CTA Form No. 8 (For DCC)

23-000278-0003

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11196

BOTTLERS EMPLOYEES SAVINGS AND LOAN ASSOCIATION (BESALA),
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

COMMISSIONER OF INTERNAL REVENUE
Thru: Litigation Division
Room 703, BIR National Office Buiding
Senator Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

PERDIGON DUCLAN LUMBOS AND ASSOCIATES
Unit 3B, 3rd Floor Corinthian Plaza Building
121 Paseo De Roxas corner Legaspi Street
Legaspi Village, Makati City

GREETINGS:

You are hereby notified by these presents that on **May 7, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **May 8, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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FIRST DIVISION

BOTTLERS EMPLOYEES SAVINGS AND LOAN ASSOCIATION (BESALA),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. **11196**

Members:

DEL ROSARIO, P.J., *Chairperson*,
BACORRO-VILLENA, *and*
CUI-DAVID, JJ.

Promulgated:
MAY 0 7 2024, 2:00PM

x - x

RESOLUTION

Before this Court is a Petition for Review[1] filed by petitioner Bottlers Employees Savings and Loan Association (**petitioner/BESALA**) on 19 June 2023. It seeks (**i**) the reversal and setting aside of the Final Decision on Disputed Assessment (**FDDA**) dated 14 October 2022, issued by then Regional Director Florante R. Aninag (**RD Aninag**), Revenue Region (**RR**) No. 8A-Makati City, and (**2**) the cancellation and setting aside of the Formal Assessment Notice (**FAN**) dated 28 December 2021 covering the alleged deficiency Percentage Tax (**PT**), Expanded Withholding Tax (**EWT**), Withholding Tax on Compensation (**WTC**), Final Withholding Tax (**FWT**), Documentary Stamp Tax (**DST**) and compromise penalty for the taxable year (**TY**) 2018.

Upon perusal of the allegations in the instant Petition for Review, the Court notes that it was filed prematurely. Consequently, the Court lacks jurisdiction to take cognizance of the case.

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[1] Division Docket, pp. 8-340, with annexes.

The facts, as alleged in the Petition for Review, are as follows:

...

TIMELINESS

5. On November 18, 2022, BESALA filed with the CIR a Request for Reconsideration in relation to the Final Decision on Disputed Assessment (FDDA) dated October 14, 2022 issued by Regional Director Florante R. Aninag, Revenue Region No. 8A-Makati City. However, until May 17, 2023, the Respondent **CIR** failed to act within the period of one hundred eighty (180) days under Sec. 228 of the National Internal Revenue Code. Hence, a denial of BESALA's request for reconsideration. Attached as **Annex "AB"**.

6. Pursuant to Rule 8, Sec. 3 of R.A. 9282 (Revised Rules of the Court of Tax Appeals), Petitioner BESALA has thirty (30) days after the lapse of the one hundred eighty (180) day period to file this instant petition for review.

7. Hence, the timely filing of this instant petition.

STATEMENT OF ANTECEDENTS FACTS

8. On September 27, 2019, BESALA received a Letter of Authority (LOA) LOA-047-2019-00000865 dated September 26, 2019 giving authority RO - Edwin Rustia / GS - Gigette Ventura of RDO No. 47 - East Makati to examine the books of accounts and other accounting records for the period from January 1, 2018 - December 31, 2018, hereto attached as **Annex "B"**.

9. On October 9, 2019, BESALA received a first request for presentation of Books of Accounts dated October 8, 2019 giving BESALA ten (10) days from the receipt of the letter to submit books of accounts and other accounting records, attached as **Annex "C"**.

10. On October 23, 2019, BESALA received a Second and Final Notice for presentation of records dated October 22, 2019 giving BESALA ten (10) days from the receipt of the letter to submit books of accounts and other accounting records, attached as **Annex "D"**.

11. On October 28, 2019, BESALA submitted its books of accounts and other accounting records for the calendar year ending December 31, 2018 duly received by the BIR attached as **Annex "E"**.

12. On November 19, 2019, BESALA received a reiteration of Second and Final Notice for presentation of records dated November 15, 2019 giving BESALA ten (10) days from the receipt of the letter to submit books of accounts and other accounting records, attached as **Annex "F"**.

13. On November 26, 2019, BESALA submitted its response letter to the reiteration letter dated November 15, 2019 and submitting additional documents requested attached as **Annex "G-1" and "G-2"**.

14. On June 3, 2020, BESALA received Notice for Informal Conference giving BESALA ten (10) days from the date of receipt of letter to file a formal position letter and submit documentary pieces of evidence to refute the findings and/or supports objection of the case attached as **Annex "H"**.

15. On April 28, 2021, BESALA received Preliminary Assessment Notice (PAN) dated April 26, 2021 attached as **Annex "I"**, assessing BESALA with the following deficiency tax inclusive of interest and penalty:

Tax Type	Basic Tax Due	Interest and Penalty	Amount Due
Percentage Tax	4,513,843.10	2,416,575.56	6,930,418.66
Expanded Withholding Tax	71,547.68	20,276.42	91,824.10
Withholding Tax on Compensation	874,749.54	252,503.05	1,127,252.59
Final Withholding Tax	6,130,218.50	1,737,287.13	7,867,505.63
Documentary Stamp Tax	1,839,377.00	536,997.30	2,376,374.30
Compromise Penalty	-	40,000.00	40,000.00

which BESALA has fifteen days (15) or May 13, 2021 to file a protest pursuant to Revenue Regulation 12-99.

16. On May 12, 2021, BESALA submitted its protest letter dated May 11, 2021 including its annexes duly received by the BIR, attached as **Annex "J"**.

17. On December 28, 2021, BESALA received Final Assessment Notice (FAN)/Formal Letter of Demand (FLD) dated December 28, 2021 attached as **Annex "K"** reiterating its findings made on the PAN dated April 26, 2021, which BESALA has thirty (30) days or January 27, 2022 file a protest.

18. On January 19, 2022, BESALA submitted its protest letter dated January 10, 2022 including its annexes duly received by the BIR attached as **Annex "L"**.

19. On January 31, 2022, BESALA received Action on Protest Letter dated January 27, 2022 attached as **Annex "M"**.

20. On March 4, 2022, BESALA submitted its response to Action Letter of BIR dated January 27, 2022 relative to the protest letter submitted dated January 10, 2022 attached as **Annex "N"**.

21. On March 24, 2022, BESALA received response letter from BIR dated March 16, 2022 relative to the letter submitted on March 4, 2022 hereto attached as **Annex "O"**.

22. On October 21, 2022, BESALA received a Final Decision on Disputed Assessment (FDDA) dated October 14, 2022 attached as **Annex "P"** with the following adjusted assessment:

Tax Type	Basic Tax Due	Interest and Penalty	Amount Due
Percentage Tax	4,513,843.10	3,201,613.27	7,715,456.37
Expanded Withholding Tax	71,547.68	32,602.22	104,149.91
Withholding Tax on Compensation	537.29	247.65	784.94
Final Withholding Tax	6,130,218.50	2,793,364.22	8,923,582.72
Documentary Stamp Tax	71,327.00	33,111.36	104,438.36
Compromise Penalty	-	40,000.00	40,000.00

...

At the outset, it bears to emphasize that the Court of Tax Appeals (**CTA**), being a court of special and limited jurisdiction, can only take cognizance of matters which are clearly within its jurisdiction.[2] Section 7(a)(1) of Republic Act (**RA**) No. 1125[3], as amended, provides:

...

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[.][4]

...

It is well-settled that the perfection of an appeal in the manner and within the period pursuant to the relevant provisions of the law is

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2 *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, 22 October 2014.

3 AN ACT CREATING THE COURT OF TAX APPEALS.

4 Italics in the original text, emphasis and underscoring supplied.

not only mandatory but jurisdictional and non-compliance with the legal requirements is fatal to a party's cause.[5]

On the period to appeal to this Court, if a decision on the protest is denied in whole or in part by the Commissioner of Internal Revenue (**CIR**), Section 228 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, in part, clearly reads as follows:

> ...
> **SEC. 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[.] ...
> ...
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
>
> 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 <u>receipt</u> of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.**[6]
> ...

The aforequoted Section 228 is implemented by Revenue Regulations (**RR**) No. 12-99[7], as amended by RR No. 18-2013[8], issued on 28 November 2013. Relevant portions of Section 3.1.4 of RR No.

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5 *Team Pacific Corporation v. Josephine Daza in her capacity as Municipal Treasurer of Taguig*, G.R. No. 167732, 11 July 2012.

6 Italics in the original text, emphasis and underscoring supplied.

7 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 Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

8 Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

12-99, as amended by RR No. 18-2013, provide the taxpayer's options on disputed assessments, to wit:

> ...
>
> Sec. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —
>
> ...
>
> Sec 3.1.4 *Disputed Assessment.* — The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN 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 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.
>
> ...
>
> For requests for reinvestigation, the taxpayer shall submit all relevant supporting documents in support of his protest within sixty (60) days from date of filing of his letter of protest, otherwise, the assessment shall become final. The term "*relevant supporting documents*" refer to those documents necessary to support the legal and factual bases in disputing a tax assessment as determined by the taxpayer. ...
>
> ...
>
> **If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may <u>either</u>:** (i) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the said decision; or **<u>(ii) elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision</u>.** No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.

> If the protest is not acted upon by the Commissioner's duly authorized representative within one hundred eighty (180) days counted from the date of filing of the protest in case of a request reconsideration; or from date of submission by the taxpayer of the required documents within sixty (60) days from the date of filing of the protest in case of a request for reinvestigation, the taxpayer may either: (i) appeal to the CTA within thirty (30) days after the expiration of the one hundred eighty (180)-day period; or (ii) await the final decision of the Commissioner's duly authorized representative on the disputed assessment.
>
> If the protest or administrative appeal, as the case may be, is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision. Otherwise, the assessment shall become final, executory and demandable. A motion for reconsideration of the Commissioner's denial of the protest or administrative appeal, as the case may be, shall not toll the thirty (30)-day period to appeal to the CTA.
>
> **If the protest or administrative appeal is not acted upon by the Commissioner within one hundred eighty (180) days counted from the date of filing of the protest, the taxpayer may <u>either</u>: (i) appeal to the CTA within thirty (30) days from after the expiration of the one hundred eighty (180)-day period; or (ii) await the final decision of the Commissioner on the disputed assessment and appeal such final decision to the CTA within thirty (30) days after the receipt of a copy of such decision.**
>
> It must be emphasized, however, that in case of inaction on protested assessment within the 180-day period, the option of the taxpayer to either: (1) file a petition for review with the CTA within 30 days after the expiration of the 180-day period; or (2) await the final decision of the Commissioner or his duly authorized representative on the disputed assessment and appeal such final decision to the CTA within 30 days after the receipt of a copy of such decision, are mutually exclusive and the resort to one bars the application of the other.[9]
>
> . . .

In applying the foregoing rules, the Supreme Court, in the case of *Philippine Amusement and Gaming Corporation v. Bureau of Internal Revenue, et al.*[10] (**PAGCOR**) and, later on, in *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*[11], explained that there are three (3) options by which a taxpayer may appeal the denial of its administrative protest, to wit:

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9 Italics in the original text, emphasis and underscoring supplied.

10 G.R. No. 208731, 27 January 2016; Citation omitted, italics, emphasis and underscoring in the original text and supplied.

11 G.R. No. 221780, 25 March 2019.

> ...
>
> Following the *verba legis* doctrine, the law must be applied exactly as worded since it is clear, plain, and unequivocal. A textual reading of Section 3.1.5 gives a protesting taxpayer like PAGCOR only three options:
>
> > 1. **If the protest is wholly or partially denied by the CIR *<u>or</u>* his authorized representative, then the taxpayer may appeal to the CTA within 30 days from receipt of the whole or partial denial of the protest.**
> >
> > 2. If the protest is wholly or partially denied by the CIR's authorized representative, then the taxpayer may appeal to the CIR within 30 days from receipt of the whole or partial denial of the protest.
> >
> > 3. If the CIR or his authorized representative failed to act upon the protest within 180 days from submission of the required supporting documents, then the taxpayer may appeal to the CTA within 30 days from the lapse of the 180-day period.
>
> ...

To avoid confusion, the Supreme Court in *PAGCOR*[12] further summarized the rules in the following wise:

> ...
>
> To further clarify the three options: **A whole or partial denial by the CIR's authorized representative may be appealed to the CIR or the CTA**. A whole or partial denial by the CIR may be appealed to the CTA. The CIR or the CIR's authorized representative's failure to act may be appealed to the CTA. **There is no mention of an appeal to the CIR from the failure to act by the CIR's authorized representative.**
>
> ...

Based on the foregoing provisions and jurisprudence, in cases where a taxpayer's protest is denied by the CIR's duly authorized representative, a taxpayer is given **two (2) alternative remedies**, to either: (**1**) appeal to the CTA within 30 days from the date of receipt of the representative's decision; or, (**2**) to elevate its protest through a request for reconsideration to the CIR, within the same 30-day period, otherwise referred to as an "administrative appeal".

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12 Supra at note 10; Emphasis supplied.

Thereafter, if the taxpayer's administrative appeal is not acted upon by the CIR within 180 days from the filing of the protest, the concerned taxpayer may either: (**1**) appeal to the CTA within 30 days after the expiration of the said 180-day period; or, (**2**) await the final decision of the CIR on the disputed assessment, and appeal such final decision to the CTA within 30 days from receipt of a copy thereof.

As culled from the records, the following are the pertinent dates in determining the timeliness of the Petition for Review:

Date	**Action**
28 December 2021[13]	Petitioner received the Final Assessment Notices and Formal Letter of Demand (**FLD/FANs**), with Details of Discrepancies, all dated 28 December 2021, signed by then Regional Director Maridur V. Rosario (**RD Rosario**).
19 January 2022[14]	Respondent received petitioner's Letter-Protest dated 10 January 2022, requesting the reinvestigation of the FLD/FANs, filed within the 30-day reglementary period.
27 January 2022[15]	RD Rosario issued a Letter-Action, granting the request for reinvestigation of the FLD/ FANs. Petitioner received the same on 31 January 2022.
04 March 2022[16]	Petitioner submitted a Letter-Reply dated 28 February 2022 (to RD Rosario's Letter-Action), clarifying that its Letter-Protest is a request for reconsideration (and not a request for reinvestigation) of the FLD/FANs.
16 March 2022[17]	RD Rosario issued another Letter-Action, explaining that petitioner was essentially requesting a reinvestigation, as it had submitted additional evidence to support its position.
18 July 2022	**End of the 180-day period from the filing of petitioner's Letter-Protest on the FLD/FANs.**
14 October 2022[18]	Respondent issued the FDDA signed by RD Aninag. Petitioner received the same on 21 October 2022.
18 November 2022[19]	Petitioner elevated the FDDA to the CIR (through a "Motion/Request for Reconsideration" or an administrative appeal on the FDDA) within the 30-day reglementary period.

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[13] Par. 17, Statement of Antecedent Facts, Petition for Review, supra at note 1; Annex "K", Division Docket, pp. 81-93.
[14] Par. 18, id.; Annex "L", id., pp. 94-177, with attached annexes.
[15] Par. 19, id.; Annex "M", id., p. 178.
[16] Par. 20, id.; Annex "N", id., p. 179.
[17] Par. 21, id.; Annex "O", id., pp. 180-181.
[18] Par. 22, id.; Annex "P", id., pp. 182-185.
[19] Par. 5, Timeliness, id.; Annex "AB", id., pp. 324-340.

Date	Action
20 November 2022	**End of the 30-day period to file a judicial appeal before this Court (reckoned from receipt of RD Aninag's FDDA).**
17 May 2023	**End of the 180-day period from the filing of the administrative appeal before the CIR (assuming there is another 180-day period for the CIR to act on the administrative appeal).**
16 June 2023	**End of the 30-day period to file a judicial appeal before this Court (reckoned from the lapse of the 180-day period from the filing of the administrative appeal before the CIR).**
19 June 2023[20]	Petitioner filed a Petition for Review before this Court.

In this case, petitioner opted to file an administrative appeal, through a "Motion/Request for Reconsideration" on the FDDA, before respondent on 18 November 2022. On the belief that it was granted a fresh period of 180 days from 18 November 2022, petitioner claimed that the said period lapsed on 17 May 2023. Counting thirty (30) days therefrom, petitioner alleged that the instant Petition for Review dated 16 June 2023, but received by the Court only on 19 June 2023, was filed within the reglementary period.

To be clear, the 180-day period referred to in Section 228 of the NIRC of 1997, as amended, and in Section 3.1.4 of RR No. 12-99, as amended by RR No. 18-2013, is confined only to the period within which either the CIR or his or her duly authorized representative may act on the initial protest against the FLD/FAN. If the taxpayer opts to appeal to the CIR the final decision of the latter's duly authorized representative, the taxpayer's remaining option is to wait for the CIR's decision before elevating its case to the CTA. In other words, when a taxpayer opts to file an administrative appeal, the CIR is not given a fresh or separate 180-day period within which to decide the administrative appeal.

In line with the rules set forth in RR No. 12-99, as amended by RR No. 18-2013, and the ruling in *PAGCOR*, petitioner could already file its Petition for Review before this Court within 30 days from receipt of the FDDA on 21 October 2022, or until **20 November 2022** (as the FDDA already served as respondent's denial of its protest). Unfortunately, petitioner opted to file an administrative appeal against

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[20] Petition for Review, supra at note 1.

the FDDA before respondent. Then, without waiting for any action from respondent, petitioner filed the instant Petition for Review before this Court on 19 June 2023.

In the case of *Nueva Ecija II Electric Cooperative, Inc. Area II (NEECO II Area II) v. Commissioner of Internal Revenue*[21], the Supreme Court declared categorically that there is no new or separate 180-day period granted to the CIR to act on the administrative appeal, to wit:

> ...
> As correctly ruled by the CTA *EB*, Section 228 of Republic Act (RA) No. 8424, or the National Internal Revenue Code, as amended (hereafter, Tax Code) unmistakably provides that the one hundred eighty (180)-day period should be reckoned from the "submission of documents," which in this case was on 19 September 2016. Perforce, the statutory 180-day period lapsed on 18 March 2017. From such point, petitioner had thirty (30) days, or until 17 April 2017, to elevate the case to the CTA. However, it filed its Petition only on 2 June 2017, which is beyond the reglementary period provided by the law. Notably, Section 3.1.4 of Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-13, which implements Section 228 of the Tax Code, provides for alternative courses of action to the taxpayer upon its receipt of the Final Decision on Disputed Assessment issued by the authorized representative of respondent Commissioner on Internal Revenue (respondent), including the option of elevating the protest to the respondent himself through a request for reconsideration. **However, nowhere in said provision does it provide that a fresh 180-day period is granted to the respondent to act on such administrative appeal**. As aptly observed by the CTA *EB*, upholding petitioner's argument would run contrary to the clear language of Section 228 and would unduly expand the period provided by the law. Necessarily, taxpayers must exercise their rights in the manner and within the periods provided by statute and the pertinent regulations. "**It bears to stress that the perfection of an appeal within the statutory period is a jurisdictional requirement and failure to do so renders the questioned decision or decree final and executory and no longer subject to review.**"
> ...

The Court *En Banc* echoed the foregoing declarations in the case of *Larry E. Segaya/Les Engineering and Construction v. Commissioner of the Bureau of Internal Revenue*[22] where it stated —

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[21] G.R. No. 258101, 19 April 2022 (Resolution); Citations omitted and emphasis supplied.
[22] CTA EB No. 2526, 13 December 2022; Emphasis and underscoring in the original text and italics supplied.

> . . .
>
> In determining the timeliness of an appeal from the inaction of the CIR, a plain reading of Section 228 of the NIRC of 1997, as amended, and Section 3.1.4 of RR No. 12-99, as amended, reveals that there is only **one (1) "180-day period" of inaction** to speak of which shall be counted <u>from the date of filing of the protest (if the protest is a request for reconsideration) or from the submission of the relevant supporting documents (if the protest is a request for reinvestigation) and not from the date when the decision of the CIR's authorized representative was appealed to the CIR</u>.
>
> *There is nothing in Section 228 of the NIRC of 1997, as amended and RR No. 12-99, as amended, which provides for a separate 180-day period for the CIR's representative to act on the protest and another 180-day period for the CIR to decide the appeal on the decision rendered by the CIR's authorized representative for the purpose of computing the 30-day period within which to appeal to the CTA.*
>
> What is clear is that in case there is inaction on the part of the CIR on an administrative appeal, the options of the taxpayer is to (1) appeal to the CTA within thirty (30) days from the expiration of the 180-day period (counted from the filing of the protest if the protest is a request for reconsideration or from the submission of supporting documents if the protest is a request for reinvestigation) or (2) await the decision of the CIR (which decision may be issued even after the lapse of the 180-day period) and then file an appeal with the CTA within thirty (30) days from receipt of the decision.
>
> . . .

As can be gleaned from the foregoing pronouncements, there is a singular 180-day period, *i.e.*, the period counted from the filing of the protest or the submission of the required documents. Accordingly, if an authorized representative of the CIR denies the protest within the 180-day period and the taxpayer appeals to the CIR, the CIR has the remainder of the 180-day period within which to act. And if there is no action, the taxpayer may appeal to this Court within 30 days after the lapse of the said remaining period. It also follows that if the taxpayer **waits for the decision of the CIR's representative and the same is issued after the lapse of the 180-day period**, the same may be appealed to this Court. In the latter case, **the 180-day period is no longer a consideration** and the only remedy for the taxpayer is **to wait for the CIR's decision before elevating its case to the CTA, if the same is not favorable**.

Considering that the 180-day period had already lapsed by the time RD Aninag issued the FDDA on 14 October 2022, effectively there is already an "inaction" on the part of respondent and petitioner should have filed a judicial appeal before this Court within 30 days from receipt of the FDDA on 21 October 2022, *i.e.,* from **22 October 2022 to 20 November 2022**. Instead, petitioner filed an administrative appeal on the FDDA with respondent on 18 November 2022. Subsequently, on 19 June 2023, petitioner filed a judicial appeal before this Court, alleging respondent's inaction on its administrative appeal.

It should be noted that petitioner opted to file an administrative appeal instead of a judicial appeal within the 30-day reglementary period from receipt of RD Aninag's FDDA, which was issued after the lapse of the 180-day period from the filing of the Letter-Protest on the FLD/FANs. Since there is no such separate 180-day period for the CIR to act on an administrative appeal, petitioner has no other recourse but to await respondent's decision before elevating the same on appeal to the CTA. Consequently, without an appealable decision from respondent, this Court could not validly obtain jurisdiction over this case. It is thus evident that the instant Petition for Review is dismissible on the ground of prematurity.

Even assuming, for the sake of argument, that respondent is granted a new 180-day period to act on the administrative appeal, the instant petition must still be dismissed for being filed out of time. To illustrate, the said 180-day period lapsed on 17 May 2023 (reckoned from the filing of petitioner's administrative appeal on 18 November 2022), petitioner thus had 30 days therefrom, or until 16 June 2023, within which to file a judicial appeal with this Court. Accordingly, the instant petition was also belatedly filed on 19 June 2023.

Basic is the rule that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint.[23] Thus, the limits of this Court's jurisdiction is unaffected by petitioner's erroneous interpretation of the law. In *Glynna Foronda-Crystal v. Aniana Lawas Son*[24], the Supreme Court aptly stated - "**[i]n law, nothing is as elementary as the concept of jurisdiction, for the same is the foundation upon which the courts exercise their power of adjudication, and without which, no rights or obligation could emanate from any decision or resolution**". In thus losing our authority to review the instant petition for being premature, this Court deems it proper to *motu proprio* dismiss the case for lack of jurisdiction.

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[23] *Editha Padlan v. Elenita Dinglasan, et al.*, G.R. No. 180321, 20 March 2013.
[24] G.R. No. 221815, 29 November 2017.

WHEREFORE, premises considered, the instant Petition for Review filed by petitioner Bottlers Employees Savings and Loan Association (BESALA) on 19 June 2023 is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice