REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

PRODUCERS SAVINGS BANK CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF BUREAU OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11485

Members:

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

Promulgated:
JUN 2 1 2024 2:45 pm

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RESOLUTION

Before the Court is a Petition for Review, filed on April 24, 2024, praying that the Court either (a) declare the Final Assessment Notice ("FAN") and Garnishment issued by respondent against petitioner null and void; or (b) order respondent to approve petitioner's Request for Compromise Settlement.

After respondent's issuance of a Letter of Authority and Preliminary Assessment Notice ("PAN"), and after petitioner's filing of a reply to the PAN, respondent further issued the FAN on June 21, 2021. Petitioner replied by requesting for more time to review and submit the relevant documents.

Respondent, however, garnished petitioner's various accounts on September 11, 2021. Petitioner protested such Garnishment through a letter, sent on September 16, 2021, and a follow-up letter, sent on January 19, 2022.

Respondent denied said protests through a letter response, dated February 9, 2022.

Rather than protest such denial further or *file a judicial protest with this Court*, petitioner applied for Compromise Settlement on the ground of *financial incapacity*, sometime in March of 2022. Such application was denied on September 1, 2022, as petitioner's explanations were allegedly not within the conditions and grounds for financial incapacity.

This prompted petitioner to file an Amended and Restated Application for Compromise on October 25, 2022, where it suddenly invoked the ground of the assessment's doubtful validity, in contrast to the initial application's raising of financial incapacity. Respondent did not act on this Application.

Over a year later, on February 23, 2024, petitioner filed a follow-up letter with respondent, who promptly acted on the same by denying it on March 25, 2024.

Aggrieved, petitioner filed the instant Petition on April 24, 2024.

The Court lacks jurisdiction over the case. Hence, the Petition for Review must be dismissed.

Petitioner's right to judicially protest the assessment or the garnishment has prescribed

To review, this Court's jurisdiction is codified by *Section 7 of Republic Act* ("*R.A.*") *No. 1125, as amended. Section 7(a)(1)* of said law provides:

> 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 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;
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> (Italics, Ours)

This is supplemented by *Rule 8, Section 3 of the RRCTA*, which mandates that judicial protests be filed 30 days after either the taxpayer's receipt of the adverse decision or after the expiration of the period granted to the Commissioner of Internal Revenue ("CIR") to act on the disputed assessment:

> SEC. 3. Who may appeal; period to file petition —
>
> (a) A party adversely affected by a decision, ruling or the inaction of the Commission of Internal Revenue on disputed assessments. . . . 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 Revenue to act on the disputed assessments. . . .*

(Italics, Ours)

Both this Court and the Supreme Court have interpreted the phrase "decision. . . . on disputed assessments" of the CIR liberally. For example, the CIR's reply to consistent letter protests to a Warrant of Distraint and/or Levy ("WDL") was considered the CIR's final decision in the case of *Light Rail Transit Authority v. Bureau of Internal Revenue*[1] ("*LRTA*").

Applying the above and *LRTA* to this case, the last issuance of respondent that can be considered his "final decision" on the assessment is the letter response he sent to petitioner denying the latter's September 16, 2021 letter request. Said response, attached to the Petition as Annex "M," was dated February 9, 2022. However, the copy submitted by petitioner is stamped as having been received on February 15, 2022.

Given that (a) 30 days from February 15, 2022 is March 17, 2022; and (b) petitioner raised its judicial protest only on April 24, 2024, the Petition for Review was filed out of time. We thus have no jurisdiction over the same.

The same can be said of the assailed Garnishment. If petitioner wished to properly protest this before the Court of Tax Appeals, via Our jurisdiction over "other matters" arising from the *NIRC*,[2] it should also have done so on or before March 17, 2022. Because it did not do so, We lack the requisite jurisdiction to act on such garnishment.

Neither can we consider petitioner's applications for Compromise Settlement as a continuation of its administrative protest. First, *LRTA*'s consideration of replies to letter protests to a WDL as final decisions already grants a liberal amount of leeway. To further consider applications for compromise as "administrative protests" would allow taxpayers to indefinitely delay filing a judicial appeal, rendering the 30-day period for such nugatory.

Second, as admitted by petitioner itself in paragraph 73 of its Petition for Review, it filed its Application for Compromise Settlement "on the ground of Financial Incapacity." It did *not* file such on the ground of doubtful validity. It was only when its Application was denied for not being within the grounds

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[1] G.R. No. 231238, June 20, 2022.

[2] *See Philippine Journalists, Inc. v. Commissioner of Internal Revenue*, G.R. No. 162852, December 16, 2004.

for financial incapacity that it sought to amend said application to cast doubt on the validity of the assessment.[3]

By seeking a Compromise Settlement on the ground of financial incapacity but not the doubtful validity of the assessment, then, petitioner impliedly accepted such validity. If petitioner truly wished to question the validity of the assessment, then it should have raised that as a ground in its initial Compromise Settlement, rather than as a sudden change of heart when its Application was denied. Better yet, *it should have timely raised an appeal before this Court.*

It did not do any of these. Instead, the period for filing a judicial protest having clearly expired, it later sent a follow-up letter to respondent on February 23, 2024, out of the blue, seemingly to garner a letter response it could wield before this Court as a final decision on "other matters" arising from the *NIRC* and surreptitiously evade the prescriptive period for judicial appeals.

Even ignoring such blatant gamesmanship of procedural rules, it is clear that the period to judicially protest the assessment and the collection efforts has expired. We thus lack any jurisdiction over the FAN or the Garnishment.

The Court cannot force respondent to accept an application for compromise agreement

Given that We cannot act on petitioner's prayers regarding the FAN and the Garnishment, the only prayer We might conceivably countenance is that on the Compromise Settlement. However, said prayer, which asks that we *order* respondent to accept the compromise agreement, is one We cannot grant.

As petitioner itself notes, citing *Rovero v. Amparo*,[4] a compromise agreement is perfected by mutual consent. Thus, to *order* respondent to accept the compromise agreement would be self-contradictory, in that the order would *force* respondent to accept the compromise without necessarily seeking his consent. As self-contradictory, then, the Court cannot grant the relief sought, and any judicial proceedings on the issue would be moot *ab initio*.

As We lack the power to flout the very definition of a compromise agreement, We concomitantly lack any jurisdiction over the issue.

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[3] *See* Notice of Denial, dated September 1, 2022, attached to the Petition for Review as Annex "R"; *see also* Amended and Restated Application for Compromise Settlement, dated October 25, 2022, attached to the Petition for Review as Annex "S".

[4] G.R. No. L-5482, May 5, 1952.

Given that We have neither any jurisdiction over the assessment and collection or the power to grant the prayer on the compromise settlement, this Court has no option but to dismiss the instant Petition.

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

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice