REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

CAP JOHN HAY TRADE AND CULTURAL CENTER, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10014

Members:

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

Promulgated:

FEB 05 2024 3:44 p.m.

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DECISION

RINGPIS-LIBAN, J.:

Before this Court is the Amended Petition for Review dated May 17, 2019 which essentially prays for the cancellation of respondent's deficiency tax assessments from January 1, 2006 up to December 31, 2011 in the aggregate amount ₱24,931,675.86 as well as for the lifting of the Warrants of Garnishment and Warrant of Distraint and/or Levy issued pursuant thereto.

THE PARTIES

Petitioner Cap John Hay Trade and Cultural, Inc. is a stock corporation duly created and existing under the laws of the Republic of the Philippines, with principal office at Camp John Hay, Camp John Hay Special Economic Zone, Baguio City.[1]

Respondent is the present Commissioner of Internal Revenue, with principal office at the Bureau of Internal Revenue (BIR) National Office Building, Diliman, Quezon City, where he may be served with summons and other court processes, is being impleaded in his official capacity.[2]

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[1] Refer to BIR Records – Folder 2 (Exhibit "R-9"), pp. 643 to 684.
[2] Par. 6, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. 2, p. 803

THE FACTS

On October 18, 2012, the *Letter of Authority* (LOA) No. LOA-211-2012-00000185 was issued,[3] authorizing certain Revenue Officers of the BIR's National Investigation Division, to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for the period from January 1, 2006 to December 31, 2011, pursuant to the Run After Tax Evaders (RATE) Program.

On September 2, 2015, petitioner received a copy of the *Preliminary Assessment Notice* (PAN) dated March 10, 2015,[4] informing petitioner of the finding, after investigation pursuant to the above-stated LOA, that it is liable for deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), and documentary stamp tax (DST), for the period from January 1, 2006 to December 31, 2011, in the total amount of ₱22,993,951.90.[5]

On May 19, 2016, received the *Formal Letter of Demand* (FLD) dated March 3, 2016,[6] with *Details of Discrepancies* and *Assessment Notices*,[7] assessing petitioner of deficiency income tax, VAT, EWT, and DST, plus interests and surcharges, for the period from January 1, 2006 to December 31, 2011, in the aggregate amount of ₱24,931,675.86.

On April 18, 2018, petitioner received copies of the *Final Notice Before Seizure* (FNBS) dated February 28, 2018, together with an undated *Preliminary Collection Letter* (PCL).[8] Thereafter, petitioner *allegedly* submitted an answer to the said FNBS and PCL on April 27, 2018.[9]

On September 27, 2018, petitioner filed an *Administrative Protest Letter* dated September 24, 2018,[10] composed of thirty-four (34) pages, before the office of respondent.

On November 15, 2018, petitioner was served with individual fax copies of three (3) Warrants of Garnishment (WOGs) duly signed by Alfredo V. Misajon, Assistant Commissioner, Collection Service on September 20, 2018. These were addressed to CJH Development Corporation – No. ARMD-WG-

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[3] Exhibit "R-1" [BIR Records – Folder 2 (Exhibit "R-9"), p. 685] vis-à-vis par. 1, Stipulation of Facts, JSFI (Docket – Vol. 2, p. 802).
[4] Exhibits "R-6" and "R-6-a", BIR Records – Folder 2 (Exhibit "R-9"), pp. 790 to 800.
[5] Refer also to par. 7, Stipulation of Facts, JSFI, Docket – Vol. 2, p. 803.
[6] Par. 8, Stipulation of Facts, JSFI, Docket – Vol. 2, p. 803.
[7] Exhibits "R-8" and "R-8-a", BIR Records – Folder 2 (Exhibit "R-9"), pp. 813 to 846.
[8] Par. 8, *Amended Petition for Review*, Docket – Vol. 1, p. 278; vis-à-vis par. 9, Stipulation of Facts, JSFI, Docket – Vol. 2, p. 803.
[9] Par. 9, *Amended Petition for Review*, Docket – Vol. 1, p. 279.
[10] Pars. 3 to 4, Stipulation of Facts, JSFI, Docket – Vol. 2, p. 802. Refer to BIR Records – Folder 1 (Exhibit "R-9"), pp. 1093 to 1126.

2018-001-40; CJH Hotel Corporation – No. ARMD-WG-2018-001-41; and CJH Suites Corporation – No. ARMD-WG-2018-001-42.[11]

On December 18, 2018, petitioner filed a *Petition for Review*,[12] praying that the same be kindly noted and considered for the reasons therein stated, and for the reasons of due process and substantial justice, by lifting the *Garnishments* and WDL for lack of legal basis and factual basis.

In the Resolution dated March 26, 2019,[13] the Court ordered respondent to comment on petitioner's prayer for *Preliminary Injunction and/or Temporary Restraining Order* and set the same for hearing on May 2, 2019. Respondent then filed his *Comment with Manifestation* posted on April 10, 2019.[14] At the hearing held on May 2, 2019,[15] however, the Court granted petitioner's motion to file an *Amended Petition for Review*, and thereby cancelled and reset the hearing on petitioner's prayer for *Preliminary Injunction and/or Temporary Restraining Order* to June 13, 2019.

On May 20, 2019, petitioner filed its *Amended Petition for Review (w/ Amended Judicial Affidavit)*.[16]

At the hearing held on June 13, 2019,[17] the Court treated petitioner's prayer for *Preliminary Injunction and/or Temporary Restraining Order* as a *Motion for Suspension of Collection of Taxes*, wherein petitioner presented its testimonial and documentary evidence.[18]

Thereafter, and within the extended period granted by the Court,[19] respondent filed his *Answer to the Amended Petition for Review with Opposition to Motion to Lift the Warrants of Garnishment and Warrant of Distraint and/or Levy and Suspension of Collection of Tax by the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction* on June 19, 2019,[20] raising certain special and affirmative defenses, to wit: (1) this Court has no jurisdiction over the instant case; (2) the assessment had already become final and executory; (3) assuming the Court has jurisdiction over the case, the WOGs should not be treated as a decision appealable to this Court; (4) assuming that the Court has jurisdiction over the case, issues should be limited only to the propriety of the collection process; (5) upon the same assumption, the LOA was validly issued pursuant to the RATE Program of the BIR; (6) further on the same assumption, respondent's right to assess has not yet prescribed; and (7) still on the same

[11] Par. 2, Stipulation of Facts, JSFI (Docket – Vol. 2, p. 802) vis-à-vis par. 5, *Amended Petition for Review* (Docket – Vol. 1, p. 276).
[12] Docket – Vol. 1, pp. 8 to 25.
[13] Docket – Vol. 1, pp. 153 to 154.
[14] Docket – Vol. 1, pp. 158 to 160.
[15] Minutes of hearing held on, and Order dated, May 2, 2019, Docket – Vol. 1, pp. 272 to 274.
[16] Docket – Vol. 1, pp. 275 to 294.
[17] Minutes of hearing held on, and Order dated, June 13, 2019, Docket – Vol. 1, pp. 406 to 408.
[18] Amended Judicial Affidavit of Ms. Marilou Estares-Andaya, Exhibit "P-1", Docket – Vol. 1, pp. 334 to 339.
[19] *Urgent Motion for Additional Time to File Answer* filed on June 4, 2019, and Order dated June 10, 2019, Docket – Vol. 1, pp. 401 to 403, and 405, respectively.
[20] Docket – Vol. 1, pp. 418 to 439.

assumption, the assessment issued against petitioner was made in accordance with law and regulations, and is valid and lawful.

With respect to his *Opposition to Motion to Lift the Warrants of Garnishment and Warrant of Distraint and/or Levy and Suspension of Collection of Tax by the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction*, respondent mainly argued that: (1) the Court has no jurisdiction over the instant petition, hence, cannot grant ancillary remedies in relation thereto; (2) injunction to restrain the collection of national internal revenue tax is explicitly prohibited by law; and, (3) petitioner miserably failed to establish the essential requisites for the issuance of *Writ of Preliminary Injunction and/or Temporary Restraining Order*.

On June 27, 2019, petitioner filed its *Formal Offer of Evidence* (with respect to its *Motion for Suspension of Collection of Taxes*).[21] Respondent then filed his *Comment (Re: Formal Offer of Evidence dated June 27, 2019)* on July 11, 2019.[22] In the Resolution dated September 2, 2019,[23] the Court denied admission of petitioner's exhibits. Correspondingly, in the Resolution dated September 11, 2019,[24] the Court denied petitioner's *Motion for Suspension of Collection of Taxes* for lack of merit.

In the meantime, on June 28, 2019, respondent transmitted the *BIR Records* for this case, consisting of three (3) folders.[25]

On October 9, 2019, petitioner posted its *Motion for Reconsideration* of the Resolution dated September 11, 2019,[26] unto which respondent filed his *Opposition* on November 25, 2019.[27] However, in the Resolution dated December 4, 2019,[28] the Court denied the said *Motion for Reconsideration.*

Thereafter, the Pre-Trial Conference was initially set on March 24, 2020.[29] After a series of resetting,[30] the said Conference was held on July 28,

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[21] Docket – Vol. 1, pp. 457 to 462.
[22] Docket – Vol. 1, pp. 471 to 472; Order dated July 16, 2019, Docket – Vol. 1, pp. 473 to 474.
[23] Docket – Vol. 1, pp. 478 to 480.
[24] Docket – Vol. 1, pp. 483 to 487.
[25] *Compliance* dated June 28, 2019, Docket – Vol. 1, pp. 463 to 464.
[26] Docket – Vol. 1, pp. 491 to 496.
[27] Docket – Vol. 2, pp. 541 to 544.
[28] Docket – Vol. 2, pp. 547 to 550.
[29] Notice of Pre-Trial Conference dated January 7, 2020, Docket – Vol. 2, pp. 551 to 552.
[30] Notice of Resetting dated June 4, 2020, Docket – Vol. 2, p. 553; *Urgent Motion to Reset Hearing (Set on 25 August 2020)* filed by respondent on August 24, 2020, and Resolution dated September 1, 2020, Docket – Vol. 2, pp. 560 to 562, and 559, respectively; *Motion for Resetting* filed by petitioner on November 25, 2020, and Minutes of hearing held on, and Order dated, November 26, 2020, Docket – Vol. 2, pp. 574 to 576, and 583 to 585, respectively; Minutes of hearing held on, and Order dated, March 10, 2021, Docket – Vol. 2, pp. 613, and 647 to 648, respectively; *Motion for Resetting* filed by petitioner on April 26, 2021, and Resolution dated May 31, 2021, Docket – Vol. 2, pp. 643 to 645, and 650 to 651, respectively.

2021.[31] Prior thereto, petitioner posted its *Pre-Trial Brief* on March 2, 2021,[32] while *Respondent's Pre-Trial Brief* was filed on March 18, 2021.[33]

The parties filed their *Joint Stipulation of Facts and Issues* on December 9, 2021.[34] The Pre-Trial Order dated December 15, 2021 was then issued,[35] thereby deeming the termination of the Pre-Trial.

Trial then ensued, with both parties presenting and offering their respective documentary and testimonial evidence.

Petitioner offered the testimonies of the following individuals, namely: (1) Ms. Marilou Estares-Andaya,[36] petitioner's Accounting and Administrative Assistant; (2) Ms. Imelda Arenas-Busto,[37] audit partner of San Buenaventura & Co., CPAs, who conducted examination of petitioner's books and records for calendar years 2006-2011; and (3) Mr. Joselito M. Santos,[38] petitioner's Chief Financial Officer.

On March 2, 2022, petitioner filed its *Formal Offer of Evidence*.[39] Respondent, however, failed to file his comment thereon.[40] In the Resolution dated April 28, 2022,[41] the Court add Exhibits "P-1", "P-1-2", "P-62", "P-62-1", "P-63", and "P-63-1", but denied the admission of the following:

1. Exhibit "P-1-3", for failure to present the original for comparison, and failure to identify the same; and

2. Exhibits "P-1-4", "P-1-5", "P-1-6", "P-1-7", "P-1-8", "P-1-9-14", and "P-1-15-20", for failure to present the originals for comparison.

For his part, respondent presented the testimony of RO Lady Dianne G. Palogan.[42]

Respondent's *Formal Offer of Evidence* was posted on September 22, 2022.[43] Petitioner filed its *Comments (on the Formal Offer of Evidence dated 22*

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[31] Minutes of hearing held on, and Order dated, July 28, 2021, Docket – Vol. 2, pp. 654 to 657.
[32] Docket – Vol. 2, pp. 600 to 611.
[33] Docket – Vol. 2, pp. 636 to 640.
[34] Docket – Vol. 2, pp. 802 to 805.
[35] Docket – Vol. 2, pp. 793 to 801.
[36] Exhibits "P-1", Docket – Vol. 2, pp. 691 to 699; Minutes of hearing held on, and Order dated, December 9, 2021, Docket – Vol. 2, pp. 789 to 791.
[37] Exhibits "P-62", Docket – Vol. 2, pp. 658 to 662; Minutes of hearing held on, and Order dated, December 9, 2021, Docket – Vol. 2, pp. 789 to 791.
[38] Exhibits "P-63", Docket – Vol. 2, pp. 806 to 809; Minutes of Meeting held on, and Order dated, February 10, 2022, Docket – Vol. 2, pp. 811 to 813.
[39] Docket – Vol. 2, pp. 816 to 819.
[40] Records Verification Report dated March 22, 2022 issued by the Judicial Records Division of this Court, Docket – Vol. 2, p. 925.
[41] Docket – Vol. 2, pp. 928 to 929.
[42] Exhibit "R-10", Docket – Vol. 2, pp. 941 to 948; Minutes of the hearing held on, and Order dated, September 8, 2022, Docket – Vol. 2, pp. 957 to 959.

September 2022 received on 23 September 2022) on October 13, 2022.[44] In the Resolution dated December 1, 2022,[45] the Court admitted all of respondent's exhibits.

Subsequently, on January 20, 2023, respondent manifested that he is adopting the arguments he raised in his *Answer* dated June 19, 2019 as his *Memorandum*.[46] For petitioner, it posted its *Memorandum* on February 2, 2023.[47]

The present case was deemed submitted for decision on February 16, 2023.[48]

THE ISSUES

The parties agreed on the following issues for resolution of this Court, to wit:

"(a)

WHETHER THE HONORABLE COURT HAS JURISDICTION OVER THE INSTANT CASE.

(b)

WHETHER OR NOT THE PETITIONER WAS LAWFULLY AND CORRECTLY COVERED BY THE 'RUN AFTER TAX EVADERS' (RATE) PROGRAM UNDER RMO 24-2008 AS AMENDED BY RMO NO. 27-2010.

(c)

WHETHER PETITIONER IS LIABLE TO PAY DEFICIENCY INCOME TAX, VALUE-ADDED TAX EXPANDED WITHHOLDING TAX, AND DOCUMENTARY STAMP TAX IN THE TOTAL AMOUNT OF PHP24,931,675.86, INCLUSIVE OF THE BASIC TAXES, SURCHARGES, AND INTERESTS, FOR THE PERIOD FROM 1 JANUARY 2006 TO 31 DECEMBER 2011, PLUS INTEREST UNDER SECTIONS 248 (B) AND 249 OF THE NATIONAL INTERNAL REVENUE CODE UNTIL 31 DECEMBER 2017, AND 12% INTEREST STARTING 1 JANUARY 2018 UNTIL FULL PAYMENT PURSUANT TO

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[43] Docket – Vol. 2, pp. 960 to 964.
[44] Docket – Vol. 2, pp. 967 to 970.
[45] Docket – Vol. 2, pp. 972 to 973.
[46] *Manifestation* dated January 20, 2023, Docket – Vol. 2, pp. 974 to 975.
[47] Docket – Vol. 2, pp. 978 to 992.
[48] Resolution dated February 16, 2023, Docket – Vol. 2, p. 996.

THE T.R.A.I.N. LAW, AS IMPLEMENTED BY REVENUE REGULATIONS NO. 21-2018.

WHETHER OR NOT THE WARRANTS OF GARNISHMENT ARE VOID."[49]

Petitioner's arguments:

Petitioner argues that the six (6)-year tax assessments are null and void *ab initio*, as borne out of the LOA was wrongly served to the unauthorized person, and thus, violative of due process right and substantial on the part of the petitioner; that LOAs exceeding one (1) taxable year makes the assessments void; that the period to assess and collect internal revenue taxes already prescribed; and that respondent wrongly subjected petitioner to the RATE Program, wanting its mandatory requirements.

Respondent's counter-arguments:

Respondent contends that this Court has no jurisdiction over the instant case; that the assessment had already become final and executory; that assuming the Court has jurisdiction over the case, the WOGs should not be treated as a decision appealable to this Court; that assuming that the Court has jurisdiction over the case, issues should be limited only to the propriety of the collection process; that upon the same assumption, the LOA was validly issued pursuant to the RATE Program of the BIR; that further on the same assumption, respondent's right to assess has not yet prescribed; and that still on the same assumption, the assessment issued against petitioner was made in accordance with law and regulations, and is valid and lawful.

THE COURT'S RULING

The *Petition for Review* must be dismissed.

Jurisdiction over the subject matter is required for a court to act on any controversy. It is conferred by law and not by the consent or waiver upon a court. As such, if a court lacks jurisdiction over an action, it cannot decide the case on the merits and must dismiss it.[50] To inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the validity of its entire proceedings.[51]

[49] Proposed Stipulation of Issues, JSFI, Docket – Vol. 2, pp. 803 to 804.
[50] *CE Casecnan Water & Energy Co., Inc. vs. Province of Nueva Ecija*, G.R. No. 196278, June 17, 2015.
[51] *Commissioner of Internal Revenue vs. Villa and The Court of Tax Appeals*, G.R. No. L-23988, January 7, 1968.

Sections 7(a)(1) and 11 (first paragraph) of Republic Act (RA) No. 1125[52], as amended by RA No. 9282[53], provide as follows, to wit:

> "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 Code or other laws administered by the Bureau of Internal Revenue**;" (*Emphases and underscoring supplied*)
>
> "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...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." *(Emphases added)*

Based on the foregoing provisions, it is clear that this Court has exclusive appellate jurisdiction to review by appeal, decisions of respondent in cases involving, *inter alia*, disputed assessments or other matters arising under the NIRC and other laws administered by the BIR. Furthermore, the concerned taxpayer has a period of thirty (30) days after receipt of the decision or ruling, within which to lodge the appeal before this Court.

Where a taxpayer questions an assessment and asks respondent to reconsider or cancel the same because said taxpayer believes that he or she is not liable therefor, the assessment becomes a "disputed assessment" that the respondent must decide, and the taxpayer can appeal to this Court only upon receipt of the decision of respondent on the disputed assessment.[54] Simply put, the decisions of respondent appealable to this Court must be on the *protest* of the taxpayer against the assessments.[55] To be sure, the rule is that for this Court to acquire jurisdiction, an assessment must first be disputed by the taxpayer.[56]

[52] AN ACT CREATING THE COURT OF TAX APPEALS.
[53] 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 OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.
[54] Refer to *St. Stephen's Association, et al. vs. Collector of Internal Revenue*, G.R. No. L-11238, August 21, 1958.
[55] Refer to *Commissioner of Internal Revenue vs. South Entertainment Gallery, Inc.*, G.R. No. 223767, April 24, 2023.
[56] *Commissioner of Internal Revenue vs. South Entertainment Gallery, Inc.*, supra.

Section 228 of the NIRC of 1997 governs the protesting of assessments issued by the BIR, to wit:

> "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: x x x
>
> xxx xxx xxx
>
> **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.
>
> **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 one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable." *(Emphases added)*

Implementing the foregoing provision, Section 3.1.4 of Revenue Regulations (RR) No. 12-99,[57] as amended by RR No. 18-2013,[58] provides as follows:

> "3.1.4 *Disputed Assessment.* — The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN[59] within thirty (30) days from date of receipt thereof. The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:
>
> (i) *Request for reconsideration* — refers to a plea of re-evaluation of an assessment on the basis of existing

[57] SUBJECT: Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayers Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty

[58] SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment

[59] That is, the *"Formal Letter of Deman and Final Assessment Notice".*

> records without need of additional evidence. It may involve both a question of fact or of law or both.
>
> (ii) *Request for reinvestigation* — refers to a plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that a taxpayer intends to present in the reinvestigation. It may also involve a question of fact or of law or both.
>
> The taxpayer shall state in his protest (i) the nature of protest whether reconsideration or reinvestigation, specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based, otherwise, his protest shall be considered *void and without force and effect.*"

Thus, an assessment, embodied in a "*Formal Letter of Demand and Final Assessment Notice*" or FLD/FAN, is considered "disputed" after a protest is filed against it, either by way of request for reconsideration or reinvestigation, within thirty (30) days from date of receipt thereof. Moreover, the said administrative protest, if any, as contemplated under the NIRC of 1997 and RR No. 12-99, as amended by RR No. 18-2013, must be directed against the same FLD/FAN. Furthermore, it is also clear that the same protest must state the nature thereof (whether it is a request for reconsideration or a request for reinvestigation), specifying the newly discovered or additional evidence the concerned taxpayer intends to submit, as well as the date of the FLD/FAN, and the applicable law, rules and regulations, or jurisprudence on which the protest is based; otherwise, the said protest shall be considered as void, and without force and effect.

In this case, the FLD, including the attached *Details of Discrepancies* and *Assessment Notices*,[60] dated March 3, 2016, assessing petitioner with deficiency taxes for the periods January 1, 2006 to December 31, 2011, was received by petitioner on May 19, 2016.[61] Counting thirty (30) days therefrom, petitioner had until June 20, 2016[62] to file its administrative protest to the said FLD and *Assessment Notices*. However, no such protest was filed by petitioner, and thus, no decision on a disputed assessment was rendered in the present case over which this Court may exercise its exclusive appellate jurisdiction.

Notably, on September 27, 2018, petitioner filed an *Administrative Protest Letter* dated September 24, 2018.[63] However, while petitioner mentioned or referred to therein the subject tax assessments, it primarily sought the review of the WDL No. ARMD-WDL-2018-001 dated March 23, 2018, and thus, the

[60] Exhibit "R-8" and "R-8-a", BIR Records – Folder 2, pp. 813 to 846.
[61] Par. 8, Stipulation of Facts, JSFI, Docket – Vol. 2, p. 803.
[62] The thirtieth (30th) day is on June 18, 2016, which fell on a Saturday.
[63] Pars. 3 to 4, Stipulation of Facts, JSFI, Docket – Vol. 2, p. 802. Refer to BIR Records – Folder 1 (Exhibit "R-9"), pp. 1093 to 1126.

said *Letter* cannot be treated as a protest to the above-stated FLD and *Assessment Notices*, for purposes of Section 228 of the NIRC of 1997 and Section 3.1.4 of RR No. 12-99, as amended by RR No. 18-2013. But even granting that petitioner's *Administrative Protest Letter* dated September 24, 2018 is directed against the FLD, the same was still belatedly made, for being filed for more than two (2) years from the time petitioner received the same FLD on May 19, 2016.

Verily, for failure of petitioner to timely protest the FLD received on May 19, 2016 in accordance with the NIRC of 1997 and RR No. 12-99, as amended by RR No. 18-2013, the same cannot be considered as a disputed assessment. Since there is no disputed assessment, nothing can be acted or decided upon by respondent or his duly authorized representative. There being no disputed assessment and no decision by respondent to speak of in this case, nothing can be brought before the Court's review.

Be that as it may, as pointed out earlier, under the aforequoted Section 7(a)(1) of RA No. 1125, as amended by RA No. 9282, the appellate jurisdiction of this Court is not limited to cases which involves decisions of respondent on matters relating to assessments or refunds. The second part of the said provision covers other cases that arise out of the NIRC or related laws administered by the BIR. The wording of the provision is clear and simple. It gives this Court the jurisdiction to determine if the WDL issued by the BIR is valid.[64] Moreover, We see no reason to exclude from this Court's jurisdiction to determine the validity of WOGs, considering that the issuance thereof likewise arise out of the NIRC of 1997.[65] Such being the case, assailing the subject WDL and WOGs fall under this Court's exclusive appellate jurisdiction, subject to the timely filing of a petition for review by the concerned taxpayer.

In this case, the prayer of petitioner, in its *Petition for Review* filed on **December 18, 2018,**[66] refers to the lifting of the subject WDL, which it received on **March 23, 2018**. Clearly, the said *Petition for Review* was filed out of time and this Court did not acquire jurisdiction thereover, considering that the same was filed beyond the thirty (30)-day appeal period, under Section 11 of RA No. 1125, as amended by RA No. 9282.

In any event, it may be said that petitioner was prompted to file the present case on account of the WOGs it received on November 15, 2018.[67] Counting thirty (30) days from this date, petitioner had until **December 15, 2018** to file the pertinent *Petition for Review*, pursuant to Section 11 of RA No. 1125, as amended by RA No. 9282. However, considering that December 15, 2018 fell on a Saturday, the reglementary period extends until **December 17, 2018**—the following Monday. Nonetheless, petitioner's *Petition for Review* was

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[64] *Philippine Journalist, Inc. vs Commissioner of Internal Revenue*, G.R. No. 162852, December 16, 2004.
[65] Refer to Sections 205(a), 207(A), and 208 of the NIRC of 1997.
[66] Docket – Vol. 1, pp. 8 to 25.
[67] Refer to par. 3, *Amended Petition for Review (w/ Amended Judicial Affidavit)*, Docket – Vol. 1, p. 276; and pars. 3 and 4, *Petition for Review*, Docket – Vol. 1, p. 276.

filed only on the day after, or on **December 18, 2018**,[68] thus, depriving this Court of jurisdiction to entertain the same.

To be clear, it is undeniable that the (thirty) 30-day period fixed by law within which the taxpayer may question any ruling of respondent before this Court is jurisdictional.[69]

All told, 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. 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.[70]

WHEREFORE, premises considered, the present Amended *Petition for Review* is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

[68] Docket – Vol. 1, pp. 8 to 25.
[69] *The Acting Commissioner of Internal Revenue vs. Joseph, et al.*, G.R. No. L-14034, August 30, 1962.
[70] *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015.

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.

MA. BELEN M. RINGPIS-LIBAN
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