REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

BSFIL TECHNOLOGIES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10603

Members:

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

Promulgated:

4:00 pm

x - x

RESOLUTION

FERRER-FLORES, J.:

Before this Court is respondent's **Motion for Reconsideration (of the Decision dated 29 August 2025)** filed *via* registered mail on September 24, 2025,[1] with petitioner's **Comment/Opposition to Respondent's Motion for Reconsideration with Motion to Correct Typographical Error in the Fallo of the Decision dated 29 August 2025** filed on November 7, 2025.[2]

On August 29, 2025, the Court promulgated the Decision (assailed Decision) partially granting the instant *Petition for Review* and declaring the Warrant of Distraint and/or Levy (WDL) null and void, the dispositive portion of which reads as follows:

> **WHEREFORE**, premises considered, the instant **Petition for Review** is **PARTIALLY GRANTED**. Accordingly, the Warrant of Distraint and/or Levy No. RR8B-21-06-16-00060 issued on August 2, 2020 is declared **NULL** and **VOID** and is hereby **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED.**

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[1] Division Docket – Vol. IV, pp. 1287 to 1296.
[2] *Id.* at 1300 to 1308.

Respondent in his *Motion*, implores this Court to reconsider and set aside the assailed Decision and to render another Decision denying the *Petition for Review* for lack of merit and ordering petitioner to pay deficiency tax for the taxable period from January 1 to June 30, 2017.

In his *Motion*, respondent contends that this Court, having already ruled that it has jurisdiction over the case, should have likewise ruled on the validity of the assessment and petitioner's tax liability. He maintains that the *Petition for Review* clearly assails the validity of the assessment, which petitioner extensively discussed in its *Petition*. He points out that petitioner likewise prayed that the assessment be declared null and void and that it be declared not liable to pay the alleged deficiency tax.

Respondent further asserts that the WDL is valid, citing Revenue Memorandum Order (RMO) No. 42-2010, which directs the immediate issuance and service of the WDL and Warrant of Garnishment upon the issuance of the Final Decision on Disputed Assessment (FDDA). Respondent likewise contends that the said FDDA has already attained finality, since no request for reconsideration is pending before the Bureau of Internal Revenue (BIR), nor did petitioner file one with the proper office of the concerned Regional Director, in accordance with Revenue Memorandum Circular (RMC) No. 39-2013, which sets the guidelines for filing protest letters. Respondent concludes that, since petitioner failed to properly file its request for reconsideration, the request is deemed not officially filed with the BIR and is void and without force and effect. Consequently, the FDDA had become final, executory and demandable upon the lapse of the 30-day period to appeal.

On the other hand, petitioner counters that its *Petition* was filed pursuant to Section 7(a)(1) of Republic Act (RA) No. 1125,[3] which vests this Court with jurisdiction over other maters arising under the National Internal Revenue Code (NIRC) of 1997, as amended, specifically to question the illegal issuance of the WDL.

Petitioner argues that, although its *Petition* may have included arguments tending to assail the validity of the assessment, this does not authorize the Court to rule on the matter while the administrative appeal remains pending with respondent. Petitioner emphasizes that the *Petition* sought to lift and declare as null and void the WDL and any references to the validity of the assessment were merely incidental, made in the interest of judicial economy and completeness, considering that the validity of the WDL also hinges on the validity of the assessment. It was also allegedly made in anticipation that this Court may deem it efficient to address all related matters. Such incidental references, however, do not convert the nature of the *Petition* into an appeal from the FDDA, nor can they confer jurisdiction upon this

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[3] AN ACT CREATING THE COURT OF TAX APPEALS, June 16, 1954.

Court to rule on the merits of the assessments, considering that petitioner timely filed an administrative appeal of the FDDA with respondent.

Petitioner further maintains that the WDL was issued prematurely as the assessment it seeks to collect has not yet become final and executory due to the pending administrative appeal. Consequently, the assessment has not ripened into a delinquent tax subject to collection.

Petitioner highlights the Supreme Court's ruling in *Light Rail Transit Authority vs. Bureau of Internal Revenue (LRTA)*,[4] where it held that the assessment subject of the FDDA has not yet become final and executory because it was timely appealed to respondent. Since the assessment has not yet attained finality, it cannot be considered a delinquent tax subject to collection by the BIR. Petitioner further argues that RMC No. 39-2013 governs the manner of filing a protest against a FAN before the office that issued the FAN and does not apply to administrative appeals from an FDDA to the Commissioner of Internal Revenue (CIR).

Finally, petitioner moves to correct the date of the WDL stated in the *fallo* of the Decision, which erroneously indicates August 2, 2020 as the date of issuance, instead of the correct date of August 2, 2021.

The Court notes that questioned WDL No. RR8B-21-06-16-00060 was indeed issued on August 2, 2021,[5] and is referred to in the body of the assailed Decision as having been issued on said date. Thus, to conform with the records and evidence, the Court deems it proper to correct the typographical error in the dispositive portion of the assailed Decision to reflect the correct date of issuance of the WDL.

Proceeding to respondent's grounds in support of his *Motion for Reconsideration*, the Court, after due consideration, finds the same bereft of merit.

At the outset, it must be emphasized that the Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is; it is the final arbiter of any justifiable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings.[6] Courts are bound by prior decisions. Thus, once a case has

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[4] G.R. No. 231238, June 20, 2022.

[5] Par. 13, Summary of Admitted Facts, JSFI, Docket – Vol. III, p. 1113; Exhibit "P-13", Docket – Vol. II, p. 456; and Exhibit "R-20", Docket – Vol. III, p. 946.

[6] *Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop, Inc.*, G.R. No. 150947, July 15, 2003.

been decided one way, courts have no choice but to resolve subsequent cases involving the same issue in the same manner.[7]

As the Supreme Court enunciated in *LRTA*, when an assessment is still pending appeal with the CIR, it never becomes final, executory and demandable; thus, it was held that the BIR's issuances, including the WDL, is void and without force and effect as they stemmed from a non-demandable assessment.

Moreover, in *Mannasoft Technology Corporation vs. Commissioner of Internal Revenue*,[8] the Supreme Court emphasized that availing of the summary collection remedies, such as the issuance of a WDL, are premised first and foremost on the existence of delinquent taxes. This premise is lacking when the matter of the taxpayer's civil liability is subject of a valid request for reinvestigation which is still pending resolution by the CIR and his authorized agents.

In the more recent case of *Commissioner of Internal Revenue vs. Stradcom Corporation (Stradcom)*,[9] the Supreme Court, citing Revenue Regulations (RR) No. 17-86, clarified that a delinquent account refers to the amount of tax due from a taxpayer who fails to pay the same within the time prescribed for its payment, that arises from:

1. A self-assessed tax, whether or not a tax return was filed; or,
2. A deficiency assessment issued by the BIR which has become final and executory.

Relevant to the present case is delinquency arising from a deficiency assessment that has become final and executory. In *Stradcom*, the Supreme Court emphasized that under RR No. 4-2019, a delinquent account must be based on a final and demandable liability. Section 2(A) of RR No. 4-2019 provides that a tax becomes final and executory in any of the following instances:

1. Failure to pay the tax due on the prescribed due date provided in the Final Assessment Notice (FAN)/Formal Letter of Demand (FLD) and for which no valid Protest, whether a request for reconsideration or reinvestigation, has been filed within 30 days from receipt thereof;

[7] *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. Nos. 184360 & 184361; *Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 184384, February 19, 2014.
[8] G.R. No. 244202, July 10, 2023.
[9] G.R. No. 255520, April 21, 2025.

2. Failure to file an appeal to the Court of Tax Appeals (CTA) or an administrative appeal before the CIR within 30 days from receipt of the decision denying the request for reinvestigation or reconsideration; or,

3. Failure to file an appeal to the CTA within 30 days from receipt of the Decision of the CIR denying the taxpayer's administrative appeal to the FDDA.

The Supreme Court in *Stradcom* underscored that, without an assessment that has gone through any of the above stages and has become final and executory, a tax cannot be deemed delinquent.

In the instant case, records clearly establish that petitioner received the FDDA with attached Details of Discrepancies on August 25, 2020. Within 30 days from receipt, or on September 24, 2020, petitioner timely appealed the FDDA before the CIR.

Given this timely appeal, the assessment has not attained finality. Consequently, none of the circumstances enumerated in RR No. 4-2019, which define when an assessment becomes final and executory, are present here. Accordingly, the taxes cannot be deemed delinquent and therefore may not be subjected to summary collection proceedings.

This Court finds no merit in respondent's contention that the FDDA has already attained finality as no request for reconsideration against the FDDA was allegedly filed with the proper office of the concerned Regional Director in accordance with RMC No. 39-2013.

At the outset, the Court notes that RMC No. 39-2013 mandates that protests and request for reinvestigation/reconsideration filed by taxpayers must be with the Office who signed the Preliminary Assessment Notice (PAN), FAN and FLD for proper recording of protests and evaluation if the same is in accordance with Section 228 of the NIRC of 1997, as amended. Clearly, it does not apply to administrative appeals from an FDDA which must be filed with the CIR.[10]

In the instant case, records show that the parties jointly stipulated that on September 24, 2020, petitioner elevated the protest directly with respondent through an administrative appeal/request for reconsideration,[11] which was admitted and approved by this Court on November 13, 2023.[12] Moreover, a perusal of the administrative protest filed by petitioner shows that

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[10] RMO No. 026-16, June 13, 2016. SUBJECT: Policies and Guidelines in Handling Disputed Assessments.
[11] Par. 12, *Joint Stipulation of Facts and Issues* dated October 17, 2023, Docket – Vol. III, p. 1113.
[12] Docket – Vol. III, p. 1132.

the same was addressed to the then CIR Caesar R. Dulay, and stamped received on September 24, 2020 by the Office of the Commissioner.[13] The Court, thus, finds that the administrative appeal was timely filed with the correct office.

Finally, Section 3.1.4 of RR No. 12-99,[14] as amended by RR No. 18-2013,[15] provides that when an administrative appeal is filed with the CIR, the taxpayer has 30 days from receipt of the CIR's decision on the administrative appeal within which to appeal to the CTA. Thus, absent the decision of the CIR, judicial review of the assessment would be premature.

In the case of *Gualberto Castro vs. Honorable Secretary Ricardo Gloria*,[16] the Supreme Court, citing the case of *Nemesio C. Vidad, et. al. vs. RTC of Negros Oriental, Branch 42*,[17] categorically declared:

> Non-exhaustion of administrative remedies implies absence of cause of action. Where a remedy is available within the administrative machinery, this should be resorted to before recourse can be made to the courts. **The doctrine of primary jurisdiction does not warrant a court to arrogate unto itself the authority to resolve a controversy the jurisdiction over which is initially lodged with an administrative body of special competence**. *(Emphasis supplied)*

Applying this doctrine, it is clear that petitioner's appeal of the FDDA is still pending before the CIR. Until the CIR has acted on the appeal, the assessment has not attained finality. Thus, consistent with the Supreme Court's pronouncements, this Court cannot yet rule on the validity or correctness of the deficiency tax assessments, as judicial intervention at this stage would constitute a premature exercise of jurisdiction.

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. It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it 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.[18]

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[13] Exhibit "P-12", Docket. – Vol. II, pp. 439 to 455.

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

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

[16] G.R No. 132174, August 20, 2001.

[17] G.R. Nos. 98084, 98922 & 100300-03, October 18, 1993.

[18] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by respondent in his *Motion*, the Court finds no compelling reason to reverse or modify the Decision promulgated on August 29, 2025, other than the correction on the typographical error stated in the *fallo* of the assailed Decision.

ACCORDINGLY, respondent's **Motion for Reconsideration (of the Decision dated 29 August 2025)** filed on September 24, 2025 is **DENIED** for lack of merit. On the other hand, petitioner's **Motion to Correct Typographical Error in the Fallo of the Decision dated 29 August 2025** is **GRANTED**. As corrected, the *fallo* of the Decision shall read, as follows:

> **WHEREFORE**, premises considered, the instant **Petition for Review** is **PARTIALLY GRANTED**. Accordingly, the Warrant of Distraint and/or Levy No. RR8B-21-06-16-00060 issued on August 2, 2021 is declared **NULL** and **VOID** and is hereby **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED.**

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice