REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	C.T.A. EB No. 1183 (C.T.A. CASE Nos. 7823 & 7832)
- versus -	Members: DEL ROSARIO, *PJ* CASTAÑEDA, JR. BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, and RINGPIS-LIBAN, *JJ.*
ST. LUKES MEDICAL CENTER, INC.,[1] Respondent.	Promulgated: DEC 15 2015

x- 3:05 p.m. x

RESOLUTION

***Fabon-Victorino, J.*:**

Before the Court is respondent's Motion for Reconsideration dated September 22, 2015, praying to reverse the Decision dated August 26, 2015 which dismissed, for lack of jurisdiction, its Petitions for Review in C.T.A. Case Nos. 7823 & 7832 due to failure to file its appeal to this Court within the 30-day reglementary period.

Skirting the issue on jurisdiction, respondent asserts that by virtue of the compromise settlement between the parties entered into on April 30, 2013, the issue relating to the tax assessments for taxable year 2004 have been rendered moot and academic. Respondent paid the Bureau

[1] Should be spelled as St. Luke's Medical Center, Inc.

of Internal Revenue (BIR) the amount of P413,715,129.01 as final settlement of all taxes due for taxable years 1998, 2000-2002, and 2004-2007 and the latter accepted such payment. The tax assessments for taxable year 2004 are included in the compromise agreement, thus, should be considered moot.

Further, petitioner's right to assess respondent income taxes for the year 2003 is already barred by prescription. Section 203 of the Tax Code provides that the taxpayer, such as petitioner, has three (3) years, either from the last day of filing the tax return as prescribed by law, or the actual filing, whichever is later, to assess any tax still due. Since respondent filed its Annual Income Tax Return (AITR) for the year 2003 on April 13, 2004, petitioner had 3 years or until April 15, 2007 to assess respondent. The assessment for deficiency income tax for the year 2003 was served upon respondent beyond the 3-year prescriptive period on December 14, 2007.

Further, by dismissing the Petitions, the Court effectively validated a void assessment issued beyond the three-year reglementary period.

Finally, respondent claims that the Court *En Banc* lacks authority to rule on the issue of jurisdiction which was never raised by petitioner before the Court in Division where it even participated in the proceedings before it. The Court *En Banc* cannot rule on the issue of jurisdiction after the Court in Division conducted trial and rendered a decision on the merits. Since the Court in Division acknowledged its jurisdiction, the Court *En Banc* could no longer dismiss the Petitions on jurisdictional ground.

Moreover, the jurisprudence cited in the assailed Decision are inapplicable in the present Petitions where jurisdiction as an issue was raised only on appeal.

Contrary to the assertion of respondent, the subject assessments have not prescribed, says petitioner. It is the ten (10) year prescriptive period under Section 222 of the National Internal Revenue Code (NIRC) of 1997 that is applicable due to respondent's filing of a false and fraudulent return. Petitioner claims that the Annual Income Tax Return filed by respondent for the year 2003 is deficient for failure to state the correct income tax due.

Moreover, respondent's contention that the Court *En Banc* could no longer rule on the issue of jurisdiction after a decision on the merits have been rendered by the Court in Division has no basis in law or jurisprudence. Petitioner states that jurisdiction can be raised at any time, even on appeal and *motu proprio* by the court.

On the issue of jurisdiction, or lack thereof, the matter has been amply discussed in the assailed Decision dated August 26, 2015, specifically on pages 10 to 11 thereof.

To repeat, jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy. It 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 can, by its own initiative, rule on the question of jurisdiction, although not raised by the parties as an issue. Precisely, it is the primary concern of the Court to inquire into the existence of jurisdiction over the subject matter for thereon will depend the validity of its entire proceedings.[2]

WHEREFORE, the Motion for Reconsideration (Of Decision Dated 26 August 2015) dated September 22, 2015 filed by respondent, is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

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[2] AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 185969, November 19, 2014

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

(On Leave)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice