

REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY

**SPECIAL THIRD DIVISION**

**FRITZIE S. CHUANG/ CTA CASE NO. 10332**  
**MITPLAS TECHNOLOGY**  
**ENTERPRISES,**

*Petitioner,* Members:

- versus -

**REYES-FAJARDO,** *Chairperson,*  
*and*  
**ANGELES, JJ.**

**COMMISSIONER OF**  
**INTERNAL REVENUE,**  
*Respondent.*

Promulgated:

AUG 07 2026

4:28 p.m.

x ----- x

**DECISION**

**ANGELES, J.:**

Before this Court is a *Petition for Review*<sup>1</sup> filed by petitioner Fritzie S. Chuang/Mitplas Technology Enterprises (petitioner) on August 25, 2020, praying that the assessments issued against petitioner, for her alleged deficiency income tax, value-added tax (VAT), withholding tax on compensation (WTC), including compromise penalty, surcharges, and interest in the total amount of ₱4,920,642.98, for taxable year (TY) 2015, be declared void.<sup>2</sup>

**THE PARTIES**

Petitioner is a taxpayer with postal address at Purok Mangga Cagangohan, Panabo City, Davao del Norte, and is the sole proprietor of Mitplas Technology Enterprises.<sup>3</sup>

Respondent is the Commissioner of Internal Revenue (CIR) charged with, among other powers and duties, enforcement of revenue laws and collection of national internal revenue taxes and the power to

<sup>1</sup> Docket – Vol. I, pp. 6 to 20.

<sup>2</sup> Docket – Vol. II, *Pre-Trial Order* dated January 17, 2023, p. 598.

<sup>3</sup> *Ibid.*

decide tax protests. Respondent may be served with summonses, legal processes, orders, and resolutions of the Honorable Court at 7<sup>th</sup> Floor, 703 Litigation Division, Bureau of Internal Revenue (BIR) National Office Building, BIR Rd., Diliman, Quezon City.<sup>4</sup>

## THE FACTS

The records disclose that petitioner was subjected to an audit investigation of her internal revenue tax liabilities for TY 2015 pursuant to Letter of Authority (LOA) No. SN: eLA201200011445/LOA-112-2017-00000043 dated January 11, 2017,<sup>5</sup> which authorized Revenue Officer (RO) Virgilio Jr. Flores and Group Supervisor (GS) Anecito Jr. Calonia of Revenue District Office (RDO) No. 112, Tagum, Davao del Norte, to examine petitioner's books of accounts and other accounting records for all internal revenue taxes, including documentary stamp tax and other taxes, covering the period January 01, 2015 to December 31, 2015.

Subsequently, respondent issued a replacement LOA, LOA No. SN: eLA201500060573/LOA-112-2018-00000355 dated August 03, 2018,<sup>6</sup> authorizing RO Fortunato III Canlas and GS Dexter Ng of the same RDO, to replace the previously assigned revenue officers and continue the audit of petitioner for TY 2015.

Upon completion of the audit, respondent issued a Preliminary Assessment Notice (PAN) dated June 20, 2019,<sup>7</sup> informing petitioner of her alleged deficiency taxes for TY 2015 in the aggregate amount of ₱4,920,642.98.

On September 18, 2019, respondent issued a Formal Letter of Demand<sup>8</sup> and Assessment Notices<sup>9</sup> (FLD/FANs), assessing petitioner for deficiency taxes in the total amount of ₱4,920,642.98.

According to respondent, on September 26, 2019, the FLD/FANs were validly served upon petitioner.<sup>10</sup> Petitioner, however, claims that she obtained a copy of the assessments only on October 02, 2019, when the documents were allegedly turned over to her by a certain Mr.

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<sup>4</sup> *Id.* at 599.

<sup>5</sup> Bureau of Internal Revenue (BIR) Records, p. 8, Exhibit "R-1."

<sup>6</sup> Docket – Vol. II, p. 626, Exhibit "P-1;" BIR Records, p. 9, Exhibit "R-2."

<sup>7</sup> Docket – Vol. II, pp. 627 to 630, Exhibit "P-2;" BIR Records, p. 363, Exhibit "R-10."

<sup>8</sup> Docket – Vol. II, pp. 631 to 636, Exhibit "P-3;" BIR Records, p. 383, Exhibit "R-12."

<sup>9</sup> Docket – Vol. II, pp. 631 to 636, Exhibit "P-3;" BIR Records, p. 382, Exhibit "R-13;" BIR Records, p. 381, Exhibit "R-14;" and BIR Records, p. 380, Exhibit "R-14-2."

<sup>10</sup> BIR Records, p. 384, Exhibit "R-16."

Alvarado, a security guard assigned to the building where her business office is located.<sup>11</sup>

On October 30, 2019, petitioner filed a Protest Letter dated October 25, 2019,<sup>12</sup> requesting for reinvestigation, and contending, among others, that: (1) the LOA and Assessment Notices are void for failure to conform with the requirements of law and the Constitution; (2) the FLD/FANs should have been issued no later than April 15, 2020, absent a Waiver of the Defense of Prescription under the Statute of Limitations executed by petitioner; and (3) the FLD/FANs are void for failure to state the facts and the law upon which they are based.

Subsequently, on January 15, 2020, petitioner received a Letter dated January 03, 2020<sup>13</sup> from the CIR's duly authorized representative, BIR Regional Director (RD) Esmeralda M. Tabule (Tabule). In said letter, RD Tabule maintained, among others, that the FLD/FANs had been received by petitioner through a certain Ms. Mawelyn Morales (Ms. Morales) on September 26, 2019, and that petitioner's Protest, having been received by the BIR only on October 30, 2019, was filed beyond the thirty (30)-day period prescribed by law. Accordingly, the BIR RD treated the assessments as final, executory, and demandable, and informed petitioner that the case would be endorsed to the Collection Division.

On January 28, 2020, petitioner elevated the matter with respondent CIR through a Motion for Reconsideration and Request to Retract dated January 20, 2020.<sup>14</sup> In the said administrative appeal, petitioner argued that she had obtained a copy of the FLD/FANs on October 02, 2019, after the same were merely handed to her by the security guard of the building where her office is located. She likewise asserted that Ms. Morales was not her employee and was not authorized to receive the assessments on her behalf.

Claiming that respondent CIR failed to act on her administrative appeal within one hundred eighty (180) days from the filing thereof on January 28, 2020, petitioner appealed the matter to this Court.<sup>15</sup>

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<sup>11</sup> Docket – Vol. I, pp. 9 to 10.

<sup>12</sup> Docket – Vol. II, pp. 637 to 645, Exhibit “P-4;” BIR Records, p. 499, Exhibit “R-17.”

<sup>13</sup> BIR Records, p. 535, Exhibits “P-5,” and “R-19.”

<sup>14</sup> Docket – Vol. II, pp. 646 to 654, Exhibit “P-6.”

<sup>15</sup> Docket – Vol. I, pp. 6 to 20.

## THE PROCEEDINGS BEFORE THIS COURT

On August 25, 2020, petitioner filed the present *Petition for Review with Motion to Suspend Collection of Taxes*.<sup>16</sup>

On September 11, 2020, *Summons*<sup>17</sup> was issued by the Court directing respondent to file an answer to the *Petition*.

Thereafter, in a Resolution dated September 15, 2020,<sup>18</sup> respondent was directed to file his comment on petitioner's *Motion to Suspend Collection of Taxes* incorporated in her *Petition for Review*.

Meanwhile, on October 09, 2020, respondent filed a *Motion for Additional Time to File Answer*.<sup>19</sup> In a Resolution dated October 21, 2020,<sup>20</sup> the Court granted respondent's *Motion*, and afforded him a non-extendible period of thirty (30) days from October 14, 2020, or until November 13, 2020, within which to file an answer. In the same Resolution, respondent was directed to certify and elevate to the Court the BIR records of the case within ten (10) days from such filing.

On October 26, 2020, respondent filed a *Motion to Admit Attached Comment*<sup>21</sup> and *Opposition (On Petitioner's Urgent Motion for Suspension of Collection of Taxes)*,<sup>22</sup> which the Court, in a Resolution dated November 17, 2020,<sup>23</sup> granted in the interest of substantial justice.

On November 16, 2020, respondent filed a second *Motion for Additional Time to File Answer*.<sup>24</sup> Acting thereon, the Court, in a Resolution dated November 26, 2020,<sup>25</sup> granted the same, and afforded respondent a final and non-extendible period of thirty (30) days from November 13, 2020, or until December 13, 2020, within which to file an answer. In the same Resolution, petitioner's *Motion to Suspend Collection of Taxes* was submitted for resolution.<sup>26</sup>

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<sup>16</sup> *Ibid.*

<sup>17</sup> *Id.* at 281.

<sup>18</sup> *Id.* at 283.

<sup>19</sup> *Id.* at 284 to 286.

<sup>20</sup> *Id.* at 290.

<sup>21</sup> *Id.* at 291 to 294.

<sup>22</sup> *Id.* at 296 to 302.

<sup>23</sup> *Id.* at 309 to 310.

<sup>24</sup> *Id.* at 303 to 305.

<sup>25</sup> *Id.* at 312 to 313.

<sup>26</sup> *Ibid.*

Subsequently, in a Resolution dated December 03, 2020,<sup>27</sup> the Court recalled its Resolution dated November 26, 2020 insofar as it submitted petitioner's *Motion to Suspend Collection of Taxes* for resolution, and, instead, set the same for hearing on January 28, 2021.

On December 14, 2020, respondent filed an *Answer*.<sup>28</sup>

On January 26, 2021, petitioner filed an *Urgent Motion to Conduct Hearing via Videoconferencing*<sup>29</sup> with a *Motion to Reset* incorporated therein. Acting thereon, the Court, in a Resolution dated January 28, 2021,<sup>30</sup> directed respondent to file a comment on the *Urgent Motion*. Accordingly, the hearing on petitioner's *Motion to Suspend Collection of Taxes* scheduled on January 28, 2021 was cancelled, pending resolution of the *Urgent Motion*.

On February 03, 2021, respondent filed a *Comment*<sup>31</sup> on petitioner's *Urgent Motion to Conduct Hearing via Videoconferencing*, submitting the resolution thereof to the sound discretion of the Court. Thereafter, in a Resolution dated February 10, 2021,<sup>32</sup> the Court granted petitioner's *Urgent Motion* and scheduled the hearing on petitioner's *Motion to Suspend Collection of Taxes* on March 03, 2021 to be conducted *via* videoconference.

Meanwhile, on February 19, 2021, respondent filed a *Compliance*,<sup>33</sup> submitting the BIR Records of the case, which the Court noted in its Minute Resolution dated February 23, 2021.<sup>34</sup>

On March 03, 2021, trial on petitioner's *Motion to Suspend Collection of Taxes* ensued.<sup>35</sup> In support thereof, petitioner presented herself as sole witness and offered documentary evidence. Thereafter, petitioner filed her *Formal Offer of Evidence (Re: Motion to Suspend Collection of Taxes)*<sup>36</sup> on June 28, 2021, while respondent filed a *Comment*<sup>37</sup> thereto on June 30, 2021.

In its Resolution dated October 11, 2021,<sup>38</sup> the Court granted petitioner's *Motion to Suspend the Collection of Taxes*, and directed

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<sup>27</sup> *Id.* at 315 to 316.

<sup>28</sup> *Id.* at 317 to 322.

<sup>29</sup> *Id.* at 330 to 333.

<sup>30</sup> *Id.* at 344 to 345.

<sup>31</sup> *Id.* at 350 to 351.

<sup>32</sup> *Id.* at 355 to 356.

<sup>33</sup> *Id.* at 359 to 359.

<sup>34</sup> *Id.* at 361.

<sup>35</sup> *Id.* at 423 to 425.

<sup>36</sup> *Id.* at 460 to 465.

<sup>37</sup> *Id.* at 508 to 509.

<sup>38</sup> *Id.* at 518 to 523.

petitioner to post a cash or surety bond equivalent to the total basic tax due, i.e., ₱3,064,395.68, within ten (10) days from receipt thereof.

On March 11, 2022, petitioner filed a *Motion for Extension of Time to Post Bond*.<sup>39</sup> Acting thereon, the Court, in a Resolution dated April 07, 2022, granted petitioner an additional period of ten (10) days from March 11, 2022, or until March 21, 2022, within which to comply with the Court's Resolution dated October 11, 2021,<sup>40</sup> and post the required surety bond equivalent to the total basic tax due of ₱3,064,395.68.

Thereafter, through a Records Verification Report dated April 21, 2022,<sup>41</sup> the Court was informed that petitioner had failed to post the required surety bond despite the Court's Resolutions dated October 11, 2021 and April 07, 2022. Accordingly, in a Resolution dated May 25, 2022,<sup>42</sup> the Court, for the last time, granted petitioner a period of ten (10) days from receipt thereof within which to post the required bond.

Meanwhile, in a Resolution dated June 14, 2022,<sup>43</sup> the Court noted respondent's *Offer of Testimony of Revenue Officer Fortunato Canlas III*, together with the latter's *Judicial Affidavit* dated May 25, 2022, which respondent filed on June 13, 2022.

Despite the Court's Resolution dated May 25, 2022 granting petitioner a final opportunity to comply, petitioner nonetheless failed to post the required bond. Consequently, in its Resolution dated August 17, 2022,<sup>44</sup> the Court recalled and set aside its Resolution dated October 11, 2021 which suspended the collection of taxes against petitioner. In the same Resolution, the Court likewise cancelled the scheduled Pre-Trial Conference, and reset the same to October 24, 2022 at 1:30 p.m.<sup>45</sup>

In a Notice of Hearing dated September 01, 2022,<sup>46</sup> the Court reset the Pre-Trial Conference from October 24, 2022 to October 27, 2022.

On October 27, 2022, the Pre-Trial Conference was conducted. Prior thereto, the parties submitted their respective *Pre-Trial Briefs*.

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<sup>39</sup> *Id.* at 541 to 543.

<sup>40</sup> *Id.* at 518 to 523.

<sup>41</sup> *Id.* at 546.

<sup>42</sup> *Id.* at 549 to 550.

<sup>43</sup> *Id.* at 518 to 523.

<sup>44</sup> Docket – Vol. 11, pp. 571 to 572.

<sup>45</sup> *Ibid.*

<sup>46</sup> *Id.* at 573.

On December 06, 2022, the parties submitted their *Joint Stipulation of Facts and Issues*<sup>47</sup> (JSFI), which the Court approved in a Resolution dated December 20, 2022.<sup>48</sup>

Thereafter, the case was referred to mediation before the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA). Following receipt of the PMC-CTA's *No Agreement to Mediate* on February 10, 2023,<sup>49</sup> the Court set the case for trial.

Trial ensued.

On August 30, 2023, petitioner presented herself as sole witness.<sup>50</sup> Petitioner thereafter filed her *Formal Offer of Evidence*<sup>51</sup> on September 11, 2023, while respondent filed a *Comment*<sup>52</sup> thereto on September 25, 2023.

In a Resolution dated January 11, 2024,<sup>53</sup> the Court admitted all of petitioner's exhibits.

On July 24, 2024, respondent presented RO Fortunato Canlas III as sole witness.<sup>54</sup> Respondent thereafter filed a *Formal Offer of Evidence*<sup>55</sup> dated August 07, 2024, while petitioner filed her *Comments/Objections (Re: Respondent's Formal Offer of Evidence dated August 7, 2024)*<sup>56</sup> on August 29, 2024.

In a Resolution dated February 28, 2025,<sup>57</sup> the Court admitted all of respondent's exhibits, and directed the parties to file their respective memoranda.

On April 04, 2025, petitioner filed her *Memorandum*<sup>58</sup> (*first Memorandum*), which the Court noted in its Minute Resolution dated April 15, 2025.<sup>59</sup> Respondent, however, failed to file a memorandum, as reflected in the Records Verification Report dated April 22, 2025,<sup>60</sup>

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<sup>47</sup> *Id.* at 590 to 594.

<sup>48</sup> *Id.* at 596.

<sup>49</sup> *Id.* at 606.

<sup>50</sup> *Id.* at 619.

<sup>51</sup> *Id.* at 621 to 625.

<sup>52</sup> *Id.* at 660 to 662.

<sup>53</sup> *Id.* at 672 to 673.

<sup>54</sup> *Id.* at 678.

<sup>55</sup> *Id.* at 680 to 688.

<sup>56</sup> *Id.* at 691 to 696.

<sup>57</sup> *Id.* at 705 to 707.

<sup>58</sup> *Id.* at 709 to 722.

<sup>59</sup> *Id.* at 724.

<sup>60</sup> *Id.* at 726.

which the Court duly noted in its Minute Resolution dated May 05, 2025.<sup>61</sup> Accordingly, the case was submitted for decision.

Before proceeding with the disposition of the main case, however, the Court first resolves petitioner's **Memorandum (For: Petitioner Fritzie S. Chuang/Mitplas Technology Enterprises)** dated July 03, 2026<sup>62</sup> (*second Memorandum*), which petitioner filed through an accredited courier service provider and electronically on even date. Petitioner claims that she filed the *second Memorandum* within thirty (30) days from June 03, 2026, allegedly the date she received the Court's Resolution dated February 28, 2025,<sup>63</sup> directing the parties to submit their respective memoranda within thirty (30) days from receipt thereof.

The records, however, belie petitioner's claim. The Resolution dated February 28, 2025<sup>64</sup> was electronically served upon petitioner on March 05, 2025.<sup>65</sup> This prompted petitioner to file her *first Memorandum* dated April 04, 2025<sup>66</sup> *via* accredited courier service provider and electronically on the same date, the physical copies of which were received by the Court on April 07, 2025. The filing of said *Memorandum* was thereafter duly noted by the Court in its Minute Resolutions dated April 15, 2025<sup>67</sup> and May 05, 2025.<sup>68</sup>

Clearly, petitioner had already received the Resolution dated February 28, 2025,<sup>69</sup> and had, in fact, filed her *first Memorandum* in compliance therewith well before June 03, 2026. Having thus availed herself of the period prescribed by the Court, and having already submitted her *first Memorandum*, petitioner cannot invoke a purported subsequent date of receipt to revive or reopen the period for filing another memorandum.

Accordingly, petitioner's *second Memorandum*, filed only on July 03, 2026, was filed beyond the prescribed period, and must be **EXPUNGED** from the records.

The Court now proceeds to the adjudication of the main case.

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<sup>61</sup> *Id.* at 727.

<sup>62</sup> Docket – Vol. II, unpaginated.

<sup>63</sup> *Id.* at 705 to 707.

<sup>64</sup> *Ibid.*

<sup>65</sup> *Id.* at 702.

<sup>66</sup> *Id.* at 709 to 722.

<sup>67</sup> *Id.* at 724.

<sup>68</sup> *Id.* at 727.

<sup>69</sup> *Id.* at 705 to 707.

## THE ISSUE

The sole issue submitted for the Court's resolution is stated as follows:

Whether petitioner is liable for the alleged deficiency income tax, value-added tax, withholding tax on compensation including compromise penalty, inclusive of surcharges and interest in the total amount of ₱4,920,642.98, for taxable year 2015.<sup>70</sup>

## THE ARGUMENTS OF THE PARTIES

### *Petitioner's arguments*

Petitioner principally assails the validity of the subject assessments on due process grounds. She contends that the LOA, Notice of Informal Conference (NIC), PAN, and FLD/FANs were not properly served upon her. In particular, petitioner points to respondent's Letter dated January 03, 2020, which allegedly admits that the NIC was received by a person other than petitioner. She likewise disputes respondent's claim that the FLD/FANs were served on September 26, 2019 through Ms. Morales, maintaining that the latter was neither her employee nor her authorized representative.

According to petitioner, she became aware of the FLD/FANs only on October 02, 2019, after the same were allegedly handed to her by the security guard assigned to the building where her office is located. Thus, petitioner argues that there was neither valid personal service nor valid substituted service of the assessments.

Corollarily to this, petitioner maintains that her Protest Letter dated October 25, 2019 was timely filed on October 30, 2019. She argues that the thirty (30)-day period to protest should be reckoned from October 02, 2019, the date she received the FLD/FANs.

Petitioner further disputes her alleged liability for deficiency taxes, compromise penalty, and the corresponding surcharges and interest. She maintains that the assessments are unsupported by factual and legal bases, claiming, among others, that undeclared sales do not necessarily establish undeclared income, and that the expenses and purchases disallowed by respondent were sufficiently substantiated.

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<sup>70</sup> Division Docket – Vol. II, *Pre-Trial Order* dated January 17, 2023, p. 599.

### ***Respondent's counter-arguments***

Respondent, on the other hand, maintains that petitioner was afforded due process throughout the audit and assessment proceedings. According to respondent, the LOA, PAN, and FLD/FANs were duly served at petitioner's registered address, and sufficiently apprised her of the factual and legal bases of the assessments.

Respondent likewise insists that petitioner is liable for deficiency taxes for TY 2015. According to respondent, the assessments stemmed from underdeclared revenues, disallowed deductions and input taxes, and unremitted withholding taxes uncovered during the audit investigation.

Finally, respondent invokes the presumption of correctness accorded to tax assessments, and argues that petitioner failed to adduce sufficient evidence to overcome the same.

### **THE COURT'S RULING**

The *Petition* must ultimately be dismissed for lack of jurisdiction over the subject matter. The Court shall first ascertain, however, whether it was timely filed.

#### ***Statutory and regulatory framework governing disputed assessments***

The Court of Tax Appeal's (CTA) jurisdiction over appeals involving **deficiency internal revenue taxes** is neither plenary nor presumed. Rather, it is strictly statutory, the CTA being a tribunal of special and limited jurisdiction. Accordingly, its authority to review decisions or inactions of the CIR in cases involving deficiency tax assessments exists only to the extent expressly conferred by Section 7(a) of Republic Act (R.A.) No. 1125,<sup>71</sup> as amended by R.A. No. 9282,<sup>72</sup> which pertinently reads:

#### **Sec. 7. Jurisdiction. - The CTA shall exercise:**

<sup>71</sup> An Act Creating the Court of Tax Appeals.

<sup>72</sup> 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 of Republic Act No. 1125, As Amended, otherwise known as the Law Creating the Court of Tax Appeals, and for other purposes.

"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 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 relations 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 of action, in which case the inaction shall be deemed a denial;

x x x

(Emphasis and underscoring supplied)

This jurisdictional grant is substantially reiterated in Section 3(a)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA).<sup>73</sup>

As material to the present controversy, these provisions establish that the CTA Division acquires appellate jurisdiction over deficiency tax assessments only in either of two (2) instances: **first**, upon a **decision** of the CIR on a **disputed assessment**; or **second**, upon the CIR's **inaction** on a **disputed assessment** where the National Internal Revenue Code (NIRC) of 1997, as amended, prescribes a specific period for action, in which case such inaction is deemed a denial for purposes of judicial review.

Common to *both* jurisdictional modes is the indispensable existence of a **disputed assessment**. Put differently, whether the taxpayer seeks judicial review of the CIR's express denial of a protest or of the CIR's inaction within the period fixed by law, the CTA's

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<sup>73</sup> Revised Rules of the Court of Tax Appeals, Rule 4, Section 3(a)(1) provides:

SEC. 3. *Cases within the jurisdiction of the Court in Division.* — The Court in Division shall exercise:

(a) Exclusive original over or appellation jurisdiction to review by appeal the following:

- (1) Decision of the Commissioner of Internal Revenue in cases involving disputed assessments, refund 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; x x x

appellate jurisdiction cannot be invoked unless the assessment has first ripened into a disputed assessment through the filing of a valid administrative protest.

This jurisdictional prerequisite has long been settled in jurisprudence. In *St. Stephen's Association v. Collector of Internal Revenue*,<sup>74</sup> the Supreme Court explained that an assessment attains the character of a disputed assessment only when the taxpayer seasonably challenges its correctness and formally seeks its reconsideration or cancellation. It is only upon the filing of such a protest that the CIR becomes duty-bound to resolve the assessment at the administrative level. Judicial review by the CTA may thereafter be invoked upon the taxpayer's receipt of the CIR's decision on the disputed assessment, or, in case of inaction, upon the lapse of the period prescribed by law, when such inaction is deemed a denial. Thus:

**Where a taxpayer questions an assessment** and asks the Collector to reconsider or cancel the same because he (the taxpayer) believes he is not liable therefor, **the assessment becomes a "disputed assessment"** that the Collector must decide, and the taxpayer can appeal to the Court of Tax Appeals only upon receipt of the decision of the Collector on the disputed assessment, in accordance with paragraph (1) of section 7, Republic Act No. 1125, conferring appellate jurisdiction upon the Court of Tax Appeals to review "*decisions of the Collector of Internal Revenue in cases involving disputed assessment . . .*" (Emphases supplied)

The foregoing doctrine is embodied in **Section 228 of the NIRC of 1997**, and implemented through **Revenue Regulations (RR) No. 12-99**,<sup>75</sup> **as subsequently amended by RR No. 18-13**.<sup>76</sup> These provisions govern the administrative protest mechanism applicable to the TY 2015 involved in this case. A review of these statutory and regulatory provisions is therefore indispensable to determine whether the jurisdictional requisites for the exercise of the CTA's appellate authority have been satisfied in the present controversy.

*Section 228 of the NIRC of  
1997, as amended*

Section 228 of the NIRC of 1997, as amended, sets forth the statutory due process requirements governing the BIR's exercise of its

<sup>74</sup> G.R. No. L-11238, August 21, 1958 [Per J. J.B.L. Reyes, *En Banc*].

<sup>75</sup> 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, September 06, 1999.

<sup>76</sup> Amending Certain Sections of Revenue Regulations No. 12-99, November 28, 2013.

assessment power, and the remedies available to a taxpayer who seeks to contest an assessment. It reflects the legislative policy that, while the State is vested with the authority to assess and collect taxes, such authority must be exercised in a manner that affords the taxpayer a fair opportunity to know, understand, and contest the government's findings before an assessment becomes final and enforceable. It provides:

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: provided, however, That a preassessment notice shall not be required in the following cases:

- (a) When the finding for any deficiency tax is the result of mathematical error in the computation of the tax as appearing on the face of the return; or
- (b) When a discrepancy has been determined between the tax withheld and the amount actually remitted by the withholding agent; or
- (c) When a taxpayer who opted to claim a refund or tax credit of excess creditable withholding tax for a taxable period was determined to have carried over and automatically applied the same amount claimed against the estimated tax liabilities for the taxable quarter or quarters of the succeeding taxable year; or
- (d) When the excise tax due on exciseable articles has not been paid; or
- (e) When the article locally purchased or imported by an exempt person, such as, but not limited to, vehicles, capital equipment, machineries and spare parts, has been sold, traded or transferred to non-exempt persons.

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

From the foregoing, Section 228 particularly requires that: **(1)** the taxpayer be accorded the notices required by law prior to the issuance of a formal assessment, except in the instances expressly exempted by statute; **(2)** the assessment state the factual and legal bases upon which it is founded, failing which it is void; **(3)** the taxpayer file an administrative protest within thirty (30) days from receipt of the formal assessment, and, where applicable, submit the necessary supporting documents within sixty (60) days; and **(4)** the CIR resolve the protest within one hundred eighty (180) days from the submission of the required documents, after which the taxpayer may either appeal the adverse decision, or, in case of inaction, elevate the matter to the CTA within thirty (30) days from the lapse of the prescribed period.

These periods are not isolated procedural deadlines. They form successive stages of an integrated statutory scheme governing the assessment, administrative protest, and judicial review of deficiency tax assessments. Collectively, they seek to balance the State's power to assess and collect taxes with the taxpayer's right to administrative due process and judicial review. Accordingly, the taxpayer's failure either to timely protest the FLD/FAN, or to timely appeal the CIR's denial or inaction to the CTA causes the assessment to become final, executory, and demandable.

*RR No. 12-99*<sup>77</sup>

Section 228 likewise expressly authorizes the promulgation of implementing rules and regulations to prescribe the form and manner by which an assessment may be protested. Pursuant to this mandate, RR No. 12-99<sup>78</sup> was issued to **supply the procedural mechanisms for implementing the statute.**

Among others, RR No. 12-99:<sup>79</sup> **(1)** recognizes the NIC as the preliminary stage of the assessment process; **(2)** requires the PAN and FLD/FAN to state not only the facts and law, but also the applicable rules, regulations, and jurisprudence supporting the assessment, upon

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<sup>77</sup> *Supra* note 75.

<sup>78</sup> *Ibid.*

<sup>79</sup> *Ibid.*

pain of nullity; **(3)** prescribes the modes and requisites for the service of assessment notices, including constructive service; **(4)** specifies the requirements for the submission of supporting documents in connection with an administrative protest; **(5)** requires the taxpayer's protest and the CIR's decision thereon to state their respective factual and legal bases; **(6)** prescribes the consequences of noncompliance with these requirements; and **(7)** significantly, **recognizes a further administrative recourse following the resolution of the taxpayer's protest.** Thus, where the protest is denied by the CIR's duly authorized representative, the taxpayer could elevate the matter to the CIR within thirty (30) days from receipt of the adverse decision before seeking judicial review. In this respect, the regulation provides for a further level of administrative review not expressly contemplated in Section 228 itself.

*RR No. 18-13*<sup>80</sup>

RR No. 18-13<sup>81</sup> subsequently amended RR No. 12-99,<sup>82</sup> and further elaborates the procedural rules governing deficiency tax assessments under Section 228 of the NIRC of 1997, as amended. Among others, it: **(1)** removes the NIC, and makes the PAN, except in cases expressly exempted by law, the initial notice issued to the taxpayer; **(2)** retains the requirement that the PAN and FLD/FAN state the factual and legal bases of the assessment, including the applicable law, rules, regulations, and jurisprudence; **(3)** distinguishes between requests for reconsideration and requests for reinvestigation; **(4)** prescribes the requirements for a valid protest, and the submission of supporting documents; **(5)** refines the rules governing the service of assessment notices and the resolution of protests; and **(6)** retains the requirement that the FDDA state the factual and legal bases of the CIR's determination, upon pain of nullity.

Of particular significance to the present case, **RR No. 18-13**<sup>83</sup> **expressly designates the taxpayer's recourse to the CIR from an adverse decision of the CIR's duly authorized representative on the protest as an "administrative appeal."** It further prescribes that the taxpayer may, within thirty (30) days from receipt of the adverse decision, either appeal to the CTA or elevate the matter to the CIR through a request for reconsideration. No request for reinvestigation may be made on administrative appeal, and the CIR's review is confined to the issues resolved by the duly authorized representative.

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<sup>80</sup> *Supra* note 76.

<sup>81</sup> *Ibid.*

<sup>82</sup> *Supra* note 75.

<sup>83</sup> *Supra* note 76.

RR No. 18-13<sup>84</sup> likewise provides that, where the protest or “administrative appeal” is not acted upon within the prescribed period, the taxpayer may either seek judicial review before the CTA or await the final decision of the CIR or the CIR’s duly authorized representative, as the case may be. These remedies are expressly declared mutually exclusive. Moreover, a motion for reconsideration of the CIR’s adverse decision does not toll the thirty (30)-day period for appeal to the CTA.

Taken together, RR Nos. 12-99<sup>85</sup> and 18-13<sup>86</sup> reflect a deliberate effort to refine and systematize the assessment process by prescribing detailed procedures governing the issuance of assessments, the filing and resolution of administrative protests, the reckoning of the periods for administrative action, the service of assessment notices, and the remedies available to taxpayers. These procedural safeguards implement the framework established under Section 228 of the NIRC of 1997, as amended, with the objective of protecting the taxpayer’s right to administrative due process throughout the assessment process.<sup>87</sup>

For purposes of the present controversy, however, particular attention must be given to **the “administrative appeal” to the CIR from an adverse decision rendered by the CIR’s duly authorized representative on the taxpayer’s protest**—a remedy contemplated by the implementing regulations but not expressly provided for in Section 228 itself, and which petitioner availed of in this case. As the availability and exercise of this remedy bear directly on the determination of whether the Court acquired jurisdiction over the present case, it is necessary to examine how RR No. 12-99,<sup>88</sup> as amended by RR No. 18-2013,<sup>89</sup> governs its availability and operation.

RR No. 12-99:<sup>90</sup>

If the protest is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become final, executory and demandable.

In general, if the protest is denied, in whole or in part, by the Commissioner or his duly authorized representative, the taxpayer

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<sup>84</sup> *Ibid.*

<sup>85</sup> *Supra* note 75.

<sup>86</sup> *Supra* note 76.

<sup>87</sup> *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 03, 2018 [Per J. Leonen, Third Division].

<sup>88</sup> *Supra* note 75.

<sup>89</sup> *Supra* note 76.

<sup>90</sup> *Supra* note 75.

may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become final, executory and demandable: Provided, however, that **if the taxpayer elevates his protest to the Commissioner within thirty (30) days from date of receipt of the final decision of the Commissioner's duly authorized representative**, the latter's decision shall not be considered final, executory and demandable, in which case, the protest shall be decided by the Commissioner.

**If the Commissioner or his duly authorized representative fails to act on the taxpayer's protest within one hundred eighty (180) days from date of submission, by the taxpayer, of the required documents in support of his protest, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from the lapse of the said 180-day period, otherwise, the assessment shall become final, executory and demandable. (Emphases and underscoring supplied)**

RR No. 18-13:<sup>91</sup>

**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 for 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.

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<sup>91</sup> *Supra* note 76.

**If the protest or administrative appeal is not acted upon by the Commissioner within one hundred eighty (180) days counted from the date of filing of the protest, 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. (Emphases and underscoring supplied)

A comparison of the two (2) regulations is instructive.

RR No. 12-99<sup>92</sup> uses the general term “**protest**” to refer both to the taxpayer’s initial challenge to the FLD/FAN, and to the subsequent elevation to the CIR of an adverse decision rendered by the CIR’s duly authorized representative. RR No. 18-13,<sup>93</sup> in contrast, expressly distinguishes the initial administrative protest from the subsequent “**administrative appeal**” to the CIR. More importantly, it clarifies that the one hundred eighty (180)-day period within which the CIR is required to act continues to be reckoned from the filing of the original protest, and not from the filing of the “administrative appeal.”

The indiscriminate use of the term “protest” under RR No. 12-99<sup>94</sup> could engender the impression that each filing independently commenced a one hundred eighty (180)-day period within which the CIR’s duly authorized representative, and, thereafter, the CIR are required to act. RR No. 18-13<sup>95</sup> dispels this ambiguity by expressly distinguishing the two (2) remedies, and clarifying that an “administrative appeal” is a continuation of the original protest proceedings, rather than the commencement of a separate administrative remedy giving rise to a fresh one hundred eighty (180)-day period. Thus, even when the pending remedy is already an “**administrative appeal**,” the one hundred eighty (180)-day period remains reckoned from the filing of the “**original protest**.”

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<sup>92</sup> *Supra* note 75.

<sup>93</sup> *Supra* note 76.

<sup>94</sup> *Supra* note 75.

<sup>95</sup> *Supra* note 76.

Whether this regulatory interpretation is consistent with Section 228 of the NIRC of 1997, as amended, and the jurisdictional framework established under Section 7(a) of R.A. No. 1125,<sup>96</sup> as amended,<sup>97</sup> ultimately determines the timeliness of the present *Petition*.

Stated differently, the pivotal question is whether the taxpayer's elevation to the CIR of an adverse decision rendered by the CIR's duly authorized representative gives rise to a new one hundred eighty (180)-day period within which the CIR must act, or whether the period originally triggered by the taxpayer's administrative protest continues to govern notwithstanding the "administrative appeal." It is to this question that the Court now turns.

***The "administrative appeal" commences a new one hundred eighty (180)-day period for the CIR to act, rendering the instant Petition timely filed***

To recall, petitioner was subjected to an audit investigation of her internal revenue tax liabilities for TY 2015 pursuant to a LOA dated January 11, 2017,<sup>98</sup> which was later superseded by another LOA dated August 03, 2018,<sup>99</sup> authorizing a new set of revenue officers to continue the audit. Following the investigation, respondent issued a PAN dated June 20, 2019,<sup>100</sup> and, thereafter, FLD/FANs dated September 18, 2019,<sup>101</sup> assessing petitioner for alleged deficiency internal revenue taxes totaling ₱4,920,642.98.

Petitioner protested the assessments through a request for reinvestigation,<sup>102</sup> assailing their validity on both procedural and substantive grounds.

In a Letter dated January 03, 2020,<sup>103</sup> RD Tabule denied the protest on the ground that it was filed beyond the thirty (30)-day period prescribed under Section 228 of the NIRC of 1997, as amended,

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<sup>96</sup> *Supra* note 71.

<sup>97</sup> *Supra* note 72.

<sup>98</sup> BIR Records, p. 8, Exhibit "R-1."

<sup>99</sup> Docket – Vol. II, p. 626, Exhibit "P-1;" BIR Records, p. 9, Exhibit "R-2."

<sup>100</sup> Docket – Vol. II, pp. 627 to 630, Exhibit "P-2;" BIR Records, p. 363, Exhibit "R-10."

<sup>101</sup> Docket – Vol. II, pp. 631 to 636, Exhibit "P-3;" BIR Records, p. 383, Exhibit "R-12;" BIR Records, p. 382, Exhibit "R-13;" BIR Records, p. 381, Exhibit "R-14;" and BIR Records, p. 380, Exhibit "R-14-2."

<sup>102</sup> Docket – Vol. II, pp. 637 to 645, Exhibit "P-4;" BIR Records, p. 499, Exhibit "R-17."

<sup>103</sup> BIR Records, p. 535, Exhibits "P-5," and "R-19."

reckoned from respondent's asserted date of service of the FLD/FANs on September 26, 2019,<sup>104</sup> through Ms. Morales.

Petitioner thereafter elevated the matter to the CIR through a Motion for Reconsideration and Retract,<sup>105</sup> maintaining that she received the FLD/FANs<sup>106</sup> only on October 02, 2019, through the security guard of the building where her office is located, and that Ms. Morales was neither her employee nor her authorized representative.

Upon the CIR's failure to act on the administrative appeal, petitioner filed the present *Petition for Review*<sup>107</sup> within thirty (30) days from the lapse of the one hundred eighty (180) days reckoned from the filing thereof.

Accordingly, the threshold matter before the Court is **whether petitioner's "administrative appeal" to the CIR commenced a new one hundred eighty (180)-day period within which the CIR was required to act, such that the present *Petition for Review* was timely filed.**

The Court answers in the affirmative.

As previously discussed, Section 228 of the NIRC of 1997, as amended, contemplates a single administrative protest against the FLD/FAN, followed by judicial recourse to the CTA upon either the CIR's adverse decision or the CIR's inaction within the period fixed by law. Thus, under this statutory framework, the taxpayer is granted thirty (30) days to appeal either from receipt of the CIR's decision or from the expiration of the CIR's one hundred eighty (180)-day period to act on the protest.

Significantly, however, the "administrative appeal" to the CIR is **not** expressly provided for in Section 228 of the NIRC of 1997, as amended. The remedy is recognized under RR No. 12-99,<sup>108</sup> and subsequently refined by RR No. 18-13.<sup>109</sup> By giving the taxpayer the option to elevate an adverse decision of the CIR's duly authorized representative to the CIR before resorting to judicial review by the CTA, the revenue regulations provide for a further stage of

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<sup>104</sup> *Id.* at 384, Exhibit "R-16."

<sup>105</sup> Docket – Vol. II, pp. 646 to 654, Exhibit "P-6."

<sup>106</sup> Docket – Vol. II, pp. 631 to 636, Exhibit "P-3;" BIR Records, p. 383, Exhibit "R-12;" BIR Records, p. 382, Exhibit "R-13;" BIR Records, p. 381, Exhibit "R-14;" and BIR Records, p. 380, Exhibit "R-14-2."

<sup>107</sup> Docket – Vol. I, pp. 6 to 20.

<sup>108</sup> *Supra* note 75.

<sup>109</sup> *Supra* note 76.

administrative review within the assessment process contemplated under Section 228.

The Court recognizes the CIR's authority<sup>110</sup> under the NIRC of 1997, as amended, to interpret tax laws, subject to review by the Secretary of Finance,<sup>111</sup> as well as the Secretary of Finance's authority,<sup>112</sup> upon recommendation of the CIR, to promulgate rules and regulations for the effective enforcement of the Tax Code. Such rule-making authority, however, is confined to carrying into effect the law it seeks to implement. It cannot be exercised in a manner that diminishes statutory rights or renders the remedies granted by law ineffective. Administrative regulations must always be construed in harmony with their enabling statute and consistently with the constitutional guarantee of due process.<sup>113</sup>

Viewed in this light, the "administrative appeal" cannot be regarded as a meaningless procedural detour. Having been expressly created by the regulations as an available administrative remedy, it must be construed in a manner that affords taxpayers a genuine opportunity to obtain administrative review before resorting to judicial intervention.

Any contrary construction would yield to an untenable result.

Under RR No. 18-13,<sup>114</sup> the CIR is deemed to continue acting within the same one hundred eighty (180)-day period originally reckoned from the taxpayer's protest against the FLD/FAN, notwithstanding the subsequent filing of an "administrative appeal." Such construction would permit situations in which the taxpayer, despite timely availing itself of the "administrative appeal" expressly recognized by the regulations, is left with only a negligible portion of

<sup>110</sup> Title I, National Internal Revenue Code (NIRC) of 1997, as amended, Section 4 provides:

Section 4. *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* - The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

<sup>111</sup> *Manila Peninsula Hotel, Inc. v. Commissioner of Internal Revenue*, G.R. No. 229338, April 17, 2024 [Per J. Caguioa, Third Division].

<sup>112</sup> NIRC of 1997, as amended, Section 4 provides:

Section 4. The Secretary of Finance shall, upon recommendation of the Commissioner of Internal Revenue, promulgate and publish the necessary rules and regulations for the effective implementation of this Act.

<sup>113</sup> *Department of Finance v. Asia United Bank*, G.R. Nos. 240163 & 240168-69, December 01, 2021 [Per J. Zalameda, Third Division]; *Purísima v. Lazatin*, G.R. No. 210588, November 29, 2016 [Per J. Brion, *En Banc*]; *Fort Bonifacio Development Corp. v. Commissioner of Internal Revenue*, G.R. Nos. 175707, 180035 & 181092, November 19, 2014 [Per J. Leonardo De Castro, First Division]; *Commissioner of Internal Revenue v. Fortune Tobacco Corp.*, G.R. Nos. 167274-75, July 21, 2008 [Per J. Tinga, Second Division]; *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 03, 2018 [Per J. Leonen, Third Division].

<sup>114</sup> *Supra* note 76.

the one hundred eighty (180)-day period—or, worse, none at all—within which the CIR may meaningfully resolve the appeal. In practical terms, the “administrative appeal” would become illusory, as the taxpayer would be compelled to prematurely seek judicial relief merely to preserve the right to appeal.

Courts do not favor interpretations that render statutory or regulatory remedies inutile.<sup>115</sup> As the Supreme Court held in *Lascona Land Co., Inc. v. Commissioner of Internal Revenue*,<sup>116</sup> procedural rules governing tax remedies should not be construed so as to unnecessarily restrict, much less defeat, the taxpayer’s statutory remedies. Hence, a regulation recognizing an “administrative appeal” cannot, at the same time, be interpreted in a manner that deprives such remedy of any practical utility.

Nor can it be said that the taxpayer suffers no prejudice because it remains free to bypass the “administrative appeal” and proceed directly to the CTA. Such reasoning ignores the very purpose for which the “administrative appeal” was established. Administrative review affords the CIR an opportunity to correct errors committed by subordinate officials,<sup>117</sup> promotes the settlement of tax controversies<sup>118</sup> at the administrative level, spares taxpayers the expense of immediate litigation,<sup>119</sup> and advances the long-settled policy of minimizing unnecessary resort to the courts.<sup>120</sup> These objectives give meaningful effect to the doctrine of exhaustion of administrative remedies,<sup>121</sup> and would be substantially undermined if the “administrative appeal” were construed as a remedy that must effectively be abandoned to avoid forfeiting the taxpayer’s right to judicial review.

Accordingly, RR No. 12-99,<sup>122</sup> as amended by RR No. 18-13,<sup>123</sup> must be interpreted in a manner that harmonizes—not frustrates—the due process framework established under Section 228 of the NIRC of 1997, as amended.<sup>124</sup> Having created an additional stage of

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<sup>115</sup> *Asturias Sugar Central, Inc. v. Commissioner of Customs*, G.R. No. L-19337, September 30, 1969 [Per J. Castro, *En Banc*].

<sup>116</sup> *Lascona Land Co., Inc. v. Commissioner of Internal Revenue*, G.R. No. 171251, March 05, 2012 [Per J. Peralta, Third Division].

<sup>117</sup> *Gonzales v. Court of Appeals*, G.R. No. 106028, May 09, 2001 [Per J. Gonzaga Reyes, Third Division].

<sup>118</sup> *Viesca v. Gilinsky*, G.R. No. 171698, July 04, 2007 [Per J. Chico Nazario, Third Division].

<sup>119</sup> *Estrada v. Court of Appeals*, G.R. No. 137862, November 11, 2004 [Per J. Austria Martinez, Second Division].

<sup>120</sup> *Mar Santos v. V.C. Development Corp.*, G.R. No. 211893, September 09, 2020 [Per J. Gaerlan, Third Division].

<sup>121</sup> *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019 [Peralta, Third Division]; *Paat v. Court of Appeals*, G.R. No. 111107, January 10, 1997 [Per J. Torres, Jr., Second Division].

<sup>122</sup> *Supra* note 75.

<sup>123</sup> *Supra* note 76.

<sup>124</sup> *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 03, 2018 [Per J. Leonen, Third Division].

administrative review before the CIR, the revenue regulations necessarily afford the CIR a corresponding reasonable period within which to act. Otherwise, the “administrative appeal” would amount to nothing more than a hollow procedural formality.

Such construction preserves not only the taxpayer’s right to meaningful administrative review, but likewise the CIR’s opportunity to fully evaluate and, when warranted, correct the findings of his duly authorized representative before the controversy reaches the courts.<sup>125</sup> Indeed, the “administrative appeal” was established precisely to afford the CIR an additional opportunity to re-examine the assessment and to resolve the dispute at the administrative level. Interpreting the regulations in this manner gives practical effect to the constitutional guarantee of administrative due process and faithfully adheres to the fundamental precepts enunciated in *Ang Tibay v. Court of Industrial Relations*,<sup>126</sup> which require that administrative proceedings be conducted in a manner that is real, fair, and meaningful, rather than illusory or perfunctory.

This construction likewise finds support in R.A. No. 9282,<sup>127</sup> which expanded the appellate jurisdiction of the CTA to include appeals from the CIR’s inaction in disputed assessments. It pertinently provides:

“SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. - **Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **may file an appeal with the CTA within thirty (30) days** after the receipt of such decision or ruling or **after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.**

“**Appeal shall be made by filing a petition for review** under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure **with the CTA within thirty (30) days** from the receipt of the decision or ruling or **in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon.** A Division of the CTA shall hear the appeal: Provided, however, That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that provided for under rule 43 of the 1997 Rules of Civil Procedure with

<sup>125</sup> *Gonzales v. Court of Appeals*, G.R. No. 106028, May 09, 2001 [Per J. Gonzaga Reyes, Third Division].

<sup>126</sup> *Ang Tibay v. Court of Industrial Relations*, G.R. No. 46496, February 27, 1940 [Per J. Laurel, En Banc].

<sup>127</sup> *Supra* note 72.

the CTA, which shall hear the case *en banc*. (Emphases and underscoring supplied)

Significantly, Section 11 thereof authorizes an appeal to the CTA “after the expiration of the period fixed by law” for the CIR to act. The statute does not refer to a period fixed by RR No. 12-99,<sup>128</sup> as amended by RR No. 18-13,<sup>129</sup> much less distinguish between an “original administrative protest” and an “administrative appeal” subsequently created by these revenue regulations. Instead, it simply recognizes that judicial recourse arises upon the CIR’s inaction within the period prescribed by law. In the context of disputed assessments, that period is the one hundred eighty (180)-day period under Section 228 of the NIRC of 1997, as amended.

Neither does R.A. No. 9282<sup>130</sup> suggest that it intended the “administrative appeal” subsequently recognized under RR No. 12-99,<sup>131</sup> as amended by RR No. 18-13,<sup>132</sup> to operate under a different reckoning period. Had that been the legislative intent, Congress could have expressly so provided. It did not. Rather, by referring generally to the “period fixed by law,” the statute manifests an intent to preserve the statutory framework governing administrative review while leaving the CIR free to prescribe procedural mechanisms that remain consistent with, and subordinate to, the governing law.<sup>133</sup>

The same legislative policy is echoed in the RRCTA.<sup>134</sup> Sections 3(a)(2), Rule 4, and 3(a), Rule 8 of the RRCTA respectively read:

#### RULE 4 JURISDICTION OF THE COURT

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SEC. 3. *Cases within the jurisdiction of the Court in Division.*  
— The Court in Division shall exercise:

(a) **Exclusive original over or appellate jurisdiction to review by appeal** the following:

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<sup>128</sup> *Supra* note 75.

<sup>129</sup> *Supra* note 76.

<sup>130</sup> *Supra* note 72.

<sup>131</sup> *Supra* note 75.

<sup>132</sup> *Supra* note 76.

<sup>133</sup> *Department of Finance v. Asia United Bank*, G.R. Nos. 240163 & 240168-69, December 01, 2021 [Per J. Zalameda, Third Division]; *Purisima v. Lazatin*, G.R. No. 210588, November 29, 2016 [Per J. Brion, *En Banc*]; *Fort Bonifacio Development Corp. v. Commissioner of Internal Revenue*, G.R. Nos. 175707, 180035 & 181092, November 19, 2014 [Per J. Leonardo De Castro, First Division]; *Commissioner of Internal Revenue v. Fortune Tobacco Corp.*, G.R. Nos. 167274-75, July 21, 2008 [Per J. Tinga, Second Division]; *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 03, 2018 [Per J. Leonen, Third Division].

<sup>134</sup> A.M. No. 05-11-07-CTA, November 22, 2005.

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- (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 or other applicable law provides a specific period for action: ***Provided, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period*** under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further*, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and *Provided, still further*, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code;

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## **RULE 8 PROCEDURE IN CIVIL CASES**

X X X

### **SEC. 3. Who may appeal; period to file petition. —**

(a) **A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments** or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or

ruling, or expiration of the period fixed by law for the **Internal Revenue to act on the disputed assessments**. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes. (n)

These provisions, taken together, uniformly recognize that, in cases involving disputed assessments, the CIR's inaction within the one hundred eighty (180)-day period prescribed under Section 228 shall be deemed a denial for purposes of judicial review. The RRCTA thus reinforces the statutory design that the taxpayer's right to appeal accrues only after the CIR has been afforded the full period contemplated by law to resolve the administrative controversy.

As a matter of statutory construction,<sup>135</sup> where a taxpayer is entitled to avail of the "administrative appeal" expressly recognized under RR No. 12-99,<sup>136</sup> as amended by RR No. 18-13,<sup>137</sup> the CIR must likewise be afforded a corresponding one hundred eighty (180)-day period within which to resolve such appeal. Any contrary construction would deprive the "administrative appeal" of practical significance, frustrate the due process objectives underlying Section 228 of the NIRC of 1997, as amended, and undermine the very administrative remedy that these regulations were intended to provide.<sup>138</sup>

Applying these principles, petitioner's "administrative appeal"<sup>139</sup> commenced a new one hundred eighty (180)-day period for the CIR to act. The said period expired on **July 17, 2020**. Petitioner thereafter filed the present *Petition for Review*<sup>140</sup> on **August 25, 2020**, or within thirty (30) days from such lapse. The *Petition*<sup>141</sup> was, therefore, seasonably filed.

The foregoing conclusion, however, resolves only the timeliness of the *Petition*. It does not, by itself, establish the Court's jurisdiction over the subject matter of the controversy. The Court must still determine whether the subject assessments had validly ripened into disputed assessments capable of being brought within its appellate jurisdiction.

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<sup>135</sup> *Commissioner of Internal Revenue v. San Roque Power Corp.*, G.R. Nos. 187485, 196113 & 197156, February 12, 2013 [Per J. Carpio, *En Banc*].

<sup>136</sup> *Supra* note 75.

<sup>137</sup> *Supra* note 76.

<sup>138</sup> *Lascona Land Co., Inc. v. Commissioner of Internal Revenue*, G.R. No. 171251, March 05, 2012 [Per J. Peralta, Third Division]; *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 03, 2018 [Per J. Leonen, Third Division].

<sup>139</sup> Docket – Vol. II, pp. 646 to 654, Exhibit "P-6."

<sup>140</sup> Docket – Vol. I, pp. 6 to 20.

<sup>141</sup> *Ibid*.

***Petitioner failed to perfect a valid administrative protest, thereby rendering the assessments final and executory***

Verily, timeliness of judicial recourse and the existence of a disputed assessment are distinct jurisdictional requirements. Even if the *Petition*<sup>142</sup> was seasonably filed, reckoned from the lapse of the CIR's period to act on the administrative appeal, the Court must still ascertain whether petitioner, in the first instance, perfected a valid administrative protest capable of ripening the assessments into disputed assessments. Absent such a valid protest, there exists neither a disputed assessment nor a decision on a disputed assessment that may properly be brought within the CTA's appellate jurisdiction.

It is well-settled that jurisdiction over the subject matter is fundamental for a court to act on given controversy. It is conferred by law, not by consent of the parties. To inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the validity of its entire proceedings.<sup>143</sup>

Correlatively, it is axiomatic that what determines the nature of an action, as well as which court has jurisdiction over it, are the allegations in the complaint and the character of the relief sought.<sup>144</sup>

In the present case, petitioner, through the instant *Petition for Review*,<sup>145</sup> challenges the validity of the subject deficiency tax assessments, and assuming their validity, denies liability for the alleged deficiency income tax, VAT, WTC, and surcharges. Petitioner anchors the jurisdiction invoked<sup>146</sup> on Section 7(a)(2)<sup>147</sup> of R.A. No.

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<sup>142</sup> *Ibid.*

<sup>143</sup> *Commissioner of Internal Revenue v. Villa*, G.R. No. L-23988, January 07, 1968 [Per J. Bengzon, J.P., *En Banc*].

<sup>144</sup> *Cubero v. Laguna West Multi-Purpose Cooperative, Inc.*, G.R. No. 166833, November 30, 2006 [Per J. Carpio Morales, Third Division]; *Heirs of Bautista v. Lindo*, G.R. No. 208232, March 19, 2014 [Per J. Velasco, Jr., Third Division].

<sup>145</sup> Docket – Vol. I, pp. 6 to 20.

<sup>146</sup> *Id.* at 7, par. 4.

<sup>147</sup> Republic Act (R.A.) No. 1125, as amended by R.A. No. 9282, Section 7(a)(2) provides:

“Sec. 7. Jurisdiction. - The CTA shall exercise:

“a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

x x x

1125,<sup>148</sup> as amended by R.A. No. 9282,<sup>149</sup> which vests in the CTA exclusive appellate jurisdiction to review, by appeal, the inaction of the CIR in cases involving **disputed assessments**.

As previously discussed, an assessment becomes a “**disputed assessment**” for purposes of invoking the CTA’s appellate jurisdiction only when the taxpayer has validly protested the assessment in accordance with Section 228 of the NIRC of 1997, as amended, and its implementing regulations.<sup>150</sup> To this end, the taxpayer must file a protest within thirty (30) days from receipt of the assessment, in the form and manner prescribed by law, and the applicable revenue regulations. Where the protest takes the form of a request for reinvestigation, the taxpayer is further required to submit all relevant supporting documents within sixty (60) days from the filing thereof. Failure to comply with these mandatory requirements causes the assessment to become final, executory, and demandable by operation of law. These statutory requirements are implemented under RR No. 12-99,<sup>151</sup> as amended by RR No. 18-13.<sup>152</sup>

Measured against these standards, petitioner failed to perfect a valid administrative protest.

Although petitioner filed a Protest Letter dated October 25, 2019,<sup>153</sup> expressly denominated as a **request for reinvestigation**, the records are devoid of any competent proof that she submitted the relevant supporting documents within the mandatory sixty (60)-day period. By electing the remedy of reinvestigation, petitioner necessarily assumed the statutory obligation to timely submit the newly discovered or additional evidence upon which such request was premised. Her failure to do so rendered the protest ineffective, and caused the assessments to attain finality by operation of law.

Consequently, petitioner never succeeded in converting the subject assessments into disputed assessments. Without a valid disputed assessment, there could likewise be no valid decision or

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“2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations 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 of action, in which case the inaction shall be deemed a denial; x x x

<sup>148</sup> *Supra* note 71.

<sup>149</sup> *Supra* note 72.

<sup>150</sup> *St. Stephen’s Association v. Collector of Internal Revenue*, G.R. No. L-11238, August 21, 1958 [Per J. Reyes, J.B.L., *En Banc*].

<sup>151</sup> *Supra* note 75.

<sup>152</sup> *Supra* note 76.

<sup>153</sup> Docket – Vol. II, pp. 637 to 645, Exhibit “P-4;” BIR Records, p. 499, Exhibit “R-17.”

inaction on a disputed assessment capable of invoking the appellate jurisdiction of the CTA.

This jurisdictional consequence cannot be avoided by the mere filing of the present *Petition for Review*.<sup>154</sup> The petitioner's procedural recourse to the Court is distinct from, and cannot cure, the substantive finality of the assessments occasioned by her failure to comply with the mandatory requirements governing administrative protests. Once the assessments have become final, executory, and demandable, the Court is left with no assessment capable of judicial review, and correspondingly, no jurisdiction to inquire into their correctness. The Court's only recourse is to dismiss the *Petition*.<sup>155</sup>

The foregoing principle finds support in *AT&T Communications Services Phils., Inc. v. Commissioner of Internal Revenue*,<sup>156</sup> where the Supreme Court held that jurisdiction over the subject matter is conferred solely by law, and that a court lacking jurisdiction possesses no authority except to dismiss the action, *viz.*:

At this juncture, it bears emphasis that jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy, and is conferred only by law and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties. If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits. (Citations omitted)

Equally instructive is the Supreme Court's pronouncement in *Commissioner of Internal Revenue v. Court of Tax Appeals-Third Division*,<sup>157</sup> where it emphatically ruled that Section 228 of the NIRC of 1997, as amended, requires not only the timely filing of an administrative protest, but also strict compliance with the form and manner prescribed by the implementing regulations. In the case of a request for reinvestigation, such compliance necessarily includes the timely submission of all relevant supporting documents within the prescribed sixty (60)-day period. Failing this, the assessment becomes final and executory by operation of law, leaving neither a disputed assessment nor a decision or inaction that may be elevated to the CTA. Thus:

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<sup>154</sup> Docket – Vol. I, pp. 6 to 20.

<sup>155</sup> *Ibid.*

<sup>156</sup> G.R. No. 185969, November 19, 2014 [Per J. Perez, First Division].

<sup>157</sup> G.R. No. 239464, May 10, 2021 [Per J. Leonen, Third Division].

Petitioner argues that the Court of Tax Appeals had no jurisdiction over respondent's Petition for Review because the assessment had attained finality before then.

Section 228 of the National Internal Revenue Code states the procedure in protesting an assessment:

SECTION 228. *Protesting of Assessment.* — x x x

*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. (Emphasis supplied)

x x x

Section 3.1.14 of Revenue Regulations No. 18-2013, amending Revenue Regulations No. 12-99, states what constitutes a valid protest:

3.1.4. *Disputed Assessment.* — The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN 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 the 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.*

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.

If the taxpayer failed 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. (Emphasis supplied)

Nowhere in respondent's April 29, 2015 letter did it state the assessment notice's date and the applicable law, rules and regulations, or jurisprudence on which its protest was based. Attaching copies of the audit results/assessment notices is not stating the date of the assessment notice, any more than attaching copies of assailed judgments to a petition without stating them in the petition itself complies with the rule on statements of material dates.

While respondent's declaration that it was "in the process of compiling the necessary documentation to support [its] protest to said assessments" **could imply that it was requesting a reinvestigation, its failure to explicitly state this means that petitioner had no way of knowing whether it should monitor the 60-day period stated in Revenue Regulations No. 18-2013.**

**Section 228 of the National Internal Revenue Code is clear. The administrative protest must be filed not only within the stated period, but also “in such form and manner as may be prescribed by implementing rules and regulations.” Respondent’s April 29, 2015 letter did not comply with the 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 the 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 relations 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 of action, in which case the inaction shall be deemed a denial[.]

x x x

In *Commissioner of Internal Revenue v. Villa*, 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 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. Notably, the July 13, 2015 letter did not discuss the merits of any communication sent by

respondent after its April 29, 2015 letter, but merely stated that no valid protest was filed.

X X X

**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 supplied; citations omitted)

Although the factual circumstances in the foregoing case differ from those obtaining here, the controlling doctrine remains fully applicable. The Supreme Court made abundantly clear that strict adherence to Section 228 of the NIRC of 1997, as amended, and RR No. 12-99,<sup>158</sup> as amended by RR No. 18-13<sup>159</sup> is indispensable to the perfection of a valid administrative protest. Absent such compliance, the assessment does not ripen into a disputed assessment, and, consequently, falls outside the appellate jurisdiction of the CTA. The High Court further emphasized the critical necessity for taxpayers to diligently monitor the sixty (60)-day period for the submission of supporting documents when a request for reinvestigation is filed.

Indeed, the CTA is a tribunal of special and limited jurisdiction, empowered only to act within the bounds expressly conferred by law. Where, as here, no valid protest exists and the assessments have long attained finality, there is nothing for the Court to review. To assume

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<sup>158</sup> *Supra* note 75.

<sup>159</sup> *Supra* note 76.

jurisdiction under these circumstances would constitute an unwarranted expansion of its authority, and a clear departure from the statutory mandate. Jurisdiction cannot be presumed where it is plainly withheld.

Time and again, the Supreme Court has consistently held that the perfection of an appeal, being no more than a statutory privilege, and at once both mandatory and jurisdictional, must be accomplished strictly in the manner and within the period prescribed by law; failing which, the judgment sought to be reviewed attains finality and becomes executory, to wit:

To stress, the right to appeal is merely statutory and one who seeks to avail of it must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. Moreover, the perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well, hence failure to perfect the same renders the judgment final and executory. And, just as a losing party has the privilege to file an appeal within the prescribed period, so also does the prevailing party has the correlative right to enjoy the finality of a decision in his favor.<sup>160</sup> (Citations omitted)

Having determined that the subject assessments never ripened into disputed assessments, the Court is necessarily bereft of jurisdiction to pass upon the substantive merits of the present controversy. Any inquiry into petitioner's defenses against the subject deficiency tax assessments would necessarily constitute an exercise of jurisdiction beyond that conferred by law.

**WHEREFORE**, the *Petition for Review*, filed on August 25, 2020, is hereby **DISMISSED** for lack of jurisdiction.

**SO ORDERED.**

  
**HENRY S. ANGELES**  
Associate Justice

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<sup>160</sup> *Apex Mining Co., Inc., v. Commissioner of Internal Revenue*, G.R. No. 122472, October 20, 2005 [Per J. Garcia, Third Division].

*I CONCUR:*

*Marian Ivy F. Reyes-Fajardo*  
(With Separate Concurring Opinion)  
**MARIAN IVY F. REYES-FAJARDO**  
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's Division.

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

**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's Division.

*Ma. Belen M. Ringpis-Liban*  
**MA. BELEN M. RINGPIS-LIBAN**  
Presiding Justice

REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY

SPECIAL THIRD DIVISION

FRITZIE S.  
CHUANG/MITPLAS  
TECHNOLOGY  
ENTERPRISES,

*Petitioner,*

CTA Case No. 10332

Members:

REYES-FAJARDO, *Chairperson,*  
ANGELES, II.

- versus -

Promulgated:

COMMISSIONER OF  
INTERNAL REVENUE,

*Respondent.*

AUG 07 2026

4:28 p.m.

X ----- X

SEPARATE CONCURRING OPINION

REYES-FAJARDO, J.:

**First.** I differ from the *ponencia's* view that the taxpayer's failure to submit documents in support of its request for reinvestigation within 60 days from the filing thereof would lead to the finality of the formal assessment.

In *Commissioner of Internal Revenue v. Max's Sta. Mesa, Inc. (Max's)*,<sup>1</sup> the Court squarely dealt with the above matter. Specifically, the word "final" in the paragraph "... Within sixty (60) days from filing of the protest, all relevant, supporting documents shall have been submitted; otherwise, the assessment shall become final[.]" under Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended, is not meant as the assessment being final and unappealable. Rather, the word "final" means that the taxpayer is barred from disputing the correctness of the issued assessment by

<sup>1</sup> CTA EB No. 2036, November 18, 2020, citing Section 3.1.4 of RR No. 18-2013.

introduction of newly discovered or additional evidence. This would only result in the denial of the request for reinvestigation and consequently, the issuance of the FDDA against the taxpayer.

Taking my cue from *Max's*, petitioner's failure to submit documents in support of its request for reinvestigation<sup>2</sup> does not lead to the finality and immutability of Regional Director Esmeralda M. Tabule (RD Tabule)'s Formal Letter of Demand and Final Assessment Notice dated September 18, 2019 (FLD/FAN)<sup>3</sup> issued against petitioner. The effect of such failure is petitioner's waiver of its right to submit additional or newly discovered evidence in support of its request for reinvestigation, and would lead to the supposed issuance of RD Tabule's FDDA, such as its Letter<sup>4</sup> dated January 3, 2020.

**Second.** I, too, disagree from the *ponencia's* view that respondent had a fresh 180-day period to resolve petitioner's administrative appeal. I nevertheless agree with the *ponencia's* conclusion that the CTA in Division failed to acquire jurisdiction over CTA Case No. 10332, for a different reason—petitioner *belatedly* filed its Petition for Review in said case.

Section 7(a)(2) of Republic Act (RA) No. 1125, as amended by RA No. 9282, acknowledges the CTA's exclusive appellate jurisdiction over the inaction of respondent or his duly authorized representative<sup>5</sup> on, among others, disputed assessments. Thus:

Sec. 7. Jurisdiction. - The CTA shall exercise:

...

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

...

**2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations 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 of action, in which case the inaction shall be deemed a denial;**

<sup>2</sup> Exhibits "P-4" and "R-7."

<sup>3</sup> Exhibits "P-3" and "R-14."

<sup>4</sup> Exhibits "P-5" and "R-19."

<sup>5</sup> See *Philippine Amusement and Gaming Corporation v. Bureau of Internal Revenue*, G.R. No. 208731, January 27, 2016.

Before the inaction of respondent or his duly authorized representative on disputed assessment may be elevated on appeal to the CTA, the statutory periods under Section 228 of the NIRC, as amended, must be observed. I quote the pertinent portion thereof:

**SEC. 228. *Protesting of Assessment.* -...**

...

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.

Indeed, respondent or his duly authorized representative has a *single and continuous* 180-day period to act on petitioner's request for reinvestigation, counted from submission of supporting documents, or lapse of the 60-day period to submit the same, whichever is earlier. If said 180-day period was exhausted in full or in part at the level of respondent's authorized representative, only the remainder thereof, if any, would be considered at respondent's level. To sustain the *ponencia's* interpretation that respondent has a fresh 180-day period to address the taxpayer's administrative appeal is to impermissibly stretch the 180-day period in Section 228 of the NIRC, as amended. As the Supreme Court held in *Nueva Ecija II Electric Cooperative, Inc. Area II v. Commissioner of Internal Revenue (NEECO II Area II)*:<sup>6</sup>

... 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

<sup>6</sup> G.R. No. 258101, April 19, 2022. Emphases mine.

protest to the respondent himself through 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.

*NEECO II Area II* was recently applied in *Friendlycare Foundation, Inc. v. Commissioner of Internal Revenue (Friendlycare)*.<sup>7</sup>

With *NEECO II Area II* and *Friendlycare* as my guide, and based on petitioner's depiction, on October 25, 2019, petitioner filed its request for reinvestigation, challenging RD Tabule's FLD/FAN.<sup>8</sup> Petitioner had 60 days therefrom, or until December 24, 2019 to submit documents in support thereof. Petitioner did not submit any documents. Thus, the single and continuous 180-day period for respondent or RD Tabule to evaluate petitioner's protest begun to run on December 25, 2019. From December 25, 2019 until petitioner's receipt<sup>9</sup> of RD Tabule's Letter resolving her protest on January 15, 2020, 21 days were spent by RD Tabule, leaving the remainder of said 180-day period for respondent to act at 159 days.

Counting 159 days from petitioner's filing of an administrative appeal<sup>10</sup> with respondent on January 28, 2020, the latter had until July 5, 2020 to resolve petitioner's administrative appeal. There being no decision handed down by respondent as of July 5, 2020, petitioner *initially* had 30 days therefrom, or until August 4, 2020 to appeal with the CTA in Division. Considering that August 4, 2020 fell under the period when Metro Manila was placed under the Modified Enhanced Community Quarantine (MECQ) due to COVID-19 Pandemic, Supreme Court Administrative Circular (AC) No. 43A-2020<sup>11</sup> moved the deadline for the filing of petitions, appeals, and pleadings to August 19, 2020:

In view of the imposition of Modified Enhanced Community Quarantine (MECQ) in Metro Manila, Cavite, Rizal, Bulacan and Laguna from 4 to 18 August 2020, and in addition to the provisions of Administrative Circular No. 43-2020 [inadvertently numbered as

<sup>7</sup> CTA EB No. 3056, March 17, 2026.

<sup>8</sup> Par. 8, Petition. Docket, p. 8.

<sup>9</sup> *Infra* note 10.

<sup>10</sup> Par. 9, Petition. Docket, p. 8.

<sup>11</sup> SUBJECT: ADDENDUM TO ADMINISTRATIVE CIRCULAR NO. 43-2020. ISSUED ON AUGUST 3, 2020.

A.C. No. 42-2020] dated 2 August 2020, the courts in the said areas **during the period of 4 to 18 August 2020**, shall also observe, as follows:

1. The reglementary periods for the filing of petitions, appeals, complaints, motions, **pleadings** and other court submissions before the courts shall be suspended from 4 to 18 August 2020, and **shall resume on 19 August 2020**, without prejudice to those who have already filed such pleadings and documents within their reglementary periods. In the same manner, the periods for court actions with prescribed periods are likewise suspended, and shall resume on 19 August 2020.<sup>12</sup>

*Ergo*, petitioner's **belated** filing of the Petition for Review<sup>13</sup> on August 25, 2020, negated the CTA's jurisdiction over CTA Case No. 10332.

**ACCORDINGLY, I CONCUR** with the dismissal of CTA Case No. 10332 on jurisdictional ground, *solely* because petitioner *belatedly* filed its Petition for Review in said case.

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

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<sup>12</sup> Boldfacing ours.

<sup>13</sup> Docket, pp. 6-20.