

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

THIRD DIVISION

CHINA
AIRLINES
LIMITED,

SOUTHERN
COMPANY

Petitioner,

CTA CASE NO. 12491

Members:

- versus -

MODESTO-SAN PEDRO, Chairperson,
FERRER-FLORES, and
CENTENO-DIJAMCO, JJ.

COMMISSIONER OF
INTERNAL REVENUE and
ATTY. DANTE E. TAN, in
his official capacity as
Revenue Regional Director,
BIR Revenue Region No.
8B- South NCR,

Respondents.

Promulgated:

SEP 30 2026

12:26 p.m.

X ----- X

RESOLUTION

On July 30, 2026, China Southern Airlines Company Limited (petitioner) filed a *Petition for Review with Urgent Application for Temporary Restraining Order, Writ of Preliminary Injunction, and Suspension of Collection Under Section 11 of Republic Act No. 1125, As Amended*.

At the outset, the Court the NOTES that:

1. Per *Records Verification* dated August 4, 2026, petitioner failed to submit the soft copy of its *Petition for Review* within 24-hours from personal filing, as required under CTA *En Banc* Resolution No. 8-2004;
2. The *Petition for Review* does not state the names of petitioner's witnesses and summary of their intended testimonies and documentary or object evidence in support of the allegations in the *Petition*, as required under Sections 6(a), (b), and (c) of Rule 7 of

the Rules of Court. In addition, the judicial affidavits of petitioner's intended witnesses are not attached to the *Petition for Review*;

3. The attached *Verification and Certification Against Forum Shopping* does not comply with Section 4, Rule 7 of the Rules of Court as it failed to contain the following averments:
 - i. That the pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and
 - ii. The factual allegations therein have evidentiary support or if so identified, will likewise have evidentiary support after a reasonable opportunity for discovery; and,
4. The proof of authority of the signatory of the *Verification and Certification Against Forum Shopping* is not attached to the *Petition for Review* as required under Sections 4 and 5, Rule 7 of the Rules of Court.

Under CTA *En Banc* Resolution No. 8-2024, the failure to transmit the soft copy of a court submission shall be deemed as not filed. That is, as if no document reached the Court for its consideration. While the Court, in the interest of justice, may direct petitioner to address the observed deficiencies, doing so would be rendered meaningless in this case.

Petitioner invokes the Court's "other matters" jurisdiction under Section 7(a)(1) of Republic Act No. 1125, as amended. The *Petition for Review* alleges:

I. PREFATORY STATEMENT

1. This *Petition for Review* assails the Warrant of Dstraint and/or Levy dated 28 May 2026 and all related summary collection remedies issued or threatened by Respondents for the alleged deficiency final withholding/final tax on Branch Profit Remittance for taxable year 2010 in the amount stated in the Final Decision on Disputed Assessment (FDDA) of Php 68,313,355.89, exclusive of further interest and charges.

....

4. The present recourse is not a prohibited appeal from the merits of the assessment. It is an appeal from a distinct and adverse BIR collection action and raises the separate issue of whether the Government's right to collect has already prescribed. The Court of Tax Appeals has jurisdiction over the issue of prescription of the BIR's right to collect, even where the underlying assessment is alleged to have become final and executory, because prescription is an "other matter" arising under the National Internal Revenue Code (NIRC) within the meaning of Republic Act No. 1125, as amended.

....

III. JURISDICTION AND TIMELINESS

11. This Honorable Court has jurisdiction under Section 7(a)(1) of Republic Act NO, 1125, as amended, over decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the NIRC or other laws administered by the BIR.

12. The issue in this Petition which is whether Respondents may still collect an assessed tax by distraint, levy, garnishment, or other summary remedies after the expiration of the statutory period is a matter arising under the NIRC. It is therefore within the exclusive appellate jurisdiction of this Honorable Court.

13. Petitioner received and/or was served with the assailed Warrant of Distraint and/or Levy and related transmittal/collection papers on or about 3 June 2026. Copies of the Warrant should be attached as Annexes “B”, and “B-1”, respectively.

The allegations in the *Petition for Review* show that its dismissal is in order for being filed beyond the prescribed period to file an appeal with the Court of Tax Appeals (CTA).

Sections 7 (a)(1) and 11 of RA No. 1125,¹ as amended, provide:

SEC. 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[.]

. . . .

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 [.] (Emphasis supplied)

¹ AN ACT CREATING THE COURT OF TAX APPEALS.

In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*,² the Supreme Court reconfirmed that the appellate jurisdiction of the CTA is not limited to cases involving decisions of the Commissioner of Internal Revenue (CIR) on matters relating to assessments or refunds and may include a Warrants of Dstraint and/or Levy (WDL) issued by the Bureau of Internal Revenue:

The appellate jurisdiction of the CTA is not limited to cases which involve decisions of the Commissioner of Internal Revenue on matters relating to assessments or refunds. **The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the Bureau of Internal Revenue. The wording of the provision is clear and simple. It gives the CTA the jurisdiction to determine if the warrant of dstraint and levy issued by the BIR is valid and to rule if the Waiver of Statute of Limitations was validly effected.**

This is not the first case where the CTA validly ruled on issues that did not relate directly to a disputed assessment or a claim for refund. In *Pantoja v. David*, we upheld the jurisdiction of the CTA to act on a petition to invalidate and annul the **dstraint orders** of the Commissioner of Internal Revenue. Also, in *Commissioner of Internal Revenue v. Court of Appeals*, the decision of the CTA declaring several waivers executed by the taxpayer as null and void, thus invalidating the assessments issued by the BIR, was upheld by this Court. (Emphasis supplied; citations omitted)

Thus, there is no question that the CTA has subject matter jurisdiction on the challenged WDL dated May 28, 2026 and all related summary collection remedies issued or threatened by respondents for the alleged deficiency final withholding/final tax on Branch Profit Remittance for taxable year 2010 in the amount stated in the Final Decision on Disputed Assessment (FDDA) of Php 68,313,355.89, exclusive of further interest and charges.

Nevertheless, petitioner failed to invoke the CTA's jurisdiction in the manner and within the prescribed period to appeal, which deprives this Court of jurisdiction over the present *Petition for Review*.

As admitted, petitioner received the assailed WDL on June 3, 2026. Thus, pursuant to Section 11 of RA No. 1125, as amended, petitioner had 30 days from receipt of the WDL or until July 3, 2026 to lodge an appeal. However, petitioner filed the present *Petition for Review* only on **July 30, 2026** or **27 days late**.

In *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*,³ the Supreme Court emphasized that the perfection of an appeal

² G.R. No. 162852, December 16, 2004 [Per J. Ynares-Santiago, First Division].

³ G.R. No. 167606, August 11, 2010 [Per J. Mendoza, Second Division].

in the manner and within the period laid down by law is not only mandatory but also jurisdictional:

It has been ruled that **perfection of an appeal** in the manner and within the period laid down by law is **not only mandatory but also jurisdictional**. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. At the risk of being repetitious, We declare that **the right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.**

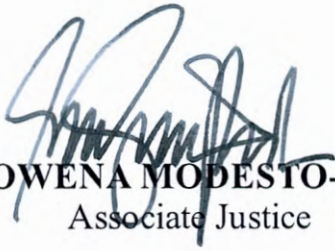
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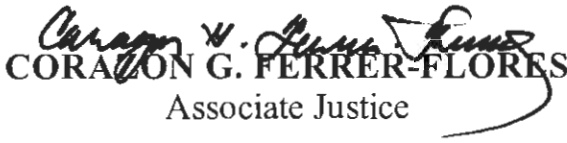
It need not be overemphasized that it is the responsibility of the counsel to check and keep track of the period of time left to file an appeal. He cannot escape from the inflexible observance of this rule which is jurisdictional. **The rules, particularly on the statutory requirement for perfecting an appeal within the reglementary period provided, must be strictly followed. If an appeal is not taken within the period prescribed therefor, the judgment becomes final and the court loses all jurisdiction over the case.** (Emphasis supplied)

In fine, for petitioner's failure to conform to the manner and prescribed time to appeal, the Court has no other recourse but to dismiss the present *Petition for Review*.

WHEREFORE, premises considered, China Southern Airlines Company Limited's *Petition for Review with Urgent Application for Temporary Restraining Order, Writ of Preliminary Injunction, and Suspension of Collection Under Section 11 of Republic Act No. 1125, As Amended* is **DISMISSED** for having been filed out of time.

SO ORDERED.


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice


DEBBIE JEAN I. CENTENO-DIJAMCO
Associate Justice