REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

FRIENDLYCARE FOUNDATION, INC., *Petitioner,*	**CTA EB No. 3056** (CTA Case No. 10123)
	Present:
- versus -	**RINGPIS-LIBAN,** *P.J.*, **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: MAR 17 2026

x- x

DECISION

REYES-FAJARDO, *J.*:

We resolve the Petition for Review[1] filed on January 8, 2025, challenging the Decision dated May 30, 2024[2] and the Resolution dated December 2, 2024[3] in CTA Case No. 10123, whereby the Court of Tax Appeals First Division (Court in Division) dismissed CTA Case No. 10123, for lack of jurisdiction, as petitioner failed to lodge its appeal to the Court in Division within the period provided under Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended.

---

1 *Rollo,* pp. 39 to 72.
2 *Id.*, pp. 79 to 100.
3 *Id.*, pp. 102 to 107.

The facts[4] follow.

Petitioner is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office at 710 Shaw Blvd., Mandaluyong City. It is registered with the Bureau of Internal Revenue (BIR) with Tax Identification Number (TIN) 203-360-529-000.

Respondent is the Commissioner of Internal Revenue (CIR) charged with, among others, the duty of assessing and collecting internal revenue taxes, fees or other charges, penalties imposed under the NIRC, as amended, or other laws or portions thereof. He holds office at the BIR, National Office Building, BIR Road, Diliman, Quezon City. He is primarily represented in this case by the Legal Division of BIR Revenue Region No. 7B-East NCR, located in 25F The Podium West Tower, ADB Avenue, Ortigas Center, Mandaluyong City.

On June 2, 2016, the BIR issued a Letter of Authority with Reference No. LOA-041-2016-00000338 (SN: eLA201500016245) through the Regional Director (RD) of Revenue Region No. 007-Quezon City, Alfredo V. Misajon, to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for the period January 1, 2014 to December 31, 2014.

On September 29, 2017, petitioner received a Preliminary Assessment Notice with Details of Discrepancies dated September 28, 2017, through OIC-RD Marina C. De Guzman (RD De Guzman), containing alleged income tax, value-added tax, and expanded withholding tax deficiencies amounting to ₱17,187,237.10, inclusive of interest.

On October 13, 2017, petitioner filed its Reply thereto.

On October 23, 2017, petitioner received RD De Guzman's Formal Letter of Demand with Details of Discrepancies and Assessment Notices (FLD/FAN), demanding payment of the alleged tax deficiencies amounting to ₱17,422,772.62.

---

4 *Rollo*, pp. 81 - 88.

On November 21 2017, petitioner filed its protest against the FLD/FAN.

On November 29, 2018, petitioner received RD De Guzman's Final Decision on Disputed Assessment (FDDA) with attached Details of Discrepancies dated November 26, 2018, directing petitioner to pay the alleged tax deficiency in the amount of ₱10,366,086.95, including surcharges and interest.

On December 21, 2018, petitioner filed a Request for Reconsideration with respondent.

On July 19, 2019, petitioner filed a Petition for Review before the Court in Division, docketed as CTA Case No. 10123.

Trial ensued.

In the assailed Decision,[5] the Court in Division stressed that Section 228 of the NIRC, as amended, provides a *singular* one hundred eighty (180)-day period for respondent or his duly authorized representative to decide a taxpayer's administrative protest.[6]

On November 21, 2017, petitioner protested RD De Guzman's FLD/FAN. Counting one hundred eighty (180) days therefrom, **respondent or RD De Guzman** had until May 20, 2018 to act on said protest. In other words, at the time RD De Guzman issued his FDDA on November 26, 2018, said one hundred eighty (180)-day period was fully exhausted at RD De Guzman's level. *A fortiori,* upon

---

5 *Supra* note 2.

6 Section 228 of the NIRC provides:

> **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...
>
> 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.

petitioner's administrative appeal to respondent, the singular 180-day period was no longer available; thus, the only recourse is to await the latter's adverse decision on its administrative appeal, and appeal the same with the CTA in Division. Instead of awaiting respondent's adverse decision, petitioner counted *another* 180 days for respondent to decide its administrative appeal—a remedy not acknowledged by Section 228 of the NIRC, as amended, and jurisprudence. This resulted in dismissal of CTA Case No. 10123 as follows:

> **WHEREFORE**, the foregoing premises considered, the present Petition for Review filed by petitioner Friendlycare Foundation, Inc. on 19 July 2019 is hereby **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**

On June 20, 2024, petitioner filed a Motion for Reconsideration (Re: Decision dated May 30, 2024).[7]

On December 2, 2024, the Court in Division denied[8] the said motion for lack of merit, thus:

> **WHEREFORE**, the foregoing premises considered, petitioner's "Motion for Reconsideration (Re: Decision dated May 30, 2024) filed on 20 June 2024 is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

Hence, this Petition for Review.

ARGUMENTS

Petitioner maintains that the rule governing the reckoning of the 180-day period at the time it filed its Petition for Review was confusing, misleading, and unclear. It argues that under Section 228 of the NIRC and Revenue Regulation (RR) No. 12-99, as amended, the counting of the 180-day period should logically commence from the filing of its administrative appeal of the FDDA to respondent,

---

7 Docket (CTA Case No. 10123), Volume II, pp.951-957.

8 *Rollo*, pp. 102 -107.

rather than from the initial protest which had already been acted upon by the RD. It submits that the subsequent ruling in *Nueva Ecija II Electric Cooperative, Inc. Area II v. Commissioner of Internal Revenue (NEECO II Area II)*[9] which categorically held that there is no new or separate 180-day period granted to the CIR to act on administrative appeal, should not be applied retroactively. On this premise, petitioner asserts that its Petition for Review filed on July 19, 2019 was timely.

Respondents failed[10] to file a comment on petitioner's assertions.

ISSUE

Did the Court in Division err in dismissing CTA Case No. 10123 for lack of jurisdiction?

RULING

We deny the Petition.

Section 7(a)(1) of Republic Act (RA) No. 1125, as amended, vests the Court of Tax Appeals with exclusive appellate jurisdiction over decisions of the CIR, *viz.*:

> **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...[11]

---

[9] G.R. No. 258101, April 19, 2022.
[10] Records Verification Report dated March 6, 2025, *Rollo*, p.438.
[11] Emphasis Ours.

Section 3 (a) (1), Rule 4 of the Revised Rules of the Court of Tax Appeals[12] implements the foregoing, provides that the Court in Division has exclusive appellate jurisdiction to review, by appeal, the decisions of the CIR involving disputed assessments or other matters arising under the NIRC, as amended, to wit:

> Sec. 3. Cases within the jurisdiction of the Court in Divisions. –
>
> The Court in Divisions shall exercise:
>
> (a) Exclusive original or appellate jurisdiction to review by appeal the following:
>
> (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; ...

Section 228 of the NIRC, as amended, ordains the mandatory and jurisdictional manner to perfect an appeal to the Court in Division if a decision on the protest is denied in whole or in part by the CIR:

> **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

---

[12] A.M. No. 05-11-07-CTA, November 25, 2005.

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 the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.[13]

Relative thereto, RR No. 12-99, as amended by RR No. 18-2013, explains in detail the taxpayer's options on disputed assessment, to wit:

Sec. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* — ...

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.

If the protest is not acted upon by the Commissioner's duly authorized representative within one hundred eighty (180) days counted from the date of filing of the protest in case of a request reconsideration; or from date of submission by the taxpayer of the required documents within sixty (60) days from the date of filing of the protest in case of a request for reinvestigation, the taxpayer may either: (i) appeal to the CTA within thirty (30) days after the expiration of the one hundred eighty (180)-day period; or (ii) await the final decision of the Commissioner's duly authorized representative on the disputed assessment.

If the protest or administrative appeal, as the case may be, is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision. Otherwise, the assessment shall become final, executory and demandable. A motion for reconsideration of the

---

13 Emphasis Ours.

> Commissioner's denial of the protest or administrative appeal, as the case may be, shall not toll the thirty (30)-day period to appeal to the CTA.
>
> **If the protest or administrative appeal is not acted upon by the Commissioner within one hundred eighty (180) days counted from the date of filing of the protest, the taxpayer may either: (i) appeal to the CTA within thirty (30) days from after the expiration of the one hundred eighty (180)-day period; or (ii) await the final decision of the Commissioner on the disputed assessment and appeal such final decision to the CTA within thirty (30) days after the receipt of a copy of such decision.**
>
> **It must be emphasized, however, that in case of inaction on protested assessment within the 180-day period, the option of the taxpayer to either: (1) file a petition for review with the CTA within 30 days after the expiration of the 180-day period; or (2) await the final decision of the Commissioner or his duly authorized representative on the disputed assessment and appeal such final decision to the CTA within 30 days after the receipt of a copy of such decision, are mutually exclusive and the resort to one bars the application of the other.** [14]

In *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*[15] citing *Philippine Amusement and Gaming Corp. v. Bureau of Internal Revenue, et al.*,[16] the Supreme Court summarized the options of a protesting taxpayer:

> 1. If the protest is wholly or partially denied by the CIR or 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;
>
> **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.**[17]

---

[14] Emphasis Ours.
[15] G.R. No. 221780, March 25, 2019.
[16] G.R. No. 208731, January 27, 2016.
[17] Emphasis Ours.

Notably, the Supreme Court in *NEECO II Area II* confirmed that there is only one continuous 180-day period within which the respondent or his duly authorized representative may act on a taxpayer's protest, *viz.*:

> As correctly ruled by the CTA *EB*, Section 228 of Republic Act (RA) No. 8424, or the National Internal Revenue Code, as amended (hereafter, Tax Code) unmistakably provides that the one hundred eighty (180)-day period should be reckoned from the "submission of documents," which in this case was on 19 September 2016. Perforce, the statutory 180-day period lapsed on 18 March 2017. From such point, petitioner had thirty (30) days, or until 17 April 2017, to elevate the case to the CTA. However, it filed its Petition only on 2 June 2017, which is beyond the reglementary period provided by the law. Notably, Section 3.1.4 of Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-13, which implements Section 228 of the Tax Code, provides for alternative courses of action to the taxpayer upon its receipt of the Final Decision on Disputed Assessment issued by the authorized representative of respondent Commissioner on Internal Revenue (respondent), including the option of elevating the protest to the respondent himself through a request for reconsideration. **However, nowhere in said provision does it provide that a fresh 180-day period is granted to the respondent to act on such administrative appeal**. As aptly observed by the CTA *EB*, upholding petitioner's argument would run contrary to the clear language of Section 228 and would unduly expand the period provided by the law.

Petitioner argues that *NEECO II Area II* does not govern the present case as it was promulgated only in 2022 and therefore cannot be given retroactive application.

This should be corrected.

In *Visayas Geothermal Power Company v. Court of Appeals*,[18] it was explained that a Supreme Court interpretation of a statute is deemed part of the law as of the date the statute was enacted, except when it overturns a prior doctrine, *viz*:

> Article 8 of the Civil Code provides that "judicial decisions applying or interpreting the law shall form part of the legal system of the Philippines and shall have the force of law." The interpretation placed upon a law by a competent court establishes the contemporaneous legislative intent of the law. Thus, such

18 G.R. No. 197525, June 4, 2014.

> interpretation constitutes a part of the law as of the date the statute is enacted. **It is only when a prior ruling of the Court is overruled, and a different view adopted, that the new doctrine may have to be applied prospectively in favor of parties who have relied on the old doctrine and have acted in good faith.**[19]

Based on the foregoing, *NEECO II Area II* is deemed part of Section 228 of the NIRC, as amended, as of the date it was enacted. As petitioner failed to establish that *NEECO II Area II* overturns a prior doctrine, there is no reason to warrant its prospective application. In turn, the tenet that there is no new or separate 180-day period granted to respondent to act on an administrative appeal applies in the instant case.

Applying Section 228 of the NIRC as construed in *NEECO II Area II*, the Petition for Review was belatedly filed before the Court in Division.

Here, petitioner mistakenly treated its administrative appeal filed on December 21, 2018 as the starting point of a new 180-day period. However, the law contemplates only a *singular* 180-day period, reckoned from the filing of the protest, which in this case had already lapsed on May 20, 2018. Thus, when RD De Guzman issued the FDDA on November 26, 2018, the 180-day period had long been exhausted. Petitioner's only available remedy was to await respondent's adverse decision and to appeal such decision to the Court in Division within thirty (30) days from receipt thereof. Consequently, upon petitioner's administrative appeal to respondent, there was no remaining 180-day period to speak of, and petitioner could not validly premise its remedy on "inaction" after such lapse. Therefore, petitioner's belief that it had thirty (30) days from the supposed expiration of a fresh 180-day period or until July 19, 2019 to file a Petition for Review was not sanctioned by law.

In *precis*, the Court in Division held that it had no jurisdiction to take cognizance of the case.

So it must stand.

WHEREFORE, the Petition for Review, filed on January 8, 2025, is **DENIED**, for lack of merit. The Decision dated May 30, 2024

---

[19] Emphasis Ours.

and Resolution dated December 2, 2024 in CTA Case No. 10123, are hereby **AFFIRMED**.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice