REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

BIOENERGY 8 CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 3004
(CTA Case No. 10260)

Present:

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
MAR 13 2026 3:50 pm

x- -x

DECISION

REYES-FAJARDO, *J.*:

For action is the Petition for Review[1] filed by petitioner Bioenergy 8 Corporation, challenging the Decision[2] dated January 16, 2024 and the Resolution[3] dated September 5, 2024 in CTA Case No. 10260. The Special Second Division of the Court (Court in Division) dismissed the Petition for Review on the ground of lack of jurisdiction.

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1 *Rollo*, pp. 10-39.
2 *Id.* at pp. 62-100.
3 *Id.* at pp. 48-60.

PARTIES

Petitioner is a corporation duly organized and existing under Philippine laws, with principal office address at Km. 10, Sasa, Davao City.[4] As stated in its Amended Articles of Incorporation[5] (AOI), its primary purpose is to engage in the manufacture of vegetable methyl ester additive and other biofuel products, including local and international marketing and trading of such and any and all kinds of petroleum products.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (CIR), vested by law with authority to enforce and implement the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended, as well as related statutes and their implementing rules and regulations (IRR). The CIR holds office at the Bureau of Internal Revenue (BIR) National Office Building, BIR Road, Diliman, Quezon City.[6]

FACTS

On September 10, 2013, petitioner received a Letter of Authority (LOA) dated September 5, 2013,[7] bearing Reference No. LOA-132-2013-000000378 (SN: eLA201000076259), issued by then Officer-in-Charge-Regional Director (OIC-RD) of Revenue Region (RR) No. 19-Davao City, Glen A. Geraldino. The LOA authorized Revenue Officer Abolhasan Balindong (RO Balindong) and Group Supervisor Saripoden Bantog (GS Bantog), to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for the period January 1, 2012 to December 31, 2012.[8]

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4 Par. 1, Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), Division Docket, Volume I, p.381.

5 Exhibit "P-1," *id.*,p. 261.

6 Par. 2, Admitted Facts, JSFI, *id.*,p. 381.

7 Exhibit "P-40," *id.*,p. 329; Exhibit "R-1," BIR Records, p. 8.

8 Par. 4, Admitted Facts, JSFI, *id.*,p. 382.

On September 21, 2015, petitioner received a Preliminary Assessment Notice (PAN) with Details of Discrepancies dated September 9, 2015.[9] The PAN informed petitioner of its alleged income tax (IT), value-added tax (VAT) and expanded withholding tax (EWT) deficiencies amounting to ₱527,578,169.17, inclusive of interest and compromise penalties.

On October 1, 2015, petitioner filed with the BIR a Letter dated September 30, 2015,[10] addressed to then Commissioner Kim S. Jacinto-Henares (Commissioner Henares), requesting details regarding the alleged assessment.

On November 18, 2015, petitioner received a Formal Letter of Demand with Details of Discrepancies and Assessment Notices[11] (FLD/FAN), all dated November 5, 2015. The FLD/FAN demanded payment of alleged IT, VAT and EWT deficiencies for taxable year (TY) 2012, amounting to ₱527,578,169.17, inclusive of surcharge, interest and compromise penalty.

On December 18, 2015, petitioner filed a protest against the FLD/FAN,[12] requesting a reinvestigation and the submission of supporting documents.

On May 4, 2016, petitioner received respondent's Letter dated March 31, 2016,[13] granting the request for reinvestigation. The letter enclosed a duly accepted Waiver of the Defense of Prescription under the Statute of Limitations of the NIRC, thereby authorizing the BIR to re-examine the subject deficiency tax assessment.

On October 28, 2016, petitioner received another Letter from the BIR,[14] signed by Revenue District Officer Rodrigo L. Rivamonte (RDO Rivamonte), informing petitioner that the case had been re-assigned to Revenue Officer Cynthia O. Nedamo (RO Nedamo) under the

9 Exhibit "P-25,"*id.*, pp. 333-334: Exhibit "R-3," BIR Records, pp. 124-125.
10 Exhibit "P-27," Division Docket, Volume I, pp. 335-336.
11 Exhibit "P-28,"*id.*, pp. 337-341: Exhibits "R-4" and "R-4-a" to "R-4-d," BIR Records, pp. 127-132.
12 Exhibit "P-29,"*id.*, pp. 342-345.
13 Exhibit "R-5," BIR Records, pp. 686-687.
14 Exhibit "P-30," Division Docket, Volume I, p. 346.

supervision of Group Supervisor Ma. Afrecy L. Barbiran (GS Barbiran), for the conduct of a reinvestigation.

On May 5, 2017, petitioner received the Final Decision on Disputed Assessment (FDDA) dated April 20, 2017,[15] signed by then OIC-RD Nuzar N. Balatero (OIC-RD Balatero), with Assessment Notices (ANs). This FDDA informed petitioner the results of the reinvestigation, which reduced petitioner's alleged tax liabilities to ₱136,285,183.23.

On June 5, 2017, petitioner filed a Request for Reconsideration[16] of even date before the Office of the Commissioner (OCIR), furnishing a copy thereof to BIR RR No. 19-Davao City.

Thereafter, petitioner received a Letter dated September 5, 2017[17] from the BIR's Chief of Appellate Division, Atty. Hayle F. Bonilla (Chief Bonilla), informing petitioner that its Request for Reconsideration had been referred to her division for resolution and necessary action.[18]

On October 23, 2018, petitioner received another Letter from the BIR,[19] dated October 19, 2018, signed by Revenue Officer Alfie Joy Q. Emuy (RO Emuy). The letter informed petitioner of the reassignment of the case to RO Emuy and requested that petitioner's duly authorized representatives visit RD No. 132-East Davao City's office to discuss the arguments raised in the Request for Reinvestigation.

On January 21, 2020, petitioner received a Letter dated December 27, 2019[20] (Denial Letter), signed by then Regional Director Esmeralda M. Tabule (RD Tabule), denying petitioner's Request for Reconsideration[21] filed before the OCIR.

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15 Exhibit "P-31"/"R-6," *supra* at note 6. Exhibit "P-31"/" R-6," Division Docket, Volume I, pp. 347-349.
16 Exhibit "P-32," Division Docket, Volume I, pp. 350-355.
17 Exhibit "P-33,"*id.*, p. 356.
18 Par. 19, Petitioner's Memorandum dated 21 December 2022, *id.*,Volume II, p. 816.
19 Exhibit "P-34,"*id.*, Volume I, p. 357.
20 Exhibit "P-35,"*id.*, p. 358; Exhibit "R-7," BIR Records, p. 802.
21 Exhibit "P-32," *supra* at note 20. Exhibit "P-32," Division Docket, Volume I, pp. 350-355.

Aggrieved, on February 14, 2020, petitioner sent a Letter of even date[22] addressed to then Regional Director Joseph M. Catapia (RD Catapia), seeking clarification on the denial of its Request for Reconsideration of the FDDA.[23] Petitioner noted that only the CIR may entertain an administrative appeal from the decision of his or her duly authorized representative.

On February 20, 2020, within thirty (30) days from receipt of the Denial Letter, petitioner filed a Petition for Review[24] before the Court of Tax Appeals (CTA), docketed as CTA Case No. 10260.

On January 16, 2024, the Court in Division rendered the challenged Decision, the dispositive portion of which reads:

> **WHEREFORE**, the foregoing premises considered, the present Petition for Review filed by petitioner Bioenergy 8 Corporation on 20 February 2020 is hereby **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**

On February 13, 2024, petitioner filed a Motion for Reconsideration (Re: Decision dated 16 January 2024) before the Court in Division.

On September 5, 2024, the Court in Division rendered the equally challenged Resolution, denying petitioner's Motion for Reconsideration. The dispositive portion of which states:

> **WHEREFORE**, in view of the foregoing, petitioner's "Motion for Reconsideration (Re: Decision [d]ated 16 January 2024)," filed on 13 February 2024, is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

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22 Exhibit "R-8," BIR Records, p. 81 (Note: The letter consists of three [3] pages, all marked p. 81).

23 Exhibit "P-31"/"R-6," *supra* at note 6. Exhibit "P-31"/"R-6," Division Docket, Volume I, pp. 347-349.

24 Filed on 20 February 2020, Division Docket, pp. 7-82, with annexes.

On October 28, 2024, petitioner, within the extended period granted,[25] filed a Petition for Review with the Court *En Banc*,[26] *sans* respondent's comment.[27]

By Resolution dated March 13, 2025, CTA EB No. 3004 was submitted for decision.[28]

ISSUES

I. Whether the Court in Division erred in denying Petitioner's Motion for Reconsideration dated February 13, 2024, thereby maintaining the dismissal of petitioner's Petition for Review dated February 20, 2024, for lack of jurisdiction on the ground of being a premature judicial appeal;

II. Whether the assessment notices and Final Decision Disputed Assessment have valid and factual bases; and

III. Whether petitioner is liable for deficiency IT, VAT, and EWT for TY 2012.

ARGUMENTS

Petitioner argues that the Court in Division has jurisdiction over the Petition for Review, stressing that taxpayers should not be prejudiced by the ambiguities arising from government action. It argues that the denial letter issued by RD Tabule constitutes a final decision appealable to the Court in Division. Petitioner reckoned the

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25 *Rollo*, p. 6.

26 *Id.* at pp. 10- 39. Petitioner had fifteen (15) days from receipt of the resolution on September 24, 2024, or until October 9, 2024, within which to file a petition for review. On October 9, 2024, petitioner filed a Motion for Extension of Time to File Petition for Review. On October 11, 2024, the Court *En Banc* issued a Minute Resolution granting petitioner until October 24, 2024, to file its Petition for Review. Petitioner timely filed its Petition for Review within the extended period granted by the Court, taking into account the work suspension in Luzon on October 24 and 25, 2024, as ordered by the Office of the Court Administrator of the Supreme Court. *Rollo*, pp. 243-244.

27 Records Verification dated February 18, 2025, issued by the Judicial Records Division of this Court, *Rollo*, p. 247.

28 *Id.* at p. 98.

filing of its Petition for Review from its receipt of the letter from BIR Revenue Region No. 19-Davao City, which denied its Request for Reconsideration. For petitioner, this denial letter is tantamount to the CIR's final decision, since the authority to assess may be delegated to a regional director, and such delegated authority necessarily includes the power to resolve requests for reconsideration.

Petitioner further argues that the assessment notices and FDDA for TY 2012 are void because the BIR failed to issue new Letters of Authority to RO Nedamo and GS Barbiran for the reinvestigation. This omission, it claims, invalidates the assessments and FDDA and violates its constitutional right to due process.

Additionally, petitioner asserts that it is not liable for deficiency IT, VAT, and EWT assessments for TY 2012. It argues that the alleged deficiencies stem from the BIR's failure to recognize its operations as a manufacturer of vegetable methyl ester additives and other biofuel products. Accordingly, petitioner insists that the deficiency assessments are void and prays that the Court in Division assume jurisdiction of the petition in the interest of justice and the orderly disposition of the case.

RULING

The Petition for Review lacks merit.

In this case, petitioner filed an administrative protest to the FLD/FAN. OIC-RD Balatero thereafter issued an FDDA, which petitioner chose to challenge by filing a request for reconsideration with the CIR. Instead of the CIR resolving the request for reconsideration, and notwithstanding that RD Tabule was not authorized by the CIR, it was RD Tabule who denied petitioner's request for reconsideration. It was RD Tabule's denial that petitioner elevated to the CTA, on the proposition that RD Tabule's denial constituted the CIR's *final decision* on a disputed assessment, properly subject to a petition for review before the CTA under Republic Act (RA) No. 1125, as amended by RA No. 9282. The issue, therefore, is whether RD Tabule's Denial Letter amounts to a decision of the CIR or his authorized representative on a disputed assessment, from which an appeal to the CTA may validly be taken?

The Court in Division correctly ruled in the negative. Its jurisdiction in this case rests on Section 7(a)(1) of RA No. 1125,[29] as amended by RA No. 9282, which vests the CTA with exclusive appellate jurisdiction to review, by appeal, decisions of the CIR or his authorized representative in cases involving, among others, disputed assessments. In *V.Y. Domingo Jewelers, Inc. v. Commissioner of Internal Revenue*,[30] the Supreme Court clarified that the "decision" contemplated by law refers specifically to a decision of the CIR or his duly authorized representative. RD Tabule is neither the CIR nor his authorized representative. Accordingly, RD Tabule's Denial Letter does not constitute the final decision contemplated by law that may be directly appealed to the CTA.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter.[31] The Court of Tax Appeals, being a court of special jurisdiction, can take cognizance only on matters that are clearly within its jurisdiction.[32]

Thus, the Court's jurisdiction in this case is anchored in Section 7 (a)(1) of RA No. 1125,[33] as amended by RA No. 9282[34] which expressly confines appellate review to decisions of the CIR in disputed assessment cases:

> SEC. 7. Jurisdiction. — The CTA shall exercise:

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29 An Act Creating the Court of Tax Appeals.

30 G.R. No. 221780, March 25, 2019.

31 *UCPB Leasing and Finance Corp. v. Cagayan de Oro City*, G.R. No. 252368 (Notice), January 11, 2023, citing *City of Iloilo v. Philippine Ports Authority and Development Bank of the Philippines*, G.R. No. 233861, January 12, 2021.

32 *Commissioner Of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019, citing *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, October 22, 2014.

33 An Act Creating the Court of Tax Appeals.

34 An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, amending for the Purpose Certain Sections or Republic Act No. 1125, As Amended, Otherwise Known as The Law Creating the Court of Tax Appeals, and For Other Purposes.

> (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; ...

In addition, Section 3 (a)(1) of Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA)[35] further clarifies that the Court in Division shall exercise exclusive original jurisdiction, or appellate jurisdiction to review by appeal, decisions of the CIR involving disputed assessments, among others:

> SEC. 3. Cases within the jurisdiction of the Court in Division. — The Court in Division shall exercise:
>
> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
>
> (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; ...

In *Philippine Amusement and Gaming Corporation v. Bureau of Internal Revenue (PAGCOR),*[36] the Supreme Court ruled that "...a whole or partial denial by the CIR's authorized representative may be appealed to the CIR or the CTA. **A whole or partial denial by the CIR may be appealed to the CTA. ...**".[37]

Here, petitioner received OIC-RD Balatero's FDDA on May 5, 2017.[38] Following *PAGCOR,* petitioner had thirty (30) days from May 5, 2017, or until June 5, 2017,[39] to either: (a) appeal with the CTA in

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35 A.M. No. 05-11-07-CTA.

36 G.R. No. 208731, January 27, 2016.

37 Boldfacing supplied.

38 *Supra* note 15.

39 The 30th day, *i.e.,* June 4, 2017, fell on a Sunday.

Division; **or** (b) institute an administrative appeal, through a request for reconsideration with the CIR. Petitioner elected option (b), by filing a Request for Reconsideration before the OCIR on June 5, 2017,[40] furnishing a copy thereof to BIR RR No. 19-Davao City.

Significantly, petitioner itself acknowledged that only respondent is authorized to decide or act on its administrative appeal assailing the FDDA issued by respondent's authorized representative. Consider its Letter dated February 14, 2020, addressed to RD Catapia:

> It should be noted that under *Revenue Administrative Order ("RAO") No. 4-2017,* **it is not one of the powers and functions of a Regional Director to approve or deny a request for reconsideration filed before the Office of the Commissioner**. The pertinent provision of RAO No. 4-2017 are quoted as follows: ...
>
> Further, we were under the impression that Bio 8's request for reconsideration is pending with the Appellate Division ("AD') for resolution and necessary action. To date, we have yet to hear any feedback from the AD. A copy of the letter dated 5 September 2017 signed and issued by Atty. Hayle F. Bonilla, Chief of AD is attached as Annex "B", for your reference.
>
> **<u>Please note that Section 3 of Revenue Regulations No. 18-2013 states that only the Commissioner shall entertain an administrative appeal from the decision of the Commissioner's duly authorized representative.</u>**
>
> In this regard, we respectfully request clarification on the above-mentioned denial of Bio 8's request for reconsideration. It appears that act of denying Bio 8's request for reconsideration is beyond the jurisdiction of this Honorable Office based from the above discussions.
>
> ...[41]

Thus, petitioner correctly recognized that the denial of its request for reconsideration was beyond the jurisdiction of the Regional Director. However, instead of awaiting respondent's decision or action on its administrative appeal, petitioner erroneously filed a Petition for Review on February 20, 2020, impugning **RD Tabule's** Letter[42] it received on January 21, 2020, which its administrative appeal (Request

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[40] *Supra* note 16.
[41] Boldfacing and underling ours.
[42] *Supra* note 20.

for Reconsideration of the FDDA). Therefore, CTA Case No. 10260 was correctly dismissed for lack of jurisdiction.

To underscore, once an administrative appeal is lodged before respondent, the latter is the only person who could decide or act on the petitioner's administrative appeal, and only such decision may be the subject matter of an appeal with the Court in Division. Otherwise stated, respondent's subordinate is devoid of authority to rule on the administrative appeal instituted before respondent. As Subsection 3.1.5 of RR No. 12-99 puts it: "... **if the taxpayer elevates his protest to the Commissioner within thirty (30) days from date of receipt of the final decision of the Commissioner's duly authorized representative,** the latter's decision shall not be considered final, executory and demandable, in which case, **the protest shall be decided by the Commissioner.**"[43]

To be sure, the Court is cognizant that the authority to decide the taxpayer's administrative appeal is not one of the four (4) non-delegable powers under Section 7[44] of the NIRC, as amended; thus, said authority may be delegated by respondent to a subordinate with a rank of division chief or higher. Consistent with this observation, it is permissible for respondent to authorize RD Tabule to address

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43 Boldfacing ours.

44 *People of the Philippines v. Tess S. Valeriano,* G.R. No. 199480, October 12, 2016. See also Section 7 of the NIRC of 1997, as amended, which provides:
Authority of the Commissioner to Delegate Power. - The Commissioner may delegate the powers vested in him under the pertinent provisions of this Code to any or such subordinate officials with the rank equivalent to a division chief or higher, subject to such limitations and restrictions as may be imposed under rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner: Provided, however, That the following powers of the Commissioner shall not be delegated:
(a) The power to recommend the promulgation of rules and regulations by the Secretary of Finance;
(b) The power to issue rulings of first impression or to reverse, revoke or modify any existing ruling of the Bureau;
(c) The power to compromise or abate, under Sec. 204 (A) and (B) of this Code, any tax liability: Provided, however, That assessments issued by the regional offices involving basic deficiency taxes of Five hundred thousand pesos (P500,000[.00]) or less, and minor criminal violations, as may be determined by rules and regulations to be promulgated by the Secretary of [F]inance, upon recommendation of the Commissioner, discovered by regional and district officials, may be compromised by a regional evaluation board which shall be composed of the Regional Director as Chairman, the Assistant Regional Director, the heads of the Legal, Assessment and Collection Divisions and the Revenue District Officer having jurisdiction over the taxpayer, as members; and
(d) The power to assign or reassign internal revenue officers to establishments where articles subject to excise tax are produced or kept.

petitioner's administrative appeal. Yet, there is no evidence showing such authority, producing the following conclusion—RD Tabule lacks the authority to address petitioner's administrative appeal on behalf of respondent. Agency is never presumed and that he who alleges that it exists has the burden of proof.[45] This strengthens the finding that RD Tabule's Letter, denying petitioner's administrative appeal is a matter *not* appealable with the Court in Division.

In fine, jurisdiction over the subject matter is fundamental for a court to act on a given controversy. It is conferred by law, not by consent of the parties. It can be challenged at any stage of the proceedings and for lack of it, a court can dismiss a case *ex mero motu*.[46]

Given that the CTA lacks jurisdiction over the subject matter, it is unnecessary to address the other issues raised in the Petition for Review.

WHEREFORE, the Petition for Review, filed by Bioenergy 8 Corporation in CTA EB No. 3004, is **DENIED** for lack of merit. The Decision dated January 16, 2024 and the Resolution dated September 5, 2024 in CTA Case No. 10260 are **AFFIRMED**.

SO ORDERED.

Marian Ivy F Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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45 *Spouses Fernando and Lourdes Viloria v. Continental Airlines, Inc.*, G.R. No. 188288, January 16, 2012

46 *Commissioner of Internal Revenue v. Leonardo S. Villa and the Court of Appeals*, G.R. No. L-23988, January 2, 1968.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice