REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

KEYS REALTY AND DEVELOPMENT CORPORATION,
Petitioner,

vs.

THE COMMISSIONER OF INTERNAL REVENUE and the BIR REGIONAL DIRECTOR FOR REVENUE REGION 6 (MANILA),
Respondents.

CTA CASE NO. 10589

Present:

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

Promulgated:

JUL 07 2025

1:00 pm

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DECISION

FERRER-FLORES, J.:

The *Amended Petition for Review* prays that the Court renders judgment:

a. Nullifying or cancelling the Final Decision on Disputed Assessment (FDDA) dated October 12, 2020 issued by respondents against petitioner, assessing the latter the amount of ₱2,468,057.07, for deficiency income tax, and ₱420,381.61, for deficiency value-added tax (VAT), or a total assessment of ₱2,888,438.68;

b. Nullifying or cancelling the Warrant of Distraint and/or Levy (WDL) dated June 14, 2021 issued by respondents against petitioner in the amount of ₱2,468,057.07, for deficiency income tax, and ₱420,381.61, for deficiency VAT, or a total assessment of ₱2,888,438.68;

c. Nullifying the Final Assessment Notice (FAN) or Assessment Notices dated November 29, 2011 issued by respondents against petitioner for deficiency income tax and deficiency VAT; and,

d. Ordering respondents to return to petitioner all monies or property that the Bureau of Internal Revenue (BIR) has illegally confiscated or take, if any, from petitioner in the amount of ₱2,888,438.68, on the basis of the foregoing illegal or void FAN, FDDA and WDL, with legal interest from the time such monies were taken on June 21 and 23, 2021, until such monies are actually fully and unconditionally paid over or returned by respondents to petitioner.[1]

THE PARTIES

Petitioner **Keys Realty and Development Corporation** is a domestic corporation duly organized and existing under Philippine law,[2] with principal offices at Fr. George J. Wilmann, S.J. Center, General Luna cor. Potenciana Sts., Intramuros, 1002 Manila.[3]

Respondent **Commissioner of Internal Revenue** (CIR) can be served with the orders, papers, writs and other court processes of this Court at his office at the 5th Floor, BIR Main Office, BIR Road, Diliman, Quezon City.[4]

Respondent BIR Regional Director for Revenue Region No. 6 is the BIR official who issued the BIR issuances subject of this petition, namely, the FAN, the FDDA, and the WDL and Warrants of Garnishment (WOGs). He issued the same as the duly authorized representative of respondent CIR pursuant to Section 1 of Revenue Memorandum Circular No. 011-14, Series of 2014, which clarifies that when Revenue Regulations No. 12-99 states that respondent CIR "or his duly authorized representative shall issue" the PAN, Formal Letter of Demand (FLD)/FAN and FDDA, such term shall refer to the Revenue Regional Directors, *i.e.*, respondent Regional Director. Respondent Regional Director's official address is at the Regional Director's Office, 8th Floor, BIR Regional Office Bldg., Tuazon Bldg., Solana cor. Beaterio, Intramuros, Manila, as per the information given in the official BIR website (bir.gov.ph).[5]

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1 Statement of the Case, Pre-Trial Order dated January 18, 2023, Docket – Vol. III, pp. 1555 to 1556.
2 Par. 1.1, Agreed Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. III, p. 1538.
3 Par. 2.01, *Amended Petition for Review* vis-à-vis par. 9, *Amended Answer (With Motion to Dismiss)*, Docket – Vol. III, pp. 1390 and 1492, respectively.
4 Par. 2.02, *Amended Petition for Review* vis-à-vis par. 9, *Amended Answer (With Motion to Dismiss)*, Docket – Vol. III, pp. 1391 and 1492, respectively.
5 Par. 2.03, *Amended Petition for Review* vis-à-vis par. 9, *Amended Answer (With Motion to Dismiss)*, Docket – Vol. III, pp. 1391 and 1492, respectively.

ANTECEDENTS (ADMINISTRATIVE LEVEL)

The BIR issued Letter of Authority (LOA) No. 00000225 dated February 11, 2009, authorizing Revenue Officer (RO) Rosario L. Villaflor under Group Supervisor Mario Natividad, to examine or audit the books of account or records of petitioner for possible tax deficiency for taxable year (TY) 2007.[6]

Petitioner was assessed for deficiency income tax and VAT for TY 2007.[7]

RO Ma. Alma Llantada submitted the result of her audit or examination of the books of petitioner for TY 2007 which resulted in the issuance of the Preliminary Assessment Notice (PAN) and FLD/FAN against petitioner.[8] The said result of RO Llantada's audit and examination of books of petitioner for TY 2007, recommending the issuance of an assessment for deficiency income tax and deficiency VAT, is embodied in her *Memorandum* to the Revenue District Officer (RDO) for Revenue District Office No. 33 (Revenue Region No. 6) filed with the Assessment Division on August 8, 2011.[9]

Respondent then issued the FLD and FAN dated November 29, 2011 for deficiency income tax and VAT for taxable year 2007,[10] broken down as follows:

Tax	Basic tax	Interest	Compromise penalty	Total
Income tax	₱ 2,900,042.42	₱ 2,103,921.19	₱ 25,000.00	₱ 5,028,963.61
VAT	3,408,427.93	2,624,022.60	25,000.00	6,057,450.53
Total	**₱ 6,308,470.35**	**₱ 4,727,943.79**	**₱ 50,000.00**	**₱ 11,086,414.10**

Petitioner timely protested the FLD/FAN on December 29, 2011.[11] Per the letter dated February 7, 2012, the BIR informed petitioner that the entire docket of its case, together with petitioner's protest dated December 27, 2011 and supporting documents, were forwarded to Revenue District Office No. 33, for their appropriate action.[12]

6 Par. 1.4, JSFI, Docket – Vol. III, p. 1539.
7 Par. 1.2, JSFI, Docket – Vol. III, p. 1538.
8 Par. 1.6, JSFI, Docket – Vol. III, p. 1539.
9 Par. 1.6.1, JSFI, Docket – Vol. III, p. 1539.
10 Par. 1.13, JSFI, Docket – Vol. III, p. 1540; Exhibits "P-7" to "P-7-3", Docket – Vol. III, pp. 1072 to 1080.
11 Pars. 1.14 and 1.14.2, JSFI, Docket – Vol. III, p. 1541; Exhibits "P-8" to "P-8-1", Docket – Vol. III, pp. 1081 to 1084.
12 Par. 1.15, JSFI, Docket – Vol. III, p. 1541.

Thereafter, in the letter dated June 27, 2016, RDO Ramer D. Narvaez informed petitioner, among other things, that RO Johanna Christine C. Abaño is authorized by the BIR to conduct the said reinvestigation.[13] RO Abaño then submitted to the BIR's Assessment Division, on July 29, 2016, her recommendation on petitioner's protest to the FLD/FAN.[14]

On October 12, 2020, the Regional Director for Revenue Region No. 6 issued the FDDA, with the *Details of Discrepancies* attached thereto,[15] stating that petitioner is still liable to pay the following tax deficiencies, to wit:

Tax	Basic tax	Interests	Compromise penalty	Total
Income tax	₱ 744,667.00	₱ 1,703,390.07	₱ 20,000.00	₱ 2,468,057.07
VAT	121,369.02	283,012.59	16,000.00	420,381.61
Total	**₱ 866,036.02**	**₱ 1,986,402.66**	**₱ 36,000.00**	**₱ 2,888,438.68**

Petitioner received the said FDDA on November 18, 2020,[16] but it was unable to appeal the said FDDA to respondent CIR within 30 days from receipt thereof.[17]

Subsequently, on June 14, 2021, the Regional Director for Revenue Region No. 6 served on petitioner a WDL to enforce collection of the deficiency taxes including penalties stated in the FDDA.[18]

After issuing the WDL, the BIR issued a WOG against the deposits of petitioner with Banco De Oro (BDO).[19] The said WOG was served upon BDO on June 16, 2021.[20] Thereafter, the BIR, through Assistant Regional Director Diesto of Revenue Region No. 6, served BDO a letter demanding the latter to release the amount of ₱4,088,324.86 to the BIR, pursuant to the said WOG.[21] On March 2, 2022, the BIR successfully collected from petitioner's deposit account with BDO the amount of ₱2,888,438.68 pursuant to the same WOG.[22]

The BIR also served upon Philippine National Bank (PNB) a WOG for ₱2,888,438.68.[23] Petitioner learned about the said WOG after having been

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13 Par. 1.16, JSFI, Docket – Vol. III, p. 1541.
14 Par. 1.17, JSFI, Docket – Vol. III, p. 1541.
15 Par. 1.19, JSFI, Docket – Vol. III, p. 1541; Exhibits "P-12" and "R-15", Docket – Vol. III, pp. 1088 to 1089, and 1586 to 1589, respectively.
16 Par. 1.20, JSFI, Docket – Vol. III, p. 1542.
17 Par. 1.21, JSFI, Docket – Vol. III, p. 1542.
18 Par. 1.22, JSFI, Docket – Vol. III, p. 1542; Exhibit "P-13", Docket – Vol. III, p. 1090.
19 Par. 1.23, JSFI, Docket – Vol. III, p. 1542; Exhibit "P-14-1", Docket – Vol. III, p. 1092.
20 Exhibits "P-14" and "P-14-1", Docket – Vol. III, pp. 1091 to 1092.
21 Par. 1.24, JSFI, Docket – Vol. III, p. 1542.
22 Pars. 1.25 and 1.25.1, JSFI, Docket – Vol. III, p. 1542.
23 Par. 1.26, JSFI, Docket – Vol. III, p. 1542; Exhibit "P-19-1", Docket – Vol. III, p. 1099.

notified thereof by PNB by the letter or memorandum dated July 23, 2022.[24] After successfully collecting the amount of ₱2,888,438.68 from petitioner pursuant to the same WOG, the BIR sought to collect the additional amount of ₱1,206,750.24 from the deposit account of petitioner from PNB.[25] Petitioner learned about the BIR's directive for PNB to release the said amount of ₱1,206,750.24 by email, attaching thereto the letter dated March 22, 2022 from PNB's Vice President & Department Head, Atty. Arlene J. Guevara.[26]

Another WOG was likewise served upon Metropolitan Bank and Trust Company (MBTC) for the same amount of ₱2,888,438.68.[27] Petitioner learned about the said WOG by email from MBTC.[28]

PROCEEDINGS BEFORE THIS COURT

Petitioner filed the present *Petition for Review With Motion for Suspension of the Collection of the Tax* on July 15, 2021.[29]

On September 16, 2021, the Court ordered petitioner to submit a compliant *Verification and Certification of Non-Forum Shopping*, within five days from notice,[30] to which petitioner filed its *Respectful Compliance* on October 29, 2021,[31] attaching the corrected *Verification and Certification of Non-Forum Shopping* dated October 26, 2021.

Thereafter, petitioner filed, on February 22, 2022, an *Urgent Motion to Suspend Collection of Tax [With Application for a Writ of Preliminary Injunction]*.[32]

Petitioner then filed a *Motion to Lift Warrant of Distraint and Levy and Warrant of Garnishment [Modification of Urgent Motion to Suspend Collection of Tax]* on March 10, 2022,[33] to which respondent filed his *Comment/Opposition (To Petitioner's Urgent Motion dated February 21, 2022)* on March 21, 2022.[34]

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24 Par. 1.26.2, JSFI, Docket – Vol. III, p. 1542; Exhibit "P-19", Docket – Vol. III, p. 1098.
25 Par. 1.28, JSFI, Docket – Vol. III, p. 1543.
26 Par. 1.29, JSFI, Docket – Vol. III, p. 1543; Exhibit "P-21", Docket – Vol. III, p. 1267.
27 Par. 1.27, JSFI, Docket – Vol. III, p. 1542; Exhibit "P-13", Docket – Vol. III, p. 1090.
28 Par. 1.27.2, JSFI, Docket – Vol. III, p. 1543.
29 Docket – Vol. I, pp. 1 to 34.
30 Resolution dated September 16, 2021, Docket – Vol. I, pp. 445 to 446.
31 Docket – Vol. II, pp. 454 to 462.
32 Docket – Vol. II, pp. 478 to 500.
33 Docket – Vol. III, pp. 1009 to 1035.
34 Docket – Vol. III, pp. 1100 to 1107.

In the Resolution dated March 22, 2022,[35] the Court stated that, after a careful review of the allegations in both motions, it shall treat petitioner's *Motion to Lift Warrant of Distraint and Levy and Warrant of Garnishment [Modification of Urgent Motion to Suspend Collection of Tax]* as a supplemental pleading to its *Urgent Motion to Suspend Collection of Tax [With Application for a Writ of Preliminary Injunction]*, and shall be collectively referred to as motion to suspend collection of tax.

On April 18, 2022, respondent filed his *Answer (With Motion to Dismiss)*.[36]

Thereafter, respondent filed his *Comment/Opposition (To Petitioner's Motion dated March 9, 2022)* on April 25, 2022,[37] while petitioner filed a *Motion to Submit Memorandum of Law on Motion to Suspend Tax Collection as Supplemented by the Motion to Lift WDL/WOG With Incorporated Legal Memorandum* as well as an *Offer of Evidence* on April 26, 2022.[38] Respondent then filed a *Comment/Opposition (To Petitioner's Formal Offer of Evidence)* on May 4, 2022.[39] In the Resolution dated May 11, 2022,[40] the Court granted petitioner's *Motion to Submit Memorandum of Law on Motion to Suspend Tax Collection as Supplemented by the Motion to Lift WDL/WOG With Incorporated Legal Memorandum*, admitting the pleading as part of the records of the case. In the same Resolution, the Court admitted petitioner's offered exhibits relative to its motion for suspension of collection of taxes, *except* Exhibits "P-7-3" and "P-13-1", for failure to identify.

Subsequently, in the Resolution dated May 25, 2022,[41] the Court granted petitioner's *Urgent Motion to Suspend Collection of Tax [With Application for a Writ of Preliminary Injunction]* and *Motion to Lift Warrant of Distraint and Levy and Warrant of Garnishment [Modification of Urgent Motion to Suspend Collection of Tax],* suspending the collection of taxes and enjoining and prohibiting respondent from implementing the WDL and the WOGs issued against petitioner's bank deposits and collecting from petitioner the tax liability being disputed.

Petitioner filed a *Motion to Amend Compliant Petition with Amended Petition Attached Hereto with Motion to Defer Scheduled Pre-Trial* dated May 31, 2022 on even date.[42] On June 2, 2022, another *Motion to Amend*

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35 Docket – Vol. III, pp. 1111 to 1113.
36 Docket – Vol. III, pp. 1128 to 1153.
37 Docket – Vol. III, pp. 1223 to 1232.
38 Docket – Vol. III, pp. 1235 to 1246; 1254 to 1262.
39 Docket – Vol. III, pp. 1268 to 1270.
40 Docket – Vol. III, pp. 1273 to 1275.
41 Docket – Vol. III, pp. 1278 to 1286.
42 Docket – Vol. III, pp. 1287 to 1351.

Compliant Petition with Amended Petition Attached Hereto With Motion to Defer Scheduled Pre-Trial as well as a *Letter re: Refiling of Motion and Amended Petition* dated June 1, 2022 was filed.[43]

In the Resolution dated June 10, 2022,[44] the Court noted petitioner's *Letter re: Refiling of Motion and Amended Petition* dated June 1, 2022 and *Motion to Amend Compliant Petition with Amended Petition Attached Hereto with Motion to Defer Scheduled Pre-Trial.*

On June 27, 2022, respondent filed a *Comment/Opposition (Re: Petitioner's Motion to Amend Compliant Petition with Amended Petition attached hereto with Motion to Defer Scheduled Pre-Trial)*.[45]

On July 5, 2022, petitioner filed a *Respectful Manifestation [Re: Supreme Court decision in Himlayan Pilipino vs. CIR]*.[46] In the Resolution dated July 12, 2022,[47] the Court granted petitioner's *Motion to Amend Compliant Petition with Amended Petition Attached Hereto*, admitting the *Amended Petition for Review* dated June 1, 2022, *Verification and Certificate of Non-Forum Shopping* subscribed on June 1, 2022, *Secretary's Certificate* dated June 1, 2022 and *Judicial Affidavit of Riz S. Nicolas* subscribed on May 31, 2022, as part of the records of the case, and ordered respondent to file his answer to the *Amended Petition for Review* within 15 days from notice.

Respondent then filed his *Amended Answer (With Motion to Dismiss)* on August 15, 2022,[48] interposing his special and affirmative defenses.

On September 19, 2022, respondent transmitted the *BIR Records* of this case, consisting of one folder.[49]

The Pre-Trial Conference was initially set on July 12, 2022,[50] but was eventually held on November 3, 2022.[51] Prior thereto, petitioner's *Pre-Trial Brief* was filed on October 24, 2022,[52] while *Respondent's Pre-Trial Brief* was

43 Docket – Vol. III, pp. 1369 to 1437 and 1456, respectively.
44 Docket – Vol. III, pp. 1459 to 1460.
45 Docket – Vol. III, pp. 1465 to 1477.
46 Docket – Vol. III, pp. 1478 to 1482.
47 Docket – Vol. III, pp. 1485 to 1488.
48 Docket – Vol. III, pp. 1491 to 1525.
49 *Compliance* dated September 16, 2022, Docket – Vol. III, pp. 1492 to 1493.
50 Notice of Pre-Trial Conference dated April 26, 2022, Docket – Vol. III, pp. 1233 to 1234.
51 Resolution dated August 18, 2022, Docket – Vol. III, p. 1491; Minutes of hearing held on, and Order dated, November 3, 2022, Docket – Vol. III, pp. 1533, and 1535 to 1536, respectively.
52 Docket – Vol. III, pp. 1495 to 1519.

submitted on October 27, 2022.[53] Subsequently, petitioner filed a *Supplement to Pre-Trial Brief* on October 28, 2022.[54]

On December 5, 2022, the parties submitted their *Joint Stipulation of Facts and Issues*,[55] which was admitted and approved by the Court in its Resolution dated December 20, 2022,[56] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated January 18, 2023 was then issued.[57]

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

Petitioner offered the testimony of its lone witness, Mr. Riz S. Nicolas,[58] petitioner's Vice-President for Finance and Administrator of the Realty Operations.

On March 2, 2023, petitioner filed its *Formal Offer of Evidence*,[59] to which respondent filed his *Comment/Opposition [Re: Petitioner's Formal Offer of Evidence dated 28 February 2023]* on March 13, 2023.[60] In the Resolution dated May 22, 2023,[61] the Court admitted petitioner's offered exhibits, *except* Exhibit "P-26", for failure to identify.

For his part, respondent presented the testimonies of ROs Alma Elena Llantada,[62] Joanna Christine C. Abaño,[63] and Benhur C. Nacorda.[64]

Respondent's Formal Offer of Evidence was filed on July 12, 2023,[65] with petitioner's *Comment or Objections on CIR's Offer of Evidence* filed on July 25, 2023.[66] In the Resolution dated September 8, 2023,[67] the Court admitted respondent's exhibits, *except* Exhibits "R-16", "R-16-a", "R-17", "R-17-a", "R-18", and "R-18-a", for failure to comply with Section 3(f) of the

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53 Docket – Vol. III, pp. 1522 to 1528.
54 Docket – Vol. III, pp. 1529 to 1530.
55 Docket – Vol. III, pp. 1538 to 1548.
56 Docket – Vol. III, p. 1552.
57 Docket – Vol. III, pp. 1555 to 1569.
58 Exhibit "P-20", Docket – Vol. III, pp. 1439 to 1454; Minutes of the hearing held on, and Order dated, February 22, 2023, Docket – Vol. 4, pp. 1585 and 1588, respectively.
59 Docket – Vol. 4, pp. 1592 to 1600.
60 Docket – Vol. 4, pp. 1604 to 1607.
61 Docket – Vol. 4, pp. 1608 to 1609.
62 Exhibit "R-16", Docket – Vol. III, pp. 1157 to 1161; Minutes of the hearing held on May 23, 2023, Docket – Vol. 4, p. 1610.
63 Exhibit "R-17", Docket – Vol. III, pp. 1187 to 1192; Minutes of the hearing held on July 6, 2023, Docket – Vol. 4, pp. 1613 to 1614.
64 Exhibit "R-18", Docket – Vol. III, pp. 1174 to 1177; Minutes of the hearing held on July 6, 2023, Docket – Vol. 4, pp. 1613 to 1614.
65 Docket – Vol. 4, pp. 1615 to 1625.
66 Docket – Vol. 4, pp. 1626 to 1632.
67 Docket – Vol. 4, pp. 1635 to 1636.

Judicial Affidavit Rule in relation to Section 10(c) of the same Rule, and Exhibits "R-6", "R-7, "R-11", "R-12", for failure to identify.

Respondent then filed an *Omnibus Motion a) Motion for Reconsideration b) Motion to Defer Filing of Memorandum* on October 26, 2023.[68]

On November 13, 2023, the *Memorandum for the Petitioner* was filed.[69]

Thereafter, on November 14, 2023, respondent filed his *Supplemental Motion for Reconsideration*,[70] to which petitioner filed its *Comment or Opposition on CIR's Motion [for] Reconsideration* on November 24, 2023.[71]

Petitioner filed a *Corrected Comment or Opposition on CIR's Motion (for) Reconsideration* on December 6, 2023[72] and a *Respectful Manifestation* on January 8, 2024.[73]

In the Resolution dated March 13, 2024,[74] the Court admitted respondent's Exhibits "R-6", "R-7", "R-11", "R-12", "R-16", "R-16-a", "R-17", "R-17-a", "R-18", and "R-18-a".

Respondent's Memorandum was submitted on April 19, 2024.[75]

Petitioner then filed on June 4, 2024 a *Motion to Submit Respectful Manifestation with Incorporated Respectful Manifestation*,[76] which was noted by the Court in the Minute Resolution dated June 6, 2024.[77] In the same Resolution, the case was considered submitted for decision.[78]

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68 Docket – Vol. 4, pp. 1637 to 1642.
69 Docket – Vol. 4, pp. 1644 to 1671.
70 Docket – Vol. 4, pp. 1672 to 1676.
71 Docket – Vol. 4, pp. 1678 to 1681.
72 Docket – Vol. 4, pp. 1682 to 1684.
73 Docket – Vol. 4, pp. 1685 to 1686.
74 Docket – Vol. 4, pp. 1688 to 1691.
75 Docket – Vol. 4, pp. 1692 to 1721.
76 Docket – Vol. 4, pp. 1722 to 1727.
77 Docket – Vol. 4, p. 1728.
78 *Id.*

THE STIPULATED ISSUES

As stipulated by the parties, the issues for this Court's resolution are as follows:[79]

I. Whether the Honorable Court has jurisdiction over the instant case to entertain the instant petition.

II. Whether or not petitioner is liable to pay the deficiency Income Tax and VAT for the taxable year 2007 in the aggregate amount of P2,888,438.68.

III. Whether or not respondent has the obligation to reimburse or return whatever amounts it had allegedly illegally collected from petitioner, with legal interest therefrom from the time such amounts were taken from petitioner until the date of full restitution thereof.

Petitioner's arguments:

In support of its *Petition,* petitioner advances the following arguments:

1. This Court has jurisdiction to take cognizance of and decide the instant petition because the assessment, being void, cannot bear fruit (cannot produce any legal effect) and could never attain finality;

2. Its failure to appeal in a timely manner the assessment does not preclude this Court from entertaining this petition (assuming jurisdiction over this petition) and thereafter nullifying the assessment because the assessment is null and void for various violations of petitioner's right to due process (grounds which are both substantive and jurisdictional), and for want or absence of the jurisdictional LOA;

3. The assessment suffers from three substantive due process defects: (a) lack of an LOA; (b) failure to serve petitioner the PAN prior to the FLD/FAN; and, (c) the assessment was issued only after respondent's right to assess had prescribed; and,

4. The BIR's period to collect the assessment has prescribed because it did not file a request for reinvestigation but merely a request for reconsideration of the FAN/FLD, and because it merely filed a

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[79] Par. 2, Stipulation of Issues, JSFI, Docket – Vol. III, p. 1543.

motion for reconsideration of the assessment, such motion for reconsideration did not toll or suspend the running of the period to collect which had long expired when it was commenced against petitioner with the issuance of the WDL on June 14, 2021.

Respondent's counter-arguments:

Respondents contend that the Court has no jurisdiction over the instant petition as the assessments have already become final, executory and demandable; that assuming without conceding that the instant case can be taken as "other matters", the instant petition was filed out of time.

Respondents further argue that, assuming without conceding that the Court can still take cognizance of the instant case:

1. The Court's power of judicial review over decisions of respondent is by nature exclusive and appellate and that petitioner should not be allowed to raise issues for the first time on appeal;

2. Petitioner's contention that the three-year period to assess has prescribed is without merit;

3. Petitioner's contention that the assessment is void for violation of due process clause is without merit; and,

4. Respondent's right to collect the tax has not yet prescribed.

Finally, respondents maintain that, even assuming without conceding that the Court can take cognizance of petitioner's *Amended Petition for Review*, the latter's new allegations in the said *Amended Petition for Review* should not be entertained by this Court.

THE COURT'S RULING

The present *Petition for Review* must be dismissed.

Respondent CIR contends that the Court has no jurisdiction over the instant *Petition* as the assessments had long become final, executory, and demandable, for failure of petitioner to appeal to this Court within thirty days from receipt of the FDDA on November 18, 2020. He argues that, considering that the original *Petition for Review*, which was filed on July 15, 2021, was filed out of time, its defect cannot be cured even by mere amendment.

According to respondent CIR, the instant *Amended Petition for Review* should be dismissed on the ground that it was filed beyond 30 days from petitioner's receipt of the FDDA.

On the other hand, petitioner acknowledges that it had not appealed the FDDA to respondent in a timely manner within the required 30 days from receipt thereof, and submits that its failure to appeal in a timely manner the assessment does not preclude this Court from entertaining this petition, and thereafter nullifying the assessment because the assessment is null and void for various violations of petitioner's right to due process, and for want or absence of the jurisdictional letter of authority.

This Court agrees with respondent that it lacks jurisdiction to entertain the present case. Thus, the same must be dismissed.

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. **It is conferred by law** and not by the consent or acquiescence of any or all of the parties **or by erroneous belief of the court that it exists.** Thus, **when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.**[80]

Considering that jurisdiction is conferred by law, the determination thereof in a particular case is solely based on the latter, even when there is basis to nullify the tax assessment being questioned. This Court must first have jurisdiction over the case before it can rule whether the subject tax assessment(s) are valid or not and if the respondents can collect the same. Simply put, without jurisdiction being legally conferred, this Court is not empowered or has no authority to rule on the validity or invalidity of the assailed tax assessment(s) and/or the CIR's collection efforts.

Petitioner invokes Section 7(a)(1) of Republic Act (R.A.) 1125,[81] as amended by R.A. No. 9282,[82] ("CTA Law") as basis of this Court's jurisdiction over "other matters arising from the NIRC", to wit:

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

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[80] *Escandor vs. Carpio-Morales, et. al.*, G.R. No. 223743, August 17, 2022, citing the case of *Velasquez, Jr. vs. Lisondra Land, Inc.*, G.R. No. 231290, August 27, 2020.
[81] An Act Creating the Court of Tax Appeals (June 16, 1954).
[82] 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 of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes (March 30, 2004).

> (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 the CTA Law 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 respondent CIR on matters relating to assessments or refunds.[83] The second part of Section 7(a)(1) of the CTA Law covers the cases that arise out of the NIRC or related laws administered by the BIR.[84] The wording of the provision is clear and simple.[85] Furthermore, the appeal to the CTA should be filed within 30 days from receipt of the decision or ruling of the CIR.

The above provision indeed gives this Court the jurisdiction to determine if the WDL issued by the BIR is valid.[86] 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.[87] This is so because what is basically being assailed in the such cases is the

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

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

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

86 *Id.*

87 *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

power and duty of the BIR, to which respondent CIR is the chief,[88] to collect national internal revenue taxes, which are recognized under Sections 2[89] and 208[90], *inter alia*, of the NIRC of 1997, as amended.

Notably, in this case, aside from assailing the validity of the assessments, petitioner also: (1) questions the validity of the WDL dated June 14, 2021, and the subject WOGs served on BDO, PNB, and MBTC, all respectively issued against petitioner's bank accounts; and, (2) raises the issue of prescription of the collection of the subject deficiency income tax and VAT, including the penalties imposed relative thereto.

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

Here, the *Petition for Review* was filed on **July 15, 2021,**[91] praying, among others, for the nullification or cancellation of the WDL,[92] which petitioner in turn received on **June 14, 2021.**[93] Counting 30 days from the latter date, petitioner had until **July 14, 2021** to file the pertinent *Petition for Review*, pursuant to the earlier quoted Section 11 of the CTA Law. Clearly, the present *Petition for Review* was filed one day late, on **July 15, 2021,**[94] thus, depriving this Court of jurisdiction to entertain the same. Hence, even if the issues raised was within the ambit of "other matters" jurisdiction, this Court is already precluded from taking cognizance of the present case since the appeal was filed out of time, and thus, vesting no jurisdiction on this Court.

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88 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)*

89 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)*

90 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)*

91 Docket – Vol. I, at p. 1.

92 Docket – Vol. I, at p. 27.

93 Pars. 1.22 and 1.22.2, JSFI, Docket – Vol. III, p. 1542; Exhibit "P-13", Docket – Vol. III, pp. 1090.

94 Refer to *Petition for Review With Motion for Suspension of the Collection of the Tax,* Docket – Vol. I, pp. 1 to 34.

Time and again, the Supreme Court has stressed that procedural rules do not exist for the convenience of the litigants; the rules were established primarily to provide order to, and enhance the efficiency of, our judicial system. While procedural rules are liberally construed, the provisions on reglementary periods are strictly applied, indispensable as they are to the prevention of needless delays, and are necessary to the orderly and speedy discharge of judicial business. The timeliness of filing a pleading is a jurisdictional caveat that even the Supreme Court cannot trifle with.[95]

Petitioner, while acknowledging that it failed to timely appeal respondent's FDDA, maintains that the Court may still rule on the validity of the subject assessments as the same did not attain finality for being allegedly void for having been issued in violation of petitioner's right to due process. According to the petitioner, there have been instances where the Supreme Court ruled on the validity of the assessments despite the lack of a timely and properly filed protest citing the cases of *Commissioner of Internal Revenue vs. Metro Star Superama, Inc.*[96] (*Metro Star*) *Himlayang Pilipino Plans, Inc. vs. Commissioner of Internal Revenue*[97] (*Himlayang Pilipino*), and *Commissioner of Internal Revenue vs. T Shuttle Services, Inc.*[98] (*T Shuttle*), among others.

The Court is not unaware of said pronouncements of the Supreme Court wherein assessments were cancelled even if the taxpayer failed to timely file a protest; however, this Court finds herein petitioner's reliance on the same misplaced. As will be discussed below, in all these cases, the taxpayers therein were able to timely file an appeal before the CTA.

In *Metro Star*, the taxpayer therein received a WDL on February 6, 2004 to which it filed a *Motion for Reconsideration,* which, in turn, was denied in the Decision issued by the BIR's Revenue Regional Director and received by Metro Star on February 18, 2005. Within 30 days therefrom, or on March 18, 2005, Metro Star filed an appeal before the CTA.[99]

In *Himlayang Pilipino*, the taxpayer therein filed a protest against the FLD/FAN on February 14, 2013 and, subsequently, supporting documents on April 12, 2013. The CIR had 180 days from April 12, 2013, or until October 9, 2013, to act on the protest. Within 30 days from the lapse of the 180-day

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95 *Le Soleil Int'l. Logistics Co., Inc. vs. Sanchez*, G.R. No. 199384 (Resolution), September 9, 2015, citing *Labao vs. Flores*, G.R. No. 187984, November 15, 2010.
96 G.R. No. 185371, December 8, 2010.
97 G.R. No. 241848, May 14, 2021.
98 G.R. No. 240729 (Resolution), August 24, 2020.
99 Antecedent facts culled from the CTA Division's *Decision* dated March 21, 2007 in CTA Case No. 7169.

period for the CIR to act, petitioner timely filed an appeal on November 7, 2013 assailing the assessments.

In *T Shuttle*, taxpayer therein was constructively served with a WDL on April 23, 2013. Within the 30-day period to appeal, T Shuttle filed a *Petition for Review (With Prayer for Preliminary Injunction and Issuance of a Temporary Restraining Order)* with the CTA in Division on May 2, 2013.

In all these cases, the aggrieved taxpayers were able to timely file an appeal before the CTA, thus, empowering the CTA to rule on the merits of the case, which included the validity of the assessments sought to be collected despite the lack of a proper or timely protest against the FAN/FLD.

All told, petitioner failed to perfect its appeal before the CTA, thus precluding this Court from ruling on the validity of the assessment and collection.

It is undeniable that the 30-day period fixed by law within which the taxpayer may question any ruling of respondent before this Court is jurisdictional.[100] As held by the Supreme Court in *Brual vs. Brual, et al.*:[101]

> The right to appeal is neither a natural right nor is it a component of due process. It is a mere statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. In *Boardwalk Business Ventures, Inc. v. Villareal*, this Court had the occasion to elucidate the parameters of the right to appeal, thus:
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>> **To stress, the right to appeal is statutory and one who seeks to avail of it must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. Moreover, the perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well, hence failure to perfect the same renders the judgment final and executory.** And, just as a losing party has the privilege to file an appeal within the prescribed period, so also does the prevailing party have the correlative right to enjoy the finality of a decision in his favor. [Emphasis Ours] *(Emphases supplied)*

Based on the foregoing jurisprudential pronouncements, the right to appeal is neither a natural right nor is it a component of due process. It is a

[100] *The Acting Commissioner of Internal Revenue vs. Joseph, et al.*, G.R. No. L-14034, August 30, 1962.
[101] G.R. No. 205451, March 7, 2022.

mere statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. The perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well.

In fine, courts are bound to take notice of the limits of their authority and they may, by their own motion, even though the question is not raised by the pleadings, or not even suggested by counsel, recognize the want of jurisdiction and act accordingly by staying pleadings, dismissing the action, or otherwise noticing the defect, at any stage of the proceedings.[102] To inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the ability of its entire proceedings.[103] It bears emphasis that this Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[104] Thus, when it appears from the pleadings or the evidence on record that the Court has no jurisdiction over the subject matter, the Court shall dismiss the claim. The Court could not decide the case on the merits.[105]

WHEREFORE, premises considered, the present **Amended 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

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[102] *Ace Publication, Inc. vs. The Commissioner of Customs, et al.*, G.R. No. L-18808, May 29, 1964.
[103] *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 185969, November 19, 2014, citing *Commissioner of Internal Revenue vs. Villa, et al.*, G.R. No. L-23988, January 2, 1968.
[104] *Commissioner of Internal Revenue vs. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019.
[105] *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015.

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
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