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,

- versus -

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

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

Present:

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

Promulgated:

DEC 18 2015
1:50 p.m.

x---x

RESOLUTION

CASTAÑEDA, JR., *J.*:

For the Court *En Banc*'s resolution is petitioner's **Motion for Reconsideration** of the Decision dated June 30, 2015, filed through registered mail on August 4, 2015, with respondent's **Comment** filed on October 15, 2015.

For easy reference, the dispositive portion of the assailed Decision reads:

> "**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**."

In its motion, petitioner submits that while it understands that the Court *En Banc* has no jurisdiction to rule upon the merits of the instant Petition, this Court has the power to review the propriety of the warrant of garnishment issued by respondent.

On the other hand, respondent maintains that the Regional Trial Court (RTC) did not err in dismissing the case for lack of jurisdiction.

From the foregoing, this Court is confronted with the issue whether it has the power to hear, try and decide on the merits of the instant case.

We rule in the negative.

Jurisdiction is defined as the power and authority of the court to hear, try and decide a case.[1] In relation thereto, "there is no rule in procedural law as basic as the precept that jurisdiction is conferred by law, and any judgment, order or resolution issued without it is void and cannot be given any effect."[2]

As laid down in the assailed Decision, the CTA – whether sitting *En Banc* or in division, is not conferred with jurisdiction to decide over cases decided by the RTC *vis a vis* petitions for injunction to restrain the collection of national internal revenue taxes. Thus:

> "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. Jc

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[1] *Maricris D. Dolot v. Hon. Ramon Paje*, G.R. No. 199199, August 27, 2013, citing *Landbank of the Philippines v. Villegas*, G.R. No. 180384, March 26, 2010, 616 SCRA 626, 630.

[2] *Angelito P. Magno v. People of the Philippines*, G.R. No. 171542, April 6, 2011, citing *Machado v. Gatdula*, G.R. No. 156287, February 16, 2010, 612 SCRA 546, 559, citing *Spouses Vargas v. Spouses Caminas*, G.R. Nos. 137839-40, June 12, 2008, 554 SCRA 305, 317; *Metromedia Times Corporation v. Pastorin*, G.R. No. 154295, July 29, 2005, 465 SCRA 320, 335; *Dy v. National Labor Relations Commission*, 229 Phil. 234, 242 (1986) and *National Housing Authority v. Commission on the Settlement of Land Problems*, G.R. No. 142601, October 23, 2006, 505 SCRA 38, 43.

> 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*."[3]

Petitioner recognizes that this Court has no jurisdiction to decide on the merits of the Petition, yet, it pleads for this Court to review the propriety of the warrant of garnishment issued by respondent, which precisely involves the merits of the instant case. Consequently, it would be a mere exercise in futility should this Court take cognizance of the instant Petition albeit being bereft of the power to hear and decide the same.

Considering the foregoing, We see no compelling reason to reverse the assailed Decision.

WHEREFORE, in view of the foregoing, petitioner's Motion for Reconsideration is hereby **DENIED**, for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

(With Separate Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

[3] Decision dated June 30, 2015, Docket, p. 198.

CAESAR. A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS LIBAN
Associate Justice

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SEPARATE CONCURRING OPINION

DEL ROSARIO, PJ.:

I concur with the *ponencia* in denying the Motion for Reconsideration for lack of merit considering that the taxpayer failed to assail the Warrant of Distraint and Levy with the Court of Tax Appeals (CTA) within thirty (30) days from receipt thereof.

I am, however, of the opinion that the CTA has jurisdiction to entertain the appeal of the decision of the RTC denying the petition for injunction seeking to restrain the implementation of the Warrant of Distraint and Levy issued by the BIR as a mode of collecting taxes.

With the enactment of Republic Act (RA) No. 1125, as amended by RA 9282 and 9503, **the CTA was created specifically to handle and resolve controversies involving tax matters.** In *Bureau of Customs vs. The Honorable Agnes VST Devandera, Acting Secretary, Department of Justice, et al.*,[1] the Supreme Court clarified the power of the CTA to rule on tax matters emanating from the National Internal Revenue Code (NIRC) of 1997, as amended, *viz:*,

> "Since the Court ruled in City of Manila v. Hon. Grecia-Cuerdo that the CTA has jurisdiction over a special civil action for certiorari questioning an interlocutory order of the RTC in a local tax case via express constitutional mandate and **for being inherent in the exercise of its appellate jurisdiction**, it can also be reasonably concluded based on the same premise that the CTA has original jurisdiction over a petition for certiorari assailing the DOJ resolution in a **preliminary investigation involving tax and tariff offenses**.
>
> If the Court were to rule that jurisdiction over a petition for certiorari assailing such DOJ resolution lies with the CA, it would be confirming the exercise by two judicial bodies, the CA and the CTA, of jurisdiction over basically the same subject matter – precisely the split-jurisdiction situation which is anathema to the orderly administration of justice. The Court cannot accept that such was the legislative intent, especially considering that R.A. No. 9282 expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power." *(Emphases supplied)*

In view of the Supreme Court's recent pronouncement, the CTA should take cognizance of the appeal from the denial of a petition for injunction for the **collection of taxes, which is inherent in the exercise of its appellate jurisdiction over "other matters arising under the NIRC of 1997, as amended**." Between the CTA and Court of Appeals, this Court is better equipped to resolve the present controversy considering that this case concerns basically a plea to enjoin the BIR from collecting taxes pursuant to the NIRC of 1997, as amended.

As afore-discussed, however, while the CTA has jurisdiction over the decision of the RTC in denying the petition for injunction, the present case may be dismissed outright for having been filed beyond the reglementary period within which to assail the BIR's Warrant of Distraint and Levy.

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[1] G.R. No. 193253, September 8, 2015.

All told, I **VOTE** to deny petitioner's Motion for Reconsideration.

ROMAN G. DEL ROSARIO
Presiding Justice