Supreme Court E-Library

THIRD DIVISION

[G.R. No. 255473; February 13, 2023]

COMMISSIONER OF INTERNAL REVENUE, *Petitioner*, *v.* **MANILA MEDICAL SERVICES, INC. (MANILA DOCTORS HOSPITAL),** *Respondent*.

D E C I S I O N

SINGH, *J.*:

Before the Court is a Petition for Review on *Certiorari* (**Petition**),[1] dated March 24, 2021, assailing the Decision,[2] dated September 1, 2020, and the Resolution,[3] dated January 21, 2021, of the Court of Tax Appeals *En Banc* (**CTA *En Banc***), in CTA EB No. 2014. The CTA *En Banc* affirmed the Decision,[4] dated November 6, 2018, and the Resolution, dated January 30, 2019, of the CTA Special Second Division (**CTA**), in CTA Case No. 8907, declaring the Final Assessment Notice (**FAN**) and the Warrant of Distraint or Levy (**WDL**) issued by the petitioner Commissioner of Internal Revenue (**CIR**) against the respondent Manila Medical Services, Inc. (Manila Doctors Hospital) (**MMS**) cancelled for being null and void.[5]

The Facts

The CIR is the Chief of the Bureau of Internal Revenue (**BIR**), the government agency charged with the assessment and collection of all internal revenue taxes, fees, and charges, and

---

1 *Rollo*, pp. 38-60.

2 *Id.* at 63-81. Penned by Associate Justice Erlinda P. Uy and concurred in by Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, Jean Marie A. Bacorro-Villena, and Maria Rowena Modesto-San Pedro.

3 *Id.* at 27-32.

4 *Id.* at 63. Penned by Associate Justice Catherine T. Manahan and concurred in by Associate Justice Juanito C. Castañeda, Jr.

5 *Id.* at 63-64.

Supreme Court E-Library

the enforcement of all forfeitures, penalties, and fines connected therewith, with office address at the BIR National Revenue Office Building, Diliman, Quezon City.[6] On the other hand, MMS is a domestic corporation duly organized and registered under the laws of the Philippines, with address at 667 United Nations Avenue, Ermita, Manila. MMS is registered with the BIR under Certificate of Registration No. 8RC0000020213 with Tax Identification No. 000-343-183-000. It is also registered with the Securities and Exchange Commission with Company Registration No. 7927 on July 26, 2005.[7]

MMS received a Preliminary Assessment Notice (**PAN**), dated October 19, 2010. The said PAN was duly protested by MMS on November 24, 2010. Thereafter, a FAN was issued on March 25, 2013 against MMS. On April 16, 2013, MMS protested the issuance of the said FAN. The said protest was received by the CIR on April 18, 2013. On September 12, 2014, the WDL, dated September 5, 2014, was received by MMS demanding the payment of the amount of PHP79,960,408.62, representing its alleged deficiency Income Tax and Value-Added Tax, including surcharges and interest.[8] This prompted MMS to file a Petition for Review before the CTA on October 10, 2014.[9]

As directed by the CTA, the CIR filed its Answer to the Petition for Review of MMS on November 21, 2014. The CIR, in its Answer, raised the following affirmative defenses: (1) the BIR records show that prior to the issuance of the WDL, the BIR issued a letter, dated April 26, 2013, which was posted at the Manila Central Post Office on the same date under Registry Receipt No. 911204, and was received by one Enrico Vidal, MMS' representative, on June 21, 2013; (2) MMS filed a false return; (3) the assessment has become final and executory, thus, not appealable before the CTA; and (4) MMS has the burden of showing the incorrectness of the assessments issued against it.[10]

---

[6] *Id.* at 64.

[7] *Id.*

[8] *Id.* at 65.

[9] *Id.* at 64-65.

[10] *Id.* at 65.

Supreme Court E-Library

The Ruling of the CTA

On November 6, 2018, the CTA rendered its Decision declaring the cancellation of the FAN and WDL for being null and void. The dispositive portion of the CTA Decision reads:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, the subject Final Assessment Notice and Warrant of Distraint or Levy are hereby **CANCELLED** for being **NULL AND VOID**.
>
> **SO ORDERED**.[11]

Thereafter, the CIR filed a motion for reconsideration, but the same was denied by the CTA in its Resolution, dated January 30, 2019, for lack of merit.[12] The dispositive portion of the said Resolution reads:

> **WHEREFORE**, premises considered, respondent's Motion for Reconsideration is hereby **DENIED** for lack of merit and the assailed DECISION is hereby **AFFIRMED**.
>
> **SO ORDERED**.[13]

Aggrieved, the CIR went up to the CTA *En Banc* to assail the Decision, dated November 6, 2018, and the Resolution, dated January 30, 2019, of the CTA.[14]

Pursuant to Section II of the Interim Guidelines for Implementing Mediation in the Court of Tax Appeals, the CTA *En Banc* referred the present case to the Philippine Mediation Center-Court of Tax Appeals (**PMC-CTA**) for initial appearance. However, on June 26, 2019, the PMC-CTA filed a "No Agreement to Mediate" before the CTA *En Banc*, stating that the parties did not agree to have the case mediated.[15]

---

[11] *Id.* at 64.

[12] *Id.* at 66.

[13] *Id.* Emphasis in the original.

[14] *Id.* at 66-67.

[15] *Id.* at 67-68.

Supreme Court E-Library

The Ruling of the CTA En Banc

In its Decision, dated September 1, 2020, the CTA *En Banc* denied the Petition for Review of the CIR for lack of merit and affirmed the Decision, dated November 6, 2018, and the Resolution, dated January 30, 2019, of the CTA. The dispositive portion of the Decision reads:

> **WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the Decision dated November 6, 2018 and the Resolution dated January 30, 2019 rendered by the Court in Division in CTA Case No. 8907, are **AFFIRMED**.
>
> **SO ORDERED**.[16]

The CTA *En Banc* held that the CTA has jurisdiction over the case since its appellate jurisdiction is not limited to cases which involve decisions of the CIR on matters relating to assessments or refunds and thus, it exercises jurisdiction to review, on appeal, aside from refund and assessment cases, "other matters arising under the [National Internal Revenue Code (**NIRC**)] or other laws administered by the BIR," which include the determination of the validity of the warrant of distraint and levy."[17] It further explained that considering the WDL is directly related to the assailed assessment, and that the issuance of the same by the CIR was one of the remedies for the collection of delinquent taxes sanctioned under Section 206 of the NIRC and the BIR rules and regulations, the CTA did not err in taking cognizance of the case filed by MMS.[18]

As to the CIR's argument that it is the Final Decision on Disputed Assessment (**FDDA**) that should be the adverse decision appealable to the CTA, and not the WDL, the CTA *En Banc* held that it has the burden to prove that the said FDDA was received by MMS. The CTA and the CTA *En Banc* are one in holding that the CIR failed to prove that MMS received the FDDA.[19]

---

[16] *Id.* at 80. Emphasis in the original.

[17] *Id.* at 72.

[18] *Id.*

[19] *Id.* at 72-73.

Supreme Court E-Library

The CTA *En Banc* further held that even assuming that the FDDA was actually received by MMS, the same would still be invalid for failure to comply with the requirements set forth in Section 3.1.6. of the Revenue Regulations No. (**RR**) 12-99 which requires that an administrative decision should state the facts, the applicable laws, rules and regulations, or jurisprudence on which the decision is based, otherwise, the decision shall be void.[20]

Accordingly, the CTA *En Banc* affirmed the findings of the CTA that there was no valid assessment against MMS since there was no Letter of Authority (**LOA**) issued to Revenue Officer (**RO**) Ethel C. Evangelista (**Evangelista**) to conduct the examination of the books of account and other accounting records of MMS in the taxable year of 2008.[21]

The CIR moved for reconsideration, but the same was denied by the CTA *En Banc* in its Resolution, dated January 21, 2021. The dispositive portion of the Resolution reads:

WHEREFORE, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.[22]

Aggrieved by the CTA *En Banc*'s Decision and Resolution, the CIR filed the present Petition.

The Issue

Did the CTA *En Banc* commit any reversible error when it denied the CIR's Petition for Review?

The Ruling of the Court

The Petition lacks merit.

---

[20] *Id.* at 75-76.

[21] *Id.* at 77-80.

[22] *Id.* at 87. Emphasis in the original.

Supreme Court E-Library

Preliminarily, questions of fact are proscribed in Rule 45 petitions.[23] The Rules of Court require that only questions of law should be raised in petitions filed under Rule 45 since factual questions are not the proper subject of an appeal by *certiorari*. It is not the Court's function to once again analyze or weigh evidence that has already been considered in the lower courts[24] as this Court is not a trier of facts.[25] A question of law exists when doubt or difference arises as to what is the applicable law given a certain set of facts. On the other hand, there is a question of fact when doubt arises as to the truth or falsity of the alleged facts.[26]

As to questions of fact, the Court accords the factual findings of the CTA with the highest respect. These findings of facts can only be disturbed on appeal if they are not supported by substantial evidence or there is a showing of gross error or abuse on the part of the CTA. In the absence of any clear and convincing proof to the contrary, the Court presumes that the CTA rendered a decision which is valid in every respect.[27]

The WDL is the adverse decision appealable to the CTA and not the FDDA

In its Petition, the CIR maintains that the FDDA, that was allegedly received by MMS on July 9, 2013, should be the adverse decision appealable to the CTA and not the WDL. However, MMS categorically denied that it received the said FDDA. Thus, it is incumbent upon the CIR to prove by competent evidence that the FDDA was indeed received by MMS.[28]

---

[23] *Philippine National Police-Criminal Investigation and Detection Group v. P/Supt. Villafuerte*, 840 Phil. 243, 253 (2018).

[24] *Sps. Miano, Jr. v. Manila Electric Company,* 800 Phil. 118, 122 (2016).

[25] *Microsoft Corporation, et al. v. Farajallah, et al.*, 742 Phil. 775, 785 (2014).

[26] *Reyes v. Court of Appeals*, 328 Phil. 171, 179 (1996).

[27] *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, 833 Phil. 97, 105 (2018).

[28] *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*, G.R. No. 240729, August 24, 2020.

Supreme Court E-Library

Contrary to the CIR's claim, however, the CTA and the CTA *En Banc* are one in holding that the CIR failed to prove that MMS received the FDDA and the Court has no reason to disturb such factual findings as it has been the long-standing policy and practice of the Court to respect the conclusions of quasi-judicial agencies such as the CTA, a highly specialized body specifically created for the purpose of reviewing tax cases.[29] Further, the Court, in *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*,[30] held that the issue on the receipt or non-receipt of the final demand letters and assessment notices is a factual question that is not generally proper in a Rule 45 petition before the Court.

Accordingly, even assuming that the FDDA was really received by MMS, the same would still be void for failure to comply with the requirements set forth in Section 3.1.6 of the RR 12-99, which provides:

> 3.1.6. Administrative Decision on a Disputed Assessment. — The decision of the Commissioner or his duly authorized representative shall (a) state the facts, the applicable law, rules and regulations, or jurisprudence on which such decision is based, otherwise, the decision shall be void, in which case, the same shall not be considered a decision on a disputed assessment; and (b) that the same is his final decision.

While it is true that taxation is the lifeblood of the government, the power of the State to collect tax must be balanced with the taxpayer's right to substantial and procedural due process. The Court has recognized that, between the power of the State to tax and an individual's right to due process, the scale favors the right of the taxpayer to due process.[31] As explained by the Court in *Commissioner of Internal Revenue v. Liquigaz Philippines Corporation*,[32] it is important to provide the taxpayer the adequate written notice of his tax liability. The Court elucidates:

---

[29] *Commissioner of Internal Revenue v. MERALCO*, 735 Phil. 547, 561 (2014).

[30] G.R. No. 225809, March 17, 2021.

[31] *Commissioner of Internal Revenue v. Yumex Philippines Corporation*, G.R. No. 222476, May 5, 2021.

[32] 784 Phil. 874 (2016).

Supreme Court E-Library

The importance of providing the taxpayer of adequate written notice of his tax liability is undeniable. Section 228 of the NIRC declares that an assessment is void if the taxpayer is not notified in writing of the facts and law on which it is made. Again, Section 3.1.4 of RR No. 12-99 requires that the FLD must state the facts and law on which it is based, otherwise, the FLD/FAN itself shall be void. Meanwhile, Section 3.1.6 of RR No. 12-99 specifically requires that the decision of the CIR or his duly authorized representative on a disputed assessment shall state the facts, law and rules and regulations, or jurisprudence on which the decision is based. Failure to do so would invalidate the FDDA.

The use of the word "shall" in Section 228 of the NIRC and in RR No. 12-99 indicates that the requirement of informing the taxpayer of the legal and factual bases of the assessment and the decision made against him is mandatory. The requirement of providing the taxpayer with written notice of the factual and legal bases applies both to the FLD/FAN and the FDDA.

Section 228 of the NIRC should not be read restrictively as to limit the written notice only to the assessment itself. As implemented by RR No. 12-99, the written notice requirement for both the FLD and the FAN is in observance of due process — to afford the taxpayer adequate opportunity to file a protest on the assessment and thereafter file an appeal in case of an adverse decision.

To rule otherwise would tolerate abuse and prejudice. Taxpayers will be unable to file an intelligent appeal before the CTA as they would be unaware on how the CIR or his' authorized representative appreciated the defense raised in connection with the assessment. On the other hand, it raises the possibility that the amounts reflected in the FDDA were arbitrarily made if the factual and legal bases thereof are not shown.[33]

Based on record, the contents of the FDDA are as follows:

x x x x

This is in connection with your 2008 all internal revenue tax liabilities pursuant to Letter Notice No. 033-RLF-08-00-00013 dated February 15, 2010, involving the amounts of ₱25,057,904.40 and ₱27,602,368.40 representing deficiency value-added and income taxes, respectively, under Final Assessment Notice Nos. 33-08-VT(LNTF)-4846 and 33-08-IT(LNTF)-4847, both dated March 25, 2013.

[33] *Id.* at 887-888.

Supreme Court E-Library

Please be informed that due to your failure to act on our letter dated April 26, 2013, the entire docket of the above case will be forwarded to Collection Division, this region, for the enforcement of collection through summary remedies to protect the interest of the government. This serves as our Final Decision on Disputed Assessment.

x x x x.[34]

Clearly, the alleged FDDA merely informed MMS of its supposed tax liabilities without any basis. Thus, it is void for failing to state (1) the factual basis of the assessment and (2) the law, rules and regulations, or jurisprudence on which it is based.

There was no valid authority granted to RO Evangelista to conduct the assessment against MMS

The CIR claims that the assessment made against MMS was pursuant to a valid LOA. Based on record, LOA No. 2007-0034491, dated July 14, 2009, was issued by Arnel SD. Guballa, Officer-in-Charge, Regional Director of Revenue Region No. 6, authorizing "RO E. Demadura/J. Macuha and Group Supervisor J. Tabor of the Special Investigation and Division, to examine [MMS'] books of account and other accounting records for all internal revenue taxes for the period [(*sic*)] from January 1, 2008 to December 31, 2008."[35] However, it was RO Evangelista who conducted the investigation of the tax case of MMS for taxable year 2008.[36]

According to the CIR, what the LOA authorizes is the conduct of audit against a taxpayer by the BIR's revenue officers.[37] Hence, in the event the revenue officers indicated in the LOA can no longer perform the audit, the authority still remains, and the conduct of audit must necessarily be reassigned and assumed by another BIR

---

[34] *Rollo*, pp. 76-77.

[35] *Id.* at 50.

[36] *Id.*

[37] *Id.* at 52.

Supreme Court E-Library

revenue officer since it is "only a logical consequence of the vast powers given to the CIR by the NIRC to make assessments and collect the right amount of taxes."[38]

The Court disagrees. The argument of the CIR has no basis to stand on.

To emphasize, a LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax.[39] Section 13 of the NIRC requires that a revenue officer must be validly authorized before conducting an audit of a taxpayer. Section 13 provides:

> Section 13. Authority of a Revenue Officer. — Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself.

The importance of identifying the authorized revenue officer who will conduct the examination and assessment against a taxpayer was explained by the Court in *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*:[40]

> To comply with due process in the audit or investigation by the BIR, the taxpayer needs to be informed that the revenue officer knocking at his or her door has the proper authority to examine his books of accounts. The only way for the taxpayer to verify the existence of that authority is when, upon reading the LOA, there is a link between the said LOA and the revenue officer who will conduct the examination and assessment;

---

[38] *Id.* at 53.

[39] *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, 649 Phil. 519, 529-530 (2010).

[40] G.R. No. 242670, May 10, 2021.

Supreme Court E-Library

and the only way to make that link is by looking at the names of the revenue officers who are authorized in the said LOA. If any revenue officer other than those named in the LOA conducted the examination and assessment, taxpayers would be in a situation where they cannot verify the existence of the authority of the revenue officer to conduct the examination and assessment. Due process requires that taxpayers must have the right to know that the revenue officers are duly authorized to conduct the examination and assessment, and this requires that the LOAs must contain the names of the authorized revenue officers. In other words, identifying the authorized revenue officers in the LOA is a jurisdictional requirement of a valid audit or investigation by the BIR, and therefore of a valid assessment.[41]

Further, RMO No. 43-90[42] provides that:

C. Other policies for issuance of L/As.

x x x

5. Any re-assignment/transfer of cases to another RO(s), and revalidation of L/As which have already expired, shall require the issuance of a new L/A, with the corresponding notation thereto, including the previous L/A number and date of issue of said L/As.

Evidently, contrary to the CIR's argument, if the revenue officers that were previously indicated in a LOA were reassigned or transferred to another case and as such, a new revenue officer will handle the case that was previously assigned to them, the issuance of a new LOA in favor of the new handling revenue officer is required. Therefore, without the new LOA, RO Evangelista was not authorized to conduct the examination and assessment of the tax liabilities of MMS because LOA No. 2007-0034491, dated July 14, 2009, was issued to "RO E. Demadura/J. Macuha and Group Supervisor J. Tabor of the Special Investigation and Division," and not to her.

To emphasize, the Court has consistently held that in cases where the BIR conducts an audit without a valid LOA, or in excess of the

---

[41] *Id.*

[42] An Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit, September 20, 1990.

Supreme Court E-Library

authority duly provided therefor, the resulting assessment shall be void and ineffectual.[43] Hence, as a result of RO Evangelista's lack of authority, the assessment against MMS was therefore void.

The CTA has jurisdiction over the present case

The CIR assails the jurisdiction of the CTA to hear the present case. The CIR argues that the reliance on the WDL as the basis for the MMS' Petition for Review was misplaced since the FDDA should be the basis for the action in the CTA.

Contrary however to the CIR's argument, Section 7(a)(1) of Republic Act No. (**RA**) 1125, as amended by RA 9282, which confers upon the CTA the jurisdiction to decide not only cases on disputed assessments and refunds of internal revenue taxes, but also "other matters" arising under the NIRC:

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[.]

As explained by the Court in *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division*,[44] the exclusive appellate jurisdiction of the CTA Division is not limited to cases involving decisions of the CIR or 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 BIR. The wording of the provision is clear and simple. It gives the CTA the

---

[43] *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, 808 Phil. 528 (2017).

[44] G.R. No. 258947, March 29, 2022.

Supreme Court E-Library

jurisdiction to determine the validity of the warrant of distraint and levy.[45]

In view of all the foregoing, the Petition must be denied.

WHEREFORE, the Petition for Review on *Certiorari* filed by the petitioner Commissioner of Internal Revenue is **DENIED** for lack of merit. The Decision, dated September 1, 2020, and the Resolution, dated January 21, 2021, of the Court of Tax Appeals *En Banc*, in CTA EB No. 2014, are **AFFIRMED**.

SO ORDERED.

Caguioa (Chairperson), Inting, Gaerlan, and *Dimaampao, JJ.*, concur.

APPEARANCES OF COUNSEL

Office of the Solicitor General for petitioner.
Du-Baladad & Associates for respondent.

[45] *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*, 488 Phil. 218, 228-229 (2004).