REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MANSION MAINTENANCE CO. INC., Petitioner,	**CTA CASE NO. 10535**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: ______ 4:30 pm

x - x

DECISION

FERRER-FLORES, J.:

The **Petition for Review** prays for this Court:

1. To declare the Formal Letter of Demand (FLD) issued against petitioner as void; and,

2. To quash, cancel, and/or lift Warrant of Distraint and/or Levy (WDL) No. RR8B-21-02-09-00013 dated March 1, 2021, including any garnishment issued.[1]

THE PARTIES

Petitioner **Mansion Maintenance Co. Inc.** is a corporation duly organized and existing under Philippine laws with principal place of business at Blk 19 Lot 1 EP Village, Phase 2, Western Bicutan, Taguig City.[2]

---

1 Statement of the Case, Pre-Trial Order dated May 18, 2023, Docket – Vol. I, p. 366.
2 Refer to Exhibit "P-1", Docket – Vol. I, pp. 25 to 26.

Respondent is the duly appointed **Commissioner of Internal Revenue**, officially responsible for the assessment and collection of all national internal revenue taxes, fees and charges, and the enforcement of all forfeitures, penalties and fines connected with such taxes. He holds office at the Bureau of Internal Revenue (BIR) National Office Building, Agham Road, Diliman, Quezon City.[3]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

The BIR issued to petitioner Letter of Authority (LOA) No. AUDM35/018417/2018 / SN: eLA201500087391 dated April 26, 2018,[4] authorizing Revenue Officer (RO) Grace Manuel and Group Supervisor (GS) Eulogina Lacson of Revenue District Office No. 044 – Taguig - Pateros, to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for the period from January 1, 2016 to December 31, 2016.

On January 14, 2020, the BIR served on petitioner an undated Preliminary Assessment Notice (PAN),[5] finding petitioner liable for deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), and documentary stamp tax (DST), in the aggregate amount of ₱2,051,716.15, inclusive of surcharges, interests, and compromise penalty.

Petitioner filed a reply to the PAN through a Request to Cancel Assessment dated January 28, 2020.[6]

Thereafter, on July 21, 2020, the BIR served against petitioner the FLD, with Details of Discrepancies and Assessment Notice, all dated July 14, 2020,[7] finding petitioner liable for deficiency income tax, in the aggregate amount of ₱1,884,806.34, inclusive of interests.

On August 3, 2020, petitioner then filed the letter dated July 23, 2020 (with the subject Request to Respect Immunity Granted by the Tax Amnesty Law),[8] praying that the FLD and Assessment Notice be retracted and set aside immediately, and requesting the BIR to issue a written letter notifying petitioner of the cancellation thereof.

---

[3] Par. 1, Joint Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 351.
[4] Exhibit "P-3", Docket – Vol. I, p. 205; Exhibit "R-1", BIR Records, p. 192.
[5] Exhibit "P-4", Docket – Vol. I, pp. 213 to 220; Exhibit "R-5", Docket – Vol. I, pp. 217 to 220.
[6] Exhibit "P-5", Docket – Vol. I, pp. 221 to 227.
[7] Exhibit "P-6", Docket – Vol. I, pp. 252 to 256; Exhibit "R-6", BIR Records, pp. 320 to 324.
[8] Exhibit "P-7", Docket – Vol. I, pp. 257 to 272; Exhibit "R-7", BIR Records, pp. 325 to 351.

The BIR then issued the assailed WDL No. RR8B-21-02-09-00013 dated March 1, 2021,[9] which was served on petitioner on even date.

PROCEEDINGS BEFORE THIS COURT

Petitioner filed the present *Petition for Review With Motion to Suspend Collection of Taxes* on May 24, 2021.[10]

On August 1, 2022, respondent filed his *Answer*[11] and transmitted the *BIR Records* of the present case on October 12, 2022, consisting of 477 pages in one (1) folder.[12]

The hearing on petitioner's *Motion to Suspend Collection of Taxes* was set on October 12, 2022,[13] in which petitioner presented the testimony of its Vice President, Ms. Gloria U. Basaysay.[14]

Petitioner then filed its *Formal Offer of Exhibits (Re: Motion to Suspend Collection of Taxes)* on October 24, 2022.[15] Respondent, however, failed to file comment thereon.[16] In the Resolution dated February 2, 2023,[17] the Court admitted petitioner's offered exhibits.

The Pre-Trial Conference was set and held on February 23, 2023.[18] Prior thereto, respondent's *Pre-Trial Brief* was filed on February 20, 2023,[19] while *Petitioner's Pretrial Brief* was submitted on February 21, 2023.[20]

Thereafter, in the Resolution dated April 26, 2023,[21] the Court granted the *Motion to Suspend Collection of Taxes* of petitioner and ordered the latter to post a cash bond equivalent to the amount claimed of ₱1,292,661.24, or a surety bond in the amount equivalent to one and a half

---

[9] Exhibit "P-2", Docket – Vol. I, p. 103.
[10] Docket – Vol. I, pp. 10 to 26.
[11] *Id.* at 114 to 122.
[12] *Compliance* dated October 11, 2022, Docket – Vol. I, pp. 190 to 192.
[13] Resolution dated September 14, 2022, *Id.* at 182.
[14] Exhibit "P-8", Docket – Vol. I, pp. 61 to 71; Minutes of the hearing held on, and Order dated, October 12, 2022, Docket – Vol. I, pp. 188 to 189.
[15] Docket – Vol. I, pp. 200 to 204.
[16] Records Verification Report dated November 24, 2022 issued by the Judicial Records Division of this Court, Docket – Vol. I, p. 317.
[17] Docket – Vol. I, p. 321.
[18] Notice of Pre-Trial Conference dated October 20, 2022, Docket – Vol. I, pp. 314 to 315; Minutes of the hearing held on, and Order dated, February 23, 2023, Docket – Vol. I, pp. 334 and 337 to 338, respectively.
[19] Docket – Vol. I, pp. 322 to 324.
[20] *Id.* at 325 to 331.
[21] *Id.* at 358 to 364.

(1½) of the amount claimed, or ₱1,938,991.86, within 10 days from receipt of the said Resolution.

On March 27, 2023, the parties filed their *Joint Stipulation of Facts and Issue*,[22] which was adopted in the Pre-Trial Order dated May 18, 2023,[23] thereby deeming the termination of the Pre-Trial.

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

Petitioner again offered the testimony of its Vice President, Ms. Basaysay.[24]

Subsequently, petitioner filed its *Formal Offer of Evidence* on September 8, 2023,[25] while respondent failed to file his comment thereon.[26] In the Resolution dated November 30, 2023,[27] the Court admitted all of petitioner's offered exhibits.

For his part, respondent presented the testimony of RO Manuel.[28]

On January 31, 2024, respondent posted his *Formal Offer of Evidence*,[29] to which petitioner filed *via* accredited courier its *Comments/Objections (Re: Respondent's Formal Offer of Evidence dated 29 January 2024)* on February 16, 2024.[30] In the Resolution dated April 25, 2024,[31] the Court admitted all of respondent's offered exhibits.

In the meantime, on May 18, 2023, petitioner filed its *Motion to Admit Surety Bond (Re: Resolution dated 26 April 2023)*,[32] which the Court denied in the Resolution dated July 10 2023.[33] Petitioner, thus, filed its *Compliance* on July 26, 2023,[34] which the Court found to be insufficient.[35] Again, on

[22] Docket – Vol. I, pp. 351 to 356.
[23] *Id.* at 366 to 370.
[24] Exhibit "P-8", Docket – Vol. I, pp. 61 to 71; Minutes of the hearing held on, and Order dated, August 29, 2023, Docket – Vol. II, pp. 556 to 559.
[25] Docket – Vol. II, pp. 560 to 565.
[26] Records Verification dated September 25, 2023 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 566.
[27] Docket – Vol. II, pp. 613 to 615.
[28] Exhibit "R-10", Docket – Vol. I, pp. 126 to 134; Minutes of the hearing held on, and Order dated, January 16, 2024, Docket – Vol. II, pp. 616 to 618.
[29] Docket – Vol. II, pp. 619 to 624.
[30] *Id.* at 626 to 633.
[31] *Id.* at 636 to 637.
[32] Docket – Vol. I, pp. 376 to 378.
[33] *Id.* at 502 to 506.
[34] Docket – Vol. II, pp. 507 to 509.
[35] Minutes of the hearing held on, and Order dated, August 29, 2023, Docket – Vol. II, pp. 556 to 559.

September 28, 2023, petitioner filed its *Compliance*,[36] which the Court noted in the Resolution dated November 30, 2023,[37] but ordered petitioner, among others, to submit an explanation for the difference between the sample signatures of Mr. Wendell Cainglit and the signature appearing above his name in the TRISCO bond. In view of petitioner's non-compliance with the said Resolution, the Court, in the Resolution dated April 25, 2024, gave petitioner a final opportunity to comply with the same.[38] Thus, on May 10, 2024, petitioner filed its *Compliance (Re: Resolution dated 25 April 2024)*,[39] thereby submitting an Affidavit of Discrepancy of Signature executed by Mr. Cainglit.

Both parties having failed to file their respective memoranda,[40] the present case was deemed submitted for decision on June 27, 2024.[41]

THE STIPULATED ISSUES

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

a. WHETHER OR NOT PETITIONER IS LIABLE FOR DEFICIENCY INCOME TAX, VAT, EWT AND DST INCLUDING INTERESTS AND COMPROMISE PENALTY FOR CALENDAR YEAR ENDED DECEMBER 31, 2016 IN THE AMOUNT OF PHP1,884,806.34; AND

b. WHETHER OR NOT THE WARRANT OF DISTRAINT AND LEVY ISSUED AGAINST PETITIONER IS VOID FOR HAVING BEING ISSUED PREMATURELY.[42]

Petitioner's arguments:

Petitioner argues that the assessment against petitioner was issued beyond the prescriptive period; and, that the WDL was prematurely issued because there was no valid FLD issued to petitioner. Consequently, petitioner contends that the FDDA should be declared void.

[36] Docket – Vol. II, pp. 568 to 570.
[37] *Id.* at 613 to 615.
[38] *Id.* at 636 to 637.
[39] *Id.* at 638 to 641.
[40] Records Verification dated June 18, 2024 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 643.
[41] Minute Resolution dated June 27, 2024, Docket – Vol. II, p. 644.
[42] Joint Statement of Issue to be Tried or Resolved, JSFI, Docket – Vol. I, pp. 351 to 352.

Respondent's counter-arguments:

Respondent, on the other hand, posits that the FLD with Details of Discrepancies and Assessment Notice dated July 14, 2020 that was served on and received by petitioner on July 21, 2020, is within the period provided by the regulations; and, a perusal of the Letter dated July 23, 2020 reveals that it is not a valid protest contemplated in Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, as well as the existing regulations, such as Revenue Regulations (RR) Nos. 12-99, 18-13, 07-18 and 22-2020.

THE COURT'S RULING

The present *Petition for Review* must be dismissed.

Petitioner's protest to the FLD is not a valid protest; thus, the petition is premature and this Court has no jurisdiction to entertain the same.

As mentioned earlier, respondent avers that a perusal of the Letter, reveals that it is not a valid protest contemplated in Section 228 of the NIRC of 1997, as amended, as well as existing regulations, such as RR Nos. 12-99, 18-13, 07-18 and 22-2020. Moreover, respondent stresses that if the taxpayer fails to file a valid protest against the FLD/FAN within 30 days from date of receipt thereof, the assessment shall become final, executory and demandable.

This Court agrees with respondent that petitioner's letter dated July 23, 2020,[43] cannot be considered a valid protest, thus, this Court lacks jurisdiction to entertain the present *Petition*.

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
>
> xxx xxx xxx
>
> The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.

---

[43] Exhibit "P-7", Docket – Vol. I, pp. 257 to 272; Exhibit "R-7", BIR Records, pp. 325 to 351.

> 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</u>. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.**
>
> 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, italics 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 request for reinvestigation, **in such <u>form and manner</u> as may be prescribed by implementing rules and regulations.**

Implementing the above-quoted Section 228 of the NIRC of 1997, as amended, particularly the *form and manner* of filing of the requests for reconsideration and reinvestigation, Section 3 of RR No. 12-99,[44] as amended by RR No. 18-2013,[45] and as renumbered by RR No. 7-2018,[46] 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
>
> 3.1.5 *Disputed Assessment.* — The taxpayer or its authorized representative or tax agent may protest administratively against the

---

[44] 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.

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

[46] SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99, as Amended by Revenue Regulations No. 18-13, Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

> aforesaid FLD/FAN[47] 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 present in the reinvestigation. It may also involve a question of fact or of law or both.
>
> **The <u>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</u>, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based, <u>otherwise, his protest shall be considered *void and without force and effect*</u>.**
>
> xxx xxx xxx
>
> **For requests for reinvestigation, 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 has 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.[48]

---

[47] That is, the *"Formal Letter of Demand and Final Assessment Notice"*.

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

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. The said 60-day period applies only to *requests for reinvestigation*.

In any case, the protest must state the following: (1) the nature thereof (whether *reconsideration* or *reinvestigation*, and in case of the latter, it must specify the newly discovered or additional evidence the taxpayer intends to present); (2) the date of the assessment notice; and, (3) the applicable law, rules and regulations, or jurisprudence on which the protest is based; otherwise, the protest shall be considered void, and without force and effect.

In this case, petitioner's protest or Letter dated July 23, 2020 (with the subject *Request to Respect Immunity Granted by the Tax Amnesty Law*),[49] did not comply with Section 228 of the NIRC of 1997, as amended, in relation to the above-quoted Section 3 of RR No. 12-99, as amended. Notably, the said protest or Letter failed to state the nature thereof, *i.e.*, whether it is a request for *reconsideration* or *reinvestigation;* hence, respondent had no way of knowing whether it should monitor the 60-day period stated in RR No. 12-99, as amended, and likewise failed to state the date of the *Assessment Notice,* although copies of the FLD with Details of Discrepancies and Assessment Notice were attached to the protest.[50] Correspondingly, petitioner's protest dated July 23, 2020 is void, and without force and effect.

In *Commissioner of Internal Revenue vs. Court of Tax Appeals-Third Division and Citysuper, Incorporated*,[51] the Supreme Court ruled as follows:

> **When a taxpayer files a petition for review before the Court of Tax Appeals <u>without validly contesting the assessment</u> with the Commissioner of Internal Revenue, <u>the petition is premature and the Court of Tax Appeals has no jurisdiction</u>.**
>
> xxx xxx xxx

---

[49] Exhibit "P-7", Docket – Vol. I, pp. 257 to 272; Exhibit "R-7", BIR Records, pp. 325 to 351.

[50] Annex 1, Exhibit "P-7", Docket – Vol. I, pp. 261 to 265; Annex 1, Exhibit "R-7", BIR Records, pp. 343 to 347.

[51] G.R. No. 239464, May 10, 2021.

Nowhere in respondent's April 29, 2015 letter did it state the assessment notice's date and the applicable law, rules and regulations, or jurisprudence on which its protest was based. Attaching copies of the audit results/assessment notices is not stating the date of the assessment notice, any more than attaching copies of assailed judgments to a petition without stating them in the petition itself complies with the rule on statements of material dates.

While respondent's declaration that it was 'in the process of compiling the necessary documentation to support [its] protest to said assessments' could imply that it was requesting a reinvestigation, its failure to explicitly state this means that petitioner had no way of knowing whether it should monitor the 60-day period stated in Revenue Regulations No. 18-2013.

Section 228 of the National Internal Revenue Code is clear. **The administrative protest must be filed not only within the stated period, but also 'in such form and manner as may be prescribed by implementing rules and regulations.'** 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 the Commissioner of Internal Revenue are within its exclusive appellate jurisdiction:

xxx xxx xxx

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*,[52] 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, 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. 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

---

[52] G.R. No. L-23988. January 7, 1968.

> **When a taxpayer files a petition for review before the Court of Tax Appeals <u>without validly contesting the assessment</u> 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 has no jurisdiction.

It bears emphasis that this Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[53] Moreover, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[54]

Considering that petitioner's protest or letter dated July 23, 2020 (with the subject *Request to Respect Immunity Granted by the Tax Amnesty Law*)[55] is void, and thus, cannot be considered a valid protest, there is no administrative protest to speak of. Consequently, the present *Petition for*

---

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

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

[55] Exhibit "P-7", Docket – Vol. I, pp. 257 to 272; Exhibit "R-7", BIR Records, pp. 325 to 351.

Review, which assails the subject FLD without validly contesting the same, is premature, and this Court has no jurisdiction to entertain the same.

The Court has jurisdiction over the collection.

Be that as it may, the fact that the subject assessment has become final and executory for failure of petitioner to file a proper protest within the time allowed only means that the validity or correctness of the assessment may no longer be questioned on appeal. The validity of the assessment itself, however, is a separate and distinct issue from the issue of whether the right of the CIR to collect may be enforced. The issue of collection, being a matter provided for by the NIRC of 1997, as amended, is well within the jurisdiction of the Court to decide, pursuant to Section 7(a)(1) of Republic Act (R.A.) 1125,56 as amended by R.A. No. 9282, to wit:

> 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 [Code]** or other laws administered by the Bureau of Internal Revenue[.] *(Emphasis supplied)*

Pertinently, Section 11 of R.A. No. 1125, as amended by R.A. No. 9282, provides for the 30-day period to file an appeal:

> 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 xxx 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 actions as referred to in Section 7(a)(2) herein.
>
> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA **within thirty (30) days from receipt of the decision or ruling** or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. **A Division of the CTA shall hear the appeal**: xxx. *(Emphasis supplied)*

Based on the foregoing, the exclusive appellate jurisdiction of this Court in Division is not limited to cases involving decisions of the

56 An Act Creating the Court of Tax Appeals (June 16, 1954).

respondent CIR on matters relating to assessments or refunds.[57] The second part of Section 7(a)(1) of the R.A. No. 1125, as amended by R.A. No. 9282 covers the cases that arise out of the NIRC of 1997, as amended, or related laws administered by the BIR.[58] The wording of the provision is clear and simple.[59]

The above provision indeed gives this Court the jurisdiction to determine if the WDL issued by the BIR is valid.[60] Moreover, the issue of prescription of the BIR's right to collect taxes may be considered as covered by the term "other matters" over which this Court has appellate jurisdiction.[61] This is so because what is basically being assailed in the such cases is the power and duty of the BIR, to which respondent CIR is the chief,[62] to collect national internal revenue taxes, which are recognized under Sections 2[63] and 208,[64] *inter alia*, of the NIRC of 1997, as amended.

Notably, in this case, aside from assailing the validity of the assessments, petitioner also questions the validity of the WDL dated March 1, 2021 for being prematurely issued.

In order for the Court to acquire jurisdiction over "other matters", the *Petition* must necessarily be filed on time.

---

[57] *Commissioner of Internal Revenue vs. Court of Tax Appeals Second Division and QL Development, Inc.*, G.R. No. 258947, March 29, 2022.

[58] *Commissioner of Internal Revenue vs. Hambrecht & Quist Philippines, Inc.*, G.R. No. 169225, November 17, 2010.

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

[60] *Id.*

[61] *Commissioner of Internal Revenue vs. Hambrecht & Quist Philippines, Inc.*, supra; *Commissioner of Internal Revenue vs. Court of Tax Appeals Second Division, et al.*, G.R. No. 258947, March 29, 2022

[62] Section 3 of the NIRC of 1997 reads:

> SEC. 3. *Chief Officials of the Bureau of Internal Revenue.* – **The Bureau of Internal Revenue shall have a chief to be known as Commissioner of Internal Revenue**, hereinafter referred to as the Commissioner, and four (4) assistant chiefs to be known as Deputy Commissioners." *(Emphasis supplied)*

[63] Section 2 of the NIRC of 1997 states:

> SEC. 2. *Powers and Duties of the Bureau of Internal Revenue.* – **The Bureau of Internal Revenue shall be under the supervision and control of the Department of Finance and <u>its powers and duties shall comprehend the</u>** assessment and **<u>collection of all national internal revenue taxes</u>**, fees, and charges, and the enforcement of all forfeitures, penalties, and fines connected therewith, including the execution of judgments in all cases decided in its favor by the Court of Tax Appeals and the ordinary courts. The Bureau shall give effect to and administer the supervisory and police powers conferred to it by this Code or other laws. *(Emphasis and underscoring supplied)*

[64] Section 208 of the NIRC of 1997 partly reads:

> SEC. 208. *Procedure for Distraint and Garnishment.* – xxx
>
> Bank accounts shall be garnished by serving a warrant of garnishment upon the taxpayer and upon the president, manager, treasurer or other responsible officer of the bank. **<u>Upon receipt of the warrant of garnishment, the bank shall turn over to the Commissioner</u> so much of the bank accounts as may be sufficient to satisfy the claim of the Government.**" *(Emphasis and underscoring supplied)*

Here, the *Petition for Review* was filed on **May 24, 2021**,[65] praying, among others, that the WDL No. RR8B-21-02-19-00013 dated March 1, 2021, which was received by petitioner on even date,[66] be quashed, cancelled and/or lifted.[67] Counting 30 days from receipt of the WDL by petitioner, it had until **March 31, 2021** to file the pertinent *Petition for Review*. Apparently, the instant *Petition* was filed out of time.

The Court notes, however, the issuance of the Supreme Court of Administrative Circular Nos. 15-2021,[68] 22-2021,[69] and 29-2021[70] during the period of the pandemic, ordering the physical closure of the Courts in the National Capital Region (NCR) and suspending the Court filings with the relevant Court, thus, allowing Court filers to submit their corresponding Court submission with seven days from the physical reopening of the Court. Hence, upon physical reopening of the CTA on May 17, 2021, petitioner had until May 24, 2021 to file its *Petition for Review*. Clearly, the instant Petition was timely filed.

The enforcement of collection initiated by respondent is valid.

As petitioner failed to timely file a proper protest, the subject assessment became final, executory and demandable. The Court, thus, finds that respondent's issuance of WDL No. RR8B-21-02-19-00013 dated March 1, 2021 pursuant to the subject assessments proper.

Section 203 of the NIRC of 1997, as amended,[71] generally provides for a three-year prescriptive period within which the BIR may assess internal revenue taxes, counted from the last day prescribed by law for the filing of the return or from the day the return was filed, whichever comes later.

---

65 Docket – Vol. I, at p. 10.

66 *Id.* at 12.

67 *Id.* at 20.

68 Extending the filing of Court submissions that fall due on March 29 to April 11, 2021 for seven calendar days from April 12, 2021, or until April 19, 2021.

69 Physical closure of the Courts in National Capital Region (NCR) and suspending the filing of Court submissions, which will resume seven days counted from the first day of the physical reopening of the relevant Court.

70 Physical closure of the Courts in National Capital Region (NCR) until May 14, 2021 and suspending the filing of Court submissions, which will resume seven days counted from the first day of the physical reopening of the relevant Court.

71 Section 203. Period of Limitation Upon Assessment and Collection. - Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: Provided, That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

With respect to the collection of taxes, the Supreme Court has held that in cases of assessment issued within the three-year ordinary period, the respondent has another three years from the final assessment within which to collect taxes:[72]

Applying the foregoing, respondent may proceed to enforce collection within three years from the issuance of the assessment.

In the case at bar, the FLD was issued on July 14, 2020; whereas, the WDL was issued on March 1, 2021. Clearly, the enforcement of collection by respondent was made within the three-year period.

Moreover, Section 205 of the NIRC of 1997, as amended, provides for the collection through the civil and summary remedies provided under the NIRC of 1997, as amended:

> SECTION 205. ***Remedies for the Collection of Delinquent Taxes.*** – The **civil remedies for the collection** of internal revenue taxes, fees, or charges, and any increment thereto **resulting from delinquency** shall be:
>
> (a) By distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts, and interest in and rights to personal property, and by levy upon real property and interest in or rights to real property; and
>
> (b) By civil or criminal action. xxx *(Emphasis supplied)*

Relative thereto, Revenue Regulations (RR) No. 12-99,[73] as amended by RR No. 18-13,[74] provides for who shall be considered delinquent, to wit:

> SECTION 3. Due Process Requirement in the Issuance of a Deficiency Tax Assessment. —
>
> 3.1 Mode of procedures in the issuance of a deficiency tax assessment:
>
> xxx xxx xxx

---

[72] *Commissioner of Internal Revenue vs. Court of Tax Appeals Second Division and QL Development Inc.*, G.R. No. 258947, March 29, 2022.

[73] 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, September 6, 1999.

[74] Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, November 28, 2013.

> 3.1.5 Disputed Assessment. — xxx
>
> If the protest is denied, in whole or in part, by the Commissioner, the **taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become <u>final, executory and demandable</u>**.
>
> In general, **if the protest is denied, in whole or in part, by the Commissioner or his duly authorized representative, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become <u>final, executory and demandable</u>**: xxx
>
> If the Commissioner or his duly authorized representative fails to act on the taxpayer's protest within one hundred eighty (180) days from date of submission, by the taxpayer, of the required documents in support of his protest, **the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from the lapse of the said 180-day period, otherwise, the assessment shall become <u>final, executory and demandable</u>**. *(Emphasis and underscoring supplied)*

From the afore-cited BIR Regulation, it is evident that, when a taxpayer failed to successfully file a valid appeal before the CIR or the Court of Tax Appeals within the applicable reglementary period, the tax assessment does become final, executory and demandable. Consequently, civil remedies for collection are applicable. The subject deficiency assessment is therefore, collectible.

Accordingly, respondent's issuance of WDL No. RR8B-21-02-19-00013 dated March 1, 2021 is proper.

WHEREFORE, premises considered, the present **Petition for Review** is **DISMISSED** for lack of jurisdiction as regards the Formal Letter of Demand; and, **DENIED** for lack of merit as regards the Warrant of Distraint and/or Levy No. RR8B-21-02-19-00013 dated March 1, 2021.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

We Concur:

I concur with the decision only as to the dismissal of this case for lack of jurisdiction.
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

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 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