REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>SECOND DIVISION</u>

SUBURBIA AUTOMOTIVE VENTURES, INC., Petitioner,	**CTA CASE NO. 10128**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 1 8 2025 3:15 pm

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RESOLUTION

***FERRER-FLORES, J.*:**

Submitted before this Court is petitioner's **Motion for Reconsideration** filed on March 24, 2025, without respondent's comment per Records Verification dated May 2, 2025.

On March 3, 2025, the Court promulgated a Decision dismissing the *Petition for Review* for lack of jurisdiction due to petitioner's failure to validly protest respondent's deficiency income tax, value-added tax (VAT), and expanded withholding tax (EWT) assessments, the dispositive portion of which reads as follows:

> **WHEREFORE**, premises considered, the present *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.
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> **SO ORDERED**.

In its *Motion*, petitioner seeks for the reconsideration of the above Decision and prays that a new one be rendered declaring the Formal Letter of Demand and Final Assessment Notices (FLD/FAN) dated October 11, 2018 void *ab initio*, based on the following grounds:

I.
PETITIONER'S ADMINISTRATIVE PROTEST DATED NOVEMBER 15, 2018 EXPRESS[L]Y AND REASONABLY CONTESTED THE FINDINGS OF RESPONDENT AND ITS OFFICERS, THEREBY REMAINING VALID AND EFFECTIVE.

II.
THE ISSUES RAISED BY PETITIONER CHALLENGING THE VALIDITY OF THE FAN IS RIPE FOR JUDICIAL REVIEW. THUS, THE COURT OF TAX APPEALS HAVE JURISDICTION OVER THE PRESENT PETITION.

III.
THE SUBJECT FAN IS VOID *AB INITIO* AND DOES NOT PRODUCE ANY LEGAL EFFECT.

IV.
THE DECISION DISMISSING THE INSTANT PETITION SETS A DANGEROUS PRECEDENT THAT COULD ADVERSELY IMPACT THE RIGHTS OF TAXPAYERS.

V.
THE HONORABLE COURT SHOULD CONSIDER THE MERITS OF THE CASE BEYOND PURELY TECHNICAL GROUNDS.

As to the *first* ground, petitioner asserts that its non-submission of relevant documents within the 60-day period from the filing of a protest does not automatically render a tax assessment final and executory. Petitioner explains that what remains to be submitted are mere additional supporting documents for further consideration by the Bureau of Internal Revenue (BIR). Petitioner insists that the FLD/FAN can only attain finality if the taxpayer fails to file a protest within the period prescribed under the provisions of Revenue Regulations (RR) No. 12-99,[1] as amended by RR No. 18-2013,[2] in relation to Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended. In the present case, petitioner submits that the FLD/FAN cannot be deemed final and executory since it was able to file a Protest and it has raised meritorious legal grounds in challenging the validity of the FLD/FAN which does not necessitate the submission of additional documents to resolve the issues therein.

With regard to the *second* ground, petitioner insists that its right to challenge an arbitrary assessment must be upheld. Petitioner expounds that

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[1] SUBJECT: Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty, September 6, 1999.

[2] SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, November 28, 2013.

once a valid protest is lodged, respondent is required to resolve the same on the merits. Thereafter, on appeal, petitioner avers that the Court should review and rule on the validity of the FLD/FAN and determine whether petitioner's right to due process was violated pursuant to Section 228 of the NIRC of 1997, as amended.

As to the *third* ground, petitioner asserts that it has substantially proven with conclusive evidence that the FLD/FAN is void and does not produce legal effect. Petitioner continues that respondent bears the burden of establishing the validity of his tax assessments including whether they were properly issued in accordance with due process. As such, petitioner submits that a void assessment cannot be validated by subsequent actions, and a void *ab initio* assessment has no binding effect on the taxpayer.

For the *fourth* ground, petitioner argues that invalidating the protest solely on account of absence of supporting documents gravely constitutes a denial of due process and effectively deprives petitioner of its right to challenge a clearly defective and arbitrary assessment. Petitioner contends that holding it liable for an invalid assessment –due to a controverted technicality– establishes a precedent that effectively weakens taxpayer's rights and allows for potential abuse of authority.

As to the *fifth* and last ground, petitioner moves that the Court consider the merits of the case beyond purely technical grounds. Petitioner requests that the Court duly adjudicate on the validity of the FLD/FAN, as well as the merits of petitioner's contention, in disputing respondent's assessments based on the evidence submitted. Petitioner points out that it is imperative for the Court to determine the case on the merits considering that the case has undergone an extensive litigation for over a period of six years and, more particularly, the Court-commissioned Independent Certified Public Accountant (ICPA) has determined that petitioner's basic tax liability amounts only to ₱827,785.00 as opposed to respondent's assessed amount of ₱45,757,423.40, inclusive of surcharge and interest for the taxable year 2015.

After due consideration, the Court finds petitioner's *Motion for Reconsideration* bereft of merit.

To recall, in the assailed Decision, the Court held that there is no disputed assessment to speak of in the present case since petitioner has not validly protested the subject tax assessments due to its failure to submit all relevant documents within the 60-day period from the filing of its request for reinvestigation dated November 15, 2018 and its failure to specify the newly discovered or additional evidence it intends to present, as both required under the provisions of RR No. 12-99, as amended by RR No. 18-2013.

Correspondingly, the present appeal assailing the Final Decision on Disputed Assessment (FDDA) dated May 23, 2019 was deemed premature, thereby depriving this Court of jurisdiction to entertain the same.

The Court sees no reason to deviate from the conclusion reached in the assailed Decision.

To reiterate, this Court has exclusive appellate jurisdiction, *inter alia*, over decisions of respondent in cases involving "disputed assessments". Under Section 7(a)(1)[3] of Republic Act (RA) No. 1125,[4] as amended by RA No. 9282,[5] the Court exercises exclusive appellate jurisdiction to review not the assessments themselves, but the decisions *involving disputed ones* arising under the NIRC of 1997, as amended.[6] Simply put, the rule is that, for this Court to acquire jurisdiction, an assessment must first be disputed by the taxpayer and ruled upon by the respondent to warrant a decision from which a petition for review may be taken to this Court.[7] Otherwise, the tax assessment becomes final, executory and enforceable for failure of the taxpayer to assail the same and can no longer be contested, thus depriving the Court of its jurisdiction to resolve the merits of the case.

Apropos, Section 228 of the NIRC of 1997, as amended, clearly requires that an assessment may be protested (or disputed) administratively by filing a request for reconsideration or reinvestigation within 30 days from receipt thereof *"in such form and manner as may be prescribed by implementing rules and regulations"*;[8] failing which, there is no

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[3] 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 or other laws administered by the Bureau of Internal Revenue; *(Emphasis supplied)*

[4] AN ACT CREATING THE COURT OF TAX APPEALS.

[5] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES, approved on March 30, 2004.

[6] Refer to *People of the Philippines vs. Sandiganbayan (Fourth Division), et al.* G.R. No. 152532, August 16, 2005.

[7] *Oceanic Wireless Network, Inc. v. Commissioner of Internal Revenue, et al.*, G.R. No. 148380, December 9, 2005.

[8] **Section 228.** Protesting of Assessment. – When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: Provided, however, That a pre-assessment notice shall not be required in the following cases:

x x x

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 administrative protest to speak of, and no decision on a disputed assessment to assail under Section 7(a)(1) of RA No. 1125, as amended by RA No. 9282, that would give rise to this Court's exclusive appellate jurisdiction to review by appeal respondent's decision.

Furthermore, Section 3.1.4 of RR No. 12-99, as amended by RR No. 18-2013, defines a request for reinvestigation as 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", the provision is also clear as to the consequence of failure to submit the relevant supporting documents within 60 days, to wit:

> SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment. –*
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> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
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> x x x
>
> 3.1.4 *Disputed Assessment.* — xxx
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> **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. The sixty (60)-day period for the submission of all relevant supporting documents shall not apply to requests for reconsideration. Furthermore, **the term *'the assessment shall become final'* shall mean the taxpayer is barred from disputing the correctness of the issued assessment by introduction of newly discovered or additional evidence, and the FDDA shall consequently be denied**.
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> x x x. *(Emphases supplied)*

More so, the above Section likewise requires that "the taxpayer shall state in his protest (i) the nature of protest whether reconsideration or reinvestigation, specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based, otherwise, his protest shall be considered void and without force and effect." m

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protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

x x x."(Emphasis supplied)

Notably, the afore-quoted provision which explicitly states that "the taxpayer **SHALL** submit all relevant supporting documents" and that "the taxpayer **SHALL** state in his protest", connotes mandatory character. Jurisprudence and statutory construction speak that the word "shall" indicates a word of command, and one which has always or which must be given a compulsory meaning, and it is generally imperative or mandatory in nature.[9]

In this case, petitioner filed its protest requesting for a reinvestigation on November 15, 2018.[10] Petitioner, however, failed to submit all relevant supporting documents –the newly discovered or additional evidence that it intends to present to support its request for reinvestigation– within the 60-day period from date of filing of its request for investigation, which was until January 14, 2019. Consequently, the inevitable conclusion is that the tax assessments issued against petitioner, have become final as the said tax assessments cannot be considered as disputed.

In *Ker and Company, Ltd. v. The Court of Tax Appeals*, et al.,[11] the Supreme Court held that the right to appeal a decision of the Commissioner of Internal Revenue (CIR) to the Court of Tax Appeals (CTA) is merely a statutory remedy. If a statutory remedy provides as a condition precedent that the action to enforce it must be commenced within a prescribed time, such requirement is jurisdictional and failure to comply therewith would bar the appeal and deprive the CTA of its jurisdiction.

Relatively, in *Commissioner of Internal Revenue v. Court of Tax Appeals–Third Division and Citysuper, Incorporated*,[12] the Supreme Court also held that when a taxpayer files a petition for review before the CTA without validly contesting the assessment with the CIR, the petition is premature and the CTA has no jurisdiction. Section 228 of the NIRC of 1997, as amended, is clear. The administrative protest must be filed not only within the stated period, but also "in such form and manner as may be prescribed by implementing rules and regulations".

And, in *Commissioner of Internal Revenue v. Leonardo S. Villa, et al.*,[13] the Supreme Court elucidated that the word "decisions" in paragraph 1, Section 7 of R.A. No. 1125, has been interpreted to mean the decisions of the CIR on the protest of the taxpayer against the assessments. Where a taxpayer questions an assessment and asks the Collector to reconsider or cancel the same because he (the taxpayer) believes he is not liable therefor,

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[9] *UCPB General Insurance Company, Inc. v. Hughes Electronics Corporation*, G.R. No. 190385, November 16,2016.
[10] Exhibit "P-24", Docket- Vol. 3, pp. 1394 to 1402.
[11] G.R. No. L-12396, January 31, 1962.
[12] G.R. No. 239464, May 10, 2021.
[13] G.R. No. L-23988, January 7, 1968.

the assessment becomes a "disputed assessment" that the Collector must decide, and the taxpayer can appeal to the CTA only upon receipt of the decision of the Collecsstor on the disputed assessment.

Time and again the Court emphasizes that jurisdiction is a matter of substantive law. When a case is filed with a court which has no jurisdiction over the action, the court shall *motu proprio* dismiss the case.[14] The Court cannot decide the case on the merits.[15] Simply stated, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action, as any act it performs without jurisdiction is null and void, and without binding legal effect. Correspondingly, the Court need not belabor on the other issues advanced by petitioner.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner in its *Motion for Reconsideration*, the Court finds no compelling reason to reverse or modify the Decision promulgated on March 3, 2025.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

We Concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[14] *Alfredo J. Non, et al. v. Office of the Ombudsman, et al.*, G.R. No. 251177, September 8, 2020.
[15] *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015.