

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

**SAN FRANCISCO WATER
DISTRICT, Represented by its
General Manager Engr. Elmer T.
Luzon,**

Petitioner,

**CTA EB No. 1107
(CTA AC No. 83)**

- versus -

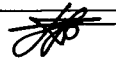
**THE BUREAU OF INTERNAL
REVENUE OF THE
DEPARTMENT OF FINANCE,
REP. HEREIN BY ITS REVENUE
DISTRICT OFFICER, REVENUE
DISTRICT OFFICE 104,
BAYUGAN, AGUSAN DEL SUR,**
Respondent.

Present:

Del Rosario, P.J.,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas, and
Ringpis-Liban, JJ.

Promulgated:

JUN 30 2015

 11:30 a.m.

X-----X

DECISION

CASTAÑEDA, JR., J.:

This Petition for Review filed by petitioner San Francisco Water District, seeks for the review of the assailed Decision dated July 10, 2013 and for the declaration of the Warrant of Garnishment issued by the Revenue District Officer of RDO No. 104, as null and void *ab initio*. 

The dispositive portion of the assailed Decision¹ is quoted hereunder as follows:

“WHEREFORE, the instant Petition for Review filed by petitioner San Francisco Water District is hereby **DISMISSED**, for lack of jurisdiction.

SO ORDERED.”²

THE FACTS

Culled from the records are the following undisputed facts found by the Court in Division:

“Petitioner San Francisco Water District is a government-owned and controlled corporation created by virtue of Presidential Decree No. 198, as amended, with office address at Redondo Building, Barangay 2, San Francisco, Agusan del Sur.

Respondent Bureau of Internal Revenue (BIR), as represented by the Revenue District Officer of Revenue District Office (RDO) No. 104, Bayugan City, Agusan del Sur, is a government agency with office address at BIR Revenue District Office No. 104, Bayugan City, Agusan del Sur.

On January 22, 2004, the RTC of Agusan denied petitioner’s *Petition for Declaratory Relief with Prayer for a Writ of Preliminary Injunction or Restraining Order* on the ground that it has no jurisdiction to enjoin respondent from collecting deficiency taxes for the years 1997 and 1999 from petitioner. The Court of Appeals (CA) sustained the RTC and the ruling became final and executory on August 23, 2010.

On the basis of the said final judgment, respondent’s counsel forwarded the docket of petitioner’s 1997 and 1999 delinquent accounts to BIR RDO No. 104 for the collection of petitioner’s delinquent accounts. Consequently, a Warrant of Garnishment was issued by Revenue District Officer Satar T. Laguinlab of BIR RDO No. 104 for the purpose of collecting the said delinquent accounts. *je*

¹ Decision dated July 10, 2013, penned by Associate Justice Esperanza R. Fabon-Victorino of the Special First Division, Division Docket, pp. 97-114.

² Division Docket, p. 113.

On January 6, 2011, respondent served the Warrant of Garnishment to the Development Bank of the Philippines (DBP), San Francisco Branch, garnishing petitioner's General Fund in the amount of Php734,793.63 for the income tax due for the years 1997 and 1999.

The following day, or on January 7, 2011, petitioner's representative, together with its Division Manager Ela F. Moreno and its counsel, went to the office of respondent Revenue District Officer to discuss the matter, but the latter was not available. They were however allegedly advised by the Assistant Revenue District Officer to prepare a letter request to lift the Warrant of Garnishment.

Following the advise, petitioner, on that very day, wrote a letter to respondent requesting the lifting of the Warrant of Garnishment.

On January 19, 2011, petitioner, through its General Manager, personally and in writing requested the Revenue District Officer to lift the Warrant of Garnishment invoking Republic Act (RA) No. 10026, which grants exemption to local water districts from paying income taxes and condoning income tax due from August 13, 1996 until the effectivity of RA No. 10026. Petitioner likewise informed the Revenue District Officer that it was financially incapable and was willing to comply with the requirements for purposes of condonation as soon as the guidelines or the Implementing Rules of RA No. 10026 becomes available.

But instead of acting on the letter-request, respondent allegedly wrote a letter dated January 27, 2011 to the DBP San Francisco Branch Manager to effect immediate turn-over/transfer of petitioner's General Fund of Php734,793.63 to respondent's account.

On January 28, 2011, petitioner received a letter from the DBP informing and furnishing it with a copy of the Notice of Execution of Garnishment received from respondent.

This prompted petitioner to file a Petition for Injunction with the RTC of Agusan on January 28, 2011 docketed as Spl. Civil Case No. 56-2011. In the said case, petitioner claimed that the acts of respondent in garnishing and causing the transfer of petitioner's fund to its account run counter to the provisions of RA No. 10026 and the decision of the CA in the case of "Commissioner of Internal Revenue vs. The Secretary of Justice and Camarines Norte Water District (CNWD)." 

In its Answer, respondent raised as affirmative defense RTC's lack of jurisdiction over the subject matter of the Petition. Citing Section 218 of the National Internal Revenue Code (NIRC), respondent argued that the RTC is not vested with the competence to try and hear the case much more grant any injunctive relief to stop the collection of taxes imposed under the NIRC. The jurisdiction, according to petitioner, is with the Court of Tax Appeals (CTA) pursuant to Section 11 of RA No. 1125, as amended by RA No. 9282. Further, petitioner could not invoke RA No. 10026 on the condonation of taxes due from local water districts since no application for condonation was filed by petitioner with the BIR. Besides, petitioner failed to show that it was financially incapable of paying its 1997 and 1999 tax liabilities.

On July 29, 2011, the RTC of Agusan rendered the assailed Resolution dismissing petitioner's *Petition for Injunction* on jurisdictional ground. Citing Supreme Court ruling in the case of *Southern Cross Cement Corp. vs. Philcemcor*, the Court *a quo* held that it has no jurisdiction to enjoin the collection of taxes as the power lies with the CTA.

On August 24, 2011, petitioner moved for reconsideration but the same was denied in the similarly assailed Resolution dated November 15, 2011.

Hence, this *Petition for Review* posted on December 8, 2011, with the following errors allegedly committed by the Court *a quo*, viz:

1. The Regional Trial Court erred in finding that it has no jurisdiction over the subject matter of the case.
2. The Regional Trial Court erred in not finding that the GARNISHMENT runs counter to the provisions of R.A. No. 10026 and Supreme Court Administrative Circular No. 10-2000.

With the filing of respondent's *Memorandum* on July 4, 2012, and petitioner's *Manifestations* on August 8, 2012, stating that it will no longer file a memorandum, the instant *Petition for Review* was submitted for decision on August 28, 2012."³ 

³ Decision dated July 10, 2013, Division Docket, pp. 98-102.

On July 10, 2013, the Court in Division rendered the assailed Decision which dismissed the Petition for Review on the ground of lack of jurisdiction.

On August 28, 2013, petitioner filed before the Court in Division its Motion for Reconsideration.⁴ Consequently, in the Resolution⁵ dated October 23, 2013, the Court in Division denied the said motion for lack of merit.

On December 23, 2013, the Court *En Banc* issued a Resolution⁶ granting petitioner's Motion for Extension of Time to File Petition for Review.⁷

On December 26, 2013, petitioner filed through registered mail the present Petition for Review.⁸ Thereafter, on February 5, 2014, the Court *En Banc* issued a Resolution,⁹ ordering petitioner to submit the duplicate original or certified true copy of the assailed Decision and Special Power of Attorney within five (5) days from receipt thereof. On March 24, 2014, petitioner filed its Compliance,¹⁰ which the Court *En Banc* noted in the Resolution¹¹ dated April 11, 2014.

On July 9, 2014, the Court *En Banc* issued a Resolution¹² giving due course to the Petition for Review and ordering the parties to submit their Memoranda within thirty (30) days from receipt thereof.

Upon submission of respondent's Memorandum¹³ on August 15, 2014 and October 7, 2014, respectively, *sans* petitioner's memorandum, the case was deemed submitted for decision on April 22, 2015.¹⁴ Hence, this Decision.

THE ISSUE

Petitioner raised its lone issue as follows: 

⁴ Division Docket, pp. 115-121.

⁵ Division Docket, pp. 137-138.

⁶ Division Docket, pp. 139-140.

⁷ Court *En Banc* Docket, pp. 10-13.

⁸ Court *En Banc* Docket, pp. 54-67.

⁹ Court *En Banc* Docket, pp. 123-124.

¹⁰ Court *En Banc* Docket, pp. 125-126.

¹¹ Court *En Banc* Docket, p. 148.

¹² Court *En Banc* Docket, pp. 165-166.

¹³ Court *En Banc* Docket, pp. 168-169; pp. 174-175.

¹⁴ Resolution dated April 22, 2015, Court *En Banc* Docket, pp. 189-191.

“a.) The Warrant of Garnishment is void ab initio having been issued in violation [of] (*sic.*) the provisions of Republic Act No. 10026 and therefore it cannot attain finality pursuant to Art. 5 of the Civil Code. The Honorable First Division erred in dismissing the case on [the] (*sic.*) ground that the Warrant of Garnishment has become final and executory.”

THE COURT’S RULING

We deny the Petition.

The Court has no jurisdiction to entertain the present Petition

Prefatorily, it bears stressing that petitioner merely rehashed its arguments in its Petition for Review¹⁵ and Motion for Reconsideration,¹⁶ which arguments were already considered by the Court in Division in the July 10, 2013 assailed Decision. In dismissing the Petition, the Court in Division succinctly held that:

“xxx xxx xxx

Settled is the rule that jurisdiction over the subject matter is fundamental for a court to act on a given controversy. It is conferred by law, not by consent of the parties. To inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the ability of its entire proceedings.

Republic Act No. 1125, as amended by RA Nos. 9282 and 9503, creating the Court of Tax Appeals (CTA), did not grant this Court blanket authority to decide any and all tax disputes. In defining the CTA’s jurisdiction, RA No. 1125, as amended, limited the CTA’s authority to those matters enumerated therein. xxx

xxx xxx xxx

Thus, with regard to decisions, judgments, orders or resolutions of RTCs, the CTA’s exclusive appellate jurisdiction to review the same by appeal or by petition for review is limited to the following: *gc*

¹⁵ Division Docket, pp. 5-12.

¹⁶ See Note 4.

1. Decisions, orders or resolutions of RTCs in local tax cases originally decided or resolved by them in the exercise of their original jurisdiction;

2. Decisions, orders or resolution of RTCs in local tax cases decided or resolved by them in the exercise of their appellate jurisdiction;

3. Judgments, resolutions or orders of RTCs in criminal offenses (tax cases) originally decided by them in their respective territorial jurisdiction;

4. Judgments, resolutions or orders of RTCs in the exercise of their appellate jurisdiction over criminal offenses (tax cases) originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in their respective jurisdiction;

5. Judgments, orders or resolutions of RTCs in tax collection cases originally decided by them, in their respective territorial jurisdiction; and

6. Judgments, resolutions or orders of RTCs in the exercise of their appellate jurisdiction over tax collection cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in their respective jurisdiction.

There is nothing in Section 7 of RA No. 1125, as amended, as well as in Sections 2 and 3 of the Revised Rules of the CTA (RRCTA) which give the CTA – whether in Division or *En Banc* – jurisdiction over cases decided by the RTC involving petitions for injunction to restrain the collection of national internal revenue taxes.

In the absence of a clear mandate from the law creating this Court, it cannot assume jurisdiction over the petition assailing the Resolutions of the RTC of Agusan dismissing petitioner's Petition for Injunction to restrain the transfer of petitioner's fund to respondent pursuant to Warrant of Garnishment issued by the latter and denying petitioner's Motion for Reconsideration. Considering that this Court has no jurisdiction over the subject matter of the appeal and it has no authority to resolve the same on the merits, this Court has no option but to dismiss the instant *Petition for Review*.

XXX

XXX

XXX *je*

Despite competence, the Court cannot also possibly rule on petitioner's prayer to enjoin the implementation of the Warrant of Garnishment pending the resolution of its appeal and to declare said Warrant of Garnishment null and void.

There is no dispute that the CTA has appellate jurisdiction over other cases arising under the NIRC or related laws administered by the BIR, which include the determination of whether a Warrant of Garnishment issued by the BIR is valid or void. Section 7(a)(1) of RA No. 1125, as amended, provides:

xxx xxx xxx

However, the exercise of the Court's jurisdiction to rule on decisions of the Commissioner of Internal Revenue (CIR) on other matters arising under the NIRC or other laws administered by the BIR, is conditioned on the timeliness of the filing of the appeal.

xxx xxx xxx

As borne by the record of the case, respondent served the Warrant of Garnishment to the DBP, San Francisco Branch, garnishing the General Fund of petitioner in the amount of Php734,793.63 for the income tax due for 1997 and 1999 on January 6, 2011.

Pursuant to Section 11 of RA No. 1125, as amended, petitioner had thirty (30) days from January 6, 2011 or until February 5, 2011, within which to seek the nullification of the Warrant of Garnishment. However, instead of filing a Petition for Review with the CTA, petitioner filed a Petition for Injunction with the RTC of Agusan on January 28, 2011. For reason only known to it, petitioner filed the instant Petition for Review only on December 8, 2011 to appeal the assailed Resolutions of the RTC of Agusan.

Since the perfection of an appeal in the manner and within the period permitted by law is not only mandatory but also jurisdictional, the failure to perfect the appeal renders the Warrant of Garnishment final and executory and beyond the power of this Court to review."¹⁷ *jc*

¹⁷ Division Docket, pp. 102-112, citing *Commissioner of Internal Revenue v. Leonardo S. Villa and The Court of Appeals*, G.R. No. L-23988, January 2, 1968; *Genaro Ursal, as City Assessor of Cebu v. Court of Tax Appeals and Consuelo Noel*; *Genaro Ursal, as City Assessor of Cebu v. Court of Tax Appeals and Jesusa Samson*, G.R. Nos. L-10123 and L-10355, April 26, 1957; and *Bello v. National Labor Relations Commission, et al.*, G.R. No. 146212, September 5, 2007.

We agree with the ruling of the Court in Division. To emphasize, Section 7 of RA No. 1125, as amended, and Sections 2 and 3 of the Revised Rules of the CTA do not confer jurisdiction upon this Court to take cognizance of cases decided by the RTC involving petitions for injunction to restrain the collection of national internal revenue taxes. On the other hand, petitioner failed to timely perfect its appeal before the Court in Division, which timely perfection of appeal is mandatory and jurisdictional.

Ergo, this Court cannot rule on the propriety of the issuance of the Warrant of Garnishment which, as petitioner contends, is void *ab initio*. Simply put and in light of the factual antecedents of the present case, it is not within the province of this Court to determine the validity or invalidity of the issuance of the Warrant of Garnishment as it has no jurisdiction to rule upon the merits of the Petition. Consequently, petitioner's failure to timely file its appeal before the Court in Division indubitably rendered the Warrant of Garnishment final and executory.

WHEREFORE, in view thereof, the present Petition for Review is hereby **DISMISSED** for lack of jurisdiction. Accordingly, the Decision dated July 10, 2013 is hereby **AFFIRMED**.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice

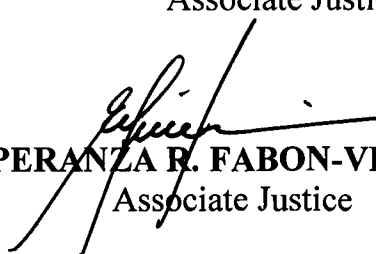
WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


LOVELL R. BAUTISTA
Associate Justice


ERLINDA P. UY
Associate Justice


CAESAR A. CASANOVA
Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice

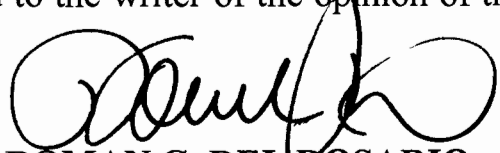

CIELITO N. MINDARO-GRULLA
Associate Justice


AMELIA R. COTANGCO-MANALASTAS
Associate Justice


MA. BELEN M. RINGPIS LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, 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 *En Banc*.


ROMAN G. DEL ROSARIO
Presiding Justice