REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

CCSO TOLLING SERVICE, INC.
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 11481

Members:

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

Promulgated:

JAN 2 4 2025 10:45 am

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RESOLUTION

For resolution of the Court is petitioner's *Motion for Reconsideration (Re: Resolution dated October 3, 2024)* filed via accredited private courier on October 25, 2024. Petitioner seeks reconsideration of the Resolution of this Court issued on October 3, 2024 (the "Assailed Resolution") which dismissed the Petition for Review for lack of jurisdiction.

In seeking reconsideration of the Assailed Resolution, petitioner insists on the following:

1. It had compelling reasons for the filing of the Petition for Review from receipt of the notice of Warrant of Garnishment (WOG) necessitated by the specific factual circumstances surrounding the receipt of the Warrant of Distraint and Levy (WDL) as alleged in the Petition for Review. It maintains that it did not file an appeal within the 30-day period reckoned from the issuance of WOG because of the pendency of their Appeal before the Office of the Commissioner and also by reason of the assurances made by respondent's representatives that the garnishment of petitioner's bank accounts will not be implemented during the pendency of such appeal.

2. It has thirty (30) days to appeal the WOG from receipt of the notice thereof and also submits that a simplistic treatment of WOG as a mere part or result of the WDL is unfair, unjust, and unwarranted by the particular facts of the instant case since the respondent himself treated them separately.

3. The particular factual milieu of the instant case left it no choice but to file the instant Petition for Review from the receipt of the WOG.

Respondent, in his *Comment and Opposition (Re: Petitioner's Motion for Reconsideration dated October 25, 2024)* maintains that the dismissal of the Petition for Review is proper and the denial of its Motion to Suspend is warranted.

After careful evaluation of the arguments raised by the parties vis-à-vis the records of the case, this Court resolves to deny the *Motion for Reconsideration* for lack of merit.

This Court stands by its ruling that it never acquired jurisdiction over the Petition of Review. Accordingly, the Court has no other option but to dismiss the same based on the reasons discussed in the Assailed Resolution as follows:

> "Based on the foregoing, it is clear that prior to the issuance of the WOG, petitioner was served, albeit constructively, with a WDL as early as **August 25, 2023.**
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> In *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue,* the Supreme Court reckoned the 30-day period to file an appeal before this Court from receipt of the WDL. The WDL constitutes an act of the CIR on "other matters" arising under the National Internal Revenue Code of 1997, as amended, or other laws administered by the Bureau of Internal Revenue (BIR) which may, in turn, be the subject of an appropriate appeal before this Court.
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> Counting thirty (30) days from August 25, 2023, petitioner had until **September 24, 2023** within which to file its *Petition for Review* before this Court. Accordingly, the filing of the present *Petition for Review* on **April 19, 2024** was already time-barred.
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> It is quite erroneous for the petitioner to reckon the filing of its *Petition for Review* on the date in which it received the WOG considering its prior receipt of the WDL. To be sure, it is the issuance of the WDL that effectively triggered petitioner's right to assail the validity of the collection effort being implemented by the respondent *via* the "other matters" jurisdiction of this Court. The collection effort by the BIR in this case is comprised of both the WDL and the WOG. In fact, the

Petition for Review is challenging not only the validity of the WOG but of the WDL as well." *(Citations omitted)*

It is worth emphasizing that the Bureau of Internal Revenue (BIR)'s collection effort that may be a valid subject of a suspension order by this Court is initiated by distraint, levy, or court proceeding.[1] The distraint and levy proceedings are validly begun or commenced by the issuance of a warrant of distraint and levy and service thereof on the taxpayer.[2] As related to the present case, the collection effort by the respondent was duly initiated when a WDL was issued. Verily, this Court cannot justly disregard the existence of a WDL prior to the issuance of the WOG. The issuance of the WOG is merely a continuation of the BIR's summary collection effort. In other words, it is issuance of the WDL that effectively triggered the petitioner's right to assail the validity of the collection effort being implemented by the respondent *via* the "other matters" jurisdiction of this Court.

Perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional.[3] The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case.[4]

This Court vehemently disagrees with petitioner's submission that the ruling in the Assailed Resolution would lead to a "dangerous precedent" wherein "respondent will simply assure the taxpayer that they will hold in abeyance the service of the WOG, in an effort to secure administrative compromise or settlement, and just release the WOG, if and when the desired outcome is not achieved." Quite the contrary, adherence to petitioner's position would be detrimental to the proper and sound administration of justice. It is tantamount to allowing the factual basis of this Court's jurisdiction to depend on the mere agreement of the parties. To be sure, it is the responsibility of the parties to be on the lookout as to the existence of sufficient factual basis for the proper invocation of this Court's jurisdiction as duly conferred by law and to properly plead the same within the prescribed reglementary period. It is only then that this Court can legally assume jurisdiction over the case.

All told, petitioner failed to raise any compelling reason to warrant the modification much less reversal of this Court's findings in the Assailed Resolution.

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[1] *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc.*, G.R. No. 258947, March 29, 2022.

[2] *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, G.R. No. 139736, October 17, 2005, 473 SCRA 205, 224 as cited in *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc.*, G.R. No. 258947, March 29, 2022.

[3] *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*, G.R. No. 167606, August 11, 2010.

[4] *Id.*

WHEREFORE, petitioner's *Motion for Reconsideration (Re: Resolution dated October 3, 2024)* is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice