REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

JG SUMMIT HOLDINGS, INC.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* No. 2397
(CTA Case No. 9147)

Members:

DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
JAN 26 2024 4:23pm

x- -x

R E S O L U T I O N

MANAHAN, *J.:*

For this Court's resolution is petitioner's *Motion for Reconsideration (of the Decision dated 4 August 2023)* filed on August 29, 2023 with respondent's *Comment and Opposition filed* on October 3, 2023.

Petitioner seeks reconsideration of the Court's Decision promulgated on August 4, 2023 (Assailed Decision), the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review filed by petitioner is **DENIED**.
>
> Accordingly, the assailed Decision dated March 12, 2020 and the assailed Resolution dated December 11, 2020, both of the Second Division of this Court, dismissing the case for lack of jurisdiction are **AFFIRMED**.

SO ORDERED."

Petitioner's arguments

The main bone of contention of petitioner's motion is the existence of two (2) Final Decisions on Disputed Assessment (FDDA) issued by the then Commissioner of Internal Revenue (CIR), Kim Jacinto-Henares, resolving the protest filed against the tax deficiency assessments for taxable year (TY) 2009.

Petitioner maintains that the Court should have considered the Revised FDDA which it received on August 20, 2015 as the final decision appealable to the Court and that such resort to the remedy of appeal was timely filed on September 18, 2015, thus, falling within the jurisdiction of the Court.

Petitioner proferred several reasons to disregard the first FDDA it received on December 5, 2014 foremost among which is the latter's alleged invalidity which could not possibly start the running of the prescriptive period to file an appeal with the Court. Citing the decisions of the Supreme Court in *Commissioner of Internal Revenue vs. Liquigaz Philippines Corporation,*[1] and *Commissioner of Internal Revenue vs. Tyco Information Solutions Corp.*,[2] petitioner asserts that if the CIR issues a void assessment, such a situation is treated as if there was no decision rendered on the protest and is considered an "inaction" giving the taxpayer the option to appeal to the CTA within thirty (30) days from the expiration of the 180-day period or await the final decision of the CIR. In the instant situation, the final decision came in the form of a Revised FDDA dated August 20, 2015.

The alleged defects of the first FDDA range from the CIR's failure to indicate a definite amount of tax due for payment and the lack of due dates for their settlement. Petitioner further argues that the Revised FDDA even contains the revised assessed amounts after deducting the amount it already paid thereby superseding the first FDDA.

---

[1] G.R. Nos. 215534 and 215557, April 18, 2016.
[2] G.R. No. 241422-23, November 11, 2021.

Lastly, petitioner declares that the concept of jurisdiction is broad in scope and should not be given a restrictive interpretation and this will be achieved if the Court reverses its stand and instead, consider the Revised FDDA as the final decision appealable to the Court.

Respondent's counter-arguments

Respondent supports the decision of the Court *En Banc* and dismisses the arguments of petitioner as being contrary to the procedure outlined in Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended, in filing a protest against a tax deficiency assessment. He emphasizes that a decision on the protest may be appealed to the Court of Tax Appeals within thirty (30) days from receipt of said decision. While respondent acknowledges that petitioner may pursue a motion for reconsideration of the FDDA before his office, the same shall not toll the running of the thirty (30)-day period to file an appeal with the Court. Respondent also reiterates that the thirty (30)-day period to file an appeal is mandatory and jurisdictional, hence the filing of an appeal beyond the period allowed by law deprives the Court of the requisite jurisdiction to take cognizance of the instant Petition. Based on the provisions of the law, respondent asserts that petitioner should have filed a timely appeal when it received the first FDDA and not wait for the Revised FDDA before going to Court.

RULING OF THE COURT *EN BANC*

We deny the motion.

We find the arguments a reiteration of the issues previously raised by petitioner in its Petition for Review which have already been succinctly addressed and ruled upon by the Court in the assailed Decision. Notably, it is worthy to emphasize that the right to appeal is neither a natural nor a constitutional right, but is merely statutory.[3] The implication of its statutory character is that the party who intends to appeal

---

[3] *Duty Free Philippines vs. Bureau of Internal Revenue*, G.R. No. 197228, October 8, 2014.

must always comply with the procedure and rules governing appeals, or else the right of appeal may be lost or squandered.[4]

In the instant motion, petitioner highlights the alleged invalidity of the first FDDA and reasons that a void FDDA results to inaction on the part of respondent because it is as if no decision was rendered on its protest. Inaction then becomes the basis why the Revised FDDA was treated by the petitioner as the final decision appealable to the Court.

This argument fails for two reasons. First, the invalidity of an FDDA or a Final Assessment Notice (FAN) for that matter is an issue to be resolved by the Court after evaluating the evidence presented by both parties during the trial proper which can only proceed if the Court has jurisdiction over an appeal. To state that the FDDA's invalidity confers upon this Court the requisite jurisdiction is to put the cart before the horse because it disregards the primacy of the issue of jurisdiction over any other issues to be presented to the Court. Second, it is clear from the records of the case that an FDDA (first FDDA) was received by petitioner on December 5, 2014, thereby precluding the inaction contemplated under Section 228 of the 1997 NIRC, as amended, and which even prompted petitioner to file a Request for Reconsideration with the office of respondent. This very act of filing a request for reconsideration negates the argument of petitioner that the protest may be considered as unacted upon by respondent.

Neither can this Court sustain petitioner's argument that the Revised FDDA superseded the first FDDA because the former already reflects a substantial reduction which allegedly rectified the supposed errors found in the latter document.

We disagree with petitioner's contention.

It must be noted that the substantial reduction was a result of the payments made by petitioner of a significant portion of the total deficiency tax assessments (in response to the first FDDA) which the Revised FDDA acknowledged but with

---

[4] *Ibid.*

an accompanying statement that it was still liable to pay taxes for TY 2009. To treat the Revised FDDA as the final decision appealable to the Court disregarding the first FDDA would be a ceaseless affair that would re-define the concept of finality that was never the intention of the law prescribing a definite period to elevate a judicial appeal.

There being no new legal arguments proferred in petitioner's motion, this Court finds no cogent reason to reverse its earlier decision.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (of the Decision dated 4 August 2023)* filed on August 29, 2023 is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(*I reiterate my concurrence to Justice Villena's Concurring Opinion*)
ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(*I reiterate my Concurring Opinion*)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice