REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

FORT BONIFACIO DEVELOPMENT CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10425

Members:

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

Promulgated:
MAY 06 2025

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DECISION

FERRER-FLORES, J.:

The *Petition for Review* prays for the Court to render judgment ordering the cancellation and withdrawal of assessment against petitioner **Fort Bonifacio Development Corporation** for alleged deficiency value-added tax (VAT) for the period July 1, 2014 to December 31, 2014, in the total amount of **₱28,987,923.78**, inclusive of interest.[1]

THE PARTIES

Petitioner Fort Bonifacio Development Corporation is a domestic corporation duly organized and existing under Philippine laws with office address at 2/F Bonifacio Technology Center, 31st Street corner 2nd Avenue, Bonifacio Global City, Taguig City, Philippines 1634. It is primarily engaged in the development of a 440-hectare area in Fort Bonifacio for residential, commercial, business, mixed development, institutional, recreational, tourism, sports, amusement, people movers, security systems,

[1] Statement of the Case, Pre-Trial Order dated September 12, 2022, Docket – Vol. I, p. 413.

and other purposes, and it is registered with the Bureau of Internal Revenue (BIR) under Tax Identification Number 004-707-554-000, and the Philippine Economic Zone Authority.[2]

Respondent is the duly appointed **Commissioner of Internal Revenue** vested under the appropriate laws with the authority to carry out the functions, duties and responsibilities of his office, including, *inter alia*, the power to decide disputed assessments and to cancel and abate tax liabilities pursuant to the provisions of the National Internal Revenue Code (NIRC) of 1997, other tax laws, and rules and regulations.[3]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

Petitioner received the *Letter of Authority* (LOA) No. eLA201500034375 dated October 7, 2016 from the BIR Large Taxpayers Service (LTS), authorizing Revenue Officers (ROs) Glaiza Reguyal, Ivy Claudette Puno, and Group Supervisor (GS) Mariesol Girang, to examine petitioner's books of accounts and other accounting records for VAT for the period from July 1, 2014 to December 31, 2014. The LOA was signed by Officer-in-Charge (OIC) – Assistant Commissioner of the LTS, Teresita M. Angeles.[4]

On August 24, 2017, petitioner received the *Preliminary Assessment Notice* (PAN) dated August 18, 2017 from the LTS, proposing to assess petitioner for deficiency VAT in the total amount of ₱32,037,684.30, inclusive of interests and compromise penalties, for the period from July 1, 2014 to December 31, 2014.[5]

Thereafter, on September 14, 2017, petitioner received the *Formal Letter of Demand* (FLD) dated September 8, 2017, assessing petitioner alleged deficiency VAT for the second semester of 2014 in the total amount of ₱32,383,476.05, inclusive of interests and compromise penalties, broken down as follows:[6]

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[2] Par. 1, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, pp. 396 to 397; Exhibits "P-2", "P-1-A", and "P-3-a" to "P-3-b", Docket – Vol. II, pp. 547 to 617; 543 to 546; and 618 to 619, respectively.

[3] Par. 2, Stipulation of Facts, JSFI, Docket – Vol. I, p. 396.

[4] Par. 3, Stipulation of Facts, *Id.* at 397; Exhibit "P-4", Docket – Vol. II, pp. 620 to 621; Exhibit "R-1", BIR Records (Exhibit "R-11"), p. 2.

[5] Par. 4, Stipulation of Facts, JSFI, Docket – Vol. I, p. 397; Exhibit "P-5", Docket – Vol. II, pp. 622 to 631; Exhibits "R-4" and "R-4-A", BIR Records (Exhibit "R-11"), pp. 307 to 310.

[6] Par. 5, Stipulation of Facts, JSFI, Docket – Vol. I, p. 397; Exhibit "P-6", Docket – Vol. II, pp. 632 to 650; Exhibits "R-6", "R-6-A", and "R-6-B", BIR Records (Exhibit "R-11"), pp. 330 to 335.

Tax Type	Basic Tax Due	Interest	Total
VAT	₱21,035,664.93	₱11,272,811.12	₱32,308,476.05
Compromise penalties	75,000.00		75,000.00
		Total	**₱32,383,476.05**

On October 13, 2017, petitioner filed its *Protest Letter/Request for Reinvestigation* dated October 12, 2017 against the said FLD.[7]

Subsequently, on November 20, 2020, respondent issued the *Final Decision on Disputed Assessment* (FDDA), which assessed petitioner with alleged deficiency VAT for the period from July 1, 2014 to December 31, 2014, in the total amount of ₱28,987,923.78, inclusive of interest, broken down as follows:[8]

Tax Type	Basic Tax Due	Interest	Total
VAT	₱16,419,292.64	₱12,568,631.14	₱28,987,923.78

Respondent then garnished from petitioner's bank account with Union Bank the amount of ₱28,987,923.78 as payment for the subject deficiency VAT assessment covering the second half of taxable year (TY) 2014, as evidenced by Payment Form 0605 signed by RO Carlo Miguel Narboneta of the Large Taxpayers Collection Enforcement Division (LT-CED) and validated BIR Tax Payment Deposit Slip covering the said garnished amount.[9]

PROCEEDINGS BEFORE THIS COURT

On December 21, 2020, petitioner filed the present *Petition for Review*.[10]

Respondent then filed via registered mail on February 18, 2021 a *Motion for Extension of Time to File Answer*,[11] which the Court granted in the Resolution dated March 3, 2021,[12] giving respondent a non-extendible period of 30 days, or until March 20, 2021, within which to file his *Answer*, as prayed for.

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7 Exhibit "P-7", Docket – Vol. II, pp. 644 to 648.

8 Par. 6, Stipulation of Facts, JSFI, Docket – Vol. I, p. 397; Exhibit "P-8", Docket – Vol. II, pp. 651 to 655; Exhibits "R-9" and "R-9-A", BIR Records (Exhibit "R-11"), pp. 424 to 428.

9 Par. 7, Stipulation of Facts, JSFI, Docket – Vol. I, pp. 397 to 398.

10 Docket – Vol I, pp. 7 to 30.

11 *Id.* at 177 to 179.

12 *Id.* at 183.

Thereafter, on March 23, 2021, respondent filed via registered mail a *Motion for Leave to Admit Attached Answer*,[13] which the Court granted in the Resolution dated June 7, 2021,[14] thereby admitting the attached *Answer*[15] as part of the records of the case.

In the Resolution dated June 23, 2021,[16] the case was referred to mediation at the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA), pursuant to Section II of the *Interim Guidelines for Implementing Mediation in the Court of Tax Appeals* approved by the Supreme Court on January 18, 2011.

On November 12, 2021, petitioner filed an *Urgent Motion to Suspend Collection of Tax Liability (Urgent Motion)*.[17] Respondent, however, failed to file his comment thereon.[18]

At the hearing held on March 23, 2022,[19] petitioner presented its testimonial and documentary evidence in support of its *Urgent Motion to Suspend Collection of Tax Liability*.

On March 24, 2022, the PMC-CTA reported that the mediation was unsuccessful,[20] which the Court noted in the Resolution dated March 30, 2022.[21]

Petitioner then filed on April 4, 2022 a *Supplemental Motion (To Petitioner's Urgent Motion to Suspend Collection of Tax Liability filed on November 12, 2021)*,[22] and its *Formal Offer of Evidence (In support of Petitioner's Urgent Motion to Suspend Collection of Tax Liability and Supplemental Motion to Quash Writs of Garnishment)*.[23] Respondent failed to file his comment on petitioner's *Supplemental Motion* and *Formal Offer of Evidence*.[24]

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13 Docket – Vol I, pp. 184 to 187.
14 *Id.* at 204.
15 *Id.* at 189 to 201.
16 *Id.* at 206 to 207.
17 *Id.* at 208 to 220.
18 Records Verification Report dated March 22, 2022 issued by the Judicial Records Division of this Court (JRD), Docket – Vol. I, p. 282.
19 Exhibit "P-22", Docket – Vol. I, pp. 229 to 235, Minutes of hearing held on, and Order dated, March 23, 2022, Docket – Vol. I, pp. 283 to 285.
20 *Mediator's Report*, Docket – Vol. I, p. 286.
21 Docket – Vol. I, p. 295.
22 *Id.* at 296 to 301.
23 *Id.* at 303 to 306.
24 Records Verification Report dated May 13, 2022 issued by the JRD, Docket – Vol. I, p. 316.

On May 31, 2022, respondent transmitted the *BIR Records* for this case, consisting of two folders.[25]

In the Resolution dated June 30, 2022,[26] the Court admitted petitioner's offered exhibits in support of its *Urgent Motion to Suspend Collection of Tax Liability and Supplemental Motion to Quash Writs of Garnishment.*

On July 12, 2022, petitioner filed a *Motion for Leave to Amend Petition for Review*,[27] attaching therewith its *Amended Petition for Review*.[28]

The Pre-Trial Conference was set and held on July 19, 2022.[29] Prior thereto, *Respondent's Pre-Trial Brief* was filed on May 27, 2022;[30] while *Petitioner's Pre-Trial Brief* was submitted on July 15, 2022.[31]

Thereafter, on August 17, 2022, the parties submitted their *Joint Stipulation of Facts and Issues*,[32] which was admitted and approved by the Court in the Order dated August 26, 2022,[33] thereby deeming the termination of the Pre-Trial. Subsequently, the Pre-Trial Order dated September 12, 2022 was issued by the Court.[34]

In the Resolution dated October 6, 2022,[35] the Court denied petitioner's *Urgent Motion* and *Supplemental Motion (To Petitioner's Urgent Motion to Suspend Collection of Tax Liability filed on November 12, 2021)*, for lack of merit.

Respondent failed to file his comment on petitioner's *Motion for Leave to Admit Amended Petition for Review*.[36] In the Resolution dated January 18, 2023,[37] the Court granted the said *Motion for Leave*, and admitted the *Amended Petition for Review* attached thereto.

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25 *Compliance* dated May 27, 2022, Docket – Vol. I, pp. 336 to 338.
26 Docket – Vol. I, pp. 345 to 346.
27 *Id.* at 347 to 348.
28 *Id.* at 349 to 373.
29 Notice of Pre-Trial Conference dated April 6, 2022, Docket – Vol. I, pp. 313 to 314; Minutes of the hearing held on, and Order dated, July 19, 2022, Docket – Vol. I, pp. 387 to 389.
30 Docket – Vol. I, pp. 330 to 334.
31 *Id.* at 374 to 383.
32 *Id.* at 396 to 403.
33 *Id.* at 407.
34 *Id.* at 413 to 421.
35 *Id.* at 446 to 450.
36 Records Verification Reports dated November 22, 2022 and February 28, 2023 issued by the JRD, Docket – Vols. I and II, pp. 454 and 741, respectively.
37 Docket – Vol. I, pp. 524 to 527.

As trial ensued, petitioner presented its testimonial and documentary evidence. It offered the testimonies of: (1) Ms. Melissa F. Encarnacion,[38] petitioner's Treasury Manager; (2) Ms. Winnie C. Ramos,[39] petitioner's Assistant Tax Manager; and, (3) Mr. Joel M. Ganalon,[40] the Court-commissioned Independent Certified Public Accountant (ICPA),[41] whose *Report* was submitted on December 5, 2022.[42]

On February 20, 2023, petitioner filed its *Formal Offer of Evidence,*[43] to which respondent filed his *Comment (Re: Formal Offer of Evidence dated 20 February 2023)* on February 23, 2023.[44] In the Resolution dated April 26, 2023,[45] the Court admitted petitioner's offered exhibits.

For his part, respondent offered the testimony of RO Glaiza V. Reguyal-Vergara.[46]

On October 3, 2023, respondent filed his *Formal Offer of Evidence*;[47] but petitioner failed to file its comment thereon.[48] In the Resolution dated February 21, 2024,[49] the Court admitted respondent's exhibits.

Respondent filed a *Manifestation* on March 13, 2024,[50] stating that he is adopting the arguments raised in his *Answer* as his *Memorandum.*

Petitioner's Memorandum was submitted on April 29, 2024.[51]

The present case was considered submitted for decision on May 7, 2024.[52]

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38 Exhibit "P-22", Docket– Vol. I, pp. 229 to 235; Minutes of hearing held on, and Order dated, March 23, 2022, Docket – Vol. I, pp. 283 to 285.
39 Exhibit "P-13", Docket– Vol. I, pp. 162 to 174; Minutes of hearing held on, and Order dated, October 6, 2022, Docket – Vol. I, pp. 451 to 453.
40 Exhibit "P-14", Docket – Vol. I, pp. 501 to 513; Minutes of hearing held on, and Order dated, January 19, 2023, Docket – Vol. I, pp. 528, and 531 to 532, respectively.
41 Minutes of hearing held on, and Order dated, October 6, 2022, Docket – Vol. I, pp. 451 to 453.
42 Docket – Vol. I, pp. 459 to 489.
43 Docket – Vol. II, pp. 534 to 542.
44 *Id.* at 736 to 739.
45 *Id.* at 745 to 746.
46 Exhibit "R-12", Docket – Vol. I, pp. 321 to 329; Minutes of hearing held on, and Order dated, September 19, 2023, Docket – Vol. II, pp. 750 to 751.
47 Docket – Vol. II, pp. 752 to 758.
48 Records Verification dated November 13, 2023 issued by the JRD, Docket – Vol. II, p. 760.
49 Docket – Vol. II, p. 763.
50 *Id.* at 764 to 766.
51 *Id.* at 772 to 793.
52 Minute Resolution dated May 7, 2024, Docket – Vol. I, p. 794.

THE STIPULATED ISSUES

As stipulated by the parties, the issues for this Court's resolution are as follows:

> 1. Whether or not Petitioner is liable for deficiency Value-Added Tax for the period from July 1, 2014 to December 31, 2014, plus interest, in the aggregate amount of Php28,987,923.78.
>
> 2. Whether or not Petitioner is entitled for the refund of or corresponding credit for the garnished amount collected by Respondent from Petitioner as payment for the subject deficiency VAT assessment covering the period from July 1, 2014 to December 31, 2014 in the amount of Php28,987,923.78.[53]

Petitioner's arguments:

Petitioner argues that the deficiency tax assessments are null and void as they were issued in violation of its right to due process; and, that the assessments have no factual and legal bases.

Respondent's counter-arguments:

In his *Answer*, respondent contends that the FLD and FDDA contain a definite amount of tax; that the assessment issued against petitioner has factual and legal bases; and, that the assessment issued against petitioner is valid and lawful.

THE COURT'S RULING

The present *Petition for Review* must be dismissed.

Before proceeding to resolve this case on the merits, the Court shall first determine its jurisdiction to entertain the present appeal.

To obviate the possibility that its decision may be rendered void, the Court can, by its own initiative, raise the question of jurisdiction, although not raised by the parties. As a corollary thereto, to inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for

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53 Issues, JSFI, Docket – Vol. I, p. 398.

thereon would depend the validity of its entire proceedings. Therefore, even if there was no jurisdictional issue raised by any party, the Court may look into it at anytime of the proceedings, even during appeal.[54]

To be sure, the matter of jurisdiction may be ruled upon regardless of the stage of the proceedings, considering that a judgment rendered without jurisdiction is null and void, and a void judgment cannot be the source of any right whatsoever.[55]

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[56]

Section 228 of the NIRC of 1997, as amended, reads:

> 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: xxx
>
> xxx xxx xxx
>
> The taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
>
> 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 <u>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.</u>**

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[54] Refer to *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 185969, November 19, 2014.

[55] Refer to *El Greco Ship Manning and Management Corporation vs. Commissioner of Customs*, G.R. No. 177188, December 4, 2008.

[56] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

> 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. *(Emphases and underscoring added)*

Based on the foregoing provision, a tax assessment issued by the BIR may be protested administratively, within 30 days from receipt thereof, by filing either a request for reconsideration or reinvestigation, **in such <u>form and manner</u> as may be prescribed by implementing rules and regulations.** Moreover, within 60 days from the filing of a protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

Implementing the above-quoted Section 228, particularly the *form and manner* of filing of the requests for reconsideration and for reinvestigation, Section 3 of Revenue Regulations (RR) No. 12-99,[57] as amended by RR No. 18-2013,[58] provides, in part, as follows:

> SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment. –*
>
> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
>
> xxx xxx xxx
>
> 3.1.4 *Disputed Assessment.* — **The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN[59] 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:
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> (i) **Request for reconsideration** – refers to a plea of re-evaluation of an assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both.

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[57] 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

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

[59] That is, the *"Formal Letter of Demand and Final Assessment Notice"*.

(ii) **Request for reinvestigation** – refers to 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. It may also involve a question of fact or of law or both.

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 <u>if it is a request for reinvestigation</u>**, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based, **otherwise, his <u>protest</u> shall be considered *void and without force and effect.***

xxx xxx xxx

For <u>requests for reinvestigation</u>, 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.

xxx xxx xxx. *(Emphases and underscoring added)*

On the basis of the foregoing provisions, the form and manner of protests to be filed by the concerned taxpayer has been clearly and distinctively defined. Particularly, a distinction has been made between the two types of protest, *i.e.*, a *request for reconsideration* and a *request for reinvestigation.* Thus, the two types of protest can no longer be used interchangeably and their differences so lightly brushed aside.[60]

Clearly, in a *request for reconsideration*, the plea for re-evaluation of the assessment is *on the basis of existing records without need of additional evidence*, while in a *request for reinvestigation*, such plea for re-evaluation is *on the basis of newly discovered or additional evidence that the taxpayer intends to present in the reinvestigation.* Furthermore, it must be pointed out that the distinction between a *request for reconsideration* and a *request for reinvestigation* is significant for the purpose of identifying which request

[60] Refer to *Bank of the Philippine Islands vs. Commissioner of Internal Revenue*, G.R. No. 139736, October 17, 2005.

triggers the application or operation of the 60-day period, within which to submit all relevant supporting documents, as determined by the concerned taxpayer. Apparently, the said 60-day period applies only to *requests for reinvestigation.*

A review of the records shows that petitioner was only able to establish that it filed its *Protest Letter/Request for Reinvestigation* against the subject FLD on October 13, 2017.[61] As such, petitioner had 60 days from the said date of filing, or until December 12, 2017, to submit all relevant supporting documents.

In its *Protest*, petitioner specifically raised its arguments on the assessment of respondent. Particularly on the *Undeclared Sales per Summary List of Sales (SLS) vs. Third Party Information (TPI)* amounting to ₱10,675,571.49, petitioner claimed that it needs to verify each and every TPI to validate and reconcile the same based on its records. Petitioner also averred, in refuting the *Disallowed Input Tax – Unsupported Input Tax per SLP vs. TPI* amounting to ₱3,913,298.97, that it will support the input with the corresponding VAT official receipts. It also declared that it will submit documents to support the reporting and remittance of input VAT paid by FBDC to Direct Power Services, Inc. in order to refute respondent's assessment on the alleged non-compliance with the invoicing requirements resulting in the disallowance amounting to ₱4,616,372.29.

As to the alleged *Overclaimed input tax – sources of input per Financial Statement vs. VAT Returns* in the total amount of ₱4,256,331.32, petitioner undertook to submit additional documents, in this wise:

> Documents to be presented: FBDC will be presenting the pertinent vouchers, contracts, VAT invoices, and official receipts, GL entries or accounts, billings, tax returns, reconciling schedules, certifications, third party verifications, case files, and court decisions, in addition to what were previously required and submitted to the examiners during the audit, to support the foregoing positions and arguments

Despite all the asseverations, petitioner, however, failed to fulfill its undertaking to submit the documents. Such being the case, the deficiency VAT assessment for the period July 1, 2014 to December 31, 2014 has already become final, pursuant to the aforequoted Section 228 of the NIRC of 1997, as amended. ˪ｑ

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[61] Exhibit "P-7", Docket – Vol. II, pp. 644 to 648.

In *Commissioner of Internal Revenue vs. Court of Tax Appeals-Third Division, et al.,*[62] the Supreme Court held as follows:

> **When a taxpayer files a petition for review before the Court of Tax Appeals <u>without validly contesting the assessment</u> with the Commissioner of Internal Revenue, the petition is premature and the Court of Tax Appeals has no jurisdiction.**
>
> xxx xxx xxx
>
> Section 228 of the National Internal Revenue Code is clear. **The administrative protest must be filed not only within the stated period, <u>but also 'in such form and manner as may be prescribed by implementing rules and regulations.'</u>** Respondent's April 29, 2015 letter did not comply with three requirements of Revenue Regulations No. 18-2013.
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> The Court of Tax Appeals is a court of special jurisdiction. Section 7 of Republic Act No. 9282 states what matters involving Commissioner of Internal Revenue are within its exclusive appellate jurisdiction:
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> > SECTION 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;
> > >
> > > (2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds or internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial[.]
>
> In respondent's Petition for Review, it contended that its Petition was timely filed because it was assailing the July 13, 2015 letter, which it

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[62] G.R. No. 239464, May 10, 2021.

claimed was petitioner's 'final decision on the matter of petitioner's protest against the deficiency tax assessments for the taxable year 2011.'

This argument is inaccurate.

In *Commissioner of Internal Revenue v. Villa*,[63] this Court held that the Court of Tax Appeals' jurisdiction was over the Commissioner of Internal Revenue's decision on the protest against an assessment, and not the assessment itself. Thus, the period to invoke judicial review must be counted from receipt of the Commissioner's decision on the disputed assessment.

Here, however, <u>respondent's protest was void for failing to comply with the requirements of Revenue Regulations No. 18-2013, as mandated by Section 228 of the National Internal Revenue Code</u>. Respondent erred in claiming that the July 13, 2015 letter was petitioner's 'final decision' on its protest, there being no valid protest to speak of. xxx.

xxx xxx xxx

When a taxpayer files a petition for review before the Court of Tax Appeals <u>without validly contesting the assessment</u> with the Commissioner of Internal Revenue, the appeal is premature and the Court of Tax Appeals has no jurisdiction:

> Since in the instant case the taxpayer appealed the assessment of the Commissioner of Internal Revenue without previously contesting the same, the appeal was premature and the Court of Tax Appeals had no jurisdiction to entertain said appeal. For, as stated, the jurisdiction of the Tax Court is to review by appeal decisions of Internal Revenue on disputed assessments. The Tax Court is a court of special jurisdiction. As such, it can take cognizance only of such matters as are clearly within its jurisdiction. (Citation omitted)

Section 228 of the National Internal Revenue Code requires that administrative protests against assessments conform to the rules and regulations issued by the Bureau of Internal Revenue. Respondent's April 29, 2015 letter did not comply with the requirements set down in Revenue Regulations No. 18-2013. **There was no administrative protest to speak of, and no decision on a disputed assessment to assail. Thus, the Court of Tax Appeals had no jurisdiction over the Petition for Review assailing the July 13, 2015 letter.** *(Emphases and underscoring added)*

Based on the foregoing jurisprudential pronouncements, it is clear that Section 228 of the NIRC of 1997, as amended, requires that administrative

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[63] 103 Phil. 3 (1968) [Per J. Bengzon, *En Banc*].

protests against assessments conform with RR No. 12-99, as amended by RR No. 18-2013. Failing which, there is no administrative protest to speak of, and no decision on a disputed assessment to assail. As such, when a petition for review is filed before this Court, **without validly contesting the assessment**, the appeal is premature, and the Court has no jurisdiction under Section 7(a)(1) of Republic Act No. 1125, as amended.[64]

Considering that petitioner's *Protest Letter/Request for Reinvestigation* dated October 12, 2017 is void and thus, cannot be considered a valid protest, the FDDA dated November 20, 2020[65] cannot be considered as respondent's decision on a disputed assessment. Consequently, the present *Petition for Review*, which assails the said FDDA is premature and this Court has no jurisdiction to entertain the same.

It bears emphasis that this Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[66] To stress, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[67]

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

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

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[64] SECTION 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;
xxx xxx xxx

[65] Par. 6, Stipulation of Facts, JSFI, Docket – Vol. I, p. 397; Exhibit "P-8", Docket – Vol. II, pp. 651 to 655; Exhibits "R-9" and "R-9-A", BIR Records (Exhibit "R-11"), pp. 424 to 428.

[66] *Commissioner of Internal Revenue vs. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019.

[67] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

I attest that the conclusion in the above Decision was reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Second Division Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusion in the above Decision was reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice