CTA Form No. 8

19-000081-0080

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10039

ESTATE/HEIRS OF SIDRONICO S. DALAPAG and NECITAS E. DALAPAG represented by ANABEL DALAPAG-ACENAS,
Petitioner,

- versus -

THE COMMISSIONER OF INTERNAL REVENUE and THE HERMENO A. PALAMINE, REGIONAL DIRECTOR OF REVENUE REGION NO. 16,
Respondents.

NOTICE OF DECISION

To:

HERMENO A. PALAMINE
Regional Director - Revenue Region No. 16
Cagayan de Oro City

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village, Makati City

ATTY. BRYAN ANTHONY C. DIEGO
Bureau of Internal Revenue
Room 703, Litigation Division
BIR National Office Building
BIR Road, Diliman, Quezon City

MS. ANABEL DALAPAG-ACENAS
Purok 7, San Martin
Villanueva, Misamis Oriental

GREETINGS:

You are hereby notified by these presents that on **January 29, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **January 30, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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SPECIAL FIRST DIVISION

ESTATE/HEIRS OF SIDRONICO S. DALAPAG and NECITAS E. DALAPAG represented by ANABEL DALAPAG-ACENAS, *Petitioner,*	**CTA Case No. 10039** Members: **DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
-versus-	
THE COMMISSIONER OF THE INTERNAL REVENUE and THE HERMENO A. PALAMINE, REGIONAL DIRECTOR OF REVENUE REGION NO. 16, *Respondents.*	Promulgated: JAN 29 2024 3:00PM

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D E C I S I O N

MANAHAN, *J.:*

This is a *Petition for Review* posted by petitioner Estate/Heirs of Sidronico S. Dalapag and Necitas E. Dalapag, represented by Anabel Dalapag-Acenas against respondents Commissioner of Internal Revenue (CIR) and Hermeno A. Palamine, Regional Director of Revenue Region No. 16, on February 7, 2019, praying for the Court to declare as void the denial of petitioner's request for reinvestigation.[1]

THE PARTIES

Petitioner, the Estate/Heirs of Sidronico S. Dalapag and Necitas E. Dalapag, is represented by Anabel Dalapag-Acenas.[2]

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[1] Docket, CTA Case No. 10039, Vol. I, Statement of the Case, Pre-Trial Order dated February 10, 2020, p. 347.
[2] *Id.*, Vol. I, Exhibit "P-21", p. 333. *am*

Respondent CIR is the head of the Bureau of Internal Revenue (BIR), the government agency charged with implementing the 1997 National Internal Revenue Code (NIRC), as amended, and collecting all internal revenue taxes. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City, where he may be served with processes of this Court.[3]

Respondent Hermeno A. Palamine is the Regional Director of BIR Revenue Region No. 16.[4]

THE FACTS

On April 18, 2018, respondent Palamine issued the Preliminary Assessment Notice (PAN) relative to the result of the verification made on the Estate Tax filed on the decedents' estate.[5] Petitioner filed its reply to the said PAN on June 11, 2018.[6]

For failure of the petitioner to settle said PAN, respondent Palamine issued the *Formal Letter of Demand/Final Assessment Notice* (FLD/FAN) dated August 8, 2018[7] which was received on September 12, 2018 by petitioner finding the latter liable for deficiency estate taxes in the total amount of ₱1,077,537.33, inclusive of interests and surcharge.[8]

On October 10, 2018, petitioner sent its letter of even date addressed to then Regional Director of BIR Revenue Region 16, respondent Palamine,[9] requesting for a reinvestigation.

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[3] Docket, Vol. I, Par. 1, Summary of Admitted Facts, *Joint Stipulation of Facts and Issues* (JSFI), p. 141.
[4] *Id.*, Vol. I, refer to the Second paragraph, Concise Statement of Facts, *Petition for Review* vis-à-vis par. 1, *Answer*, p. 77; Docket, Vol. I, refer also to Exhibit "P-2", p. 223, vis-à-vis par. 2, Summary of Admitted Facts, JSFI (Docket, Vol. I, p. 141).
[5] BIR Records, pp. 207-210.
[6] *Id.*, p. 212.
[7] Docket, Vol. I, Par. 2, Summary of Admitted Facts, JSFI, p. 141; BIR Records, pp. 218-223.
[8] *Id.*, Vol. I, Exhibit "P-2", p. 223.
[9] *Id.*, Vol. I, Par. 3, Summary of Admitted Facts, JSFI, Docket – Vol. I, p. 142; Exhibit "P-3", p. 224. *cem*

Thereafter, on January 8, 2019, petitioner received the letter dated December 7, 2018 from respondent Palamine, denying the request for reinvestigation.[10]

Petitioner posted the present *Petition for Review* on February 7, 2019.[11]

In their *Answer* filed on June 20, 2019,[12] respondents interposed the following main special and affirmative defenses, to wit:

1. Petitioner was not deprived of due process;

2. No valid protest was filed by petitioner;

3. The Honorable Court has no jurisdiction over the instant case since the assessment had already become final and executory; and,

4. The assessment issued against petitioner is valid and lawful.

Respondents transmitted the *BIR Records* for this case on June 28, 2019.[13]

The Pre-Trial Conference was initially set on August 29, 2019,[14] but was reset to, and held on, October 24, 2019.[15] Prior thereto, the *Respondent's Pre-Trial Brief* was filed on August 23, 2019;[16] while the *Petitioner's Pre-Trial Brief* was submitted on October 23, 2019.[17]

On November 27, 2019, the parties filed their *Motion to Admit the Joint Stipulation of Facts and Issues*,[18] which the Court granted in the Resolution dated December 11, 2019,[19]

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[10] *Id.*, Vol. I, Second paragraph, Concise Statement of Facts, *Petition for Review*, p. 25, vis-à-vis par. 1, *Answer* (Docket, Vol. I, p. 77). Docket, Vol. I, refer also to par. 4, Summary of Admitted Facts, JSFI, p. 142; Docket, Vol. I, Exhibit "P-4", p. 225.
[11] *Id.*, Vol. I, pp. 24 to 29.
[12] *Id.*, Vol. I, pp. 77 to 84.
[13] Docket, Vol. I, *Compliance* dated June 28, 2019, pp. 97 to 98.
[14] *Id.*, Vol. I, *Notice of Pre-Trial Conference* dated June 28, 2019, pp. 90 to 93.
[15] *Id.*, Vol. I, Petitioner's *Urgent Motion for Resetting* dated August 20, 2019, pp. 108 to 111; Docket, Vol. I, p. 118; Docket, Vol. I, Order dated August 28, 2019; Minutes of the hearing held on, and Order dated, October 24, 2019, pp. 129 to 133.
[16] *Id.*, Vol. I, pp. 104 to 106.
[17] *Id.*, Vol. I, pp. 122 to 126.
[18] *Id.*, Vol. I, pp. 138 to 140.
[19] *Id.*, Vol. I, pp. 182 to 183. am

wherein it also admitted and approved the parties' *Joint Stipulation of Facts and Issues,*[20] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated February 10, 2020 was then issued.[21]

In the Resolution dated January 31, 2020,[22] the Court referred the case for mediation to 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.* Thereafter, the Court received on September 28, 2020 a *Request for Extension* from (Ret.) Justice Oswaldo D. Agcaoili, Mediator of the PMC-CTA, requesting for a final additional period of thirty (30) days from October 9, 2020 for further mediation.[23] In the Resolution dated October 6, 2020,[24] the Court granted the request for extension, and gave the parties a final and non-extendible period of thirty (30) days from October 9, 2020 or until November 8, 2020, to complete the mediation proceedings of the case. On November 9, 2020, petitioner filed an *Urgent Motion for Leave of Court,*[25] praying for more time for both parties to reach an amicable settlement. In the Resolution dated November 20, 2020,[26] the Court denied petitioner's urgent motion. The PMC-CTA then submitted on December 28, 2020 a report stating that the mediation was unsuccessful.[27] Subsequently, petitioner filed on January 15, 2021 a *Manifestation/Motion for Leave of Court,*[28] praying for more time to finalize or reach an amicable settlement in the instant case. In the Resolution dated January 27, 2021,[29] the Court denied petitioner's manifestation/motion.

As trial ensued, petitioner presented documentary and testimonial evidence. It offered the testimony of its lone witness, Ms. Anabel Dalapag-Acenas,[30] petitioner's authorized representative.

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[20] *Id.*, Vol. I, pp. 141 to 146.
[21] *Id.*, Vol. I, pp. 347 to 354.
[22] *Id.*, Vol. I, pp. 340 to 341.
[23] *Id.*, Vol. II, p. 497.
[24] *Id.*, Vol. II, pp. 502 to 503.
[25] Docket, Vol. II, pp. 504 to 505.
[26] *Id.*, Vol. II, pp. 512 to 513.
[27] *Id.*, Vol. II, *Mediator's Report* issued by the PMC-CTA, p. 514.
[28] *Id.*, Vol. II, pp. 522 to 524.
[29] *Id.*, Vol. I, pp. 532 to 533.
[30] *Id.*, Vol. I, Exhibit "P-22", pp. 211 to 220; Docket, Vol. II, Minutes of the hearing held on, and Order dated, February 8, 2022, pp. 579 to 579-C. *cm*

On the part of the respondents' counsel, he manifested that he will no longer present any evidence in this case.[31]

On March 4, 2022, petitioner filed via licensed courier an *Urgent Motion for Extension of Time to Submit Formal Offer of Exhibits*,[32] which the Court partially granted in the Resolution dated March 21, 2022,[33] giving petitioner a non-extendible period of five (5) days from receipt within which to file its Formal Offer of Evidence and respondents five (5) days from receipt thereof within which to file comment thereon.

In the Resolution dated May 24, 2022,[34] the Court set the initial presentation of respondents' evidence on July 26, 2022, considering petitioner's failure to file the required *Formal Offer of Evidence*.[35]

On June 17, 2022, petitioner filed its *Formal Offer of Exhibits*.[36] In the Resolution dated June 28, 2022,[37] the Court denied petitioner's *Formal Offer of Exhibits* for failure to file it on time, and thus, petitioner's evidence was deemed waived. Consequently, petitioner filed on June 29, 2022 a *Motion for Reconsideration*,[38] of the Resolution dated June 28, 2022 and the admission of its *Formal Offer of Exhibits*. Respondents failed to file their comment thereon.[39]

In the Resolution dated July 22, 2022,[40] the Court cancelled the presentation of respondents' evidence set on July 26, 2022, considering the manifestation of respondents' counsel during the hearing on February 8, 2022, that they will no longer present any evidence in this case. Thereafter, in the Resolution dated August 18, 2022,[41] the Court granted petitioner's *Motion for Reconsideration*; admitted its *Formal Offer of Exhibits* with stern warning that a similar occurrence on the part of petitioner will be dealt with accordingly; and

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[31] *Id.*, Vol. II, Minutes of the hearing held on, and Order dated, February 8, 2022, pp. 579 to 579-C.
[32] *Id.*, Vol. II, pp. 589 to 591.
[33] *Id.*, Vol. II, p. 597.
[34] *Id.*, Vol. II, pp. 600 to 601.
[35] Docket, Vol. II, Records Verification dated April 19, 2022 issued by the Judicial Records Division of this Court, p. 598.
[36] *Id.*, Vol. II, pp. 602 to 622.
[37] *Id.*, Vol. II, pp. 633 to 634.
[38] *Id.*, Vol. II, pp. 635 to 637.
[39] *Id.*, Vol. II, Records Verification dated July 19, 2022 issued by the Judicial Records Division of this Court, p. 675.
[40] *Id.*, Vol. II, p. 677.
[41] *Id.*, Vol. II, pp. 680 to 681. cm

cancelled and recalled the Resolutions dated May 24, 2022 and June 28, 2022.

On September 12, 2022, respondents submitted their *Comment (Re: Formal Offer of Exhibits dated 24 March 2022)*.[42] In the Resolution dated November 18, 2022,[43] the Court admitted petitioner's Exhibits, *except* for Exhibit "P-15", for failure to present the original for comparison.

Respondents then filed, on December 14, 2022, a *Manifestation*,[44] stating that they are adopting the arguments raised in their *Answer* as their *Memorandum*. In the Resolution dated January 6, 2023,[45] the Court noted respondents' *Manifestation*. Petitioner, however, failed to file its memorandum.[46]

On February 1, 2023, this case was considered submitted for decision.[47]

ISSUE

As stipulated by the parties, the sole issue for this Court's resolution is as follows:

> "Whether or not the denial of petitioner's request for reinvestigation was valid."[48]

Petitioner's Arguments

In its *Petition for Review*, petitioner argues that the denial of the request for reinvestigation was premature, and a violation of due process.

Respondent's Counter-arguments

In their *Answer*, respondents contend that petitioner was not denied its right to due process; that no valid protest was

[42] *Id.*, Vol. II, pp. 682 to 684.
[43] *Id.*, Vol. II, pp. 693 to 695.
[44] *Id.*, Vol. II, pp. 698 to 699.
[45] *Id.*, Vol. II, p. 702.
[46] Docket, Vol. II, Records Verification dated January 18, 2023 issued by the Judicial Records Division of this Court, p. 703.
[47] *Id.*, Vol. II, Resolution dated February 1, 2023, p. 705.
[48] *Id.*, Vol. I, Issues to be Resolved, JSFI, p. 142.

filed by petitioner; that this Court has no jurisdiction over the instant case; that the assessment had already become final and executory; and, that the assessment issued against petitioner is valid and lawful.

RULING OF THE COURT

The present *Petition for Review* must be dismissed on the ground that this Court lacks jurisdiction to entertain the same.

Section 228 of the 1997 NIRC, 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</u>. Within sixty (60) days from filing of the protest, all relevant 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." *(Emphases, italics and underscoring added)* cm

Based on the foregoing provision, a tax assessment issued by the BIR may be protested administratively, within thirty (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.**

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[49], as amended by RR No. 18-2013[50] and RR No. 7-2018,[51] 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
>
> 3.1.5 *Disputed Assessment.* — The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN[52] 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:
>
> (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.
>
> (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.

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[49] 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 Taxpayers Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty

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

[51] SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99, as Amended by Revenue Regulations No. 18-13, Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment

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

> **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 if it is a request for reinvestigation, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based, otherwise, his protest shall be considered on which his protest is based, <u>otherwise, this protest shall be considered *void and without force and effect*</u>.**
>
> xxx xxx xxx
>
> For requests for reinvestigation, 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 have been clearly and distinctively defined. Particularly, a distinction has been made between the two (2) types of protest, *i.e.*, a *request for reconsideration* and a *request for reinvestigation*. Thus, the two (2) types of protest can no longer be used interchangeably and their differences so lightly brushed aside.[53]

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

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

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

In any case, the protest must state the following: (1) the nature thereof (whether *reconsideration* or *reinvestigation*, and in case of the latter, it must specify the newly discovered or additional evidence the taxpayer intends to present); (2) date of the assessment notice; and, (3) the applicable law, rules and regulations, or jurisprudence on which his protest is based; otherwise, the protest shall be considered void, and without force and effect.

In this case, petitioner's letter dated October 10, 2018 addressed to respondent Palamine[54] did not comply with Section 228 of the 1997 NIRC, as amended, in relation to the above-quoted Section 3 of RR No. 12-99, as amended by RR No. 18-2013 and RR No. 7-2018. Notably, while the said letter stated the nature thereof, *i.e.*, a request for reinvestigation, it does not specify the newly discovered or additional evidence the taxpayer intends to present. Neither does the same letter state the applicable law, rules and regulations, or jurisprudence on which the protest is based. Correspondingly, petitioner's letter dated October 10, 2018 is void.

In *Commissioner of Internal Revenue vs. Court of Tax Appeals-Third Division, et al.*,[55] the Supreme Court ruled as follows:

> "**When a taxpayer files a petition for review before the Court of Tax Appeals without validly contesting the assessment 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

[54] Docket, Vol. I, Par. 3, Summary of Admitted Facts, JSFI, p. 142; Docket, Vol. I, Exhibit "P-3", p. 224.
[55] G.R. No. 239464, May 10, 2021.

comply with three requirements of Revenue Regulations No. 18-2013.

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:

> 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 Code or other laws administered by the Bureau of Internal Revenue;
>>
>> (2) Inaction by 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, where the National Internal Revenue Code provides a specific period for 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 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*,[56] 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

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[56] 103 Phil. 3 (1968) [Per J. Bengzon, *En Banc*]. *Cm*

counted from receipt of the Commissioner's decision on the disputed assessment.

Here, however, 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. 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 without validly contesting the assessment 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 jurisprudence, it is clear that Section 228 of the 1997 NIRC, as amended, and implemented by RR No. 12-99, as amended by RR No. 18-2013 and RR No. 7-2018, defines the elements of a valid administrative protest. 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. *am*

Considering that petitioner's letter dated October 10, 2018 failed to meet the requisites of a valid protest, the corollary letter dated December 7, 2018 from respondent Palamine, denying the request for reinvestigation, cannot be considered as respondent CIR's final decision on a disputed assessment. Consequently, the present *Petition for Review*, which assails the said letter dated December 7, 2018, is premature and thus, 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.[57] Moreover, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[58]

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

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(I concur. Petitioner's failure to file a valid protest to the FLD/FAN rendered the assessments against it final, executory and demandable. The CTA is bereft of jurisdiction over the present Petition for Review.)
ROMAN G. DEL ROSARIO
Presiding Justice

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

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[57] *Commissioner of Internal Revenue vs. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019.
[58] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

om