REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

JEANIFER P. AJOC,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10642

Members:

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

Promulgated:
JUL 1 5 2025 3:39 pm

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RESOLUTION

FERRER-FLORES, J.:

Before this Court are the following:

1. petitioner's **Motion for Reconsideration** filed through an accredited courier service on January 17, 2025, and received by the Court on January 20, 2025, with respondent's **Comment/Opposition (Re: Petitioner's Motion for Reconsideration of the Decision dated December 17, 2024)** filed on February 7, 2025; and,

2. petitioner's **Motion to Admit Supplemental Motion for Reconsideration** with appended **Supplemental Motion for Reconsideration**, filed through an accredited courier service on March 3, 2025, and received by the Court on March 4, 2025, with respondent's **Comment/Opposition (Re: Petitioner's Motion to Admit Supplemental Motion for Reconsideration dated February 28, 2025)** filed on April 8, 2025.

On December 17, 2024, the Court promulgated a Decision dismissing the *Petition for Review* for lack of jurisdiction due to petitioner's failure to timely protest the Formal Letter of Demand with attached Assessment Notices (FLD/FAN), the dispositive portion of which reads as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.
>
> **SO ORDERED**.

In her *Motion for Reconsideration*, petitioner asserts that the Court erred in concluding that petitioner received the FLD/FAN dated July 11, 2016. Petitioner expounds that respondent's witness, Revenue Officer (RO) Lemuel C. Duadua, merely surmised on his own that the FLD/FAN was received by Ms. Zenaida Lao based on Registry Return Receipt No. 513 598 572 ZZ. However, petitioner argues that the said registry return receipt, as well as the FLD/FAN, does not show the name "Zenaida Lao" or the identity and authority of the person who received the same. Petitioner submits that even RO Duadua himself admitted during his cross-examination that he cannot determine who actually received the copies of the subject Preliminary Assessment Notice (PAN) and FLD/FAN.

Petitioner further contends that the quoted portions of her answers during cross-examination and clarificatory questions in the Court's Decision,[1] were taken out of context as she did not confirm the receipt of the FLD/FAN. Petitioner asseverates that while she mentioned that a document was received by her staff, Ms. Lao, the same does not automatically mean that the receipt thereof was properly made, especially since petitioner has stated from the very beginning that she had already retired her proprietorship under the name and style "Miners Sack Trading" as early as 2015. Also, Ms. Lao is an employee of Miners Chemical Industries Corporation (to which petitioner is the President) –an entity separate and different from Miners Sack Trading. She likewise clarified that it was only in 2018, when she sent a letter dated February 24, 2018 to the Bureau of Internal Revenue (BIR), that she certified Ms. Lao to be her authorized representative. Thus, petitioner insists that Ms. Lao was not yet authorized when she allegedly received the subject FLD/FAN in 2016.

Moreover, petitioner points out that she has no outstanding internal revenue tax liability as of February 17, 2021, as evidenced by the Certificate of No Outstanding Liability issued by the BIR Revenue District Office No. 112, Revenue Region 19. As such, petitioner argues that respondent's Decision dated May 19, 2021, affirming the Final Decision of Disputed Assessment (FDDA) dated April 18, 2018, is flawed and, therefore, must be set aside.

Lastly, petitioner points out that the Court failed to address in the Decision her argument that respondent's right to collect had already prescribed, as more than five (5) years had passed since the date she allegedly received the subject FLD/FAN on July 15, 2016.

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[1] Decision, pp. 14 to 17.

On the other hand, in his *Comment*, respondent reiterates the findings of the Court that petitioner received the FLD/FAN on July 15, 2016, and that no valid protest was filed thereto. For said reason, the assessment issued against petitioner did not become a "disputed assessment" which can be elevated before and falls within the jurisdiction of this Court. Respondent also maintains that the registry receipts corresponding to the mailing of the PAN and the FLD/FAN bear the same signature of recipient which, as indicated in the PAN, belongs to Ms. Lao. Respondent likewise insists that petitioner cannot simply deny the authority of Ms. Lao to receive the FLD/FAN in her behalf when she acknowledged and admitted that it was Ms. Lao who received the other notices (*i.e.*, Letter of Authority, PAN, and FDDA) that were issued and sent by respondent. By petitioner's actions, there is implied admission that she was authorized by petitioner to receive all notices from respondent.

Lastly, respondent submits that, since the Court has no jurisdiction over the subject matter of petitioner's petition, the only power it has is to dismiss the same. It is but proper for this Court not to rule on other matters raised in the present *Petition for Review*, following the ruling of the Supreme Court in *Bernadette S. Bilag., et al., v. Estella Ay-ay, et al.*[2]

As for petitioner's *Supplemental Motion for Reconsideration*, she reiterates that assuming the FLD/FAN was received by petitioner on July 15, 2016, the collection of her alleged deficiency taxes for taxable year 2014 had already prescribed on July 15, 2019. Petitioner further argues that respondent cannot validly invoke the 10-year prescriptive period based on petitioner's failure to report sales in an amount exceeding 30% of the amount declared per return. Petitioner explains that although the said threshold is a *prima facie* evidence of false or fraudulent return, the requirement of intent to evade tax, however, is lacking considering that petitioner was able to prove through her letter dated May 26, 2016 that she was "willing to pay any tax liability" thereof, which clearly indicates that she has no intent to evade taxes. Consequently, the 10-year prescriptive period does not apply to the present case.

While in his *Comment* to petitioner's *Supplemental Motion*, respondent contends that petitioner is merely adding arguments based on law, rules and jurisprudence which have already existed at the time petitioner filed her *Motion for Reconsideration* dated January 20, 2025. Since petitioner failed to show that the *Supplemental Motion* is filed on the basis of a transaction, occurrence, or event which happened after she filed her *Motion for Reconsideration*, the same is unwarranted and must be denied for lack of merit.

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2 G.R. No. 189950, April 24, 2017.

In the interest of substantial justice, petitioner's *Motion to Admit Supplemental Motion for Reconsideration* is hereby **GRANTED.** Accordingly, the attached *Supplemental Motion for Reconsideration* thereto is deemed **ADMITTED**. After due consideration of the respective arguments raised by the parties, however, the Court finds both petitioner's *Motion for Reconsideration* and *Supplemental Motion for Reconsideration* bereft of merit.

Again, it bears emphasis that the Court of Tax Appeals, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[3] To reiterate, Section 11 of Republic Act (RA) No. 1125,[4] as amended by RA No. 9282,[5] categorically provides that in order for the Court to have jurisdiction over an appeal, the taxpayer adversely affected by the decision of the Commissioner of Internal Revenue has the remedy to appeal the same to this Court within 30 days from the date it received the said decision or ruling.

Herein, in ruling that the FLD/FAN was properly served upon petitioner through Ms. Lao, the Court did not solely rely on the testimony of respondent's witness, RO Duadua. The Court also took into consideration the documentary exhibits offered,[6] as well as the judicial affidavit and testimonies of the witnesses of both petitioner and respondent.[7] In addition, the Court further notes that the signature appearing on the registry return receipt of the FLD/FAN,[8] bore resemblance with the signatures appearing on the respective registry return receipts of the PAN[9] and FDDA,[10] which were both admittedly received by Ms. Lao. Evidently, the confluence of the testimonial and documentary evidence confirms that the FLD/FAN was duly served and received by petitioner on July 15, 2016, through her authorized representative, Ms. Lao.

Furthermore, the Court cannot likewise give credence to petitioner's insistence that Ms. Lao is an employee of Miners Chemical Industries Corporation and not of Miners Sack Trading. Notably, no evidence was presented by petitioner other than her bare allegations to corroborate this claim. It is an age-old rule that the one who alleges a fact has the burden of proving it

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3 *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019.

4 AN CREATING THE COURT OF TAX APPEALS.

5 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.

6 Exhibits "R-7", "R-7-a", "R-8", "R-8-a", and "R-9", BIR Records.

7 *Judicial Affidavit of Revenue Officer Lemuel C. Duadua*, Docket, pp. 124 to 125; and Transcript of Stenographic Notes (TSN) dated September 1, 2022, pp. 7 to 9 and 12 to 15.

8 Exhibit "R-9", BIR Records (Exhibit "R-16"), p. 157.

9 Exhibit "R-6", *Id.* at 150.

10 Exhibit "R-13", *Id.* at 218.

and the proof should be clear, positive and convincing. Mere allegation is not evidence.[11]

As to petitioner's argument that respondent's Decision dated May 19, 2021, affirming the FDDA, is flawed in view of the issuance Certificate of No Outstanding Lability dated February 17, 2021, the Court finds the same untenable.

First, there is no proof that the contents thereof are shown to be true and correct. Petitioner failed to present the person who issued the same, specifically, Revenue District Officer Cherry E. Jaldon, to properly identify the said document. *Second*, petitioner failed to prove that Revenue District Officer Jaldon of Tagum City, Davao del Norte, has legal authority to certify that petitioner "has no outstanding internal revenue tax liability with the Bureau of Internal Revenue", especially so that it was the Regional Director Romulo L. Aguila, Jr. of Revenue Region No. 19 - Davao City, an officer higher in rank than the Revenue District Officer, who issued the subject assessment notices.[12]

With regard to the argument that respondent's right to collect had already prescribed, which petitioner raised both in her *Motion* and *Supplemental Motion*, the Court notes that such was not raised as an issue in her *Petition for Review* and not stipulated as per Pre-Trial Order. Neither did petitioner present any evidence of the fact of collection initiated by respondent nor did it even invoke the "other matters jurisdiction of the Court" to include the collection. Clearly, the Court never had jurisdiction over collection.

The Court is aware that 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.) 1125,13 as amended by R.A. No. 9282, to wit:

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

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[11] *Supra Multi-Services, Inc. v. Labitigan*, G.R. No. 192297, August 3, 2016; *Noblejas v. Italian Maritime Academy Phils., Inc.*, G.R. No. 207888, June 9, 2014.

[12] Exhibits "R-7" to "R-8-A", BIR Records (Exhibit "R-16"), pp. 151 to 154.

[13] An Act Creating the Court of Tax Appeals (June 16, 1954).

> (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.
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> 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.[14] 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.[15] The wording of the provision is clear and simple.[16]

Notably, in this case, petitioner neither raised any issue relative to the collection of the alleged deficiency tax liability, nor did she present any evidence of collection proceedings initiated by respondent. The Court also notes that petitioner filed the instant Petition for Review on October 27, 2021, which is within the extended reglementary period to file her judicial appeal, counted from her receipt of respondent's Decision. Clearly, the Court never acquired jurisdiction over collection proceedings, which may fall under its "other matters" jurisdiction.

The Court reiterates that jurisdiction is a matter of substantive law. When a case is filed with a court which has no jurisdiction over the action, the court shall *motu proprio* dismiss the case.[17] The Court could not decide the

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

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

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

[17] *Alfredo J. Non, et al. v. Office of the Ombudsman, et al.*, G.R. No. 251177, September 8, 2020.

case on the merits.[18] Simply stated, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner, the Court finds no compelling reason to reverse or modify the conclusions reached in the Decision promulgated on December 17, 2024.

WHEREFORE, premises considered, petitioner's **Motion to Admit Supplemental Motion for Reconsideration** is **GRANTED** and the attached **Supplemental Motion for Reconsideration** thereto is **ADMITTED** as part of the records of the case.

However, petitioner's **Motion for Reconsideration** and **Supplemental Motion for Reconsideration** are both **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

We concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Official Business)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[18] *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015.