REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

LYDIA ESCOLANIA TALAID, *Petitioner,*	**CTA CASE NO. 11394**
	Members:
- versus -	**MANAHAN**, *Chairperson,* **REYES-FAJARDO**, **ANGELES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 22 2024 9:51 a.m.

x -x

RESOLUTION

On February 23, 2024, the Court issued a Resolution requiring petitioner to, among others, explain how petitioner Lydia Escolania Talaid is a real party in interest.[1]

March 2, 2024, petitioner filed a *Compliance*[2] with attached *Petition for Review*,[3] stating that although petitioner was not named in the assailed Warrant of Garnishment, she is a party who has legal standing considering that she is the surviving spouse of deceased Joelito Jakosalem Talaid (Joelito). Petitioner further avers that she is prejudiced by respondent's collection efforts considering that she owns half of the properties registered in the name of the deceased.

On May 17, 2024, respondent filed his *Answer (Re: Petition for Review dated 02 March 2024)*. In said *Answer*, respondent states that the instant Petition for review should be dismissed on the ground of forum shopping and that petitioner has no cause of action.

Respondent states that the Special Administrator for the estate of Joelito, Ms. Alona S. Abejuela, has applied for a compromise settlement of the deficiency tax assessments for income tax and VAT, and has paid for the assessments for deficiency expanded withholding tax and documentary stamp tax for taxable year 2016. Thus, petitioner's current Petition for Review seeking the annulment of the

---
[1] Docket, pp. 28-29.
[2] Docket, pp. 30-31.
[3] Docket, pp. 32-46.

assessments for taxable year 2016 against Joelito constitutes forum shopping in view of the Special Administrator's pending application for compromise settlement of the same, and leaves petitioner without a cause of action. Respondent also states that petitioner's alleged cause of action does not fall under the jurisdiction of the Court of Tax Appeals.

The *Petition for Review* must be dismissed.

The Petition for Review was not timely filed.

The questioned Warrant of Garnishment (WOG) was issued on February 15, 2021. Petitioner alleges that she only became aware of such WOG when the same was manifested before the proceedings involving the intestate estate of Joelito; that on January 8, 2024, she went to the Bureau of Internal Revenue (BIR) Collection Division of Revenue Region NO. 16 – Cagayan De Oro City to inquire on Joelito's tax liabilities, but she was denied information for the reason that the BIR will only deal with the special administrator, Alona Abejuela. Thus, petitioner filed the instant *Petition for Review* on January 25, 2024.

Based on the foregoing, the Court has no means of determining if the instant Petition for Review was timely filed. An allegation that petitioner became aware of the existence of the WOG, long after the issuance of the said WOG, is not one of the reckoning points for the determination of the 30-day period to file an appeal with the Court of Tax Appeals (CTA).

Under Section 3, Rule 8 of the Revised Rules of the CTA (RRCTA), the period to appeal to the CTA is provided as follows:

> RULE 8
> PROCEDURE IN CIVIL CASES
>
> 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 or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review **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. xxx (*Emphasis supplied*)

In the instant case, there is no allegation of petitioner's receipt of the WOG or inaction on the part of the CIR, from which this Court can reckon the timeliness of petitioner's appeal. Thus, the instant Petition for Review must be dismissed for not being timely filed.

Petitioner is not a real party in interest.

Petitioner then prays for the cancellation of the assessments and the WOG on the ground of violation of due process since the assessments were issued after the death of Joelito.

A party in interest is defined in Section 2, Rule 3 of the Rules of Civil Procedure, as follows:

> SEC. 2. *Parties in interest.* – A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

Without making a finding of fact as to whether petitioner is the surviving spouse of the decedent, the Court finds that petitioner is not a real party in interest with respect to the tax assessments against the Joelito. In tax assessments, it is the taxpayer who disputes the same.[4] Petitioner's interest lies only in her alleged share in the properties and petitioner is neither the taxpayer nor acting for and in behalf of Joelito's estate.

The Court has no jurisdiction to determine petitioner's alleged share in the estate which is the subject of collection by the BIR.

Petitioner states that she owns half of the properties registered in Joelito's name, which properties are subject of levy, thus, petitioner prays for suspension of collection of taxes, alleging that she will be prejudiced by the BIR's collection of the deficiency taxes against the deceased.

The situation in this case is similar to the case of *Tamparong, Jr. v. CIR, et al.*,[5] wherein the CTA Second Division held:

---

[4] See *Tamparong, Jr. v. CIR, et al.*, CTA Case No. 9520, June 8, 2021.
[5] CTA Case No. 9520, June 8, 2021.

As discussed above, petitioner does not appear to be the real party in interest who may appeal *insofar as the assessment against Briccio's estate is concerned*. He has no interest over the suspension of collection of the estate tax assessment against Briccio. His interest is riveted to Felisa's estate that includes the subject property from the properties to be sold.

Ultimately and in reality, the crux of the controversy of petitioner's case rests on the propriety of the inclusion of Felisa's property in Briccio's estate (which property is set to be sold for auction.) Petitioner seeks to remove the subject property from the impending auction and insists that the BIR should not have been (*sic*), in the first place, included this property in its assessment of Briccio's estate. This Court, being a court with limited jurisdiction, is bereft of any authority to grant relief to petitioner.

It is noteworthy that to date, the probate of Felisa's will is still pending before the RTC-CDO, Branch 18. Ascertaining rights over the subject property and those entitled thereto is clearly outside Our jurisdiction and to exercise the same will be impinging upon the authority of the probate court to do so. The settlement of estate of a deceased person lies with the latter court, to the exclusion of other courts. Section 1 of Rule 73 of the Rules of Court on Special Proceedings states:

> Sec. 1. *Where estate of deceased persons settled.* – If the decedent is an inhabitant of the Philippines at the time of death, whether a citizen or an alien, his will shall be proved, or letters of administration granted, and his estate settled, in the Court of First Instance, in the province in which he resides at the time of his death...**The court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts**...

Corollary thereto, Section 6 of Rule 78 of the Rules of Court on Special Proceedings, provides that letters administration may be granted at the discretion of the probate court if no executor is named in the will, or the executor or executors are incompetent, refuse the trust, or fail to give bond or a person dies intestate. The appointed administrator, in turn, is duty-bound to return to the court within three (3) months from appointment the true inventory and appraisal of al the real and personal estate of the deceased which has come to his possession or knowledge.

In *Aranas v. Mercado, et al.*, the Supreme Court elucidated in this wise:

> **The probate court is authorized to determine the issue of ownership of properties for purposes of their inclusion or exclusion from the inventory to be submitted by the administrator**, but its determination shall only be provisional unless the interested parties are all heirs of the decedent, or the question is one of collation or advancement, or the parties consent to the assumption

> of jurisdiction by the probate court and the rights of third parties are not impaired. **Its jurisdiction extend to matters incidental or collateral to the settlement and distribution of the estate, such as the determination of the status of each heir and whether property included in the inventory is the conjugal or exclusive property of the deceased spouse.**
>
> xxx xxx xxx
>
> The objective of the *Rules of Court* in requiring the inventory and appraisal of the estate of the decedent is "to aid the court in revising the accounts and determining the liabilities of the executor or the administrator, and in **making a final and equitable distribution (partition) of the estate and otherwise to facilitate the administration of the estate.**" . . .
>
> xxx xxx xxx
>
> Thus, in order to accurately settle and distribute the estate of the deceased, it is important that the properties included in the inventory be preserved pending the decision of the probate court. Else, the allowance of the will and the determination of the net share of each heir, as will be determined by the probate court, are rendered nugatory if the properties were already dissipated. Perforce, it is within the probate court's power to issue orders ancillary to the administration of the estate including the injunctive relief sought.
>
> As a final word, We cannot overemphasize that our authority should only be confined to matters clearly falling within our limited jurisdiction. Undeniably, the main issue in the case at bar does not involve the interpretation and application of the NIRC of 1997, as amended, and other related laws administered by the BIR. Tackling the merits of this case behooves upon Us to delve on the ownership of the subject property. Regrettably, such power does not belong to Us. (*Emphasis in the original, citations omitted*)

Similar to the abovequoted case, petitioner herein alleges an interest in Joelito's properties as a reason for questioning the assessment against Joelito. Similarly, there is already a pending case on the settlement of the estate and a special administrator has already been appointed to handle the matters relating to the estate, including specifically the assessment sought to be nullified in the instant Petition for Review.

Here, petitioner is not a real party in interest who may appeal insofar as the assessment against Joelito or his estate is concerned, and the Court has no jurisdiction over the partition of the deceased's estate in order to determine petitioner's share in the properties.

WHEREFORE, respondent's *Answer (Re: Petition for Review dated 02 March 2, 2024)* is **NOTED.**

As discussed above, the instant *Petition for Review* is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo
(With Separate Concurring Opinion)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

LYDIA ESCOLANIA TALAID,
Petitioner,

CTA Case No. 11394

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, and
ANGELES, *JJ.*

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUL 22 2024
9:51 a.m.

x - x

SEPARATE CONCURRING OPINION

REYES-FAJARDO, *J.*:

I agree with the dismissal of CTA Case No. 11394, for lack of jurisdiction. I pen this to point out why petitioner mistakenly relied[1] on Section 3(c)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA)[2] in invoking the CTA in Division's jurisdiction over this case.

One of the powers and duties of the Bureau of Internal Revenue (BIR) comprehends the collection of all national internal revenue taxes, fees, and charges.[3] Among the methods in collecting these taxes, fees,

---

1 Par. 1, Complaint (Annulment of Assessment with Prayer for Suspension of Collection). Docket, p. 7.

2 A.M. No. 05-11-07-CTA.

3 See Section 2 of the 1997 National Internal Revenue Code (NIRC), as amended.

and charges is *via* civil action for collection in court.[4] Before said civil action for collection may be permitted to be lodged in court, prior approval from respondent,[5] or his duly authorized representative[6] is required.[7] Once the imprimatur for the institution thereof has been obtained from respondent or his duly authorized representative, the BIR would then be allowed to sue the errant taxpayer to demand and collect the taxes due. In turn, the CTA shall possess jurisdiction over such suit, if the basic taxes and fees being claimed, exclusive of charges and penalties, is at least ₱1,000,000.00. Section **7(c)(1)** of Republic Act (RA) No. 1125, as amended by RA No. 9282 confirmed:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
>
> ...
>
> c. Jurisdiction over **tax collection cases** as herein provided:
>
> 1. Exclusive original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties: Provided, however, That collection cases where the principal amount of taxes and fees, exclusive of charges and penalties, **claimed** is less than One million pesos (P1,000,000.00) shall be tried by the proper Municipal Trial Court, Metropolitan Trial Court and Regional Trial Court.[8]

Section 3(c)(1), Rule 4[9] of the RRCTA clarified that the CTA in Division has exclusive original jurisdiction over tax collection cases, when the principal amount of taxes and fees **claimed**, exclusive of charges and penalties is at least ₱1,000,000.00. Claim means demand.[10]

Indeed, the jurisdiction of the CTA in Division under Section 3(c)(1), Rule 4 of the RRCTA come into play, *when the tax authority institutes a collection suit to demand or claim payment of basic taxes and fees,*

---

4 See Section 205 of the NIRC, as amended; and *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation,* G.R. No. 197945, July 9, 2018.

5 See Section 220, NIRC, as amended.

6 *People v. Valeriano,* G.R. No. 199480, October 12, 2016.

7 See Section 220 of the NIRC, as amended.

8 Boldfacing supplied.

9 SEC. 3. *Cases within the jurisdiction of the Court in Divisions.* - The Court in Divisions shall exercise:

...

(c) Exclusive jurisdiction over tax collections cases, to wit:

(1) Original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more; ...

10 Black's Law Dictionary, Revised Fourth Edition, West Publishing Co. (1968), p. 313.

exclusive of charges and penalties, of at least ₱1,000,000.00 against a taxpayer. Said provision does ***not*** envisage a situation, wherein a taxpayer assails a collection measure issued by the tax authority, such as petitioner's challenge of the Warrant of Garnishment (WOG) issued by the BIR to satisfy the tax liabilities of a certain Joelito J. Talaid for Taxable Year 2016. In the latter instance, the correct recourse is to impugn said WOG before the CTA in Division, within thirty (30) [11] days from receipt thereof. The reason — a WOG is a collection measure embraced under other the matters arising from the NIRC, as amended.[12] Section **7(a)(1)**, in relation to Section 11 of RA No. 1125, as amended by RA No. 9282, is explicit:

> 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;[13]
>
> ...
>
> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* - **Any party adversely affected by a decision**, ruling or inaction **of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **may file an appeal with the CTA within thirty (30) days after the receipt of such decision** or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

Yet, there is no showing in the record, or in petitioner's Complaint (Annulment of Assessment with Prayer for Suspension of Collection), the latter's date of receipt of the WOG being assailed, from which the thirty (30)-day period to appeal would be reckoned; precisely, the timeliness of petitioner's recourse before the CTA in Division may *not* be determined with certainty.

---

[11] Section 11, RA No. 1125, as amended by RA No. 9282.

[12] See *Commissioner of Internal Revenue v. Bank of the Philippine Islands,* G.R. No. 227049, September 16, 2020.

[13] Boldfacing supplied.

ql

All told, I **CONCUR** in the dismissal of CTA Case No. 11394, for lack of jurisdiction.

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