

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Third Division

TKH MARKETING,

Petitioner,

CTA CASE NO. 9911

Members:

- versus -

UY, *Chairperson*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *Jl.*

BUREAU OF CUSTOMS, BUREAU
OF INTERNAL REVENUE and
THE DEPARTMENT OF
FINANCE,

Respondents.

Promulgated:

AUG 08 2022

4:27 p.m.

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DECISION

RINGPIS-LIBAN, J.:

The Case

The *Petition for Review* prays that the Bureau of Customs (“BOC”) or the Bureau of Internal Revenue (“BIR”), be directed to immediately implement the refund in favor of petitioner pursuant to the directive in the *Decision* of the Department of Finance (“DOF”) dated June 28, 2016.¹

The Facts

The petitioner in this case is TKH Marketing, a single proprietorship, duly represented by its General Manager, Mr. Ernesto L. Tan, with registered address at Unit G, Goldland Bldg., 118 Calamba St., Sto. Domingo, Quezon City.²

¹ Docket, Statement of the Case, Pre-Trial Order dated July, 08, 2021, p. 376.

² *Id.*, Petition for Review, The Parties to the Petition, Par. 1, pp. 10 to 11.

The instant *Petition* named the BOC, the BIR and the DOF, as party-respondents, based on their respective participation,³ through the District Collector of the Port of Manila and the Commissioner of Customs (“COC”), the Commissioner of Internal Revenue (“CIR”), and the Secretary of Finance (“SOF”), as will be stated hereinafter.

On March 18, 2014, the following shipment arrived at the Port of Manila:⁴

Shipper	Catic Fujian Co. Ltd. / Lamsee International Group Ltd., Zhejiang, China
Consignee	TKH Marketing, Unit G, Goldland Bldg., 118 Calamba St., Sto. Domingo, Quezon City
Number and kind of containers	18,400 (20x20 inches)
Description of goods	73,600 rustic floor tiles
H.S. Code	6908.90.90
Invoice Value	USD90,172.80

On March 31, 2014, petitioner filed Import Entry No. C-33993-2014 for the subject shipment, with a computation of taxes based on the “item customs value” of USD90,172.80, or “dutiable value” of Php4,336,800.36:⁵

0% Customs Duties (ASEAN-China Tree Trade Area Preferential Rate)	0.00
12% Value-added tax (VAT)	Php 533,238.55
Import Processing Fee	1,000.00
Container Security Fee	4,507.00
Total Assessment	Php538,745.55

Upon examination, however, the customs appraiser found a discrepancy between the subject shipment’s declared unit value, or USD0.17/kg, and the value stated in the VRIS-OCOM Reference Value No. 33-2013, or USD0.50/kg. As such, the customs appraiser adjusted the twelve percent (12%) Value-added tax (“VAT”) of the shipment based on the latter value, or USD0.50/kg.⁶

³ *Id.*, Petition for Review, The Parties to the Petition, Par. 2, p. 11 vis-à-vis Bureau of Internal Revenue’s Answer, Par. 1, Docket, p. 117.

⁴ *Id.*, Joint Stipulation of Facts and Issues (JSFI), Facts, Par. 1, p. 339.

⁵ *Id.*, JSFI, Facts, Par. 2, p. 340.

⁶ *Id.*, JSFI, Facts, Par. 3, p. 340.

On April 08, 2014, petitioner paid, under protest, taxes and fees for the subject shipment in the total amount of Php1,497,026.00:⁷

Custom Duties	0.00
VAT	Php1,491,530.00
Import Processing Fee	1,000.00
Container Security Fee	4,496.00
Total Assessment	Php1,497,026.00

On April 15, 2014, petitioner filed a *Protest* with the District Collector, Port of Manila, maintaining that the VAT on the subject shipment should be based on the invoice value, *i.e.*, US\$90,172.80, or USD0.17/kg, and asking for a refund of its excess VAT payment.⁸

The District Collector, *via* an undated Decision, granted the *Protest* and disposed:

“ACCORDINGLY, under the foregoing premises, the protest case filed by TKH MARKETING is hereby GRANTED, thus, the amount of NINE HUNDRED FIFTY-EIGHT THOUSAND SEVEN HUNDRED TWENTY-FIVE PESOS (Php958,725.00), representing excess payment of duties based on the invoice value of US\$90,172.80 for Rustic Floor Tiles as the Transaction Value pursuant to CAO No. 5-2001, be refunded to the Protestant subject to the following conditions: (1) after proper liquidation; (2) refund should be in the form of tax credit certificate; (3) approval of the Commissioner of Customs pursuant to Section 2315 of the TCCP, as amended; and (4) subject to compliance with existing rules and regulations pertinent in the premises.

Let copies of this Decision be furnished all parties and offices concerned for their information and guidance.

SO ORDERED.”⁹

On February 05, 2015, the COC, on automatic review, affirmed the District Collector:

✓

⁷ *Id.*, JSFI, Facts, Par. 4, p. 340.

⁸ *Id.*, JSFI, Facts, Par. 5, p. 340.

⁹ *Id.*, JSFI, Facts, Par. 6, pp. 340 to 341.

“AFFIRM the undated Decision of the District Collector, Port of Manila (POM), by GRANTING the instant protest case and ORDERING the refund in favor of Protestant TKH Marketing of the amount of Php958,725.00 representing excess payment of duties based on the Invoice value of US\$90,172.80 for Rustic Floor Tiles as the Transaction Value, subject to strict compliance with the following conditions: (1) upon proper liquidation; (2) refund should be in the form of tax credit certificate; (3) approval of the Commissioner of Customs pursuant to Section 2315 of the TCCP, as amended; (4) approval of the Secretary of Finance; and (5) further compliance with existing rules and regulations pertinent in the premises.”¹⁰

The COC, *via* a 6th Indorsement dated March 6, 2015, forwarded the case to the SOF for automatic review.¹¹

The SOF, *via* a 7th Indorsement dated June 28, 2016, sustained the COC and the District Collector:

“In view of the foregoing, the claim for refund of TKH Marketing in the amount of Nine Hundred Fifty Eight Thousand Seven Hundred Twenty Five Pesos (Php958,725.00) representing excess payment of taxes based on the Invoice Value of US\$90,172.80 for the shipment of Rustic Floor Tiles as the Transaction Value, is hereby APPROVED, subject, however to strict compliance with the following conditions: (1) proper liquidation; (2) refund should be in the form of tax credit certificate; and (3) subject to strict compliance with existing rules and regulations pertinent thereto.”¹²

The COC, *via* an 8th Indorsement dated July 11, 2016, forwarded the 7th Indorsement to the District Collector for appropriate action.¹³ The customs appraiser recomputed the duties and taxes of the subject shipment pursuant to the 7th Indorsement and found that petitioner was entitled to a refund of Php958,725.00.¹⁴

The COC, *via* the Letter dated November 21, 2016, endorsed to the CIR petitioner’s claim for refund: ✓

¹⁰ *Id.*, JSFI, Facts, Par. 7, p. 341.

¹¹ *Id.*, JSFI, Facts, Par. 8, p. 341.

¹² *Id.*, JSFI, Facts, Par. 9, pp. 341 to 342.

¹³ *Id.*, JSFI, Facts, Par. 10, p. 342.

¹⁴ *Id.*, JSFI, Facts, Par. 11, p. 342.

“Re: Claim for Refund of Value-Added Taxes Only, filed by TKH Marketing in the amount of Php958.725.00.

This pertains to the above subject matter, which was forwarded to this office for appropriate action, together with corresponding docket records.

It is noted by this Office that the subject claim for refund is not within the coverage and scope of Section 1708 of the amended TCCP, considering that it involves the refund of internal revenue tax only, without any accompanying refund of custom duties.

As such, the same is within the original jurisdiction of your good office pursuant to Section 20[4](C) of the amended NIRC, as well as applicable laws, rules and regulations pertinent thereto.”¹⁵

The CIR, *via* the Letter dated November 7, 2017, advised the COC that he could no longer entertain petitioner’s claim for refund because the two-year prescriptive period under Sections 204(C) and 229 of the National Internal Revenue Code (“NIRC”) of 1997, as amended, has already lapsed:

“Accordingly, we regret to inform that the processing of the subject application cannot be pursued in the light of the expiration of the two (2) year prescriptive period of filing claims for tax credit or refund, pursuant to the aforesaid sections of the NIRC. As stipulated therein, recovery of tax erroneously or illegally collected may, within 2 [*sic*] years after the payment of the tax or penalty was made, be claimed as tax credit or refund. Such application shall be filed at the Revenue District Office having jurisdiction over the subject taxpayer. In any case, no such suit or proceeding shall be filed after the lapse of the prescriptive period regardless of any supervening cause that may arise after payment.”¹⁶

Petitioner, in the Letter dated June 13, 2018, asked the COC to execute the SOF’s decision “approving [its] claim for refund” in the amount of Php958,725.00.¹⁷

¹⁵ *Id.*, JSFI, Facts, Par. 12, p. 342.

¹⁶ *Id.*, JSFI, Facts, Par. 13, p. 343.

¹⁷ *Id.*, JSFI, Facts, Par. 14, p. 343.

The COC, in the Letter dated July 4, 2018, informed petitioner of the CIR's November 7, 2017 Letter:¹⁸

“This is to acknowledge receipt of your letter dated June 13, 2018 received at the Office of the Commissioner last June 19, 2018 relative to the disputed amount of Php958,725.00, representing additional assessment on your shipment covered by Import Entry No. C-3393-2014 which you paid under protest and docketed as Manila Protest Case No. 2014-024.

As you have correctly pointed out, your protest was favorabl[y] decided by the Bureau of Customs (BOC) and was affirmed by the Department of Finance on automatic review. This Bureau however, noting that the claim for refund is not within the coverage and scope of Section 1708 of the Tariff and Customs Code of the Philippines (TCCP), as amended, considering that it involves the refund of internal revenue tax only, without accompanying refund of customs duties referred your claim to the Bureau of Internal Revenue (BIR) for their appropriate action.

In a letter dated November 07, 2017 and received by the Bureau on December 12, 2017, BIR Commissioner Caesar R. Dulay informed the BOC that the processing of your application by the BIR cannot be pursued in the light of the expiration of the two (2) year prescriptive period of filing claims for tax credit or refund, pursuant to Sections 204 and 229 of the National Internal Revenue Code (NIRC) of 1997 and that “while a written application for refund was filed by TKHM with the Commissioner of Customs within the two-year prescriptive period, the foregoing is not tantamount to filing of said claim with the CIR”. Attached is a copy of the letter from Commissioner Dulay for your ready reference.

In view thereof, this Bureau regrets to inform you that your claim for refund of the Value-Added Tax representing excess payment on your importation covered by Import Entry No.C-3393-2014 cannot be processed for having been filed out of time as determined by the Bureau of Internal Revenue.”
✓

¹⁸ *Id.*, JSFI, Facts, Par. 15, pp. 343 to 344.

Petitioner then filed the present *Petition for Review* on August 22, 2018.¹⁹ The case was initially raffled to the First Division this Court, and was later on transferred to its Third Division.²⁰

After several extensions granted by the Court,²¹ respondent BIR submitted its *Answer* on November 15, 2018,²² while respondents BOC and DOF's *Comment* was posted on November 19, 2018.²³ In the Resolution dated January 30, 2019,²⁴ the Court considered said *Comment* as the *Answer* of respondents BOC and DOF to the present *Petition for Review*.

In its *Answer*, respondent BIR interposes the following special and affirmative defenses, to wit:

- 1) That the honorable court has no jurisdiction over the instant petition, the administrative claim for refund was filed beyond the the two-year prescriptive period under Sections 204 and 229 of the Tax Code; and
- 2) That alternatively, assuming the allegation of petitioner is true that a decision has already been rendered and the same is only for implementation, petitioner has no cause of action against respondent BIR, considering that the amounts involved are collections of BOC.

Upon the other hand, in their *Comment*, respondents BOC and DOF made the following arguments:

- 1) The Court has no jurisdiction over the subject matter, yhe subject of the Petition not a decision but a mere letter, specifically COC's July 4, 2018 Letter;
- 2) The CIR has exclusive jurisdiction over claims for refund of VAT. As a mere collecting agent, the BOC has no power to receive and entertain a claim for refund of VAT, much less grant it. Since TKH Marketing's claim for refund was filed with the wrong office, no refund may be had; and ✓

¹⁹ *Id.*, pp. 10 to 23.

²⁰ *Id.*, Order dated September 25, 2018, p. 91.

²¹ *Id.*, Resolution dated October 16, 2018, October 25, 2018, November 05, 2018, and November 13, 2018, pp. 97, 107, 110, and 116, respectively.

²² *Id.*, pp. 117 to 122.

²³ *Id.*, pp. 134 to 147.

²⁴ *Id.*, p. 156.

- 3) TKH Marketing's claim for refund has already prescribed. TKH Marketing never filed a claim for refund with the CIR. Likewise, it can no longer pursue such claim as it already beyond the two-year prescriptive period.

On November 20, 2018, respondents BOC and DOF transmitted to the Court the certified true copies of the case records of this case.²⁵

The *Pre-Trial Brief (For the Petitioner)*,²⁶ and the *Pre-Trial Brief* of respondents BOC and DOF,²⁷ were filed on March 20, 2019; while *Respondent [BIR]'s Pre-Trial Brief* was filed on March 22, 2019.²⁸

The Pre-Trial Conference was initially scheduled on March 26, 2019.²⁹ After several resettings thereof,³⁰ however, the said Conference was held on January 28, 2020,³¹ wherein the Court dismissed the case as counsel for petitioner failed to appear despite notice. A written Order was also issued on the same date, dismissing the case.³²

Petitioner filed a *Motion for Reconsideration* on February 7, 2020.³³ Respondent BIR then filed its *Opposition (Re: Motion for Reconsideration of the Order dated 28 January 2020)* on March 3, 2020,³⁴ while respondents BOC and DOF posted their *Comment (On the Motion for Reconsideration dated February 6, 2020)* on June 9, 2020.³⁵

In the Resolution dated July 13, 2020,³⁶ the Court granted petitioner's *Motion for Reconsideration*, thereby setting aside the Order dated January 28, 2020, and reinstating the case, as well as setting anew the Pre-Trial Conference on



²⁵ *Id.*, Respondent's BOC and DOF's Transmittal dated November 20, 2018, pp. 131 to 132.

²⁶ *Id.*, pp. 161 to 167.

²⁷ *Id.*, pp. 168 to 175.

²⁸ *Id.*, pp. 179 to 181.

²⁹ *Id.*, Notice of Pre-Trial Conference dated December 06, 2018, pp. 152 to 153.

³⁰ *Id.*, Resolution dated March 22, 2019, p. 178; Resolution dated June 17, 2019, p. 193; Resolution dated September 26, 2019, p. 216.

³¹ *Id.*, Minutes of the hearing held on January 28, 2020, p. 217.

³² *Id.*, Order dated January 28, 2020, p. 222.

³³ *Id.*, pp. 223 to 227,

³⁴ *Id.*, pp. 233 to 237.

³⁵ *Id.*, pp. 240 to 243.

³⁶ *Id.*, pp. 247 to 249.

October 14, 2020. After two (2) resettings thereof,³⁷ the said Conference was finally held February 16, 2021.³⁸

On March 18, 2021, the parties submitted their *Joint Stipulation of Facts and Issues* ("JSFI"),³⁹ wherein the parties stipulated, *inter alia*, that they will not be presenting evidence, and shall file their respective memorandum, and, thereafter, submit the case for decision. In the Resolution dated May 28, 2021,⁴⁰ the Court approved the said JSFI, and deemed the termination of the Pre-Trial.

On May 7, 2021, respondents BOC and DOF posted their *Manifestation (In Lieu of Memorandum)*, stating that they will be adopting their *Comment* as their *Memorandum*.⁴¹ On the other hand, the *Memorandum (For the Petitioner)* was filed on June 11, 2021.⁴² However, respondent BIR failed to file his memorandum.⁴³

The Court then issued the Pre-Trial Order dated July 8, 2021.⁴⁴

The present case was deemed submitted for decision on October 11, 2021.⁴⁵

The Issue

As stipulated by the parties, the issues to be resolved in this case, are the following:

“I

Whether or not the Honorable Court has jurisdiction over the subject matter.

II

Whether or not the COC has jurisdiction over a claim for refund of VAT.

✓

³⁷ *Id.*, Resolution dated October 13, 2020, p. 260; Resolution dated December 07, 2020, p. 277; Resolution dated September 26, 2019, p. 216.

³⁸ *Id.*, Minutes of the meeting held on, and Order dated, February 16, 2021, pp. 331 to 333.

³⁹ *Id.*, pp. 339 to 347.

⁴⁰ *Id.*, pp. 354 to 355.

⁴¹ *Id.*, pp. 348 to 349.

⁴² *Id.*, pp. 356 to 372.

⁴³ *Id.*, Records Verification Report dated August 02, 2021 issued by the Judicial Records Division of this Court, p. 384.

⁴⁴ *Id.*, pp. 376 to 383.

⁴⁵ *Id.*, Resolution dated October 11, 2021, p. 386.

III

Whether or not TKH Marketing's claim for refund has already prescribed.

IV

Whether or not the COC and the CIR validly denied the implementation of the SOF's decision on the 7th Indorsement dated June 28, 2016, which is final and executory."⁴⁶

Petitioner's arguments:

Petitioner argues that this Court has jurisdiction over the subject matter; that respondent BOC has jurisdiction over a claim for refund; and that petitioner's claim for refund did not prescribe.

Respondent BIR's counter-arguments:

In his *Answer*, respondent BIR argues that the Court has no jurisdiction over the instant *Petition* as the administrative claim for refund was filed beyond the period allowed by law; and alternatively, assuming the allegation of petitioner is true that a decision has already been rendered, and the same is only for implementation, petitioner has no cause of action against respondent.

Respondents BOC and DOF's counter-arguments:

Respondents BOC and DOF asserts that the Court has no jurisdiction over the subject matter; that the CIR has exclusive jurisdiction over claims for refund of VAT; and that petitioner's claim for refund has already prescribed.

Discussion/Ruling

The present *Petition for Review* must be dismissed.

There is no doubt that the the alleged erroneously paid tax subject of the instant refund claim pertains to VAT. Petitioner's *Protest* with the District

⁴⁶ *Id.*, JSFI, Issues, p. 344.

Collector, Port of Manila, filed on April 15, 2014, asked “*for a refund of its excess VAT payment*”,⁴⁷ which was paid on April 8, 2014.⁴⁸

VAT is a national internal revenue tax, as provided for in Section 21 of the NIRC of 1997, as amended:

“SEC. 21. *Sources of Revenue.* – **The following taxes, fees and charges are deemed to be national internal revenue taxes:**

- (a) Income tax;
- (b) Estate and donor’s taxes;
- (c) **Value-added tax;**
- (d) Other percentage taxes;
- (e) Excise taxes;
- (f) Documentary stamp taxes; and
- (g) Such other taxes as are or hereafter may be imposed and collected by the Bureau of Internal Revenue.”⁴⁹

The COC collected the VAT due on the subject importation pursuant to the delegated authority accorded to him by the CIR pursuant to Section 12(a) of the NIRC of 1997, as amended, to wit:

“SEC. 12. *Agents and Deputies for Collection of National Internal Revenue Taxes.* – The following are hereby constituted agents of the Commissioner: (a) **The Commissioner of Customs and his subordinates with respect to the collection of national internal revenue taxes on imported goods;** (b) The head of the appropriate government office and his subordinates with respect to the collection of energy tax; and (c) Banks duly accredited by the Commissioner with respect to receipt of payments internal revenue taxes authorized to be made thru bank. Any officer or employee of

⁴⁷ Refer to Docket, JSFI, Facts, Par. 5, p. 340.

⁴⁸ Refer to Docket, JSFI, Facts, Par. 4, p. 340.

⁴⁹ *Emphasis added.*

an authorized agent bank assigned to receive internal revenue tax payments and transmit tax returns or documents to the Bureau of Internal Revenue shall be subject to the same sanctions and penalties prescribed in Sections 269 and 270 of this Code.”⁵⁰

In other words, the burden of collecting the subject VAT remains with the CIR. As such, it is the CIR who has the authority to decide on the refund claim of Petitioner pursuant to Section 4 of the NIRC of 1997, as amended, *viz.*:

“SEC. 4. *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* – The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

The power to decide disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue **is vested in the Commissioner**, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.”⁵¹

And since the tax subject of the present claim for refund is VAT imposed under the Tax Code, it follows that any refund thereof shall be governed by its provisions.

Sections 204(C) and 229 of the NIRC of 1997, as amended, govern all kinds of refund or credit of internal revenue taxes collected erroneously or illegally:

“SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* - The Commissioner may –

xxx

xxx

xxx

(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the

⁵⁰ *Emphasis supplied.*

⁵¹ *Emphasis supplied.*

purchases, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer filed in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty:** *Provided, however,* That a return filed showing an overpayment shall be considered as a written claim for credit or refund.”⁵²

“SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* – No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.”⁵³

Under Section 204, an administrative claim for refund or credit must be filed within two (2) years from payment of the tax.⁵⁴ Conversely, Section 229 states that an administrative claim must be filed first before the filing of the judicial claim, and that the latter must be filed also within two (2) years after payment of the tax sought to be refunded.⁵⁵

In the case at bar, Petitioner failed to observe the pertinent provisions of law dealing with the refund of internal revenue taxes. Petitioner had two (2) years

⁵² *Emphasis added.*

⁵³ *Emphasis added.*

⁵⁴ Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc., G.R. No. 226592, July 27, 2021.

⁵⁵ *Id.*

from the date of payment of the VAT, or specifically, from April 8, 2014,⁵⁶ to file a claim for refund, both administrative (*i.e.*, before the CIR) and judicial (*i.e.*, before this Court). However, no such filing was made to the CIR.

The *Protest* with the District Collector, Port of Manila filed on April 15, 2014, cannot be treated as the administrative claim for refund of VAT, since an application for refund of internal revenue taxes lie within the jurisdiction of the CIR, and not with the COC whose jurisdiction for refund relate to customs duties and fees under the customs law. However, even granting that this Court should equate said *Protest* as an administrative claim for refund of VAT, the same is still of no moment. This is simply because the judicial claim was lodged with this Court on August 22, 2018, beyond the two-year prescriptive period which ended on April 8, 2016.

Clearly, petitioner failed to fulfill the requirements of the law in claiming a VAT refund, thereby resulting in the lack of jurisdiction of this Court.

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.⁵⁷

WHEREFORE, premises considered, the present *Petition for Review* is **DISMISSED** on jurisdictional grounds.

SO ORDERED.


MA. BELEN M. RINGPIS-LIBAN
Associate Justice

⁵⁶ Refer to Docket, JSFI, Facts, Par. 4, p. 340.

⁵⁷ *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue*, G.R. No. 185666, February 04, 2015.

WE CONCUR:


ERLINDA P. UY
Associate Justice


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.


ERLINDA P. UY
Associate Justice
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