REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SANYO SEIKI STAINLESS STEEL CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2726
(CTA Case No. 9265)

Present:

DEL ROSARIO, *PJ,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES *JJ.*

Promulgated:
MAY 2 0 2024 4:30pm

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DECISION

FERRER-FLORES, J.:

Before this Court is a **Petition for Review (from the Court of Tax Appeals Decision dated 15 July 2021 and the Resolution dated 15 December 2022)** filed by **Sanyo Seiki Stainless Steel Corporation (petitioner)**, assailing the Decision dated July 15, 2021[1] and the Resolution dated December 15, 2022[2] of the Court of Tax Appeals (CTA) Third Division and CTA Special Third Division (Court in Division), respectively, in the case entitled *Sanyo Seiki Stainless Steel Corporation vs. Commissioner of Internal Revenue* docketed as CTA Case No. 9265.

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1 *Rollo*, pp. 20 to 38; Penned by Associate Justice Maria Rowena Modesto-San Pedro, and concurred in by Associate Justice (Ret.) Erlinda P. Uy and Associate Justice Ma. Belen M. Ringpis-Liban.

2 *Id*, pp. 40 to 44.

The dispositive portion of the assailed Decision of the Court in Division reads:

> **WHEREFORE,** the instant Petition for Review is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**

The dispositive portion of the assailed Resolution states:

> **WHEREFORE**, premises considered, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.
>
> **SO ORDERED.**

Petitioner Sanyo Seiki Stainless Steel Corporation (Sanyo) is organized and existing under and by virtue of Philippine laws, with principal office address at 28th Floor, World Trade Exchange Bldg., 215 Juan Luna St., Binondo, Manila.[3]

Respondent is the duly appointed **Commissioner of Internal Revenue (CIR)** who has the power to decide on disputed assessments, fees or other charges and penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code (NIRC) of 1997,[4] as amended, or other laws or portions thereof administered by the Bureau of Internal Revenue (BIR). Petitioner holds office at the BIR National Building Office, Agham Road, Diliman, Quezon City.

FACTUAL ANTECEDENTS

The factual antecedents as culled from the Division records are as follows:[5]

> On 23 October 2007, petitioner received Letter Notice (LN) No. 026-AS-06-00-00011, dated 15 October 2007. In the said LN, the BIR alleged that per its computerized matching on the information provided by third party sources against petitioner's declarations, it found that it underdeclared its importations by ₱585,068,575.00, yielding an unpaid VAT in the amount of ₱70,208,229.00.
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> In response, petitioner sent a letter to the BIR on 5 November 2007. It explained that its records are correct and that the discrepancy found by BIR was caused by its previous accountant who incorrectly classified its 'ordinary goods for resale and use for production' as 'capital goods'.

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3 Par. 4, Petition for Review, *Rollo* p.2.

4 Republic Act (R.A.) No. 8424 entitled *An Act Amending the National Internal Revenue Code, As Amended, And for Other Purposes.*

5 *Rollo* pp. 21-31.

It also requested the BIR to consolidate its audit investigation pursuant to Letter of Authority (LOA) No. 200100069868 with the subject LN. The said LOA was issued on 17 August 2007 authorizing Revenue Officers (RO) Charmaine S. Morales and Group Supervisor (GS) Josefina T. Lopez to examine the books of accounts and other accounting records of petitioner for all internal revenue taxes for TY [taxable year] 2006.

In reply to petitioner's request, the BIR, in a letter, dated 23 November 2007, denied consolidating the investigation pursuant to the LN and the LOA.

On 10 September 2009, the BIR issued LOA 200800047021, this time authorizing RO Christopher A. Samson and Team Head Cesar C. Sarmiento to examine petitioner's books of accounts and other accounting records in relation to the subject LN.

Pursuant to LOA 200800047021 and the LN, the BIR issued a Preliminary Assessment Notice (PAN) assessing petitioner for deficiency Income Tax and VAT in the total amount of ₱51,394,791.24. The PAN was mailed to petitioner on 8 February 2010 but was subsequently returned to sender.

Afterwards, the BIR issued the Final Assessment Notice (FAN). Here, the assessment against petitioner was increased to ₱51,997,555.34 due to interest, computed as follows:

xxx xxx xxx

Similar to the PAN, the FAN was sent to petitioner via registered mail on 14 April 2010 which later on was returned to sender.

Considering that the BIR did not receive any protest from petitioner, it issued a Preliminary Collection Letter (PCL) on 8 October 2010, asking petitioner to pay its alleged tax liability. The PCL was accepted by petitioner on 14 October 2010.

On 22 October 2010, petitioner filed a Letter to the BIR requesting a copy of the Report of Investigation, PAN, FAN, PCL, and other taxpayer's communications in relation to its TY 2006 assessment. This request was reiterated by petitioner in another letter filed with the BIR on 26 October 2010.

Meanwhile, the BIR issued the Final Notice Before Seizure ('FNBS') on 17 November 2010, where it reiterated its request for petitioner to pay the assessed tax liability. The FNBS was mailed to petitioner on 1 December 2010.

For the third time, petitioner filed another letter to the BIR on 14 December 2010 reiterating its request to secure copies of the documents in relation to its TY 2006 assessment. This was followed by another letter request which was filed on 17 December 2010.

In the said letter, aside from reiterating its earlier requests, petitioner narrated the events that had transpired in a meeting that happened between the BIR and its authorized representative.

It alleged that the BIR was adamant in not giving it copies of the requested documents because the BIR blames it for not receiving them when it was sent via registered mail. In reply, petitioner explained that after investigating the matter, it found that it was the security guards who refused to receive the documents upon its instruction that only the Plant Operations Manager has the authority to receive the same.

On this note, in order to avoid repetition of the problem of non-receipt of the assessments, petitioner suggested that all communications be personally served to its executive office at the 2801 World Trade Exchange Building, 215 Juan Luna Street, Binondo, Manila.

Thereafter, petitioner, upon verbal instruction of RO Jocelyn A. Bacorro, filed a Motion for Reinvestigation which was received by the BIR on 7 January 2011. In the said Motion, petitioner specifically denied having received the assessment for TY 2006.

On 31 January 2011, the BIR furnished a Warrant of Garnishment to petitioner's banks enforcing collection of its alleged deficiency taxes.

Aggrieved, petitioner went to the BIR on 3 February 2011, where it was able to secure a photocopy of the PAN and FAN.

Considering the receipt of the contested assessment, petitioner filed its administrative protest on 15 February 2011. It alleged that the garnishment of its bank accounts constitutes a violation of its due process. It laments that it did not receive the disputed assessment until 3 February 2011.

In reply, the BIR issued a letter, dated 15 March 2011, explaining that the assessment issued to petitioner had long been overdue and delinquent for its failure to file a timely administrative protest. The BIR opined that the FAN was sent by petitioner via registered mail on 14 April 2010 and was presumed received by the same citing ***Section 10, Rule 13 of the Rules of Court.*** The said letter was signed by Regional Director Tomas C. Rosales, CEO VI, and was received by petitioner on 28 March 2011.

Undaunted, petitioner appealed its case to respondent on 27 April 2011.

On 14 January 2016, the respondent issued a Decision hereinafter referred to as the 'assailed Decision') denying petitioner's appeal and ordering it to pay the assessed taxes. The said assailed Decision was received by petitioner on 19 January 2016.

Thereafter, petitioner received a Collection Letter issued by Regional Director Jose N. Tan enforcing respondent's Decision on 10 February 2016.

Undeterred, petitioner filed the instant Petition for Review with Urgent Motion to Suspend Collection of Tax on 19 February 2016. Respondent filed his Answer to the Petition for Review with Opposition to the Urgent Motion to Suspend Collection of Tax on 5 April 2016.

During the hearing on petitioner's Urgent Motion to Suspend Collection of Tax, it presented Ms. Angela Aranzano Ale, the Company's Accounting Manager, as its witness. xxx

During the pendency of the Urgent Motion to Suspend Collection of Taxes, petitioner and respondent filed and posted their respective Pre-Trial Briefs on 22 July 2016.

On 13 September 2016, the Court in Division issued a Resolution granting petitioner's Urgent Motion to Suspend Collection of Tax, subject to the condition that it deposit a cash or surety bond in the amount of ₱25,118,424.84 and submit the required supporting documents of the surety company mandated under ***A.M. No. 04-7-02-SC.***

On 23 September 2016, respondent forwarded the BIR records pertinent to this case to the Court in Division.

On 27 September 2016, the Pre-Trial Conference for the case ensued. Afterwards, the parties submitted their Joint Stipulation of Facts and Issues on 17 October 2016. On 25 November 2016, the Court in Division issued the Pre-Trial Order marking the end of the Pre-Trial Conference.

Meanwhile, on 11 November 2016, petitioner filed its compliance with the Court in Division's Resolution, dated 13 September 2016, and submitted the pertinent documents in relation to its surety bond deposit. The same was found to be in order by the Court in Division in a Resolution, dated 1 December 2016. On this note, the Court in Division enjoined respondent from collecting the pertinent taxes against petitioner.

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Thereafter, trial proceeded where petitioner presented the following witnesses:

1. Mr. George F. Rasalan, petitioner's former Senior Accounting Manager and, at the time of his testimony, its Finance Manager. He testified on the facts surrounding petitioner's receipt of the PCL and the course of action taken by the company thereafter. He also stated that petitioner did not receive the PAN, FAN, and other communications relative to the assessment for TY 2006 until 3 February 2011. He narrated that after the receipt of the PAN and FAN, petitioner filed a protest to the BIR and, thereafter, to respondent which was denied through the assailed Decision. He also stated that aside from the assailed Decision, the BIR also issued a Collection Letter enforcing the alleged deficiency taxes.

2. Ms. Rosalyn V. Vinzon, petitioner's former Chief Finance Office (CFO). She confirmed the testimony of Mr. Rasalan. She testified that petitioner sent numerous letter requests to respondent asking that it be furnished with the assessments which were left unacted upon by the BIR until it enforced several Warrants of Garnishment to petitioner's banks. She shared that after learning of the enforcement of the said Warrants, she [together] with Mr. Rasalan went to the BIR on 3 February 2011 which was also the time when

she got a copy of the PAN and FAN. She stated that petitioner then filed its administrative protests against the FAN.

Subsequently, petitioner filed its Formal Offer of Evidence (FOE) on 4 August 2017 which was within the extended period granted by the Court.

On 6 December 2017, the Court in Division issued a Resolution admitting petitioner's offered exhibits except for the following:

1. Exhibits 'P-4', 'P-5', 'P-8', 'P-11', 'P-11.1', 'P-12', 'P-17', 'P-18', 'P-19', 'P-20', and 'P-23', for failure of petitioner to identify the said documents during trial; and

2. Exhibits 'P-9', 'P-13', and 'P-13.2', for failure of petitioner to submit the originals for comparison.

Meanwhile, on 7 December 2017, petitioner filed a Motion to Lift Warrants of Garnishment. Petitioner explains that despite the suspension order issued by the Court in Division, its accounts with certain banks were still garnished, leaving it no access over the same. Therefore, it prayed for the Court to lift the said Warrants.

As for the denied exhibits, petitioner filed on 27 December 2017 an Omnibus Motion (1) For Reconsideration of the Resolution dated 06 December 2017; and (2) To Re-open Proceedings. In the said Omnibus Motion, petitioner asked the Court to reopen the proceedings for the purposes of allowing it to identify the denied exhibits.

In a Resolution dated 21 February 2018, the Court in Division granted petitioner's Motion to Re-open Proceedings and Motion to Lift Warrants of Garnishment but deferred the resolution of its Motion for Reconsideration.

During the hearing for the recall of petitioner's witness held on 13 March 2018, petitioner made an oral motion to set another hearing for purposes of presenting the postmaster of Kalookan Central Post Office or his representative who would identify a Certification regarding the service of the PAN and FAN to petitioner by registered mail. However, the Court in Division denied the same on the ground that it was not among the exhibits mentioned in the Pre-Trial Order.

On 19 March 2018, petitioner filed its Supplemental Formal Offer of Documentary Evidence.

Thereafter, it filed a Motion for Reconsideration (of the Order dated 13 March 2018) on 27 March 2018. It explained that the Certification was part of its proposed amendments to the Pre-Trial Order which was adopted by the Court in Division in its Resolution, dated 20 December 2016. As such, it reiterated its prayer for the Court to set another hearing for purposes of identifying the Certification and to issue a *subpoena ad testificandum* to the Chief-Admin Section of the Kalookan Central Post Office, Mr. Antonio S. San Juan.

Finding merit to petitioner's contention, the Court in Division on 9 July 2018 granted its Motion for Reconsideration and ordered the issuance of a *subpoena ad testificandum* to Mr. Antonio S. San Juan.

On 7 August 2018, petitioner presented Mr. Antonio S. San Juan, the Senior Letter carrier of the Kalookan Central Post Office, who identified a Certification he issued stating that Registered Letters Nos. 2968 and 8619 addressed to petitioner were returned to sender for reason that the recipient of the letters had already moved or changed address.

On 13 August 2018, petitioner posted its Second Supplemental Formal Offer of Documentary Evidence with Motion to Change Exhibit Markings.

Meanwhile, on 27 September 2018, the instant case was transferred from the First to the Third Division pursuant to ***Court of Tax Appeals ('CTA') Administrative Circular No. 02-2018.***

Thereafter, the Court in Division in a Resolution, dated 18 October 2018, resolved petitioner's Motion for Reconsideration of the Resolution dated 6 December 2017, Supplemental Formal Offer of Documentary Evidence, and Second Supplemental Formal Offer of Documentary Evidence with Motion to Change Exhibit Markings. Here, the Court reconsidered the admission of petitioner's exhibits except for Exhibit 'P-12' for failure to have the said document identified; and Exhibits 'P-9', 'P-13', and 'P-13.2' for failure to submit the originals for comparison.

Thereafter, respondent presented the following witnesses:

1. RO Charmaine S. Moralles-Follante, who identified certain documents relevant to the assessment of petitioner.

2. RO Cheryl G. Arbues, who testified on the collection efforts done by the BIR, namely, the service of the PCL to petitioner and the enforcement of the Warrants of Garnishment to petitioner's various banks. She also testified on the fact of petitioner's receipt of the FAN on 3 February 2011 and the subsequent denial of petitioner's protests by the Office of the Regional Director and of the respondent.

3. RO Jocelyn A. Bacorro, who reiterated the testimony of RO Cheryl Arbues.

On 28 March 2019, petitioner filed a Motion to Replace Surety Bond, asking the Court in Division that it be allowed to replace Investors Assurance Corporation *[IAC]* with Travellers Insurance & Surety Corporation ('TRISCO') as guarantor or issuer of its surety bond which was posted as a condition for its suspension of collection of taxes. IAC interposed no objection to the said Motion.

Meanwhile, respondent filed his Formal Offer of Exhibits on 16 May 2019.

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> Then, the Court in Division resolved respondent's FOE on 4 July 2019, admitting his offered pieces of evidence except for: 1) Exhibit 'R-2' for his failure to present the original copy for comparison; 2) Exhibit 'R-9a' for failure of the document to correspond with the one actually marked; 3) Exhibits 'R-13-1' and 'R-13-2', for failure of his witness to identify the said documents; and 4) Exhibit 'R-19' for not being found in the records. On this note, both parties were ordered to file their respective memoranda.
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> Afterward, the parties filed their respective Memoranda on 5 August 2019 for respondent and on 23 August 2019 for petitioner.
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> On 29 August 2019, petitioner filed a Manifestation informing the Court in Division that it is under rehabilitation pursuant to the Commencement Order issued by the Regional Trial Court ('RTC') of Malabon.
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> xxx xxx xxx
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> Considering that there are no more pending matters for the Court in Division's resolution, the Court now resolves the case in light of its 16 July 2020 Resolution.

On July 15, 2021, the Court in Division dismissed the *Petition for Review* for lack of jurisdiction.[6] Petitioner's *Motion for Reconsideration (MR)* was likewise denied for lack of merit.[7]

Undeterred, on January 19, 2023, petitioner filed the instant *Petition for Review (from the Court of Tax Appeals Decision dated 15 July 2021 and Resolution dated 15 December 2022)*.[8] This Court ordered respondent CIR to file its comment/opposition thereon in the Resolution dated February 17, 2023.[9] Thereafter, the CIR filed his *Comment/Opposition* on March 1, 2023.[10]

On April 19, 2023, this Court submitted this case for decision.[11] Hence, this decision.

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6 *Supra* at note 1.
7 *Supra* at note 2.
8 *Rollo*, pp. 1 to 15.
9 *Id.*, pp. 175-176.
10 *Id.*, pp. 177 to 182.
11 Resolution dated April 19, 2023, *Rollo*, pp. 184-185.

THE ISSUES

The issues raised by petitioner in the instant petition are the following:

A. Whether or not the thirty (30)-day period for filing a Petition for Review before the CTA should be reckoned from the date of receipt of the collection letter.

B. Assuming arguendo that the Petition for Review was filed one (1) day late, whether or not the Honorable CTA in Division erred in not relaxing the rules to give due course to the said petition.

C. Whether or not respondent may collect the alleged deficiency taxes for taxable year (TY) 2006.

Petitioner's Arguments

First, petitioner argues that the Petition for Review disputes the right of respondent to initiate collection proceedings as one of its causes of action. It emphasizes that its Petition for Review contained two causes of action: 1) an appeal from the respondent's Decision denying petitioner's administrative protest to cancel the disputed assessments; and 2) an action to enjoin the collection proceedings in relation to the disputed assessments, which were initiated through the issuance of the Collection Letter dated February 9, 2016.

Further, petitioner asserts that the thirty (30)-day period for filing the petition must be reckoned from the receipt of the Collection Letter. It maintains that the CTA in Division has jurisdiction to rule on the validity of collection proceedings which, if declared void, effectively nullifies the deficiency assessment upon which it is based. The CTA's jurisdiction to review collection proceedings is based on the "other matters" clause stated in Section 7(a)(1) of Republic Act (R.A.) No. 1125,[12] as amended by R.A. No. 9282.[13] Accordingly, petitioner insists that the thirty (30)-day period to appeal should be counted from the receipt of the Collection Letter on 10 February 2016 since such letter constitutes the act of respondent on "other matters".

Second, Petitioner insists that assuming arguendo that the petition for review was filed one (1) day late, the Court in Division erred in not relaxing the rules to give due course to the petition. The Court in Division should have considered the merits of the case especially considering that petitioner's case

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12 An Act Creating the Court of Tax Appeals, Approved: June 16, 1954.

13 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, Approved: March 30, 2004.

is founded on a violation of its right to due process, both in relation to the assessment and the collection proceedings initiated by the CIR. The issuance of the Collection letter without actual receipt of the assessment notices on which it is based contravenes existing jurisprudence.

Additionally, respondent was not prejudiced by the delay in the filing of the petition. It was able to participate in the proceedings and was given adequate opportunity to present its case.

Third, the assessment from which the collection letter proceeds is void for being violative of due process since the FAN is improperly served. Petitioner maintains that it did not receive the PAN and FAN. It is thus incumbent upon respondent to prove that the assessment notices were in fact received by petitioner.

Fourth, there is no valid assessment since the period to assess the alleged deficiency taxes for TY 2006 has prescribed. Respondent failed to prove that the assessment notices were validly served and actually received by petitioner within the three (3) year period to assess for deficiency taxes. It is of no moment that petitioner received a copy of the PAN and FAN when it secured copies from the BIR on February 3, 2011, at which time the period to assess had already prescribed.

Fifth, petitioner argues that the alleged failure to declare importations for TY 2006 amounting to ₱585,068,575.00 due to purported underdeclared input tax in the amount of ₱70,208,640.00, as found in the LN, had no basis and was only a result of misappreciation of documents. The discrepancy was erroneously made by the previous accountant in good faith.

Lastly, the collection proceedings which are not based on a valid assessment is void for being violative of the right to due process.

CIR's Arguments

The CIR counter-argues that the thirty (30)-day period for filing a petition for review before the CTA should not be reckoned from the date of receipt of the collection letter; rather, from the date of receipt of an adverse decision or ruling of the CIR. It emphasized that the petitioner had two options: (1) file a petition for review with the CTA within thirty (30) days after the expiration of the 180-day period; or (2) await the final decision of the CIR on the disputed assessment and appeal such final decision to the CTA within thirty (30) days from receipt of the decision. These options are mutually exclusive and resort to one bars the application of the other. Petitioner obviously chose the second option. Fundamental is the rule that the

provisions of the law and the rules concerning the manner and period of appeal are mandatory and jurisdictional requirements; hence, it cannot simply be discounted under the guise of liberal construction.

The Petition for Review which was filed one (1) day late cannot be given a liberal application in order to relax the rules and just to give due course to said petition. The CIR asserts that the CTA cannot assume jurisdiction to rule on the issue of whether or not respondent may collect the alleged deficiency taxes for TY 2006 as the petition for review was filed out of time.

RULING OF THE COURT *EN BANC*

The petition is bereft of merit.

At the core of the instant case is the Court in Division's jurisdiction, or the lack thereof. This Court will tackle jointly the first two assigned errors forwarded by petitioner.

The Court in Division dismissed for lack of jurisdiction the Petition for Review for being filed out of time. The Court in Division found that petitioner received the assailed decision of the CIR on January 19, 2016; thus, counting thirty (30) days therefrom, petitioner had until February 18, 2016 to file the appeal before the CTA. The Petition for Review was only filed on February 19, 2016, or one (1) day after the end of the thirty (30)-day period.

In its MR, petitioner argued that the thirty (30)-day period should be reckoned from petitioner's receipt of the Collection Letter. As well, petitioner raised in its MR that it questioned two (2) actions or issuances in its petition: 1) the CIR's Decision dated January 14, 2016; and 2) the collection proceedings initiated by respondent through the issuance of a collection letter dated February 9, 2016. The Court Third Division opined that while the validity of a collection letter may be considered as "other matters" arising under the NIRC of 1997, as amended, petitioner failed to raise the same as its main cause of action in the petition. Petitioner primarily hinged its petition on the CIR's denial of the administrative appeal.

The instant petition before this Court essentially raised the same issues. We find no cogent reason to disturb the findings of the Court Third Division.

Section 7(a)(1) of Republic Act (R.A.) No. 1125,[14] as amended by R.A. No. 9282,[15] provides:

[14] *An Act Creating the Court of Tax Appeals*
[15] *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 he Purpose*

> Sec. 7. *Jurisdiction.* – The CTA shall exercise:
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> (a) Exclusive appellate jurisdiction to review by appeal, as hereon 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 aptly stated by the Court in Division in its assailed Decision, Section 11 of R.A. No. 9282, as amended, and Section 3(a) of Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) provide for the period within which to appeal the decision of the CIR, to wit:

> 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.
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> 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. Xxx
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> Rule 8 Procedure in Civil Cases
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> SEC. 3. *Who may appeal; period to file petition.* –
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> (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 Commissioner of Internal Revenue to act on the disputed assessments. xxx

It is thus settled that the appeal before this Court must be perfected within thirty (30) days from receipt of the assailed decision, regardless of whether the cause of action is a disputed assessment or those falling under

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Certain Sections of Republic Act No. 1125, as amended, otherwise known as the Law Creating the Court of Tax Appeals, and for Other Purposes

"other matters." Pertinently, the question to be resolved is from where the thirty-(30) day appeal period should be reckoned.

In this case, We affirm that the thirty (30) days should be counted from the CIR's decision on the administrative appeal dated January 14, 2016, and received by petitioner on January 19, 2016. The CIR's decision, signed by then Commissioner Kim S. Jacinto-Henares unequivocally stated at the end "This constitutes the FINAL DECISION of this Office on the matter." The subsequent Collection Letter dated February 9, 2016 merely reiterated that the CIR already rendered the final decision on its appeal, and petitioner was again ordered to pay the deficiency tax.

Petitioner's contention that it is also disputing the CIR's collection efforts initiated through the Collection Letter received on February 10, 2016, thus, reckoning the thirty (30)-day appeal period therefrom is specious.

It must be noted that the CIR's decision dated January 14, 2016 also contained a demand for payment, to wit:

> WHEREFORE, predicated on all the foregoing, the Formal Letter of Demand and Assessment Notice Nos. F-026-LNTF-06-IT-005 and F-026-LNTF-06-VT-005 both dated March 25, 2010 demanding payment of the amounts of P38,512,233.72 and P13,485,321.63 as deficiency income tax and deficiency value-added tax for the taxable year 2006 respectively issued against SANYO SEIKI STAINLESS STEEL CORPORATION are affirmed in all respects. Consequently, SANYO is hereby **ordered to pay the above stated amounts plus increments that have accrued thereon until the actual date of payment to the Collection Service, BIR National Office, Diliman, Quezon City within thirty (30) days from receipt hereof, otherwise, the collection thereof shall be effected through the summary remedies provided by law.** (Emphasis supplied)

If indeed, petitioner disputes both the CIR's decision on its assessment and the collection efforts stemming from the assessment, with more reason that it should have filed the petition within thirty (30) days from its receipt of the assailed decision, or from January 19, 2016.

In a plethora of cases, the Supreme Court has clarified that what is appealable to this Court is the CIR's *final decision* or inaction, as the case may be, in a disputed assessment and not the assessment itself. To obviate the confusion on the reckoning date of the appeal period, the Supreme Court had admonished the CIR to always indicate to the taxpayer in clear and unequivocal language what constitutes the final determination of the disputed assessment in order for the taxpayer to know when the right to appeal accrues.

In *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*,[16] the Supreme Court reiterated, *viz*:

> If the Commissioner will deny the protest, Revenue Regulations No. 12-99 expressly provides that:
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> > 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*. (Emphasis in the original)
>
> The foregoing rule prescinds from this Court's dictum in the old case of *Surigao Electric Co., Inc. v. Court of Tax Appeals*, and reiterated in *Commissioner of Internal Revenue v. Union Shipping Corp.*, that the Commissioner should always indicate to the taxpayer in clear and unequivocal language what constitutes their final determination of the disputed assessment in order for the taxpayer to know when its right to appeal accrues. Thus:
>
> > [W]e deem it appropriate to state that the Commissioner of Internal Revenue should always indicate to the taxpayer in clear and unequivocal language whenever his action on an assessment questioned by a taxpayer constitutes his final determination on the disputed assessment, as contemplated by sections 7 and 11 of Republic Act 1125, as amended. On the basis of this *indicium* indubitably showing that the Commissioner's communicated action is his final decision on the contested assessment, the aggrieved taxpayer would then be able to take recourse to the tax court at the opportune time. Without needless difficulty, the taxpayer would be able to determine when his right to appeal to the tax court accrues. This rule of conduct would also obviate all desire and opportunity on the part of the taxpayer to continually delay the finality of the assessment — and, consequently, the collection of the amount demanded as taxes — by repeated requests for recomputation and reconsideration. On the part of the Commissioner, this would encourage his office to conduct a careful and thorough study of every questioned assessment and render a correct and definite decision thereon in the first instance. This would also deter the Commissioner from unfairly making the taxpayer grope in the dark and speculate as to which action constitutes the decision appealable to the tax court. Of greater import, this rule of conduct would meet a pressing need for fair play, regularity, and orderliness in administrative action. (Underscoring supplied)
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> It was under the factual backdrop of *Surigao Electric Co., Inc.* that this Court admonished Commissioner to indicate in clear and unequivocal language what constitutes final action on a disputed assessment to avoid repeated requests for reconsideration by the taxpayer. This is also to avoid the taxpayer grope in the dark as to which communication or action from

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

> the Bureau of Internal Revenue may be the decision appealable to the tax court. (Citations omitted)

Undeniably, petitioner was a day late in filing the petition for review before the Court Third Division. It is noteworthy that petitioner did not provide any justification for the belated filing of the Petition for Review to warrant the relaxation of the rules. We quote with approval the ruling of the Court Third Division:

> xxx Considering the same, the instant Petition was undoubtedly filed out of time. Unfortunately for petitioner, it did not provide any reason much less explain the cause of the delay for the filing of the instant Petition warranting the relaxation of the rules of procedure.
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> Given the foregoing, petitioner's failure to file the instant Petition within the prescribed period under R.A. No. 9282, as amended, and the RRCTA cannot be brushed aside consider the mandatory and jurisdictional importance of filing within the time prescribed by the rules as ruled in the cases of *Commissioner of Internal Revenue vs. Fort Bonifacio Development Corp.*, xxx
>
> For being filed out of time, the Court has to dismiss the instant Petition. This harsh outcome could have been avoided had petitioner explained its late filing. Absent any compelling reason that would warrant the relaxation of the rules, the hands of the Court are tied, and it has no choice but to dismiss the Petition. (Emphasis and citation omitted)

Likewise, we sustain the Court in Division's finding in its Resolution on petitioner's MR:

> A careful perusal of the Petition for Review filed by the petitioner reveals that while it questions both the CIR's Decision and issuance of a Collection Letter, its main cause of action is still anchored on the former-assailment of the CIR's Decision denying its appeal on the alleged tax deficiencies.
>
> xxx xxx xxx
>
> The same can be observed, in the Memorandum, filed by petitioner on 13 August 2019. **Petitioner even unequivocally stated that the instant Petition for Review was filed on account of the CIR's denial of the petitioner's administrative appeal**, to wit:
>
> 1. This is a Petition for Review filed pursuant to Section 7(1) of Republic Act No. 1125, as amended by Section 7(a)(3) of Republic Act No. 9282, in order to preserve Petitioner's rights against (1) the Decision of Respondent Commissioner of Internal Revenue ("CIR") denying Petitioner's appeal to cancel the assessments made against it for taxable year 2006 in the aggregate amount of Php51,997,555.35, and (2) the collection proceedings initiated by the Respondent CIR through the issuance of a Collection Letter pursuant to the CIR's decision denying the appeal filed by the Petitioner.

> 2. **Petitioner was constrained to file the instant petition for review on account of Respondent CIR's denial of Petitioner's Administrative Appeal on 14 January 2016** which affirmed in all respects the Formal Letter of Demand and Assessment Notices which demanded the payment of the amounts of Php38,512,233.71 and Php13,485,321.63 as deficiency income tax and deficiency value-added tax for the taxable year 2006 issued against the Petitioner.
>
> xxx xxx xxx
>
> Accordingly, the Court cannot entertain petitioner's appeal and finds no compelling reason that warrants the reversal of its ruling in the assailed Decision. The 30-day reglementary period on appeal should be counted from the receipt of the CIR's Decision on 19 January 2016 and should thus end on 18 February 2016. Having been filed on 19 February 2016, or a day after the lapse of the period, and finding no persuasive reason or explanation warranting the relaxation of the rules, the dismissal of the Petition for Review for lack of jurisdiction is hereby upheld. (Emphasis in the original)

In view of the foregoing, this Court finds no reason to delve into the third assigned error forwarded by petitioner.

WHEREFORE, the instant Petition for Review (from the Court of Tax Appeals Decision dated 15 July 2021 and Resolution dated 15 December 2022) is **DENIED** for lack of merit. The Decision dated July 15, 2021 and the Resolution dated December 15, 2022 in CTA Case No. 9265 are hereby **AFFIRMED**.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice