REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

RONALDO REYES CRUZ,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE and REGISTER OF DEEDS FOR THE PROVINCE OF BULACAN (MEYCAUAYAN BRANCH),
Respondents.

CTA CASE NO. 10404

Members:

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

Promulgated:

DEC 11 2024 3:50 p.m.

x - x

RESOLUTION

FERRER-FLORES, J.:

Before the Court is petitioner's **Motion for Reconsideration** filed on May 30, 2024, without respondent's comment as per Records Verification Report dated August 6, 2024.

On April 11, 2024, the Court promulgated a Decision dismissing the *Petition for Review* for lack of jurisdiction due to petitioner's failure to file the same within the reglementary period provided for by law, the dispositive portion of which states as follows:

> **WHEREFORE**, premises considered, the present *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.
>
> **SO ORDERED.**

In its *Motion*, petitioner assails the above Decision praying that it be reconsidered and set aside based on the following grounds, *viz.*:

A. THE HONORABLE COURT OF TAX APPEALS HAS JURISDICTION OVER THIS CASE TO REVIEW AND DECLARE AS NULL AND VOID THE DISPUTED

ASSESSMENT AND ALL SUBSEQUENT PROCESSES THEREAFTER.

B. WITH DUE RESPECT, THIS CASE WAS DEEMED FILED ON TIME AS THE WARRANT OF DISTRAINT AND/OR LEVY HAS NEVER BECOME FINAL AND EXECUTORY AS IT WAS ISSUED WITHOUT LEGAL BASIS AND PURSUANT TO AN INVALID DISPUTED ASSESSMENT.

C. GRANTING THAT THE PETITION FOR REVIEW WAS FILED OUT OF TIME, THE ASSAILED DECISION ORDERING THE OUTRIGHT DISMISSAL OF THE PETITION FOR REVIEW DUE TO PROCEDURAL LAPSES, IN TOTAL DISREGARD OF THE SUBSTANTIAL ISSUES CLEARLY RAISED THEREAT, IS CONTRARY TO EXISTING RULES, LAW, JURISPRUDENCE AND THE PRINCIPLE OF EQUITY AND SUBSTANTIAL JUSTICE.

Petitioner primarily argues that a void assessment resulting in a void Warrant of Distraint and/or Levy (WDL) never becomes final, executory, and demandable. Petitioner reiterates that the 30-day period to appeal and elevate the subject matter to this Court, as provided in Section 11[1] of Republic Act (RA) No. 1125,[2] as amended by RA No. 9282,[3] does not apply to a void *ab initio* assessment and void WDL. Petitioner insists that similar to a void judgment, a void assessment is an exception to the Doctrine of Immutability of Judgment and/or the Doctrine of Total Nullity, wherein a judgment cannot become executory and may be attacked directly or collaterally. Here, petitioner asserts that it was already an admitted fact that it did not receive any Letter of Authority (LOA) from respondent but only a Letter Notice.[4] As such, petitioner submits that there was lack of LOA when the audit was conducted, and in the "absence of such an authority, the assessment or examination is a nullity."

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[1] 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, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts 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 action as referred to in Section 7(a)(2) herein.

x x x.

[2] AN ACT CREATING THE COURT OF TAX APPEALS, approved on June 16, 1954.

[3] 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 OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES, approved on March 30 2004.

[4] Paragraph 4, Joint Stipulation of Facts and Issues, Docket, p. 156.

Petitioner further invokes Article 5 of the New Civil Code which provides that acts executed against provisions of mandatory or prohibitory laws shall be void except when the law itself authorized their validity. The void assessment cannot be legitimized "except when the law itself authorizes its validity."

Lastly, petitioner assumes that granting that the *Petition for Review* was filed beyond the 30-day period, he nonetheless points out that litigations should, as much as possible, be decided on their merits and not on mere technicalities; that every party-litigant should be afforded the amplest opportunity for the proper and just disposition of their cause, freed from constraints of technicalities. Petitioner invokes that technicalities can be relaxed in order to uphold the substantive rights of the parties.

After due consideration, the Court finds petitioner's *Motion* bereft of merit.

Again, it bears emphasis that the Court of Tax Appeals (CTA), being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[5] To reiterate, Section 11 of RA No. 1125, as amended by RA No. 9282, 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 (CIR) has the remedy to appeal the same with this Court within 30 days from the date it received the said decision or ruling. In the present case, it was settled that the issuance of the WDL constitutes an act of respondent on *other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue (BIR)*, which would give the Court jurisdiction to entertain the same.

As found herein, petitioner received the WDL dated August 18, 2015 on August 25, 2015. Counting 30 days from the receipt of the WDL, petitioner had until September 24, 2015 to file an appeal with this Court. However, petitioner only filed the present *Petition for Review* on November 17, 2020 – which is more than five (5) years from the time the WDL was received. Clearly, the petition was filed beyond the reglementary period of 30 days, thereby rendering the Court without jurisdiction to hear the petition. Relatively, when it appears from the pleadings or the evidence on record that the Court has no jurisdiction over the subject matter, the Court shall dismiss the claim. The Court could not decide the case on the merits.[6]

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5 *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019.
6 *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015.

While payment of taxes being admittedly a burden, taxpayers should not be left without any recourse when they feel aggrieved due to the erroneous and burdensome assessments made by the BIR. The said right is vested upon adversely affected taxpayers and it cannot be rendered nugatory through the CIR's act of immediately filing an action for collection without ruling beforehand on the disputed assessments. However, the remedy of an aggrieved taxpayer is not without any limitation. A taxpayer's right to contest assessments, particularly the right to appeal to the CTA, is a mere statutory right that may be waived or lost as in this case.[7]

More so, the Court cannot also subscribe to petitioner's argument that respondent's deficiency assessments have never become final, executory, and demandable since it is a void *ab initio* assessment due to the lack of an LOA. The Court reiterates that jurisprudence has consistently held that 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 first acquire, among others, jurisdiction over the subject matter. xxx [I]t is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[8] Fittingly, a tax assessment that has become final, executory and enforceable for failure of the taxpayer to assail the same can no longer be contested,[9] thus, depriving the Court of its jurisdiction to resolve the merits of the case.

Moreover, it likewise bears emphasis that although appeal is an essential part of our judicial process, it has been held, time and again, that the right thereto is not a natural right or a part of due process but is merely a statutory privilege. Thus, the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and failure of a party to conform to the rules regarding appeal will render the judgment final and executory.[10]

Apropos, in *Commissioner of Internal Revenue v. Bank of the Philippine Islands*,[11] the Supreme Court discussed the implications of a valid assessment. The High Court held that the CTA correctly dismissed Bank of

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[7] *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*, G.R. No. 225809, March 17, 2021 citing *Cecilia Teodoro Dayrit, et al. v. The Honorable Fernando A. Cruz, et al.*, G.R. No. L-39910 September 26, 1988.

[8] *Bernadette S. Bilag, et al. v. Estela Ay-ay, et al.*, G.R. No. 189950, April 24, 2017.

[9] *Oceanic Wireless Network, Inc. v. Commissioner of Internal Revenue, et al.*, G.R. No. 148380, December 9, 2005.

[10] *Team Pacific Corporation v. Josephine Daza in her capacity as Municipal Treasurer of Taguig*, G.R. No. 167732, June 11, 2012

[11] G.R. No. 134062, April 17, 2007.

the Philippine Islands (BPI)'s appeal for lack of jurisdiction regarding a final and unappealable assessment and that BPI was, from then on, barred from disputing the correctness of the assessments or invoking any defense that would reopen the question of its liability on the merits.

Again, well-settled is the rule that when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action, as any act it performs without jurisdiction is null and void, and without binding legal effect. The Court, thus, need not belabor on the other issues advanced by petitioner.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner in its *Motion*, the Court finds no compelling reason to reverse or modify the Decision promulgated on April 11, 2024.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

We Concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice