27, 2021, then its Petition for Review would have been timely filed, and this Court would have properly gained jurisdiction over this case. Petitioner, however, offered nothing to support its bare claim of receiving the FDDA on April 27, 2021.

Examining the copy of the FDDA which petitioner offered in evidence,[26] the Court finds nothing to indicate the date on which petitioner received said decision. Its date of *issuance* is stamped near the top-right corner of its first page as "14 APR 2021," but it bears no stamp or hand-written note identifying its date of *receipt* by petitioner. The same is true of the attached Assessment Notices,[27] which are likewise stamped with "14 APR 2012" to indicate their date of issuance but lack any marking for their date of receipt. Finally, the attached schedules[28] are not even marked with any date of issuance, much less any date of receipt.

Notably, petitioner attached a different copy of the FDDA[29] to its Petition for Review, but said copy is of no use either. This copy, like the one offered in evidence, bears a stamp of "APR 14 2021" near the top-right corner of its first page. The date is even repeated as a handwritten note, rendered as "4/14/21." However, this copy still lacks any identification of when it was received by petitioner. The third page does bear a pair of "RECEIVED" stamps, but these are from divisions of the BIR and are dated January 5 and January 6, 2021, respectively.[30] The attached Assessment Notices are similarly devoid of any mark to indicate that petitioner indeed received them on April 27, 2021.

The given date of receipt is unsupported by the testimonial evidence offered as well. Such date was not brought up during the hearing for the presentation of petitioner's only witness, Alfredo C. Danac.[31] Indeed, in his Amended Judicial Affidavit, witness Danac admits that he was merely given a copy of the FDDA "shortly after [petitioner's] receipt of the same," without identifying the exact date of such receipt by petitioner. His testimony, then, whether through his affidavit or during cross-examination, provides no basis

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26 Exhibit "P-10", *Rollo* Vol. 2, pp. 642-644.

27 Exhibits "P-10-1" to "P-10-6", *id.* at 645-650.

28 Exhibit "P-10-7", *id.* at 651-671.

29 *Rollo* Vol. 1, pp. 235-243.

30 Note that these dates are *before* April 14, 2021, the date on which the FDDA was issued. Considering this, these were most likely stamped during internal routing and review within the BIR, *i.e.* the "scrutinous process" of approvals by various BIR officers as testified by RO Ordoñez. *See* Transcript of Stenographic Notes for the hearing, held on September 14, 2023, p. 7. In any event, neither of these refer to the date of petitioner's receipt of the FDDA.

31 *See* Transcript of Stenographic Notes for the hearing, held on October 19, 2022.

for petitioner's claim that it received the FDDA on April 27, 2021, or any other date.

Of all the evidentiary exhibits offered by petitioner, only the FDDA and its attachments were offered to prove "that the Petition for Review was timely filed."[32] As these exhibits and the offered witness testimony failed to prove such timely filing, petitioner failed to prove such timely filing.

Given the above, the Court cannot simply accept petitioner's unsupported allegation of receiving the FDDA on April 27, 2021. We must consequently treat April 14, 2021, the date of the FDDA's issuance, as the start of the 30-day period for filing a Petition for Review.

Counting 30 days from April 14, 2021, petitioner had until May 14, 2021, within which to file a Petition for Review. It filed the instant Petition on May 27, 2021, 13 days after the deadline. Its Petition was thus filed late. Consequently, the assessment has become final, executory, and demandable, and this Court has no jurisdiction over it.

In *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*,[33] the Supreme Court advised that when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the case. The Court is thus constrained to dismiss the present case, considering that We, as discussed, lack jurisdiction over the now-final assessment.

The Court need not discuss petitioner's other arguments. Even if We were to agree with such contentions, We would no longer have the power or authority to void the assessment. We would still have no choice but to dismiss the case.

ACCORDINGLY, the instant *Petition for Review*, filed on May 27, 2021, is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[32] Formal Offer of Evidence with Motion for Setting of Additional Commissioner's Hearing, pp. 3-4, *id.* at 548-549.

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

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest that the conclusion in the above Decision were 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
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