REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1837** (CTA Case No. 8895)
	Present: **DEL ROSARIO,** P.J., **CASTAÑEDA, JR., UY, FABON-VICTORINO,**
- versus -	**MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** and **MODESTO-SAN PEDRO,** JJ.
PACIFIC HUB CORPORATION, Respondent.	***Promulgated:*** NOV 08 2019 4:08 p.m.

x - x

DECISION

UY, J.:

The instant *Petition for Review*[1] filed on May 3, 2018 by the Commissioner of Internal Revenue, petitioner, against Pacific Hub Corporation, respondent, prays for the reversal and setting aside of the Decision dated August 31, 2017[2] and Resolution dated March 22, 2018[3], promulgated by the Third Division of this Court (Court in Division) in CTA Case No. 8895, entitled *"Pacifichub Corporation, Petitioner, vs. Commissioner of Internal Revenue, Respondent"*. The dispositive portions thereof respectively read as follows:

Decision dated August 31, 2017:

"**WHEREFORE,** premises considered, the instant Petition for Review is **GRANTED.** The Warrant of

---

[1] EB Docket, pp. 7 to 21.
[2] EB Docket, pp. 23 to 46.
[3] EB Docket, pp. 47 to 49.

Distraint and/or Levy dated September 12, 2014, as well as, the Notice of Denial dated January 10, 2014, are **NULL** and **VOID.**

SO ORDERED."

Resolution dated March 22, 2018:

"**WHEREFORE,** there being no new matters or issues advanced that will merit reconsideration, let alone modification of the assailed Decision of August 31, 2017, respondent's *Motion for Reconsideration* dated September 26, 2017 is hereby **DENIED,** for lack of merit.

SO ORDERED."

THE FACTS

Petitioner Commissioner of Internal Revenue is the head of the Bureau of Internal Revenue, with authority to decide on disputed assessments, claims for refund of internal revenue taxes, fees or other charges, as well as penalties imposed under the National Internal Revenue Code (NIRC). He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

Respondent Pacific Hub Corporation is a domestic corporation, with principal office at 11th Floor Robinsons Equitable Tower, 4 ADB Avenue corner Poveda Street, Ortigas Center, Pasig City 1605.

For taxable years (TYs) 2005 to 2006, respondent filed its monthly returns for withholding tax on compensation (WTC) and expanded withholding tax (EWT). Said taxes amounted to ₱24,697,150.26 and ₱5,723,167.83, respectively. However, of the said amounts, it remitted only ₱11,611,897.87 for WTC and ₱3,400,561.09 for EWT. In other words, it had a total unremitted WTC of ₱13,085,252.39 and EWT of ₱2,322,606.74, or a total of ₱15,407,859.13 unremitted withholding taxes. It also had tax deficiency in value-added tax (VAT) in the amount of ₱72,371.98 as it only paid ₱492,927.45 instead of ₱565,299.43.

On October 16, 2008, respondent sent a letter to the BIR indicating its willingness to pay the amount of ₱15,480,231.11 in deficiency taxes, with a request for abatement of penalties, surcharges and interests incident thereto, due to its alleged continued financial losses.

Respondent filed an *Application for Abatement or Cancellation of Tax, Penalties and/or Interest*, on July 24, 2009, for its deficiency WTC, EWT, and VAT for TYs 2005 to 2006.

On January 5, 2010, respondent paid its basic deficiency WTC, EWT and VAT for TYs 2005 to 2006, in the aggregate amount of ₱15,480,231.11.

Respondent received, on August 20, 2014, a *Notice of Denial* dated January 10, 2014 issued by the BIR of its application for abatement of the penalties, surcharge and interest on the EWT and WTC.

On September 12, 2014, petitioner issued and served upon respondent a *Warrant of Distraint and/or Levy* to enforce collection of the increments incident to its deficiency WTC and EWT for TYs 2005 to 2006, in the aggregate amount of ₱13,792,867.56.

Respondent then filed a *Petition for Review* on September 22, 2014, before the Court in Division, assailing the validity of the *Notice of Denial* and the *Warrant of Distraint and/or Levy* dated September 12, 2014. The case was docketed as CTA Case No. 8895.

Incorporated in respondent's *Petition* was its *Motion to Suspend Collection of Surcharges, Interests and Penalties*, being enforced under the *Warrant of Distraint and/or Levy* dated September 12, 2014, pending determination of the said petition. The said *Motion* was granted on November 14, 2014.

On November 17, 2014, petitioner filed his *Answer*, claiming lack of jurisdiction on the part of the Court in Division, since no decision on disputed assessment has been issued which could be the subject of review by the said Court. Assuming that the Court in Division has jurisdiction over the *Petition*, the subject *Warrant of Distraint and/or Levy* was validly issued as respondent, even without prior assessment, was aware of its liabilities, thus, it cannot claim denial of procedural due process due to lack of assessment before it was held liable to pay deficiency taxes which it may have unequivocally admitted liability thereto and were already paying for it. Moreover, the *Notice of Denial* of respondent's request for abatement allegedly complied with all the requirements laid down in the Tax Code and all relevant BIR issuances.

During the trial in CTA Case No. 8895, respondent presented two (20 witnesses, namely: (1) Alex G. Coralde III, its Senior Director for Corporate Finance Administrative and Facilities, and (2) Jennifer B. Santos, its Senior Manager for Accounting, Procurement and Asset Management. Thereafter, respondent's formally offered exhibits were admitted by the Court in Division and respondent was deemed to have rested its case in the Resolution dated August 25, 2015[4].

For his part, petitioner presented Revenue Officers (1) Cynthia A. Yabut, and (2) Ednafe D. Cruz, as his witnesses. On June 2, 2016[5], petitioner was deemed to have rested his case upon the admission of all his documentary exhibits. And with the filing of the parties' respective memorandum, CTA Case No. 8895 was deemed submitted for decision in the Resolution dated August 31, 2016[6].

In the assailed Decision,[7] the Court in Division granted respondent's *Petition for Review*, and the *Warrant of Distraint and/or Levy* dated September 12, 2014, as well as the *Notice of Denial* dated January 10, 2014, were declared null and void.

Aggrieved, petitioner filed his *Motion for Reconsideration (Re: Decision promulgated on August 31, 2017)* on September 26, 2017,[8] to which respondent filed its *Comment/Opposition* on November 24, 2017.[9]

In the assailed Resolution dated March 22, 2018,[10] the Court in Division denied petitioner's *Motion for Reconsideration (Re: Decision promulgated on August 31, 2017)* for lack of merit.

---

[4] Division Docket (CTA Case No. 8895) – Vol. 3, pp. 1467to 1468.
[5] Resolution dated June 2, 2016, Division Docket (CTA Case No. 8895) – Vol. 4, pp. 1494 to 1495
[6] Division Docket (CTA Case No. 8895) – Vol. 4, pp. 1599
[7] EB Docket, pp. 23 to 46; Division Docket (CTA Case No. 8895) – Vol. 4, pp. 1608 to 1631.
[8] Division Docket (CTA Case No. 8895) – Vol. 4, pp. 1632 to 1641.
[9] Division Docket (CTA Case No. 8895) – Vol. 4, pp. 1657 to 1669.
[10] EB Docket, pp. 47 to 49; Division Docket (CTA Case No. 8895) – Vol. 4, pp. 1671 to 1673.

Undaunted, petitioner filed a *Motion for Extension of Time to File Petition for Review* on April 18, 2018,[11] praying for an extension of fifteen (15) days, within which to file his *Petition for Review*. In the Minute Resolution dated April 20, 2018,[12] petitioner was granted a final and non-extendible period of fifteen (15) days from April 20, 2018, or until May 5, 2018, within which to file the said *Petition for Review*.

On May 3, 2018, petitioner filed the instant *Petition for Review*[13] praying to reverse and set aside the assailed Decision dated August 31, 2017[14] and Resolution dated March 22, 2018[15], promulgated by the Third Division of this Court (Court in Division) in CTA Case No. 8895, and to issue a new Decision upholding the *Warrant of Distraint and Levy* and the *Notice of Denial* of respondent's application for abatement,

In the Resolution dated June 5, 2018,[16] respondent was ordered by the Court *En Banc* to file its *Comment* within ten (10) days from notice. On July 19, 2018, respondent filed a *Motion to Admit Comment,*[17] with attached *Comment [Re: Petition for Review dated April 30, 2018].*[18]

In the Resolution dated August 16, 2018,[19] respondent's *Motion to Admit Comment* was granted, and its *Comment* was noted by the Court *En Banc*. In the same Resolution, the Court resolved to give due course to the *Petition for Review*, and directed the parties to file their respective memorandum within thirty (30) days from receipt thereof.

Petitioner filed a *Motion for Extension of Time to File Memorandum* on September 19, 2018,[20] while respondent filed its *Motion for Extension of Time to File Memorandum* on September 21, 2018,[21] both of which were granted by this Court *En Banc* in the

[11] EB Docket, pp. 1 to 4.
[12] EB Docket, p. 6.
[13] EB Docket, pp. 7 to 21.
[14] EB Docket, pp. 23 to 46.
[15] EB Docket, pp. 47 to 49.
[16] EB Docket, pp. 54 to 55.
[17] EB Docket, pp. 56 to 58.
[18] EB Docket, pp. 59 to 71.
[19] EB Docket, pp. 73 to 75.
[20] EB Docket, pp. 76 to 78.
[21] EB Docket, pp. 80 to 83.

Resolution dated September 24, 2018.[22] On October 8, 2018, both respondent and petitioner filed their respective *Memorandum*.[23] In the Resolution dated November 22, 2018,[24] the case was deemed submitted for decision.

Hence, this Decision.

THE ISSUES

Petitioner raises the following issues for this Court's resolution, to wit:

> "I.
> WHETHER OR NOT THE HONORABLE THIRD DIVISION OF THIS COURT HAS JURISDICTION OVER THE ORIGINAL PETITION FOR REVIEW FILED BY RESPONDENT;
>
> II.
> ASSUMING THAT IT HAS JURISDICTION, WHETHER OR NOT THE HONORABLE THIRD DIVISION OF THIS COURT ERRED IN RULING THAT THE WARRANT OF DISTRAINT AND/OR LEVY WAS NOT VALIDLY ISSUED;
>
> III.
> ASSUMING THAT IT HAS JURISDICTION, WHETHER OR NOT THE HONORABLE THIRD DIVISION OF THIS COURT ERRED IN RULING THAT THE NOTICE OF DENIAL OF RESPONDENT'S REQUEST FOR ABATEMENT WAS NOT ISSUED IN ACCORDANCE WITH THE NIRC OF 1997, AS AMENDED AND RELEVANT BIR ISSUANCES."[25]

Petitioner's arguments:

Petitioner contends that the Court in Division has no jurisdiction over the original *Petition for Review* filed by respondent; and that

---

[22] EB Docket, p. 84.
[23] EB Docket, pp. 85 to 106, and 107 to 118.
[24] EB Docket, pp. 120 to 121.
[25] EB Docket, p. 109.

there was no decision of petitioner on a disputed assessment to be reviewed by the Court in Division, since respondent was not a subject of an assessment. Allegedly, it was respondent who admitted its liability and paid its basic tax, without payment of interest, surcharge and compromise penalties due thereon.

According to petitioner, respondent's *Petition for Review* does not fall under the purview of Section 7(a)(1) of Republic Act (RA) No. 9282, as the matter involved the application for abatement, which is within the exclusive power and authority of petitioner to grant or deny.

Petitioner also claims that the Court in Division erred in ruling that the *Warrant of Distraint and/or Levy* was not validly issued because Section 205 of the NIRC, as amended[26], authorizes the collection of taxes, fees or charges and any increment thereto resulting from delinquency by distraint or levy. It allegedly authorizes the issuance of Warrant of Distraint and/or Levy for the collection of delinquent taxes.

Considering that respondent is a delinquent taxpayer, Section 205 of the NIRC of 1997, as amended, can properly be applied, even without an assessment, as it is allegedly not necessary for purposes of collecting delinquent taxes. Thus, it cannot be said to that respondent was deprived of due process due to the lack of assessment.

Furthermore, respondent was allegedly well aware of its liabilities from the very beginning and it cannot therefore feign denial

---

[26] Section 205 of the NIRC of 1997, as amended, pertinently reads:

"**SEC. 205. Remedies for the Collection of Delinquent Taxes.** - The civil remedies for the collection of internal revenue taxes, fees or charges, and any increment thereto resulting from delinquency shall be:

(a) By distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts and interest in and rights to personal property, and by levy upon real property and interest in rights to real property; and

(b) By civil or criminal action.

Either of these remedies or both simultaneously may be pursued in the discretion charged with the collection of such taxes: Provided, however, That the remedies of distraint and levy shall not be availed of where the amount of tax involve is not more than One hundred pesos (P100)."

xxx xxx xxx

of due process for lack of assessment before it was held to pay deficiency taxes.

Lastly, petitioner maintains that the Court in Division erred in ruling that the *Notice of Denial* of respondent's request for abatement was not issued in accordance with the NIRC of 1997, as amended, and the relevant BIR issuances. Allegedly, a cursory reading of the Notice of Denial would readily reveal that respondent's application for abatement was disapproved pursuant to Revenue Regulation No. 13-2001.

Respondent's counter-arguments:

Respondent counters that the Court in Division has jurisdiction to rule on the validity of the *Notice of Denial* and *Warrant of Distraint and Levy*, as the said issues fall under the phrase "***other matters arising under the National Internal Revenue Code other laws administered by the Bureau of Internal Revenue***" pursuant to Section on 7(a)(1) of RA No. 1125, as amended by RA Nos. 9282 and 9503. Allegedly, the issues on the validity of the issuance of the Notice of Denial dated January 10, 2014 necessarily involves the interpretation and application of Section 204 (B) of the NIRC. On the other hand, the issue on the validity of the issuance of the WDL likewise involves the application of Section 205(A) of the NIRC.

In addition, respondent contends that the *Notice of Denial* dated January 10, 2014 is violative of due process, because a perusal thereof shows that it failed to state the grounds or basis for denial of its application for abatement; and that respondent's application for abatement was not disapproved pursuant to Revenue Regulations (RR) No. 13-2001. Hence, as properly ruled by the Court in Division, the *Notice of Denial* dated January 10, 2014 has no force and legal effect.

Finally, respondent likewise argues that the *Warrant of Distraint and/or Levy* dated September 12, 2014 is void, for having been issued without the benefit of an assessment for deficiency taxes against it.

Respondent emphasizes that it is not a delinquent taxpayer and that the Honorable Third Division of this Court correctly ruled that Section 205 of the NIRC, cited by petitioner as his basis for the

rd

issuance of the WDL dated September 12, 2014 (even without an assessment) cannot be applied because Section 205 of the NIRC of 1997, as amended, must be read together with Section 228 of the NIRC of 1997 as amended[27], which provides for the procedure of assessing taxes that results in the taxpayer's delinquency. In the assailed Decision dated August 31, 2017, the Honorable Third Division laid down several authorities in ruling that herein respondent cannot be declared as a delinquent taxpayer without first an assessment issued against it, which allegedly remained unrebutted.

THE COURT *EN BANC*'S RULING

The instant *Petition for Review* lacks merit.

The Court in Division has jurisdiction to review petitioner's* Notice of Denial *of respondent's application for abatement.

To repeat, petitioner contends that the Court in Division has no jurisdiction over the case, as the matter involved the denial of an application for abatement, which is within the exclusive purview of petitioner.

---

[27] Section 228 of the NIRC of 1997 pertinently provides:

"*Sec. 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 taxpayers 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 one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

We are not convinced.

Jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy.[28] It is conferred by law and not by the parties' action or conduct.[29] Specifically, this Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[30]

Section 7(a)(1) of RA No. 1125,[31] as amended by RA Nos. 9282[32] and 9503[33], to wit:

> "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." *(Emphasis supplied.)*

Based on the foregoing, the appellate jurisdiction of this Court is not limited to cases which involve decisions of petitioner on matters relating the assessments or refunds. The second part of the provision covers **other cases that arise out of the NIRC or related**

---

[28] *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. 185666, February 4, 2015, citing *Commissioner of Internal Revenue v. Villa, et al.*, 130 Phil. 3, 4 (1968).

[29] *Magno vs. People of the Philippines, et al.*, G.R. No. 171542, April 6, 2011.

[30] *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019, citing *CIR V. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, 146 Phil. 139, 152 (2014).

[31] AN ACT CREATING THE COURT OF TAX APPEALS.

[32] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

[33] AN ACT ENLARGING THE ORGANIZATIONAL STRUCTURE OF THE COURT OF TAX APPEALS, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES

pb

laws administered by the BIR. The wording of the provision is clear and simple.[34]

Thus, other than decisions of petitioner pertaining to assessments or refunds, decisions of petitioner relating to *"other matters"* may be taken cognizance of by this Court, for as long as the said ***"other matters"*** arose under the NIRC or other laws administered by the BIR.

Without doubt, the *Notice of Denial* of respondent's application for abatement is a matter, which arose under the NIRC of 1997. This must be so because the power of petitioner to abate taxes is granted under Section 204(B) of the NIRC of 1997, to wit:

> "SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – **The Commissioner may –**
>
> xxx xxx xxx
>
> (B) **Abate or cancel a tax liability**, when:
>
> (1) The tax or any portion thereof appears to be unjustly or excessively assessed; or
>
> (2) The administration and collection costs involved do not justify the collection of the amount due." *(Emphases supplied)*

It is generally true that purely administrative and discretionary functions may not be interfered with by the courts; but when the exercise of such functions by the administrative officer is tainted by a failure to abide by the command of the law, then it is incumbent on the courts to set matters right, with the Supreme Court having the last say on the matter.[35] Specifically, petitioner would have to exercise his discretion within the parameters set by the law, and in case he abuses his discretion, this Court may correct such abuse if the matter is appealed to it.[36]

---

[34] *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 162852, December 16, 2004.
[35] *Philippine National Oil Company vs. Court of Appeals, et al., etseq.*, G.R. Nos. 109976 and 112800, April 26, 2005.
[36] *Id.*

Correspondingly, any decision of petitioner in relation to the exercise of the power to abate or cancel a tax liability tainted by a failure to abide by the command of the law, is subject to this Court's exclusive appellate jurisdiction. Such being the case, the Court in Division has exclusive appellate jurisdiction to review by appeal petitioner's *Notice of Denial* of the application for abatement of respondent, since the same is alleged to have been issued in violation of the latter's right to due process in the proceedings *a quo.*

An assessment is a preliminary step, essential to a warrant distraint and/or levy.

Petitioner claims that respondent is a delinquent taxpayer, and an assessment is not necessary for purposes of collecting delinquent taxes. Hence, it cannot be said to have been deprived of due process due to the lack of assessment.

We are not convinced.

The law imposes a substantive, not merely a formal, requirement. **To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations**: that taxpayers should be able to present their case and adduce supporting documents.[37]

In *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation,*[38] the Supreme Court held as follows:

> "Verily, pursuant to the lifeblood doctrine, the Court has allowed tax authorities ample discretion to avail themselves of the most expeditious way to collect the taxes, **including summary processes**, with as little interference as possible. However, the Court, at the same time, has not hesitated to strike down these processes in cases wherein tax authorities disregarded due process. The BIR's power to collect taxes must yield to the fundamental rule that no person shall be deprived of his/her property without due process of law. **The rule**

---

[37] *Commissioner of Internal Revenue vs. Reyes, etseq.*, G.R. Nos. 159694 and 163581, January 27, 2006.

[38] G.R. No. 197945, July 9, 2018.

> **is that taxes must be collected reasonably and in accordance with the prescribed procedure.**
>
> In the normal course of tax administration and enforcement, the BIR must first make an **assessment** then enforce the **collection** of the amounts so assessed. 'An assessment is not an action or proceeding for the collection of taxes. x x x It is **a step preliminary, but essential to** warrant distraint, if still feasible, and, also, to establish a cause for judicial action.' The BIR may summarily enforce collection only when it has accorded the **taxpayer administrative due process**, which vitally includes the issuance of a valid assessment. A valid assessment sufficiently informs the taxpayer in writing of the legal and factual bases of the said assessment, thereby allowing the taxpayer to effectively protest the assessment and adduce supporting evidence in its behalf." *(Underscoring supplied)*

Based on the foregoing jurisprudential pronouncements, an assessment is a step preliminary, but essential to a warrant of distraint; and the BIR may summarily enforce collection, **only when it has accorded the taxpayer administrative due process, which vitally includes the issuance of a valid assessment.**

Consequently, when there is no assessment, the BIR cannot validly proceed to exercise the summary administrative remedy of distraint and/or levy as provided by law.

In this case, there is no evidence on record to show that an assessment was ever issued, prior to the issuance of the *Warrant of Distraint and/or Levy* dated September 12, 2014.[39] In fact, petitioner never disputed the allegation that there was no assessment in this case. On the contrary, petitioner even argued that respondent cannot be said to have been deprived of its right to due process despite the lack of an assessment.[40]

Without any allegation, much less any proof, that a valid assessment was issued in this case, prior to the BIR's exercise of summary administrative remedies, the subject *Warrant of Distraint and/or Levy* is indeed void and ineffectual.

---

[39] Exhibit "P-2," Docket (CTA Case No. 8895), Vol. I, p. 36.
[40] *Memorandum*, EB Docket, p. 113.

Consequently, the BIR cannot proceed with tax collection against respondent via the subject *Warrant of Distraint and/or Levy.*

The Notice of Denial dated January 10, 2014 is void due to its non-compliance with the provisions of RR No. 13-2001.

Lastly, petitioner maintains that the Court in Division erred in ruling that the *Notice of Denial* of respondent's request for abatement was not issued in accordance with the NIRC of 1997, as amended, and the relevant BIR issuances. According to the petitioner, a cursory reading of the said *Notice* reveals that respondent's application for abatement was disapproved, pursuant to Section 4 of RR No. 13-2001.

We are not swayed.

Section 4 of RR No. 13-2001, specifically requires that the denial of an application for abatement or cancellation of tax, penalties, and/or interest, should state the reasons therefor, to wit:

> "SECTION 4. *The Commissioner Has the Sole Authority to Abate or Cancel Tax, Penalties and/or Interest.* — The Commissioner has the sole authority to abate or cancel internal revenue taxes, penalties and/or interest pursuant to Section 204(B), in relation to Section 7(c), both of the Code. This authority is generally applicable to surcharge and compromise penalties only, however, in meritorious instances, the Commissioner may likewise abate the interest as well as basic tax assessed, provided, however, that cases for abatement or cancellation of tax, penalties and/or interest by the Commissioner shall be coursed through the following officials:
>
> xxx xxx xxx
>
> The application for abatement or cancellation of tax, penalties and/or interest should state the reasons and causes for such request. Documentary proofs for the underlying reasons and causes aforestated should be appended to the 'Application for Abatement or Cancellation of Tax, Penalties and/or Interest (Annex 'A').

mb

> On the other hand, **<u>denial of the application for abatement or cancellation of tax, penalties and/or interest should state the reasons therefor</u>**." *(Emphasis supplied.)*

Based on the foregoing, it is clear that the denial of the application for abatement or collection of tax, penalties and/or interest, should state the reasons therefor.

A perusal of the subject *Notice of Denial* dated January 10, 2014,[41] however, shows that no reason was ever stated for the disapproval of the respondent's application. For easy reference, the contents of the subject *Notice of Denial* is quoted hereunder, to wit:

> "**NOTICE OF DENIAL**
>
> Notice is hereby given to
>
> **PACIFICHUB CORPORATION**
>
> of 11th Flr. Robinsons Equitable Tower, ADB Ave., Cor. Poveda Ortigas Center, Pasig City, with Taxpayer Identification Number (TIN) 229-344-619-000, that its application for abatement pursuant to Revenue Regulations No. 13-2001 of the surcharge, interest and compromise penalty imposed on its Expanded Withholding Tax and Withholding Tax on Compensation for taxable year **2005-2006** in the total amount of **THIRTEEN MILLION SEVEN HUNDRED NINETY TWO THOUSAND EIGHT HUNDRED SIXTY SEVEN PESOS AND 56/100 (P13,792,867.56)** has been **DISAPPROVED** by the Commissioner of Internal Revenue.
>
> Issued this 10th day of January, 2014."

From the foregoing, it is clear that the foregoing *Notice of Denial* failed to state any reason for its disapproval, contrary to the explicit requirement of Section 4 of RR No. 13-2001. Contrary to petitioner's claim, the subject *Notice of Denial* was *not* disapproved pursuant to RR No. 13-2001. Rather, the subject *Notice* merely states that respondent's application for abatement has been disapproved.

---

[41] Exhibit "P-2," Docket (CTA Case No. 8895), Vol. I, p. 35.

Clearly, the Court in Division did not err in declaring the *Notice of Denial* dated January 10, 2014, as void and of no effect, due to its non-compliance with Section 4 of RR No. 13-2001.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The Decision dated August 31, 2017 and the Resolution dated March 22, 2018, both rendered by the Court in Division, in CTA Case No. 8895, are hereby **AFFIRMED**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

ON LEAVE
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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.

ROMAN G. DEL ROSARIO
Presiding Justice