REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ALLIED METALS, INC.,
Petitioner,

CTA CASE NO. 10711

-versus-

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

COMMISSIONER OF INTERNAL,
Respondent.

Promulgated:

______________ 4:20 p.m.

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DECISION

RINGPIS-LIBAN, J.

THE CASE

The *Petition for Review* prays that the instant petition of Allied Metals, Inc. be granted, and the subject *Final Decision on Disputed Assessments* (FDDA), together with the pertinent alleged tax deficiency assessments, be cancelled and declared void.[1]

THE PARTIES

Petitioner Allied Metals, Inc. is a domestic corporation duly registered under the laws of the Philippines with principal place of business located at No. 2000 Gov. F Halili Highway, Muzon, San Jose Del Monte, Bulacan. It is registered with the Securities and Exchange Commission under Registration 26448 dated December 15, 2014.[2]

It is primarily established to engage in the manufacture, processing and production of metal products, wares, and articles of whatever kind and nature,

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[1] Statement of the Case, Pre-Trial Order dated October 3, 2022, Docket – Vol. I, p. 370.
[2] Par. 2, Summary of Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 360.

such as but not limited to stainless steel kitchen equipment, aluminum louvers, structural steel frames, *etc.*[3]

On the other hand, respondent is the duly appointed Commissioner of Internal Revenue who holds office at the Bureau of Internal Revenue (BIR) National Office Building, Agham Road, Diliman, Quezon City.[4]

THE FACTS OF THE CASE

On December 2, 2016, petitioner received *Letter of Authority* (LOA) No. 25B-2016-00000240 dated November 24, 2016, authorizing Revenue Officer (RO) Jay Dee Castro and Group Supervisor Benjamin Almia of Revenue District No. 25B, Sta Maria, Bulacan, to conduct an examination of its books of accounts and other accounting records for the calendar year (CY) 2015.[5]

Thereafter, petitioner received on November 7, 2018, *Preliminary Assessment Notice* (PAN) No. 9359 dated October 29, 2018, with *Details of Discrepancies* and supporting schedules from the BIR.[6]

On January 10, 2019, petitioner received *Assessment Notice* No. 37789 with *Formal Letter of Demand* (FLD/FAN) dated December 28, 2018, with *Details of Discrepancies*, reiterating the same findings in the PAN dated October 29, 2018, with additional penalties for interest.[7]

Petitioner filed its protest by way of *Request for Reinvestigation* dated January 18, 2019 against the FLD/FAN on February 6, 2019.[8]

Subsequently, on April 23, 2021, the assailed FDDA dated March 15, 2021 with deficiency assessments in the amount of ₱87,645,896.28, inclusive of penalties and interests, was received by petitioner.[9]

Petitioner then filed a *Request for Reconsideration* dated May 5, 2021 of the FDDA addressed to respondent on May 24, 2021.[10]

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[3] Par. 3, Summary of Stipulation of Facts, JSFI, Docket – Vol. I, p. 360.

[4] Par. 1, Summary of Stipulation of Facts, JSFI, Docket – Vol. I, p. 360.

[5] Par. 4, Summary of Stipulation of Facts, JSFI, Docket – Vol. I, p, 360; Exhibits "P-2" and "R-1", BIR Records, p. 3.

[6] Par. 5, Summary of Stipulation of Facts, JSFI, Docket – Vol. I, p, 361; Exhibits "P-4" and "R-6", BIR Records, pp. 488 to 492.

[7] Par. 6, Summary of Stipulation of Facts, JSFI, Docket – Vol. I, p, 361; Exhibits "P-5" to "P-5-1" and "R-8" to "R-12", pp. 500 to 509.

[8] Par. 7, Summary of Stipulation of Facts, JSFI, Docket – Vol. I, p, 361; Exhibit "P-6" (as per Petitioner's *Formal Offer of Evidence for the Petitioner With Motion to Mark the USB Accompanying the ICPA Report*, Docket – Vol. II, p. 473), BIR Records, pp. 1285 to 1290.

[9] Par. 8, Summary of Stipulation of Facts, JSFI, Docket – Vol. I, p, 361; Exhibit "R-14", BIR Records, pp. 1358 to 1361.

[10] Exhibit "P-8" (as per Petitioner's *Formal Offer of Evidence for the Petitioner With Motion to Mark the USB Accompanying the ICPA Report*, Docket – Vol. II, p. 474), Docket – Vol. I, pp. 199 to 216; Refer also to Q&A 20, Exhibit "P-16", Docket – Vol. I, p. 321.

Petitioner filed the present *Petition for Review* on December 20, 2021.[11]

Within the extended period,[12] respondent filed his *Answer* on May 24, 2022,[13] arguing that: (i) the present *Petition for Review*, being anchored on the inaction of respondent on the protest filed by petitioner, is filed out of time and, thus, the Court cannot anymore exercise jurisdiction over petitioner's *Petition for Review*; and (ii) that the BIR enjoys the presumption of regularity, and that it is the taxpayer and not the BIR who has the duty of proving otherwise, pursuant to the case of *Commissioner of Internal Revenue vs. Tuason and Court of Tax Appeals*.[14]

On June 3, 2022, respondent transmitted the BIR Records of the case consisting of 2898 pages.[15]

The Pre-Trial Conference was set and held on August 23, 2022.[16] Prior thereto, *Respondent's Pre-Trial Brief* was filed on August 16, 2022,[17] while the *Pre-Trial Brief for the Petitioner* was submitted on August 18, 2022.[18]

On September 16, 2022, the parties filed their *Joint Stipulation of Facts and Issues*,[19] which was admitted and approved by the Court in its Resolution dated September 22, 2022,[20] thereby deeming the termination of the Pre-Trial. Subsequently, the Court issued the Pre-Trial Order dated October 3, 2022.[21]

Trial then ensued, with both parties presenting and offering their respective testimonial and documentary evidence.

Petitioner offered the testimonies of the following individuals, namely: (1) Ms. Socorro P. Valenzuela,[22] Accounting Supervisor; and (2) Ms. Majelia M. Azogue Ubaldo,[23] the Court-commissioned Independent Certified Public Accountant (ICPA).[24]

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[11] Docket – Vol. I, pp. 6 to 26.
[12] *Motion for Extension of Time to File Answer* dated April 22, 2022, Docket – Vol. I, pp. 221 to 223; Resolution dated April 28, 2022, Docket – Vol. I, p. 225.
[13] Docket – Vol. I, pp. 226 to 237.
[14] G.R. No. 85749, May 15, 1989.
[15] *Ex-Parte Manifestation & Compliance* dated June 3, 2022, Docket – Vol. I, pp. 300 to 301.
[16] Notice of Pre-Trial Conference dated June 1, 2022, Docket – Vol. I, pp. 337 to 338; Minutes of the hearing held on, and Order dated, August 23, 2022, Docket – Vol. I, pp. 331, and 333 to 335, respectively.
[17] Docket – Vol. I, pp. 303 to 307.
[18] Docket – Vol. I, pp. 308 to 312.
[19] Docket – Vol. I, pp. 360 to 366.
[20] Docket – Vol. I, p. 368.
[21] Docket – Vol. I, pp. 370 to 377.
[22] Exhibit "P-16", Docket – Vol. I, pp. 317 to 326; Minutes of the hearing held on, and Order dated, October 13, 2022, Docket – Vol. I, pp. 386, and 388 to 389, respectively.
[23] Exhibit "P-9", Docket – Vol. I, pp. 430 to 459; Minutes of the hearing held on, and Order dated, February 23, 2023, Docket – Vol. II, pp. 464, and 467 to 468, respectively.
[24] *Oath of Commission* dated October 13, 2022, Docket – Vol. I, p. 387; Minutes of the hearing held on, and Order dated, October 13, 2022, Docket – Vol. I, pp. 386, and 388 to 389, respectively.

The *Report* of the ICPA was filed on December 12, 2022.[25]

On March 10, 2023, the *Formal Offer of Evidence for the Petitioner With Motion to Mark the USB Accompanying the ICPA Report* was filed.[26] Respondent, however, failed to file his comment thereto.[27] In the Resolution dated March 31, 2023,[28] the Court: (1) noted the said *Formal Offer of Evidence*; (2) granted the *Motion to Mark the USB Accompanying the ICPA Report*; and (3) set the Commissioner's Hearing on April 13, 2023.

Thereafter, respondent filed a *Manifestation with Motion to Include Additional Witness,*[29] with attached *Judicial Affidavit of Jay Dee Castro*,[30] among others, on May 9, 2023.

In the Resolution dated July 17, 2023,[31] the Court ordered petitioner to submit, within ten (10) days from notice, a USB drive functioning, uncorrupted copies of the exhibits and marked exhibits mentioned in paragraphs a and b, respectively, of the said Resolution. Petitioner filed its compliance (via the letter dated July 25, 2023) on July 26, 2023,[32] and the same was noted by the Court in its Minute Resolution dated July 27, 2023.[33]

Subsequently, petitioner filed its *Compliance With Motion for Re-numbering of Markings in the Orig[i]nally Marked Exhibits* on July 31, 2023.[34] In the Resolution dated October 26, 2023,[35] the Court: (1) noted petitioner's *Compliance*; (2) granted the integrated Motion; (3) admitted all of petitioner's offered exhibits; and (4) set a Commissioner's Hearing for the re-marking of the exhibits identified in petitioner's Motion.

For his part, respondent presented the testimonies of the following witnesses: (1) RO Karen Marie Maniquiz;[36] (2) RO Bernard Joseph Banayad;[37] and (3) RO Jay Dee Castro.[38]

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[25] Docket – Vol. I, pp. 393 to 424.
[26] Docket – Vol. II, pp. 470 to 490.
[27] Records Verification dated May 10, 2023 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 530.
[28] Docket – Vol. II, p. 495.
[29] Docket – Vol. II, pp. 499 to 502.
[30] Exhibit "R-18", Docket – Vol. II, pp. 515 to 524.
[31] Docket – Vol. II, pp. 532 to 533.
[32] As per Transmittal dated July 25, 2023, Docket – Vol. II, pp. 534 to 535.
[33] Docket – Vol. II, p. 539.
[34] Docket – Vol. II, pp. 540 to 545.
[35] Docket – Vol. II, pp. 547 to 548.
[36] Exhibit "R-19", Docket – Vol. I, pp. 248 to 252; and Minutes of the hearing held on, and Order dated, February 13, 2024, Docket – Vol. II, pp. 555 to 556.
[37] Exhibit "R-20", Docket – Vol. I, pp. 253 to 257; and Minutes of the hearing held on, and Order dated, April 2, 2024, Docket – Vol. II, pp. 560 to 562.
[38] Exhibit "R-18", Docket – Vol. II, pp. 515 to 524; and Minutes of the hearing held on, and Order dated, February 13, 2024, Docket – Vol. II, pp. 555 to 556.

On April 19, 2024, respondent filed his *Formal Offer of Evidence* (FOE).[39] However, no comment was filed thereon by petitioner.[40] Thus, in the Minute Resolution dated May 14, 2024,[41] the Court considered submitted for resolution respondent's FOE. Claiming, however, that its counsel did not receive the said FOE, petitioner filed a *Motion for Reconsideration of the Minute Resolution dated May 14, 2024* on May 16, 2024,[42] praying for the reconsideration of the said Minute Resolution, and for the Court to allow petitioner to file its comment on the said FOE within a period of ten (10) days from May 16, 2024. In the Resolution dated June 7, 2024,[43] the Court: (1) granted petitioner's *Motion for Reconsideration*; (2) reversed and set aside the Minute Resolution dated May 14, 2024; (3) ordered respondent to: (a) serve a copy of his FOE to petitioner within five (5) days from notice; (b) ensure that the copy is actually received by petitioner; and (c) submit proof of receipt of the FOE once petitioner receives the same; (4) ordered petitioner to file its comment to respondent's FOE within ten (10) days from either the receipt of the FOE or from gaining access to a copy of the FOE *via* other means, whichever comes first; and (5) deferred the resolution of the said FOE until after petitioner has filed its comment to the same or the lapse of the period granted for it to do so. Respondent submitted his compliance thereon on June 27, 2024.[44] The same was noted by the Court in its Minute Resolution dated July 2, 2024.[45] On July 2, 2024, petitioner filed its *Comment [On the Respondent's Formal Offer of Evidence]*.[46]

In the Resolution dated September 18, 2024,[47] the Court admitted all of respondent's offered exhibits.

The *Memorandum for the Petitioner* was filed on October 28, 2024,[48] while the *Memorandum (For the Respondent)* was submitted on November 8, 2024.[49]

The case was considered submitted for decision on November 26, 2024.[50]

THE STIPULATED ISSUES

The parties stipulated the following issues for resolution of this Court, to wit:

"A. Whether or not the Court has jurisdiction over the case.

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[39] Docket – Vol. II, pp. 563 to 571.
[40] Records Verification dated May 9, 2024 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 612.
[41] Docket – Vol. II, p. 613.
[42] Docket – Vol. II, pp. 614 to 616.
[43] Docket – Vol. II, pp. 619 to 620.
[44] Respondent's *Manifestation*, Docket – Vol. II, pp. 621 to 624.
[45] Docket – Vol. II, p. 626.
[46] Docket – Vol. II, pp. 627 to 632.
[47] Docket – Vol. II, pp. 635 to 636.
[48] Docket – Vol. II, pp. 642 to 662.
[49] Docket – Vol. II, pp. 664 to 674.
[50] Minute Resolution dated November 26, 2024, Docket – Vol. II, p. 675.

B. Whether or not the Petitioner is liable for the alleged deficiency taxes amounting to Php 87,645,896.28, inclusive of interest and penalties for taxable year 2015."[51]

THE ARGUMENTS OF THE PARTIES

Petitioner argues that this Court has jurisdiction as it filed the present *Petition for Review* within thirty (30) days upon the lapse of one hundred eighty (180) days for respondent to act on its *Request for Reconsideration* of the FDDA, issued by a Regional Director; that petitioner is not liable for the alleged deficiency taxes amounting to ₱87,645,896.28, inclusive of interests and penalties, for taxable year 2015; and that the RO who conducted the audit lacks authority, hence, rendering the audit and the results invalid.

Respondent contends that the filing of the instant *Petition for Review* was filed out of time and, thus, this Court has no jurisdiction over the subject matter of this case, pursuant to Section 7 of Republic Act (RA) No. 1125, as amended by RA No. 9282, in relation to Section 228 of the National Internal Revenue Code (NIRC), as amended, and as implemented by Revenue Regulations (RR) No. 18-2013, pertaining to due process requirement in tax assessments; the assessment is valid because the ROs designated in the issued LOAs were the ones who conducted the record examination of petitioner; and respondent's assessment notices on income tax, expanded withholding tax, documentary stamp tax, and improperly accumulated earnings tax, are valid as the same were issued in accordance with the applicable laws and regulations, and there exist factual and legal bases therefor.

THE RULING OF THE COURT

The present *Petition for Review* must be dismissed.

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.[52]

Section 228 of the National Internal Revenue Code (NIRC) of 1997 reads as follows:

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[51] Issues, JSFI, Docket – Vol. I, p. 362.
[52] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

> "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 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.**
>
> **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 added)*

Implementing the above-quoted Section 228, Section 3 of RR No. 12-99,[53] as amended by RR No. 18-2013,[54] and as renumbered by RR No. 7-2018,[55] provides, in part, as follows:

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[53] 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

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

[55] 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.

"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[56] 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.

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 *void and without force and effect.*

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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

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

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.

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If the taxpayer fails to file a valid protest against the FLD/FAN within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable. No request for reconsideration or reinvestigation shall be granted on tax assessments that have already become final, executory and demandable.

If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may either: (i) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the said decision; or (ii) elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision. No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.

If the protest is not acted upon by the Commissioner's duly authorized representative within one hundred eighty (180) days counted from the date of filing of the protest in case of a request reconsideration; or **from date of submission by the taxpayer of the required documents within sixty (60) days from the date of filing of the protest in case of a request for reinvestigation, the taxpayer may either: (i) appeal to the CTA within thirty (30) days after the expiration of the one hundred eighty (180)-day period; or (ii) await the final decision of the Commissioner's duly authorized representative on the disputed assessment.**

If the protest or administrative appeal, as the case may be, is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision. Otherwise, the assessment shall become final, executory and demandable. A motion for reconsideration of the Commissioner's denial of the protest or administrative appeal, as the case may be, shall not toll the thirty (30)-day period to appeal to the CTA.

If the protest or administrative appeal is not acted upon by the Commissioner <u>within one hundred eighty (180) days counted from the date of filing of the protest</u>, the taxpayer may either: (i) appeal to the CTA within thirty (30) days from after the expiration of the one hundred eighty (180)-day period; or (ii) await the final decision of the Commissioner on the disputed assessment and appeal such final decision to the CTA within thirty (30) days after the receipt of a copy of such decision.

It must be emphasized, however, that in case of inaction on protested assessment within the 180-day period, the option of the taxpayer to either: (1) file a petition for review with the CTA within 30 days after the expiration of the 180-day period; or (2) await the final decision of the Commissioner or his duly authorized representative on the disputed assessment and appeal such final decision to the CTA within 30 days after the receipt of a copy of such decision, are mutually exclusive and the resort to one bars the application of the other.

xxx xxx xxx." (*Emphases added*)

To summarize:

1. If the protest is wholly or partially denied by respondent's duly authorized representative, the concerned taxpayer may:

    (i) appeal to this Court, within thirty (30) days from date of receipt of the said decision;[57] or

    (ii) elevate his protest through request for reconsideration to respondent, within thirty (30) days from date of receipt of the said decision.

2. If the protest is not acted upon <u>by respondent's duly authorized representative</u> within one hundred eighty (180) days counted from the date of filing of the protest in case of a *request for reconsideration*; or from the date of submission by the taxpayer of the required documents (which must be made within sixty (60) days from the date of the filing of the protest) in case of a *request for reinvestigation*, the concerned taxpayer may:

    (i) file a *Petition for Review* with this Court, within thirty (30) days after the expiration of the said one hundred eighty

[57] *Commissioner of Internal Revenue vs. South Entertainment Gallery, Inc.*, G.R. No. 223767, April 24, 2023, citing *Commissioner of Internal Revenue vs. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019.

(180)-day period fixed by law for respondent to act on the disputed assessment; or

(ii) await the final decision of the respondent's authorized representative on the disputed assessment.

3. If the protest or administrative appeal, as the case may be, is denied, in whole or in part, by respondent himself, the taxpayer may appeal to this Court, within thirty (30) days from the date of receipt of the decision. Otherwise, the assessment shall become final, executory and demandable.[58]

4. If the protest or administrative appeal is not acted upon by respondent himself within one hundred eighty (180) days counted from the date of filing of the **protest**, the concerned taxpayer may either:

(i) appeal to this Court, within thirty (30) days from after the expiration of the said one hundred eighty (180)-day period; or

(ii) await the final decision of the respondent on the disputed assessment, and appeal such final decision to this Court, within thirty (30) days after the receipt of the said decision.

Hence, it is evident that the one hundred eighty (180)-day period under Section 228 of the NIRC of 1997, and its implementing rules, is confined only to the period within which either the respondent or his duly authorized representative may act on the initial protest against the FLD/FAN, particularly, from the date of filing of the protest (in the case of a *request for reconsideration*) or from the submission of supporting documents (in the case of a *request for reinvestigation*). **There is no provision for a separate or "fresh" one hundred eighty (180)-day period for the respondent to act on an administrative appeal for purposes of computing the thirty (30)-day period to appeal to this Court.** This was emphasized in *Nueva Ecija II Electric Cooperative, Inc. Area II (NEECO II Area II) vs. Commissioner of Internal Revenue,*[59] where the Supreme Court stated as follows:

> "Notably, Section 3.1.4 of Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-13, which implements Section 228 of the Tax Code, provides for alternative courses of action to the taxpayer upon its receipt of the Final Decision on Disputed Assessment issued by the authorized representative of respondent Commissioner on Internal Revenue (respondent), including the option of elevating the protest to the respondent himself through

[58] *Philippine Amusement and Gaming Corporation vs. Bureau of Internal Revenue, et. al.,* G.R. No. 208731, January 27, 2016.

[59] *G.R. No. 258101. April 19, 2022, citing Misnet, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 210604, June 3, 2019.

> a request for reconsideration. However, nowhere in said provision does it provide that a fresh 180-day period is granted to the respondent to act on such administrative appeal. As aptly observed by the CTA *EB*, upholding petitioner's argument would run contrary to the clear language of Section 228 and would unduly expand the period provided by the law. Necessarily, taxpayers must exercise their rights in the manner and within the periods provided by statute and the pertinent regulations. "It bears to stress that the perfection of an appeal within the statutory period is a jurisdictional requirement and failure to do so renders the questioned decision or decree final and executory and no longer subject to review."

Revisiting the facts of the present case, it is indubitable that **petitioner submitted supporting documents along with its *Request for Reinvestigation* dated January 18, 2019[60] on February 6, 2019.** Thus, counting one hundred eighty (180) days from February 6, 2019, **respondent or his duly authorized representative has until August 6, 2019 to act on the same**. However, **petitioner received the FDDA dated March 15, 2021,[61] issued by Regional Director Gerry O. Dumayas, only on April 23, 2021**; and this impelled **petitioner to file a *Request for Reconsideration* to respondent on May 24, 2021.**[62] On the belief that respondent has a fresh one hundred eighty (180)-day period from May 24, 2021, or until November 20, 2021, to act on its *Request for Reconsideration*, **petitioner filed the present *Petition for Review* on December 20, 2021,**[63] or **within thirty (30) days from the lapse of the alleged fresh one hundred eighty (180)-day period.**

But as already pointed out by this Court, **there is no provision for a separate or "fresh" one hundred eighty (180)-day period for the respondent to act on an *administrative appeal* for purposes of computing the thirty (30)-day period to appeal to before this Court.** Thus, **considering that the one hundred eighty (180)-day period has already lapsed by the time respondent issued the FDDA on March 15, 2021, there is no longer any appealable inaction in this case, contrary to the claim of petitioner. <u>Petitioner's only recourse would be to await respondent's final decision or implied denial on its *administrative appeal*, and elevate the same before this Court within thirty (30) days from receipt or notice thereof.</u>**

Since the present *Petition for Review* was filed way beyond the thirty (30)-day reglementary period to appeal an inaction on the administrative

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[60] Par. 7, Summary of Stipulation of Facts, JSFI, Docket – Vol. I, p, 361; Exhibit "P-6", (as per Petitioner's *Formal Offer of Evidence for the Petitioner With Motion to Mark the USB Accompanying the ICPA Report*, Docket – Vol. II, p. 473), BIR Records, pp. 1285 to 1290.

[61] Par. 8, Summary of Stipulation of Facts, JSFI, Docket – Vol. I, p, 361; Exhibit "R-14", BIR Records, pp. 1358 to 1361

[62] Exhibit "P-8" (as per *Petitioner's Formal Offer of Evidence for the Petitioner With Motion to Mark the USB Accompanying the ICPA Report*, Docket – Vol. II, p. 474), Docket – Vol. I, pp. 199 to 216; Refer also to Q&A 20, Exhibit "P-16", Docket – Vol. I, p. 321.

[63] Docket – Vol. I, pp. 6 to 26.

protest/appeal, this Court was deprived of jurisdiction to take cognizance of the case.

It bears emphasis that this Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[64] Moreover, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[65] Consequently, this Court cannot rule on the matter relating to the subject deficiency tax assessments.

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

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest 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.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

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[64] *Commissioner of Internal Revenue vs. V.Y. Domingo Jewellers, Inc.*, supra.
[65] *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, and the Division Chairperson's Attestation, 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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice