Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

WGC, INC., represented by its President, WILLIAM G. CHU, Petitioner,	**CTA AC No. 124** (SP Civil Case No. 2012-252)
-versus-	**Members:**
BUREAU OF INTERNAL REVENUE, BIR REVENUE DISTRICT REGION NO. 16 and BIR REVENUE DISTRICT REGION NO. 98, CAGAYAN DE ORO CITY, and REGIONAL TRIAL COURT BRANCH 38, CAGAYAN DE ORO CITY, Respondents.	**CASTAÑEDA, JR.**, *Chairperson* **CASANOVA,** *and* **COTANGCO-MANALASTAS,** *JJ.*
	Promulgated: OCT 27 2015 4:10 PM

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DECISION

CASANOVA, *J.*:

Before Us is an appeal, by way of Petition for Review,[1] filed by petitioner-WGC, Inc., from the October 7, 2014 Order[2] of Regional Trial Court, Branch 38, Cagayan De Oro City (RTC), resolving petitioner's Urgent Motion for Partial Reconsideration (Re: Assessment) with Motion for the Release of the Bond and the propriety of respondent Bureau of Internal Revenue's deficiency tax assessments against petitioner. In the said Order, the RTC partially granted the said motion by ordering the release of the property bond offered by petitioner. It, however, refused to rule on the correctness of the tax assessment on the ground that the jurisdiction thereof lies with the Court of Tax Appeals (CTA).

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[1] Docket, pp. 5-13.
[2] Annex "M" to the Petition for Review, Ibid, pp. 43-44.

THE PARTIES

Petitioner is a domestic corporation duly organized and existing under the Philippine laws, engaged in the business of operating two (2) hotels, three (3) inns, and two (2) bars in Cagayan De Oro City, duly represented by its President, William G. Chu, whose principal place of business is located at Pres. Aguinaldo St., Cagayan De Oro City, where it may be served with summons and other legal processes.[3]

Respondent-Bureau of Internal Revenue (BIR) is a government instrumentality tasked with the imposition and collection of taxes. Its central office is located at BIR Building, Quezon City. Respondents BIR Revenue Region No. 16 and BIR Revenue District No. 98 are field offices of the Bureau operating in Cagayan de Oro City, among other areas. Its offices are located at 3/F BIR Building, West Bound Terminal, Bulua, Cagayan De Oro City.[4]

On the other hand, respondent Regional Trial Court, Branch 38, Cagayan De Oro City ("RTC"), is being impleaded as a Nominal Party.

FACTUAL ANTECEDENTS

It bears noting, at the outset, that the instant case originated from a "Petition for Prohibition with Prayer for Issuance of Temporary Restraining Order and/or Status Quo Ante and Writ of Preliminary Injunction[5] dated September 27, 2012, filed by petitioner, before the Regional Trial Court, Branch 38, Cagayan De Oro City, assailing the Closure Orders [6] issued by respondents against seven (7) establishments owned and operated by WGC Willshire Group of Companies, Incorporated, for tax deficiencies.

The facts of the case, as found by the Court a quo, are as follows:

> "The petition alleged that WGC owns and operates seven (7) establishments consisting of inns and bars as follows:

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[3] Par. 6, Facts of the Case, Petition for Review, Id., p. 6.
[4] Par. 2, The Parties, Petition, Annex "B" to respondents' Comment, Id., p. 113.
[5] Annex "B" to respondents' Comment, Id., pp. 112-121.
[6] Annexes "F" to "F-6" to the Petition for Review, Id., pp. 21-27.

NAME	LOCATION
1. Willshire Inn	Pres. Aguinaldo St., Cagayan de Oro City
2. Will's Place	A. Velez St., Cagayan de Oro City
3. King William Inn	Cruz Taal St., Cagayan de Oro City
4. Westin Inn	Carmen, Cagayan de Oro City
5. Kyross Inn	Mabini St., Cagayan de Oro City
6. Gab's KTV Bar	Cruz Taal St., Cagayan de Oro City
7. Will's Bar	Pabayo St., Cagayan de Oro City

All of the foregoing were managed by Ms. Shirley Chu, wife of the President, Mr. William G. Chu. On May 4, 2011, Mr. Chu received a 48-hour notice from the BIR requiring him to explain the findings of a tax deficiency assessment. He made representations with the BIR that he was willing to sit down with them and instructed his bookkeeper to submit documents and clear the matter with the BIR. On September 25, 2012, the BIR, together with the police, swarmed into his seven establishments and closed the same on the strength of the closure orders. Petitioner argued that it was deprived of due process as the provisions of Revenue Memorandum Order No. 3-2009 in the implementation of closure orders were not observed. Petitioner had complied with the 48-hour notice but he was not notified of the impending closure.

In its Answer, BIR alleged that on January 31, 2011, based on an information provided by a confidential informant, it conducted an investigation and overt surveillance on four of the seven WGC establishments, namely, Willshire Inn, Kyross Inn, King William Inn and Will's Place. On March 14, 2011, the same was conducted on the remaining three of the seven establishments. The investigating officers found that the taxpayer under-declared its gross receipts for the August 1, 2011 to January 31, 2012 period by more than 30%, specifically, by 2,153% for its hotel/inn operations and 1,942% for its KTV operations. On May 5, 2011, the BIR Regional Review Board issued a 48-Hour Notice to WGC requiring it to explain under oath why it should not be subject to temporary closure. There being no compliance, the same board passed a resolution on May 10, 2011 recommending the issuance of a 5-day VAT Compliance Notice. WGC again did not comply so they forwarded the case to the BIR Commissioner for issuance of the closure order. Meanwhile, a new BIR Regional Director was assigned and he issued a notice to WGC prior to closure, reminding WGC that should it fail to rectify the violations cited in the 5-day VAT Compliance Notice, it would recommend closure. Deputy Commissioner Nelson M. Aspe finally signed the closure order on September 20, 2012 and the same was enforced on September 25, 2012.

The Office of the Executive Judge issued a 72-hour TRO on September 27, 2012 restraining the implementation of the Closure Orders. The next day, the same office issued the Amended Order requiring respondents to turn over to the Sheriff the keys to the padlocks used in the subject establishments and authorizing said Sheriff to open the padlocked establishments.

After notice and hearing, the court extended the 72-hour TRO to the full 20 days in the Order dated October 3, 2012. At this time, BIR was represented by Atty. Dondanon A. Galera, a lawyer from the BIR regional office.

On October 17, 2012, summons was served through personal service. On the same day, after notice and hearing, the court ordered the issuance of a Writ of Preliminary Injunction. The motion for reconsideration assailing the issuance of the same was denied. On November 28, 2012, BIR filed its Answer. On April 5, 2013, the Office of the Solicitor General (OSG) entered its appearance by filing an Urgent Motion for Leave to File Supplemental Comment which was granted by the court. The Supplemental Comment was filed on June 7, 2013. The Supplemental Complaint added additional details on the actions taken by the BIR and expounded further on the legal arguments initially presented by Atty. Galera. On the same, the BIR through the OSG also filed a motion praying for the lifting of the preliminary injunction.

Both parties were referred to the Philippine Mediation Center for mediation proceedings on April 8, 2013 but they failed to reach a compromise. Thereafter, Judicial Dispute Resolution was conducted, but the parties again failed to reach a compromise.

After the expiration of the suspension of the case due to Court-Annexed Mediation and the record was returned for trial, the court, on motion, set for the hearing the motion to lift writ of injunction. When the same was finally heard on November 26, 2013, both parties were given time to submit their written arguments and the case was set for pre-trial.

On March 3, 2014, the court denied the lifting of the writ of injunction. During the pre-trial, the parties identified the issues as follows:

> '1. Whether this Honorable Court has authority to enjoin the collection of taxes and implements thereof?
> 2. Whether this Honorable Court has jurisdiction over the subject matter of the case?
> 3. Whether the BIR has authority to issue closure orders for violations of the VAT law under Section 115 of the NIRC?
> 4. Whether the BIR correctly issued the closure orders or did it commit grave abuse of discretion?
> 5. Whether respondents were precluded from resorting to other modes of enforced tax collection, such as levy or garnishment, notwithstanding the issuance of the closure orders.'

Thereafter, trial ensued.

On March 17, 2014, WGC adopted the documentary and testimonial evidence it presented during the application for a writ of preliminary injunction consisting of Exhibits "A" to "H-1" and the testimony of its sole witness, Mischel Laspuna. In her Judicial Affidavit, Mischel Laspuna testified that she is one of the Front Cashiers of Willshire Inn and is familiar with the operations of WGC as the President, Mr. William Chu, would discuss the same during meetings. At the time of closure, the seen establishments of WGC employed 111 employees. She identified each of the seven closure orders served on each establishment. She was not informed when WGC will re-open and the closure order did not contain information as to when the establishments will be opened again. She also testified that WGC was duly registered as a VAT person in 2011. Initially, WGC applied as a non-VAT person in 2009. After WGC received the 48-Hour Notice, she noticed some BIR personnel going to the office of Mr. Chu to negotiate the reduction of the deficiency assessment. Finally, Mr. Chu sent a letter to the Assistant Commissioner of the BIR requesting reduction of the assessment but the same was not acted upon.

> Respondent BIR on the other hand, presented the testimonies of Virginia J. Balatero, Ma. Herminia A. Pabito, Mr. Saripuden D. Guru, Alberto K. Daba, Jr., Pangadaun I. Ambol, Diodado C. Caparas, Jr., and Ilaron R. Laingan, all employees of the BIR. The testimonies centered on two violations namely, (1) improper registration of the establishments including lack of authority to issue print receipts and invoices and (2) deficiency in the declared gross receipts. Pabito specifically testified that only Willshire Inn was registered under the WGC TIN as of August 14, 2013. As of August 14, 2013, only Willshire Inn and Will's Bar were registered under the WGC TIN. Finally, as of August 14, 2013, only WGC applied for authority to print receipts. The rest of the witnesses on the other hand established that they conducted overt surveillance on the seven establishments and when they compared the actual gross receipts with those reported by the WGC, they discovered a staggering difference. When the surveillance reports were consolidated on the seven establishments, it showed that the actual average daily receipts amounted to Php97,456.89 but WGC only declared average daily receipts of Php3,777,22."[7]

Finding the seven (7) Closure Orders issued by the BIR to be fatally defective, the RTC permanently enjoined the implementation of the same in its Decision[8] promulgated on July 21, 2014, to wit:

> "WHEREFORE, finding the seven Closure Orders to be fatally defective, respondent Bureau of Internal Revenue is hereby permanently enjoined from implementing the seven (7) Closure Orders uniformly dated September 20, 2012 against WGC Willshire Group of Companies and the seven (7) establishments it owns and operates, namely, Willshire Inn, Will's Place, King William Inn, Westin Inn, Kyross Inn, Gab's KTV Bar and Will's Bar.
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> No costs.
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> SO ORDERED."

Notwithstanding the foregoing ruling, petitioner still filed an Urgent Motion for Partial Reconsideration (Re: Assessment) with Motion for the Release of the Bond) dated August 11, 2014, with

[7] Pages 1-4 of the RTC's Decision, Annex "L" to the Petition for Review, Ibid, pp. 35-38.
[8] Annex "L" to the Petition for Review, Ibid, pp. 35-42.

respondents' Comment filed on September 1, 2014. Petitioner claimed that the assessment made by respondents was arbitrary and capricious. Respondents, on the other hand, argued that there was nothing on record that would support such contention of petitioner. Accordingly, even the sole witness of petitioner did not assail the correctness of the assessment. Finally, respondents argued that the jurisdiction over the issue on assessment lies with the Court of Tax Appeals.[9]

In an Order[10] promulgated on October 7, 2014, the RTC clarified that the assailed Decision dated July 21, 2014 readily showed that the prohibition was not granted by the Court. It, specifically, refrained from evaluating the validity of the proceedings leading to the assessment and attempted closure of the establishments. What the Court granted, instead, was a specific injunction against the implementation of the subject closure orders. As such, it did not even prohibit respondent from resorting to other modes of tax collection, or for that matter, issuing valid closure orders. Accordingly, the assailed Decision was a judgment for injunction, and not prohibition. The RTC added that since judgments on injunction are immediately executory, the injunctive bond offered by petitioner would serve no purpose as permanent injunction was granted to prevent the implementation of the subject closure orders.[11] Thus, the Court ordered the release of the bond but denied ruling on the propriety of the assessments, to wit:

> "IN VIEW OF THE FOREGOING, the motion is partially granted. Reconsideration of the Decision dated July 21, 2014 on the propriety of the assessment is DENIED. The property bond offered by the petitioner in support of the issuance of the writ of preliminary injunction is hereby ordered RELEASED.
>
> SO ORDERED."

Thus, on November 7, 2014, petitioner filed its Petition for Review[12] before the Court of Tax Appeals.

Without necessarily giving due course to the Petition for Review, respondents were ordered by the Court to file their comment, not a motion to dismiss, in its Resolution[13] dated

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[9] Pars. 2-4 of the RTC's Order October 7, 2014, Annex "M" to the Petition for Review, Ibid, p. 43.
[10] Annex "M" to the Petition for Review, Id., pp. 43-44.
[11] Pars. 1-3, of the RTC's Order dated October 7, 2014, Annex "M" to the Petition for Review, Ibid
[12] See footnote no. 1.
[13] Docket, p. 48.

November 26, 2014, within ten (10) days from notice thereof. A Motion for Extension[14] was filed by respondents on December 10, 2014, requesting for an additional period of thirty (30) days from December 12, 2014, or until January 11, 2015 within which to file their Comment. The same was granted in a Resolution[15] promulgated on January 7, 2014. Respondents filed their Comment[16] on December 29, 2014.

Thereafter, in a Resolution[17] dated January 30, 2015, the Court gave the parties a period of thirty (30) days from notice thereof to submit their simultaneous memoranda. Upon receipt of the same, the instant petition shall be considered submitted for decision. In compliance therewith, respondents filed their Memorandum[18] on February 16, 2015, while the Memorandum for Petitioner[19] was filed on March 31, 2015.

After taking into consideration both parties' Memoranda the instant case was submitted for decision per Court's Resolution[20] dated April 15, 2015.

Hence, this Decision.

Petitioner raised this sole issue for resolution of this Court:

> "WHETHER OR NOT THE ASSESSMENTS ARRIVED AT IS INVALID AND VOID FOR BEING QUESTIONABLE AND ARBITRARILY ARRIVED UPON." (sic)

In support of its Petition, petitioner argues that the assessments are invalid and void for being questionable and are arbitrarily arrived upon. Accordingly, respondents did not set up parameters or criteria as to the choosing of the periods of their surveillance nor provide and state the factual basis of their assessments. The periods chosen for surveillance: February 2-16, 2011 and March 16-30, 2011, were proved to be biased and disadvantageous considering that respondents did not take into consideration the off-season/lean months in arriving upon the subject tax assessments. Petitioner further adds that its books of

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[14] Ibid, pp. 49-53.
[15] Id., p. 55.
[16] Id, pp. 57-66.
[17] Id., p. 163.
[18] Id., pp. 164-173.
[19] Id., pp. 181-199.
[20] Id., p. 280.

accounts, sales invoices, official receipts and other accounting records were lost and destroyed during typhoon Sendong, thus, it is having so much difficulty in comparing and confirming the subject tax assessments with those previously mentioned documents. Relying on the ruling of this Court in the case of *Elric Auxiliary Services Corporation/Sacred Heart Gas Station vs. Commissioner of Internal Revenue*[21] *et al.*, petitioner concludes that the deficiency tax assessments issued by respondent BIR for the taxable years 2010 and 2011 are void since the same have been the result of a capricious and arbitrary method of surveillance.

In their Comment, respondents counter that: (i) petitioner cannot raise for the first time on appeal issues that were not brought before the Court *a quo*. Accordingly, no assessment was tackled in the proceedings below. All that was threshed out was whether the Closure Orders were tainted with grave abuse of discretion since petitioner argues that the same were improperly served; (ii) that the initial result of the surveillance procedure is not an assessment; (iii) that the filing of the instant Petition for Review is done in abject bad faith since they could no longer present evidence; and, (iv) if petitioner will succeed in securing a decision from the CTA regarding the purported "assessment" issue in the instant case, the same will adversely pre-empt the assessment process being conducted by the BIR on petitioner's tax liabilities.

RULING OF THE COURT

Before resolving the instant case on the merits, we deem it proper to determine if this Court has jurisdiction over the instant case.

Settled is the rule that 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. 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.[22]

The Court of Tax Appeals is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction. Section 7 of Republic Act (R.A.) No. 9282, amending R.A.

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[21] CTA Case No. 8315, February 17, 2014.
[22] Commissioner of Internal Revenue vs. Leonardo S. Villa and The Court of Appeals, G.R. No. L-23988, January 2, 1968.

No. 1125, otherwise known as the Law Creating the Court of Tax Appeals, provides:

> Sec. 7. Jurisdiction. — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (1) Decisions of the Commissioner of Internal Revenue 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 or other laws administered by the Bureau of Internal Revenue;
>
> (2) Inaction by 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, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

In relation thereto, Section 3, Rule 4 and Section 3 (a), Rule 8 of the Revised Rules of the Court of Tax Appeals state:

> RULE 4
>
> Jurisdiction of the Court
>
> xxx xxx xxx
>
> SECTION 3. Cases Within the Jurisdiction of the Court in Divisions. — The Court in Divisions shall exercise:
>
> (a) Exclusive original 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;

(2) Inaction by 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, where the National Internal Revenue Code or other applicable law provides a specific period for action: Provided, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; Provided, further, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and Provided, still further, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code;

xxx xxx xxx

RULE 8
Procedure in Civil Cases

xxx xxx xxx

SECTION 3. Who May Appeal; Period to File Petition. — (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition

> for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes."

Based therefrom, it is clear that the jurisdiction of this Court is not only limited to the decisions or rulings of the Commissioner of Internal Revenue (CIR) but also includes the inaction of the latter. The decisions, rulings or inaction of the Commissioner are necessary in order to vest the Court of Tax Appeals with jurisdiction to entertain the appeal, provided it is filed within thirty (30) days after the receipt of such decision or ruling, or within 30 days after the expiration of the 180-day period fixed by law for the Commissioner to act on the disputed assessments[23] as clearly stated under Section 228 of the National Internal Revenue Code of 1997, as amended, to wit:

> "**SEC. 228.** ***Protesting of Assessment.*** - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, **<u>he shall first notify</u>** <u>the taxpayer of his findings</u>: *xxx*
>
> *xxx* *xxx* *xxx*
>
> <u>Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days</u> **<u>from receipt of the assessment</u>** in such form and manner as may be prescribed by implementing rules and regulations. 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)-

[23] Rizal Commercial Banking Corporation vs. Commissioner of Internal Revenue, G.R. No. 168498, April 24, 2007.

> day period; otherwise, the decision shall become final, executory and demandable."

In the instant case, petitioner prays for this Court to declare null and void the tax assessment issued by respondents. However, records reveal that at the time of the filing of the instant Petition for Review, no final assessment notice has as yet been issued by the Commissioner. Thus, the appeal of this case over the disputed assessment is premature. We reiterate that the decision contemplated in R.A. 1125 is one which constitutes a final decision of the Commissioner of Internal Revenue. Consequently, the assessment arrived at resulting from the surveillance of respondents is not the appealable decision for there is no disputed assessment yet.

Second, in seeking to nullify the closure orders issued by the Bureau of Internal Revenue, petitioner should directly invoke the jurisdiction of this Court and not of the Regional Trial Court. Said matter is covered within the meaning of "other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue", which is under the jurisdiction of this Court as held in the case of *Elric Auxiliary Services Corporation/Sacred Heart Gas Station vs. Commissioner of Internal Revenue, et al.,*[24] to wit:

> "The issue of this Court's jurisdiction over the instant case has already been settled in the Resolution dated September 19, 2012, as follows:
>
> > '. . . Contrary to respondents' contentions, the jurisdiction of this Court is not limited to cases involving disputed assessment but also decisions over 'other matters'. Section 7 of Republic Act (R.A.) No. 1125, as amended, pertinently provides that:
> >
> > xxx xxx xxx
> >
> > Based on the abovequoted provision and in conformity with the principle of *ejusdem generis*, the term 'other matters' would refer to those cases which do not necessarily involve disputed assessments or refunds but controversies arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue (BIR).
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> > xxx xxx xxx

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[24] CTA Case No. 8315, February 17, 2014.

> **The subject matter of this case is the nullification of the Forty-Eight (48) Hour Notice and Five-Day (5) Compliance Notice, due to the circumstances that led to their issuance. Admittedly, they were issued pursuant to the power of the CIR enunciated in Section 115 of the NIRC of 1997, that is, the power to suspend the business operations of a taxpayer. Without dispute, the controversy clearly falls within the meaning of 'other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue'.**
>
> **Lastly, a taxpayer adversely affected by a decision of the BIR should appeal to this Court within thirty days from receipt of the said decision. . . .**
>
> In this case, the Forty-Eight (48) Hour Notice was received by petitioner on June 1, 2011. On June 3, 2011, respondents received petitioner's explanation letter under oath. On June 21, 2011, petitioner received a Five (5)-Day Compliance Notice. Petitioner, through a letter dated June 23, 2011, requested respondents to respond to its explanation letter under oath, alleging therein that the compliance notice did not delve into its explanation letter under oath. In a letter received by petitioner on July 5, 2011, respondents denied petitioner's request for reconsideration. Counting thirty (30) days from the denial, petitioner had until August 4, 2011 to appeal before this Court. Considering that the instant case was filed on August 4, 2011, this Court has jurisdiction over the case for being filed on time." (Emphases supplied)

In fine, the premature filing of the instant Petition for Review warrants a dismissal in as much as no jurisdiction was acquired by the Court of Tax Appeals.

WHEREFORE, in view of the foregoing, the Petition for Review is hereby **DENIED** for lack of jurisdiction. Consequently, the hearing for petitioner's "Petition for Annulment or Suspension of Warrant of Distraint/Levy [with Prayer for the Issuance of Writ of Injunction]" set on October 29, 2015, is hereby cancelled.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On-Leave)
AMELIA R. COTANGCO-MANALASTAS
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.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

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