REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

EMERITO R. GOZUM,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11655

Members:

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

Promulgated:
FEB 2 0 2025
2:30 p.m.

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RESOLUTION

Before the Court is a Petition for Review, filed on October 21, 2024, assailing respondent Commissioner of Internal Revenue's ("CIR") assessment of petitioner's alleged deficiency taxes for taxable year 2011 and the denial of his offer of compromise.

The Court lacks jurisdiction over the Petition, which must consequently be dismissed.

The assessment has become final, executory, and unappealable

Under *Section 281 of the National Internal Revenue Code of 1997, as amended* ("*NIRC*"), a taxpayer who disagrees with the CIR's final decision on a disputed assessment may appeal the same by filing a judicial protest before this Court, either 30 days from receipt of the adverse ruling or 30 days after the lapse of the 180 days given to the CIR to act on administrative protests:

> 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 the one hundred eighty (180)-day period; *otherwise, the decision shall become final, executory and demandable.*
> (Italics supplied.)

This Court's jurisdiction over decisions on disputed assessments is also provided by *Section 7(a) of Republic Act ("RA") No. 1125, as amended*:

> 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;
>
> . . . .

Meanwhile, the 30-day period for filing a judicial protest is reiterated by *Rule 8, Section 3(a) of the Revised Rules of the Court of Tax Appeals, as amended*:

> 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 . . . . 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. . . .
>
> (Italics supplied.)

Reading the above together, a taxpayer that receives an adverse decision from the CIR on its administrative protest may appeal such decision by filing a Petition for Review *within 30 days from receipt of such decision.*

Here, petitioner does not identify the exact date on which he received respondent's Final Decision on Disputed Assessment ("FDDA"). The only date he mentions is the date of the FDDA's issuance, which was on May 3, 2018.[1] The Court is thus constrained to assume that said date is also the date of petitioner's receipt of the FDDA. Counting 30 days from this, petitioner had until June 4, 2018,[2] within which to appeal the FDDA before this Court.

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[1] *See* Petition for Review, p. 6, *Rollo*, unpaginated; *see also* Judicial Affidavit [of Emerito R. Gozum], Answer 45, *id.*, unpaginated.

[2] The actual due date was on June 2, 2018, but this fell on a Saturday.

As the instant Petition was filed on October 21, 2024, *i.e.*, 2,363 days from petitioner's receipt of the FDDA and 2,331 days from the end of the 30-day period, the same was filed late. The assessment has become final, executory, and demandable, and this Court can no longer attain jurisdiction over it.

To be sure, the Supreme Court has, in the past, been liberal in determining what constitutes the "final decision" of the CIR from which an appeal can be raised. To it, even an informal letter not in the usual form of a FDDA can be considered the CIR's final decision, so long as the taxpayer maintained its administrative protest.[3] As such, one may be tempted to see the respondent's Denial Letter, dated July 5, 2024, as his final decision on the assessment in dispute.

The temptation must be resisted. Petitioner's offer of compromise cannot be considered a valid continuation of its administrative protest, so respondent's Denial Letter cannot be considered a final decision on the assessment at issue.

Section 204 of the NIRC provides two distinct grounds for compromise of the payment of any internal revenue tax:

> SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. — The Commissioner may –
>
> (A) Compromise the payment of any internal revenue tax, when:
>
> (1) A reasonable doubt as to the validity of the claim against the taxpayer exists; or
>
> (2) The financial position of the taxpayer demonstrates a clear inability to pay the assessed tax.
>
> . . . .

From the foregoing, the CIR can compromise taxes on the ground of either (1) the doubtful validity of the assessment; or (2) financial incapacity on the part of the taxpayer.

Here, petitioner offered a compromise on the ground of financial incapacity[4]—*not* the doubtful validity of the assessment. He thus implicitly accepted the assessment as valid, only offering a compromise due to an alleged inability to fully settle the assessed deficiency taxes.

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3 *Light Rail Transit Authority v. Bureau of Internal Revenue*, G.R. No. 231238, June 20, 2022.
4 *See* Petition for Review, p. 6, *Rollo*, unpaginated; *see also* Judicial Affidavit [of Emerito R. Gozum], Answer 49, *id.*, unpaginated.

Consequently, the Denial Letter is not a final decision on a disputed assessment. The assessment was no longer being disputed: petitioner had implicitly accepted it when he applied for compromise on the ground of financial incapacity rather than the doubtful validity of the assessment. The decision from which petitioner should have appealed was, instead, the FDDA. But as already discussed, he failed to timely file an appeal from said FDDA, rendering the assessment final and executory.

Indeed, petitioner himself seems aware of this distinction, as he directly admitted to not being "in possession of any of the *reply*(ies) or *protest* (s) that he may have filed,"[5] differentiating such hypothetical submissions from his application for compromise. Even to petitioner, then, said compromise offer cannot be considered a continuation of his protest against the assessment.

The Petition for Review must thus be dismissed, insofar as it seeks the cancellation of an assessment that is already beyond this Court's jurisdiction.

Compromise is discretionary, mutual, and consensual; respondent cannot be forced to reverse his denial

The instant Petition does not only assail the assessment against petitioner. It also seeks the reversal of respondent's rejection of petitioner's offer of a compromise of the subject deficiency taxes. The question is now as follows: while the Court lacks jurisdiction over the assailed assessment, can We take cognizance of respondent's disapproval of petitioner's compromise application?

We cannot.

As a rule, the power of the CIR to compromise taxes is discretionary. Courts may not interfere with this power. The only exception to this rule is when a grave abuse of such discretion is committed.[6] No clear grave abuse of discretion was alleged here—petitioner's only arguments against the denial of its compromise application relate to the validity of the assessment but do not identify any grave abuse of the discretionary power at issue here. As such, the Court cannot compel respondent the CIR to accept the compromise application instead.

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5 *See* Petition for Review, p. 6, *id*., unpaginated.

6 *Commissioner of Internal Revenue v. Oriental Assurance Corporation*, G.R. No. 251677, July 28, 2021; *Commissioner of Internal Revenue v. Iconic Beverages, Inc.*, G.R. Nos. 240651 & 240665 (Notice), July 6, 2021; *Kepco Philippines Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 225750-51 (Resolution), July 28, 2020.

Indeed, the very idea of *ordering* a person to accept a compromise is antithetical to the concept of such. A compromise is an agreement and thus requires mutual consent. As characterized by the Supreme Court in *Del Rosario v. Madayag*,[7] a compromise "is an agreement between two or more persons, who, for preventing or putting an end to a lawsuit, adjust their difficulties by mutual consent in the manner which they agree on, and which [every one] of them prefers to the hope of gaining, balanced by the danger of losing." Furthermore, a compromise agreement's validity is determined by compliance with the requisites and principles of contracts, one of which is that the parties consent to said agreement.[8]

A person cannot be *ordered* or *forced* to consent to a compromise if they disagree with it, however. That would be the opposite of consent. As such, and by the very definition of a compromise, the Court cannot reverse respondent's rejection of petitioner's compromise application and *order* him to accept it instead.

Neither can this Court's jurisdiction over appeals from decisions of the CIR involving "other matters" arising from the NIRC, as provided by *Section 7(a)(1) of RA 1125, as amended*, magically do away with the above points.

The "other matters" provision was clearly included to cover general matters not directly identified in the law. Painstakingly listing every single matter that could possibly arise from the *NIRC* and create a dispute between the CIR and taxpayers would not be practical for a law, after all. However, it should not be taken to prevail over specific or special cases over which the Court of Tax Appeals has no jurisdiction. For example, it cannot give this Court jurisdiction over assessments that were never disputed administratively or assessments that have already become final and executory, despite these two clearly being "matters" which "arise" from the *NIRC*.

Applied here, the mere invocation of "other matters" cannot nullify the rule against interference by courts with the CIR's discretionary power (*sans* grave abuse of such discretion) or allow this Court to directly contradict the very definitions of "compromise," "agreement," and "consent." We consequently lack jurisdiction over the disapproval of petitioner's compromise application and cannot grant the reversal he seeks.

The Court thus lacks jurisdiction over either of the two issues brought before Us. As such, We have no recourse but to dismiss this case.

ACCORDINGLY, the Petition for Review, filed on October 21, 2024, is hereby **DISMISSED** for lack of jurisdiction.

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[7] G.R. No. 118531, August 28, 1995.

[8] *Sps. Garcia v. Sps. Soriano*, G.R. No. 219431, August 24, 2020, *citing Magbanua v. Uy*, G.R. No. 161003, May 6, 2005.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice