REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MASAGANA MANAGEMENT SERVICES, CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE and BIR REGIONAL DIRECTOR, REGION 7, QUEZON CITY,
Respondents.

CTA CASE No. 10071

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, *JJ.*

Promulgated:
MAY 28 2021
9:50 a.m.

x---x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by Masagana Management Services, Corporation (**petitioner**) pursuant to Rule 8, Section 3(a)[2], in relation to Rule 4, Section 3(a)(2)[3] of the Revised Rules of the Court of

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1 Filed on 12 April 2019, Division Docket, pp. 10-22.

2 **SEC. 3.** *Who may appeal; period to file petition.* – (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

3 **SEC. 3.** *Cases within the jurisdiction of the Court in Divisions.* – The Court in Divisions shall exercise:

Tax Appeals[4] (**RRCTA**). It seeks the declaration of nullity of the Letter[5] it received on 15 March 2019 and the Final Decision on Disputed Assessment[6] (**FDDA**) issued on 08 June 2018, assessing petitioner for alleged deficiency Income Tax (**IT**) and Improperly Accumulated Earnings Tax (**IAET**) in the total amount of ₱24,638,509.50, inclusive of interest and penalties for taxable year (**TY**) 2014.

Petitioner is a corporation duly organized and existing under Philippine laws. It is duly registered with the Securities and Exchange Commission (**SEC**) with registration number 76356[7] and it is likewise registered with the Bureau of Internal Revenue (**BIR**) with Tax Identification Number (**TIN**) 000-901-691-000.[8] According to petitioner's Articles of Incorporation, its principal office is at 14 R. Del Rosario St., Pasig City[9], while its registered address in the BIR Certificate of Registration is at Beside Woodstock, Marcos Highway, Santolan, Pasig City.[10]

Respondents Commissioner of Internal Revenue (**CIR**) and Revenue Regional Director (**RD**), Revenue Region 7 (**RR 7**), Quezon City of the BIR are vested under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of said office, including, *inter alia*, the power to decide disputed assessments and to cancel and abate tax liabilities, pursuant to the pertinent provisions of the National Internal Revenue Code (**NIRC**) of 1997, as amended, and other tax laws, rules and regulations. Respondent CIR holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[11]

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

...

(2) Inaction by 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, where the National Internal Revenue Code or other applicable law provides a specific period for action: ...

4 A.M. No. 05-11-07-CTA dated 22 November 2005.

5 Exhibit "P-1", Division Docket, p. 245.

6 Exhibit "P-8", id., pp. 270-273.

7 Exhibit "P-2", id., pp. 247-255.

8 Exhibit "P-3", id., p. 256.

9 Exhibit "P-2-A", id., p. 251.

10 Supra at note 8.

11 Paragraph 2, Joint Stipulation of Facts and Issues (JSFI), Division Docket, pp. 221-222.

FACTS OF THE CASE

On 30 January 2018, petitioner received a Formal Letter of Demand[12] (**FLD**), informing it that it is liable to pay deficiency IT and IAET in the total amount of ₱24,638,509.50 for TY 2014.

On 22 February 2018, petitioner filed a protest[13] to assail the said FLD and to "request for a reconsideration and reinvestigation". While waiting for the BIR's reply to its protest, Ray Lena Hebres (**Hebres**), the manager of petitioner's property located in Santolan, Pasig City received a Final Notice Before Seizure[14] (**FNBS**) instead of an FDDA on 15 October 2018.[15]

Petitioner thereafter instructed its liaison officer to go to the Collection Division of BIR RR 7 and inquire as to why it received an FNBS despite not having received the FDDA. There, the liaison officer was informed that an FDDA was already issued by RD Marina C. De Guzman (**De Guzman**). A copy of the FDDA dated 08 June 2018 was then given to the said liaison officer.[16]

Upon examination of the FDDA, petitioner found out that its protest was denied since, according to Revenue Officer (**RO**) Gilbert Bercasio [**Bercasio**] (the one who conducted the initial audit), it failed to submit the required documents within sixty (60) days from the filing of the same. Thus, the FLD was reiterated.[17]

On 25 October 2018[18] or within thirty (30) days from receipt of the FNBS and the FDDA, petitioner filed a Motion for Reconsideration (**MR**) assailing the validity of the FDDA.[19] The said MR was addressed to RD De Guzman.

On 15 March 2019, petitioner received respondent's Letter dated 05 March 2019[20], informing it of the denial of its MR (on the FDDA)

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12 Exhibit "P-5", id., pp. 259-264.
13 Exhibit "P-6", id., pp. 265-268.
14 Exhibit "P-7", id., p. 269.
15 Question and Answer (Q&A) No. 32, Judicial Affidavit of Jennylene A. De Leon, id., p. 131.
16 Q&A Nos. 37 and 38, id., p. 132.
17 Paragraph 3, JSFI, id., p. 222.
18 Exhibit "P-9", id., pp. 274-276.
19 Paragraph 4, JSFI, id., p. 222.
20 Supra at note 5.

and demanding the payment for alleged deficiency IT and IAET in the total amount of ₱24,638,509.50 for TY 2014.[21]

PROCEEDINGS BEFORE THIS COURT

On 12 April 2019 or within 30 days from the receipt of the 05 March 2019 Letter denying its MR, petitioner filed the instant Petition for Review (which was raffled to the Second Division of this Court).[22]

In his Answer[23] filed on 14 June 2019, respondent CIR insisted that the issuance of the Letter of Authority (**LOA**), Preliminary Assessment Notice (**PAN**), FLD and Assessment Notices (**ANs**) and FDDA satisfied the requirements of due process. According to him, the LOA (LOA-43B-2016-00000092 dated 26 May 2016) was issued authorizing RO Bercasio and Group Supervisor (**GS**) Melecio Cantara (**Cantara**) to conduct an examination of petitioner's tax liabilities for TY 2014. On 01 June 2016, a certain Rene E. Eduque (**Eduque**) allegedly received the LOA at petitioner's registered business address.

With respect to the PAN, respondent CIR explained that the same was issued on 12 December 2017 and was served on the same day on Ma. Florida A. Banada (**Banada**), Shift Officer/Officer-in-Charge, at petitioner's registered business address. On the other hand, the FLD issued on 29 January 2018 and the FDDA issued on 08 June 2018 were served on Banada on 30 January 2018 and 08 July 2018, respectively, at petitioner's registered business address.

Respondent CIR thus claims that petitioner was given the opportunity to dispute the findings of the BIR in all stages of the assessment.

On 10 July 2019, respondents filed their Pre-Trial Brief[24] while petitioner filed its Pre-Trial Brief[25] on 12 July 2019.

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21 Paragraph 1, JSFI, Division Docket, p. 221.
22 Supra at note 1.
23 Division Docket, pp. 106-109.
24 Id., pp. 112-116.
25 Id., pp. 117-122.

Since the parties decided not to have their case mediated by the Philippine Mediation Center Unit – CTA[26], the pre-trial conference was conducted on 24 October 2019.[27]

After the parties submitted anew[28] their Joint Stipulation of Facts and Issues[29] (**JSFI**), the Court issued the Pre-Trial Order dated 28 November 2019.[30]

At the trial that ensued, petitioner presented its lone witness, Jennylene A. De Leon (**De Leon**), who testified by way of direct examination through her Judicial Affidavit[31] that: (1) she is petitioner's Accounting and Compliance Officer; (2) since part of her tasks is handling administrative assessments conducted by the BIR, she receives all the LOAs issued and served against petitioner at its registered address; (3) in this case, she did not receive any at petitioner's business address at 14 R. Del Rosario St., Pasig City as, in fact, she has never seen the LOA issued by the BIR; (4) after receiving respondent CIR's Answer, where it was alleged that Eduque received the LOA personally, she inquired with the manager and found out that Eduque was a room boy at the time when the LOA was served; (5) the BIR served the LOA at one of the properties being managed by petitioner in Santolan, Pasig City, which, however, is not petitioner's place of business considering that its office is at 14 R. Del Rosario St., Pasig City; (6) petitioner manages several properties and each property has its own manager who is directly responsible for reporting the overall operation of the specific property to their principal office at 14 R. Del Rosario St., Pasig City; (7) as for the property located in Santolan, Pasig City, Hebres did not report to her office that she received the LOA; (8) their office did not receive the PAN, similar to the LOA; (9) after their receipt of the Answer, she also inquired with Hebres as to who Banada was and she found out that Banada was a receptionist at the time the PAN was allegedly served; (10) Hebres did not report to her (De Leon) that the former received a PAN; (11) she found out that the BIR was conducting an administrative assessment when she received a call on 30 January 2018 from Hebres at which time she was informed that one of their receptionists (Banada) handed to

26 PMC-CTA Form 6 – No Agreement to Mediate, id., p. 209.
27 Order dated 24 October 2019, id., p. 216.
28 While the parties initially submitted a JSFI (id., pp. 199-205), the same was subsequently withdrawn (see Order dated 24 October 2019, id., p. 216).
29 Id., pp. 221-227.
30 Id., pp. 229-235.
31 Id., pp. 126-138.

her a letter from the BIR which contains the FLD with the attached Details of Discrepancies and ANs; (12) she then immediately informed Marissa B. Calpo of the said assessment and was told to handle the same; (13) she noticed that there was no specific date for payment on the FLD with the attached Details of Discrepancies and ANs; (14) their letter-protest was submitted to the BIR on 22 February 2018; (15) on 15 October 2018, Hebres informed her (De Leon) that the former received an FNBS; (16) they did not receive an FDDA; (17) she instructed their liaison officer to go to the Collection Division of BIR RR 7 and inquire as to why they received an FNBS despite not having received the FDDA; (18) the said liaison officer was informed that there was already an FDDA and was given a copy of it which was later on handed over to her (De Leon); (19) she inquired with Hebres if they received an FDDA and the latter answered that they did not; (20) they submitted an MR on 25 October 2018; (21) on 15 March 2019, they received a letter from the BIR reiterating the FDDA because of their failure to present relevant documents; (22) with respect to the alleged deficiency IT, the same has no basis because petitioner correctly declared its income from the subject transaction at ₱67,170,000.00 only and not ₱100,755,000.00; (23) as regards the disallowed expenses, petitioner availed of the Optional Standard Deduction (**OSD**), thus, its expenses need not be substantiated; and, (24) as to the imposition of IAET, the same is also without any legal basis because it appropriated some of its earnings for a planned expansion as evidenced by a Board Resolution.[32]

Respondent CIR did not conduct any cross examination.[33]

On 09 December 2019, petitioner filed its Formal Offer of Evidence[34] (**FOE**), without respondent CIR's comment.[35]

On 15 January 2020, the Court resolved to admit all of petitioner's documentary evidence[36], except Exhibit "P-3"[37] and Exhibit "P-12-A"[38] which were not duly identified. The latter exhibit was also different from that actually marked.

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32 Exhibit "P-13", id., pp. 298-300.
33 TSN dated 04 December 2019, pp. 3 and 7.
34 Division Docket, pp. 238-244.
35 *Per* Records Verification dated 20 December 2019, id., p. 301.
36 See Resolution, id., pp. 303-304.
37 BIR Certificate of Registration of petitioner, supra at note 8.
38 Market Valuation of the City Assessor of Pasig for year 2014, Division Docket, p. 294.

On 14 February 2020, respondent CIR filed a Motion to Cancel Hearing with Manifestation[39] due to the fact that the issues to be resolved are mere questions of law and as such, would no longer present his witnesses.

On 12 March 2020, petitioner filed its Memorandum[40] while respondent CIR failed to file his own.[41] Thus, the Court submitted the case for decision on 15 June 2020.[42]

ISSUES

In the instant Petition for Review, petitioner raises the following issues for the Court's resolution:

> I.
> WHETHER THE ASSESSMENT IS INVALID FOR HAVING BEEN MADE WITHOUT A VALID LETTER OF AUTHORITY (LOA) DULY SERVED ON OR PRESENTED TO PETITIONER MASAGANA MANAGEMENT SERVICES, CORPORATION AND/OR ANY OF ITS DULY AUTHORIZED REPRESENTATIVE;
>
> II.
> WHETHER THE ASSESSMENT IS INVALID FOR HAVING BEEN MADE WITHOUT A VALID PRELIMINARY ASSESSMENT NOTICE DULY SERVED ON OR PRESENTED TO PETITIONER MASAGANA MANAGEMENT SERVICES, CORPORATION AND/OR ANY OF ITS DULY AUTHORIZED REPRESENTATIVE;
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> III.
> WHETHER THE ASSESSMENT IS INVALID FOR FAILURE TO COMPLY WITH THE ESSENTIAL AND FUNDAMENTAL RIGHT TO DUE PROCESS; AND,
>
> IV.
> WHETHER PETITIONER MASAGANA MANAGEMENT SERVICES, CORPORATION IS LIABLE FOR ALLEGED DEFICIENCY TAXES IN THE AMOUNT OF TWENTY-FOUR MILLION SIX HUNDRED THIRTY-EIGHT THOUSAND FIVE HUNDRED NINE PESOS AND 50/100 (₱24,638,509.50) FOR TAXABLE YEAR 2014.

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39 Id., pp. 311-313.
40 Id., pp. 316-339.
41 *Per* Records Verification dated 04 June 2020, id., p. 341.
42 See Resolution dated 15 June 2020, id., p. 340.

In support of the above, petitioner alleges that the assessment is invalid for respondents' failure to issue and duly serve an LOA and a PAN. Specifically, petitioner asserts that the service of the same through Eduque and Banada, respectively, was not a service to it. Both Eduque and Banada were not its duly authorized representatives and they could not have validly received the LOA and the PAN on its behalf.

Petitioner also contends that it has proven that the fundamental and essential requirements of due process of law were not observed in the assessment. According to petitioner, respondents failed to duly serve the FDDA through any means provided in the rules and that both the FLD and FDDA contain no specific period to pay its supposed tax liability.

Moreover, petitioner claims that it does not know or does not have any connection to a person named Leo Niv Maputi, who respondents claim to be the President of petitioner.

As to the items of the assessments, petitioner avers that it is not liable to pay deficiency IT and IAET.

With respect to the disallowed expenses (for petitioner's alleged failure to substantiate the same), petitioner contends that it elected to avail of the OSD pursuant to Section 34(L)[43] of the NIRC of 1997, as

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43 **SEC. 34.** *Deductions from Gross Income.* – Except for taxpayers earning compensation income arising from personal services rendered under an employer-employee relationship where no deductions shall be allowed under this Section other than under subsection (M) hereof, in computing taxable income subject to income tax under Sections 24(A); 25(A); 26; 27(A), (B), (C); and 28(A)(1), there shall be allowed the following deductions from gross income;

...

(L) *Optional Standard Deduction.* - In lieu of the deductions allowed under the preceding Subsections, an individual subject to tax under Section 24, other than a nonresident alien, may elect a standard deduction in an amount not exceeding forty percent (40%) of his gross sales or gross receipts, as the case may be. In the case of a corporation subject to tax under section 27(A) and 28(A)(1), it may elect a standard deduction in an amount not exceeding forty percent (40%) of its gross income as defined in Section 32 of this Code. Unless the taxpayer signifies in his return his intention to elect the optional standard deduction, he shall be considered as having availed himself of the deductions allowed in the preceding Subsections. Such election when made in the return shall be irrevocable for the taxable year for which the return is made: *Provided*, That an individual who is entitled to and claimed for the optional standard shall not be required to submit with his tax return such financial statements otherwise required under this Code: *Provided, further*, That except when the Commissioner otherwise permits, the said individual shall keep such records pertaining to his gross sales or gross receipts, or the said corporation shall keep such records pertaining to his gross income as defined in Section 32 of this Code during the taxable year, as may be required by the rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner.

...

amended by Republic Act (**RA**) No. 9504.[44] Accordingly, the substantiation requirement is inapplicable to petitioner and thus its expenses may not be disallowed.

As regards the supposed undeclared revenues/receipts in the amount of ₱33,185,182.17, the same arose from the sale of a parcel of land. The said amount was arrived at when petitioner's Value-Added Tax (**VAT**) Returns were compared with its Income Tax Return (**ITR**). Petitioner paid the VAT and the Creditable Withholding Tax (**CWT**) based on the fair market value (**FMV**) of the said parcel of land amounting to ₱100,755,000.00 despite having correctly declared the income to be only ₱67,170,000.00, which is the amount actually received by petitioner as stated in the relevant Deed of Absolute Sale.[45]

Lastly, insofar as the assessment of IAET, petitioner asserts that the same is incorrect since it appropriated its earnings for a supposed expansion (as agreed upon by its Board of Directors and stockholders).

On the other hand, respondent CIR counters that his assessments are based on facts and the law, and that petitioner was accorded due process. Respondent CIR also adds that RO Bercasio is authorized to conduct the audit investigation and re-investigation in this case.

<u>RULING OF THE COURT</u>

The Court shall first determine whether it has jurisdiction to entertain the instant Petition for Review.

Time and again, it has been held that the perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. At the risk of being repetitious, the Court declares that

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44 AN ACT AMENDING SECTION 22, 24, 34, 35, 51, AND 79 OF REPUBLIC ACT NO. 8424, AS AMENDED OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE OF 1997.

45 Exhibit "P-11", Division Docket, pp. 286-289.

the right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.[46]

Section 228 of the NIRC of 1997, as amended, provides the manner for protesting assessments, to wit:

> ...
>
> **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 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.**[47]
>
> ...

Implementing the afore-cited provision, Revenue Regulation (**RR**) No. 12-99[48], as amended by RR 18-2013[49], outlines in detail the appeal process for disputed assessments, as follows:

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46 *China Banking Corporation v. City Treasurer of Manila*, G.R. No. 204117, 01 July 2015.

47 Emphasis supplied.

48 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 Extrajudicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

...

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:

...

If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may either: (i) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the said decision; or (ii) elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision. 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.[50]

...

The Supreme Court, in the case of *Philippine Amusement and Gaming Corporation v. Bureau of Internal Revenue, et al.*[51] **(PAGCOR)** (and later on in *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*[52]), explained the three (3) options by which a taxpayer may appeal the denial of its protest, to wit:

...

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.**

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

50 Emphasis supplied. Note that this Section was subsequently renumbered to 3.1.5. pursuant to RR 7-2018.

51 G.R. No. 208731, 27 January 2016.

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

> 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 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.[53]
>
> ...

As culled from the records, petitioner's protest[54] to the FLD was filed with RD De Guzman, who denied the same through the FDDA that petitioner allegedly received only upon request. In line with the rules set forth in RR 12-99, as amended, and the Supreme Court decision in *PAGCOR*, the proper remedy for petitioner should have been to file an appeal before respondent CIR himself (since the denial was issued by the CIR's authorized representative) or a Petition for Review before this Court within 30 days from receipt of the FDDA. Unfortunately, petitioner did neither of these remedies and instead opted to file an MR[55] (administrative appeal assailing the validity of the FDDA) with RD De Guzman again and *not* with respondent CIR.

With the procedure of appeal already clearly laid down, a resort to an administrative appeal with the CIR's authorized representative did not then toll the running of the reglementary period within which petitioner's appeal must be elevated to this Court or to respondent CIR.

As such, the assessments have become final, executory and demandable pursuant to the above-quoted provisions of Section 228 of the NIRC of 1997, as amended, and as implemented by RR 12-99, as amended. Consequently, the Court no longer has jurisdiction to act on the instant Petition for Review.

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53 Citation omitted, emphasis, italics and underscoring in the original text, and supplied.
54 Supra at note 13.
55 Supra at note 18.

Incidentally, We disagree with petitioner's claim that the assessment was invalid because of respondent's failure to properly serve the LOA and the PAN. As the records evince, the PAN and the LOA were served at its registered address; the same address shown in its BIR Certificate of Registration.[56] The records also show that Hebres, the manager of petitioner's property, was able to get hold of them.

A perusal of the Judicial Affidavit of petitioner's own witness, De Leon, likewise reveals that the service of the LOA and the PAN at petitioner's registered address and the eventual receipt by the manager assigned therein are already beyond question. De Leon's admission of these facts are clear, to wit:

> ...
>
> **Q12. Can you tell this Honorable Court what business is the Petitioner engaged into?**
>
> A: Under its Articles of Incorporation, the primary purpose of the Petitioner is acquire, own, lease, maintain, operate and/or manage hotels, motels, inns, apartments, private clubs, restaurants, cocktail bars and any and or all other allied business as may be necessary or desirable in connection therewith. Therefore, the Petitioner manages several properties. However, each property has its own manager who shall be directly responsible to report the overall operation of the specific property to our office in 14 R. Del Rosario St., Pasig City.
>
> **Q13. In the case of property located at Santolan, Pasig City, who is the manager of the same?**
>
> A: The manager is Ms. Ray Lena Hebres.
>
> **Q14. Did the manager of the property located in Santolan, Pasig City, reported to your office that she had received a Letter of Authority?**
>
> A: No.
>
> ...
>
> **Q18. In the instant case, did the manager of the property located in Santolan, Pasig City reported to your office that she had received a Preliminary Assessment Notice?**

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[56] Supra at note 8.

A: No, she did not.[57]

...

Therefore, the fact that the said manager failed to report her receipt of the LOA and the PAN to petitioner's Accounting and Compliance Officer is of no moment, as long as the same were duly served at petitioner's BIR registered address. Certainly, it is not the intention of the law to make the validity of the assessment dependent on whether or not receipt of the same would be eventually reported to a certain officer or employee of the taxpayer, who, in this case, is its Accounting and Compliance Officer.

In sum, considering that the Court is already deprived of jurisdiction to review the FDDA, it finds it unnecessary to further discuss the other issues raised in this instant petition.

WHEREFORE, premises considered, the instant Petition for Review filed by petitioner Masagana Management Services, Corporation dated 12 April 2019 is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

57 Division Docket, pp. 128-129; Emphasis in the original text.

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's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice