REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

BENGUET ELECTRIC COOPERATIVE, INC. (BENECO) represented by GERARDO P. VERZOSA, General Manager *Petitioner*,	**CTA *EB* NO. 2882** (CTA Case No. 9967)
	Present: **DEL ROSARIO, P.J., RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
-versus-	
THE COMMISSIONER ON INTERNAL REVENUE, *Respondent.*	Promulgated: SEP 02 2025 4:00 pm

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a Petition for Review,[1] filed on March 6, 2024, seeking the reversal of the Decision[2] ("Assailed Decision"), promulgated on September 11, 2023, and the Resolution[3] ("Assailed Resolution"), dated January 24, 2024, both issued by the Court's Special Second Division ("Court in Division"); and praying for the rendering of a decision based on the merits of the case.[4]

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[1] Petition for Review, *Rollo*, pp. 1-71, with annexes.
[2] Decision, dated September 11, 2023 ("Assailed Decision"), *Rollo*, pp. 15-34.
[3] Resolution, dated January 29, 2024 (Assailed Resolution"), *id.*, p. 58-63.
[4] See Prayer, Petition for Review, *id.*, p. 11.

The Parties

Petitioner Benguet Electric Cooperative, Inc. ("BENECO" or "petitioner") is an electric distribution utility with principal office at No. 4 Barangay South Drive, Baguio City. It is a non-stock and non-profit electric cooperative duly organized by virtue of Presidential Decree ("PD") No. 269. Granted with an exclusive franchise by the National Electrification Administration, it operates an electric light and power distribution service for Baguio City and the 13 municipalities of Benguet.[5]

On the other hand, respondent Commissioner of Internal Revenue ("CIR" or "respondent") is the duly appointed Commissioner of the Bureau of Internal Revenue ("BIR") who is granted with the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in connection therewith, or other matters arising under the *National Internal Revenue Code ("Tax Code") of 1997, as amended.* He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[6]

The Facts

Pursuant to Letter of Authority No. 009-2016-00000066, dated November 17, 2016, petitioner was assessed by respondent with deficiency minimum corporate income tax ("MCIT") for taxable year 2015 ("TY 2015") in the amount of **Php12,125,301.16.** The corresponding assessment forms issued by respondent; protest and administrative appeal submitted by petitioner; and the relevant dates of issuance, receipt and submission in relation thereof are summarized as follows:

Date	Action
September 11, 2017	Petitioner received Preliminary Assessment Notice ("PAN") with Details of Discrepancies dated August 30, 2017, assessing petitioner with deficiency MCIT amounting to Php10,498,195.57.[7]
October 12, 2017	Respondent issued an Amended PAN, assessing petitioner with higher deficiency MCIT of Php12,027,468.86.[8]
November 6, 2017	Petitioner received the Formal Letter of Demand / [Final] Assessment Notice ("FLD/FAN") dated October 25, 2017, signed by then OIC-Regional Director Conrado Lee.[9]
December 5, 2017	Petitioner filed a "Motion for Reconsideration (By Way of Protest to the Final Letter of Demand / [Final] Assessment Notice)" ("protest") dated December 4, 2017, requesting for reconsideration of the FLD/FAN.[10]

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[5] See Par. 1, The Parties of the Case, Assailed Decision, *id.*, p. 16
[6] See Par. 2, The Parties of the Case, Assailed Decision, *id.*, p. 16.
[7] Assailed Decision, *id.* at p. 16-17; see also Exhibit "P-1", Division Docket, pp. 237-238.
[8] Assailed Decision, *id.* at p. 17; see also Exhibit "P-2", Division Docket, pp. 239-240.
[9] Assailed Decision, *id.*; see also Exhibit "P-3", Division Docket, pp. 241-242.
[10] Assailed Decision, *id.*; see also Exhibit "P-4", Division Docket, pp. 243-253.

March 15, 2018	Respondent issued the Final Decision on Disputed Assessment ("FDDA") signed by then OIC-Assistant Regional Director Douglas A. Rufino. ("OIC-ARD Rufino")[11]
March 27, 2018	Petitioner received the FDDA.[12]
April 25, 2018	Petitioner filed an "Appeal (on the Final Decision on Disputed Assessment of the Regional Director)" ("Appeal on the FDDA")[13]

Pending the CIR's action on its appeal, petitioner filed the original Petition for Review on October 30, 2018.[14] The case was raffled to the Court's Second Division ("Court in Division").

After a full-blown trial, the Court in Division rendered the Assailed Decision on September 11, 2023,[15] dismissing the original Petition for Review for lack of jurisdiction, the dispositive portion of which states:

> **WHEREFORE**, in view of the foregoing, the Petition for Review filed by petitioner Benguet Electric Cooperative, Inc. BENECO), represented by Gerardo P. Verzosa, General Manager on 30 October 2018 is hereby **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**.

Thereafter, on October 16, 2023, petitioner filed a Motion for Reconsideration,[16] which was denied by the Court in Division on January 24, 2024.[17]

This led to the filing of the current Petition for Review on March 6, 2024.[18] Respondent, on the other hand, filed his Comment/Opposition on July 16, 2024.[19]

In view thereof, the Court submitted the instant case for decision on August 6, 2024.[20]

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[11] Assailed Decision, *id.* at 17-18; see also Exhibit "P-5", Division Docket, pp. 265-271.
[12] Assailed Decision, *id.*
[13] Assailed Decision, *id.* at 18; see also Exhibit "P-5A", Division Docket, pp. 279-287.
[14] Petition for Review, Division Docket, pp. 10-20.
[15] *Supra* note 2.
[16] Motion for Reconsideration, dated October 16, 2023, Division Docket, pp. 451-458.
[17] See Assailed Resolution, dated January 24, 2024, *supra* note 3.
[18] *Supra* note 1.
[19] Comment/Opposition, dated July 15, 2024, *Rollo*, pp. 81-90.
[20] See Notice issued by CTA *En Banc*, *id.*, p. 92.

The Issues

I. WHETHER THE COURT IN DIVISION CAN RULE ON THE ISSUE OF JURISDICTION EVEN IF THE SAME WAS NEVER RAISED BY RESPONDENT; and

II. WHETHER THE PETITION FOR REVIEW WAS SEASONABLY FILED BEFORE THE COURT IN DIVISION.

The Arguments

In its Petition for Review, petitioner raises the following arguments:

(1) As the issue of jurisdiction was never raised in the case before the Court in Division, respondent is deemed to have waived its right to question the same. Petitioner highlights that respondent participated in every stage of the proceedings before the Court of Tax Appeals ("CTA") and had all the time and opportunity to question the late filing of the Petition for Review, if such was really the case. As such, according to petitioner, respondent appears to have slept and kept silent about the issue on jurisdiction, thus, should not be ruled upon.

(2) The original Petition for Review was seasonably filed. Petition insists that the administrative appeal filed before the CIR deserves a new period of 180 days because the administrative appeal is a form of protest itself and the "protest" being referred to in the *Revenue Regulations ("RR") No. 18-2013*[21] does not solely pertain to the protest lodged before the CIR's authorized representative. Moreover, according to petitioner, the FDDA takes over the FLD/FAN as the new decision to be protested or appealed by the taxpayer, thus, a fresh period 180 days must be granted.

On the other hand, respondent, in his Comment counters that jurisdiction over the subject matter or nature of action is conferred by law and not by the consent or waiver upon a court.

Moreover, respondent argues that protest against an assessment is a technical term with a specific meaning covered by Section 228 of the Tax Code. As such, this should be the only definition of a protest to an assessment that is acceptable, thus, making it improper for petitioner to insist that the appeal before the CIR is also a "protest" contemplated under the rules. Hence, according to respondent, the CIR is

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

given only one period of 180 days within which to decide on a taxpayer's protest, and no fresh period should be granted from the filing of an administrative appeal.

The Ruling of the Court

The instant Petition for Review was timely filed before the Court En Banc

We shall first look into the timeliness of the filing of the Petition for Review before the Court *En Banc*.

Under *Section 3 (b), Rule 8 of the Revised Rules of the Court of Tax Appeals ("RRCTA")*,[22] a party adversely affected by a decision or resolution of a Division of the CTA on a motion for reconsideration or new trial may appeal to the Court *En Banc* by filing a petition for review within 15 days from receipt of the assailed decision or resolution.

Here, the Assailed Resolution was received by the petitioner on February 21, 2024. Counting 15 days therefrom, petitioner had until March 7, 2024 within which to file an appeal. Hence, the instant Petition for Review was timely filed.

Now, as regards the merits of the case, the Court *En Banc* deems it proper to note at the outset that BENECO's arguments in its Petition for Review are a mere rehash of the issues already raised by petitioner in its Motion for Reconsideration and exhaustively considered and passed upon by the Court in Division in the Assailed Resolution. On this ground alone, the Petition for Review should already be dismissed. Nonetheless, for full disposal of the case at hand, We shall pass upon the issues raised.

Upon judicious review of the records and the contentions of the parties, the Court *En Banc* finds no compelling reason to reverse and set aside the ruling of the Court in Division.

The Court can rule on the issue of jurisdiction even if the same was not raised as an issue by the parties

It is uncontested that the issue of jurisdiction was not raised by either parties before the Court in Division. To emphasize such fact, petitioner attached to the present Petition copies of respondent's Answer[23] to the original Petition for Review,

[22] A.M. No. 05-11-07-CTA, November 22, 2005.
[23] Annex C, Rollo, 64-71.

respondent's Pre-Trial Brief[24] and the Court in Division's Pre-Trial Order.[25] As shown in the foregoing documents, respondent indeed failed to raise jurisdictional issue as one of his defenses.

Petitioner now advances that respondent is deemed to have waived his right to question jurisdiction. Thus, such issue should not have been passed upon by the Court in Division in the Assailed Decision.

We find petitioner's argument unmeritorious.

At the outset, it bears mentioning that *RRCTA*, specifically *Section 1, Rule 14* thereof, expressly authorizes the CTA to rule on issues beyond those stipulated by the parties if the same would be necessary to achieve the orderly disposition of a case, to wit:

> Section 1. Rendition of judgment. –
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> . . . .
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> In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.

Needless to state, to obviate the possibility that its decision may be rendered void, the Court can, by its own initiative, raise the question of jurisdiction, although not raised by the parties.

It should be recalled that the CTA is a court of special jurisdiction, and can thus take cognizance only of such matters as are clearly within its jurisdiction.[26] Corollary thereto, to inquire into the existence of jurisdiction over the subject matter is the primary concern of the Court, for thereon would depend the validity of its entire proceedings.

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.[27]

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[24] Annex E, Rollo, 37-39.
[25] Annex F, Rollo, pp. 41-45.
[26] *Commissioner of Internal Revenue vs. Court of Tax Appeals – Third Division*, G.R. No. 239464, May 10, 2021.
[27] *Mitsubishi Motors Phils. Corp. v. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

Jurisprudence has defined jurisdiction over the subject matter as "the power to hear and determine cases of the general class to which the proceedings in question belong."[28] It is conferred by law which may either be the Constitution or a statute.[29] Thus, mere consent or acquiescence of any or all of the parties should not be tantamount to vesting upon the court the power to rule on the merits.

In the case of *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue,*[30] the Supreme Court categorically instructed the CTA to dismiss a case upon determination of lack of jurisdiction after review of the pleadings and the evidence on record, thus:

> It must be emphasized that jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy, and is conferred only by law and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. *Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties.* If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits.
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> *The CTA, even if vested with special jurisdiction, is, as courts of general jurisdiction can only take cognizance of such matters as are clearly within its statutory authority. Relative thereto,* ***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.***
> (Emphasis and italics supplied)

Moreover, specific to the issue of prescription similar to the case at hand, the Supreme Court, in *China Banking Corporation vs. Commissioner of Internal Revenue,*[31] ruled that if the evidence on record show that the claim is barred by prescription, even if prescription is not raised as a defense, then there is nothing for the court to do but dismiss the case outright, to wit:

> ***If the pleadings or the evidence on record show that the claim is barred by prescription, the court is mandated to dismiss the claim even if prescription is not raised as a defense.*** In Heirs of Valientes v. Ramas, we ruled that the CA may motu proprio dismiss the case on the ground of prescription despite failure to raise this ground on appeal. The court is imbued with sufficient discretion to review matters, not otherwise assigned as errors on appeal, if it finds that their consideration is necessary in arriving at a complete and just resolution of the case. More so, when the provisions on prescription were enacted to benefit and protect taxpayers from investigation after a reasonable period of time.
> (Emphasis and italics supplied)

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[28] *City of Lapu-Lapu vs. Philippine Economic Zone Authority*, G.R. No. 184203, November 26, 2014, as cited in the case of *National Food Authority vs. City Government of Kidapawan*, G.R. No. 236114, June 14, 2023.
[29] *Id.*
[30] G.R. No. 185666, February 4, 2015.
[31] G.R. No. 172509, February 4, 2015.

To bolster its claim on the impropriety of ruling on the jurisdiction, petitioner invokes the old case of *Tijam vs. Sibonghanoy*[32] which the Supreme Court reiterated in *Sps. Rebamonte vs. Sps. Guillermo Lucero*.[33] However, We find these cases inapplicable to the issue at hand.

In *Sps. Rebamonte*, the High Court found guidance from *Tijam* and ruled that after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the losing party to question the jurisdiction or power of the court, to wit:

> In the seminal case of *Tijam v. Sibonghanoy* (Tijam), the Court barred belated objections raised by a party with respect to the lack of jurisdiction of the lower court because the said party raised the objection only when the adverse decision was already rendered by the lower court and that the said party had already sought affirmative relief from the lower court and had actively participated in all the stages of the proceedings. In *Tijam*, the Court ruled that allowing the party to raise the ground of lack of jurisdiction after a long delay of 15 years is unfair to the opposing party. Hence, the party raising the ground of lack of jurisdiction for the first time after such lengthy period is already barred from doing so due to the doctrine of estoppel by laches.
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> The Court explained that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction. The question whether the court has jurisdiction either of the subject matter of the action or of the parties was not important in such case because the party is barred from such conduct not because the judgment or order of the court is valid and conclusive as an adjudication, but for the reason that such a practice cannot be tolerated — obviously for reasons of public policy.
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> As held in another case, the Court explained that the active participation of the party against whom the action is brought, coupled with his failure to object to the jurisdiction of the court or administrative body where the action is pending, is tantamount to an invocation of that jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later on impugning the court or body's jurisdiction
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> As further nuanced by the Court in the more recent case of *Amoguis v. Ballado* (Amoguis), "[t]he edict in Tijam v. Sibonghanoy is not an exception to the rule on jurisdiction. A court that does not have jurisdiction over the subject matter of a case will not acquire jurisdiction because of estoppel. Rather, the edict in Tijam must be appreciated as a waiver of a party's right to raise jurisdiction based on the doctrine of equity. ***It is only when the circumstances in Tijam are present that a waiver or an estoppel in questioning jurisdiction is appreciated.*** (Emphasis in the original)

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[32] G.R. No. L-21450, April 15, 1968.
[33] G.R. No. 237812, October 2, 2019.

The Supreme Court has clearly pronounced that the circumstances in *Tijam* must be present in order to properly invoke estoppel in raising the issue of jurisdiction. We, however, disagree with petitioner that exemptional factual conditions in *Tijam* and *Sps. Rebamonte* are extant herein.

In the instant case, while it is true that respondent never raised the issue on jurisdiction, the CIR also did not question the Court in Division's jurisdiction after obtaining an unfavorable judgment. Moreover, what were in question in *Tijam* and *Sps. Rebamonte* are the power of the respective lower courts which decided the cases based on the merits. It was only in the appellate level when the jurisdictional issues were raised by the aggrieved party-petitioner. In contrast, in this case, it was the Court in Division that ruled on the issue of its very own jurisdiction, and rightfully so.

Thus, We find error in petitioner's insistence that matters of jurisdiction must not be touched upon by the Court in Division due to the alleged estoppel on the part of respondent.

The Court in Division did not err in ruling that it lacked jurisdiction over the original Petition for Review.

In the Assailed Decision, the Court in Division found that the appeal through Petition for Review was filed belatedly on October 30, 2018, applying the reglementary periods provided under to *Section 3.1.3 of RR No. 12-99, as amended by RR No. 18-2013*, which states:

> Sec. 3. Due Process Requirement in the Issuance of a Deficiency Tax Assessment. –
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> . . . .
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> Sec. 3.1.4. Disputed Assessment. – The taxpayer or its authorized representative or tax agent may ***protest administratively against the aforesaid FLD/FAN within thirty (30) days from date or receipt thereof.*** The taxpayer ***protesting an assessment*** may file a written ***request for reconsideration or reinvestigation*** defined as follows:
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> . . . .
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> If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may either: (i) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the said decision; or (ii) ***elevate his protest through request for reconsideration to the Commissioner*** within thirty (30) days from date of receipt of the said decision. ***No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.***

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If the protest is not acted upon by the Commissioner's duly authorized representative within one hundred eighty (180) days counted from the date of filing of the protest in case of a request reconsideration; or from date of submission by the taxpayer of the required documents within sixty (60) days from the date of filing of the protest in case of a request for reinvestigation, the taxpayer may either: (i) appeal to the CTA within thirty (30) days after the expiration of the one hundred eighty (180)-day period; or (ii) await the final decision of the Commissioner's duly authorized representative on the disputed assessment.

If the protest or administrative appeal, as the case may be, is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision. Otherwise, the assessment shall become final, executory and demandable. A motion for reconsideration of the Commissioner's denial of the protest or administrative appeal, as the case may be, shall not toll the thirty (30)-day period to appeal to the CTA.

If the ***protest or administrative appeal is not acted upon by the Commissioner within one hundred eighty (180) days counted from the date of filing of the protest***, the taxpayer may either: (i) *appeal to the CTA within thirty (30) days from after the expiration of the one hundred eighty (180)-day period*; or (ii) await the final decision of the Commissioner on the disputed assessment and appeal such final decision to the CTA within thirty (30) days after the receipt of a copy of such decision.
(Emphasis and italics supplied)

The Court in Division calculated the relevant periods as follows:

	Action of parties	**Relevant period or number of days**
November 6, 2017	Receipt of FLD/FAN by petitioner	
December 5, 2017	Filing of Motion for Reconsideration by petitioner	
March 15, 2018	Issuance of FDDA signed by OIC-ARD Rufino	100 days counted from receipt of petitioner's protest
April 25, 2018	Filing of appeal to the CIR	
July 14, 2018		80 days from filing of administrative appeal; End of 180-day period from the date of filing of protest

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August 13, 2018		End of the 30-day period to file a judicial appeal before the Court in Division
October 30, 2018	Filing of Petition for Review before the Court in Division	

Petitioner now echoes its contentions already raised in its Motion for Reconsideration and insists that the Court in Division erred in merely giving petitioner 80 days, instead of a fresh period of 180 days, counting from the date of filing an appeal on the FDDA, with the office of the CIR.

According to petitioner, the "protest" being referred to in the phrase "from the date of filing of the protest" necessarily includes both (1) protest against the FLD/FAN filed before the CIR's authorized representative; and (2) appeal against the FDDA elevated to the CIR. Thus, petitioner insists that the CIR is given 180 days to review the administrative appeal, not just the remaining days after deducting the time it took for the CIR's representative to rule on the protest against the FLD/FAN.

We find that the foregoing argument deserves scant consideration.

First, it bears emphasis that *Section 3.1.4 of RR No. 18-2013*, as cited above, is intended to implement *Section 228 of the Tax Code* which states that:

> Section 228. Protesting of Assessment. – When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: *Provided, however*, That a preassessment notice shall not be required in the following cases:
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> . . . .
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> The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
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> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
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> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment 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.

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> *If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)-day period*; otherwise, the decision shall become final, executory and demandable.

It is clear from the above provision of the law that the 180-day period is confined to the period within which either the CIR or his/her duly authorized representative may act on the initial protest against the FAN. Accordingly, if the taxpayer opts to appeal to the CIR the final decision of the latter's duly authorized representative, the law does not grant a separate 180-day period within which such appeal shall be decided.

Next, it should be noted that *RR No. 18-2013* clearly defines how a taxpayer can file "protests" and consistently refers to the same as separate document or action different from "administrative appeal".

Under *Section 3.1.4*, as quoted above, a protest may be in the form of a request for reconsideration or reinvestigation. If denied, in whole or in part, one of the options of the taxpayer is to "*elevate his protest through a request for reconsideration*" to the CIR within 30 days from receipt of the decision or FDDA. The provision then proceeds to state that "*no request for reinvestigation shall be allowed in administrative appeal.*" By this statement, it appears that the regulations have separately identified the elevation of appeal to the CIR as an "administrative appeal" so as to clearly establish that "protests" against the FLD/FAN can be in the form of a request for reconsideration or reinvestigation, while "administrative appeal" of the FDDA to the CIR may only be instituted through a request for reconsideration.

Consistent thereto, the subsequent paragraphs of the same provision refer to "protest" only when discussing a possible denial or inaction of the CIR's duly authorized representative, and to both "protest" and "administrative appeal" when discussing, on the other hand, the possible denial or inaction by the CIR himself/herself.

Inescapably, when the provision states that the 180-day period should counted from the "date of filing of the protest" the same must necessarily refer to the date of filing the protest against the FLD/FAN. We find no basis on petitioner's claim that the "protest" must be read as having to include "administrative appeal" since, as discussed, the former is differently worded and defined from the latter. While it is true that in administrative appeal, a taxpayer is effectively protesting or objecting against the BIR's assessment, it is erroneous to loosely interpret "administrative appeal" as a form of "protest" for the purpose of determining tax remedies since, as validly pointed out by respondent, "protests" have technical definition and forms under the rules and regulations.

Lastly, the Supreme Court has already pronounced categorically that no new or separate 180-day period shall be granted to the CIR upon filing of an administrative appeal from the decision of the latter's duly authorized representative. In the Assailed Decision, the Court in Division has aptly cited the resolution of the High Court in the case of *Nueva Ecija II Electric Cooperative, Inc. Area II v. Commissioner of Internal Revenue*,[34] which ruled as follows:

> As correctly ruled by the CTA EB, Section 228 of Republic Act (RA) No. 8424, or the National Internal Revenue Code, as amended (hereafter, Tax Code) ***unmistakably provides that the one hundred eighty (180)-day period should be reckoned from the "submission of documents,"*** which in this case was on 19 September 2016. Perforce, the statutory 180-day period lapsed on 18 March 2017. From such point, petitioner had thirty (30) days, or until 17 April 2017, to elevate the case to the CTA. However, it filed its Petition only on 2 June 2017, which is beyond the reglementary period provided by the law. Notably, Section 3.1.4 of Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-13, which implements Section 228 of the Tax Code, provides for alternative courses of action to the taxpayer upon its receipt of the Final Decision on Disputed Assessment issued by the authorized representative of respondent Commissioner on Internal Revenue (respondent), including the option of elevating the protest to the respondent himself through a request for reconsideration. However, ***nowhere in said provision does it provide that a fresh 180-day period is granted to the respondent to act on such administrative appeal.*** As aptly observed by the CTA EB, upholding petitioner's argument would run contrary to the clear language of Section 228 and would unduly expand the period provided by the law. Necessarily, taxpayers must exercise their rights in the manner and within the periods provided by statute and the pertinent regulations. "It bears to stress that the perfection of an appeal within the statutory period is a jurisdictional requirement and failure to do so renders the questioned decision or decree final and executory and no longer subject to review."
> (Emphasis and italics supplied)

The Court *En Banc* is hereby constrained to echo the foregoing ruling of the Supreme Court to the case at hand.

As is it clear that there is an inaction on the part of the CIR as regards the administrative appeal filed by petitioner, the 180-day period must be reckoned from the date of filing of petitioner's Motion for Reconsideration on December 5, 2017, tolled upon the of issuance of the FDDA on March 15, 2018, then resumed on the date of filing of the administrative appeal with the CIR on April 25, 2018.

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[34] G.R. No. 258101 (Notice), April 19, 2022.

The Court in Division has therefore correctly found July 14, 2018 as the end of the 180-day period and August 13, 2018, or 30 days therefrom, as the deadline for filing of a judicial appeal. Hence, the original Petition for Review filed on October 30, 2018 was untimely filed, making the Court in Division devoid of jurisdiction to rule on the case merits.

All told, the Court *En Banc* finds no reason to disturb the findings of the Court in Division. The dismissal of the original Petition for Review was in order.

ACCORDINGLY, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Decision, dated September 11, 2023, and the Resolution, dated January 24, 2024, of the Court's Special Second Division are hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

On Leave
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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

ROMAN G. DEL ROSARIO
Presiding Justice