



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

COMMISSIONER OF
INTERNAL REVENUE,
Petitioner,

G.R. No. 252944

Present:

CAGUIOA, J., Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH,** JJ.

- versus -

PACIFIC HUB CORPORATION,*
Respondent.

Promulgated:

November 27, 2024

Michael B. Bant

DECISION

DIMAAMPAO, J.:

This Petition for Review on *Certiorari*¹ seeks to overturn the Decision² and the Resolution³ of the Court of Tax Appeals (CTA) sitting *en banc* which affirmed the nullity of the Warrant of Dstraint and/or Levy⁴ dated September 12, 2014 and the Notice of Denial⁵ dated January 10, 2014 issued by petitioner Commissioner of Internal Revenue (CIR) against respondent Pacific Hub Corporation (Pacific Hub), and which denied the subsequent motion for reconsideration⁶ filed by CIR, in CTA EB No. 1837.

* Also referred to as Pacifichub Corporation in some parts of the *rollo*.

** On official business.

¹ *Rollo*, pp. 11–28.

² *Id.* at 36–52. The November 8, 2019 Decision was penned by Associate Justice Erlinda P. Uy, with the concurrence of Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Esperanza R. Fabon-Victorino, Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, Jean Marie A. Bacorro-Villena, Maria Rowena Modesto-San Pedro of the *En Banc*, Court of Tax Appeals. Associate Justice Cielito N. Mindaro-Grulla was on leave.

³ *Id.* at 54–56. Dated June 26, 2020.

⁴ *Id.* at 97.

⁵ *Id.* at 96.

⁶ *Id.* at 183–191.

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From taxable years 2005 to 2006, Pacific Hub filed its returns for withholding tax on compensation, expanded withholding tax, and value-added tax. However, it did not remit the entire amounts it had declared to the Bureau of Internal Revenue (BIR), as summarized below:

	Total taxes declared	Total taxes remitted	Difference
Withholding tax on compensation	PHP 24,697,150.26	PHP 11,611,897.87	PHP 13,085,252.39
Expanded withholding tax	5,723,167.83	3,400,561.09	2,322,606.74
Value added tax	565,299.43	492,927.45	72,371.98
Total	PHP 30,985,617.52	PHP 15,505,386.41	<u>PHP 15,480,231.11</u> ⁷

In 2008, Pacific Hub sent a letter⁸ to BIR, indicating its willingness to pay its unremitted taxes for years 2005 and 2006 but requested for abatement of penalties, surcharges, and interests due to continued financial losses. This was later followed by the filing sometime in 2010 of its Application for Abatement or Cancellation of Tax, Penalties and/or Interest,⁹ as well as the payment of the basic deficiency withholding tax on compensation, expanded withholding tax, and value-added tax in the total amount of PHP 15,480,231.11.¹⁰

Pacific Hub eventually received the Notice of Denial dated January 10, 2014, rejecting its application for abatement. It also received the Warrant of Dstraint and/or Levy dated September 12, 2014, enforcing the collection of the increments incident to its deficiency withholding tax on compensation and expanded withholding tax in the aggregate amount of PHP 13,792,867.56.¹¹

Inevitably, Pacific Hub filed its Petition for Review¹² before the CTA seeking to annul and set aside the Notice of Denial and the Warrant of Dstraint and/or Levy for having been irregularly issued in violation of its right to due process.¹³

In refutation, CIR contended that the CTA had no jurisdiction over the case as there was no final decision on a disputed assessment to be reviewed.¹⁴

⁷ *Id.* at 37.

⁸ *Id.* at 93–94. Dated October 16, 2008.

⁹ *Id.* at 95.

¹⁰ *Id.* at 38.

¹¹ *Id.* at 38.

¹² *Id.* at 98–115.

¹³ *Id.* at 62, CTA Third Division Decision.

¹⁴ *Id.* at 120–123, Answer.

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Moreover, the power to grant or deny a request for abatement is completely discretionary on the part of the CIR, hence, beyond the ambit of the CTA's appellate jurisdiction.¹⁵ In any case, the exercise of this power was not attended by grave abuse of discretion.¹⁶

Ensuingly, the CTA Third Division rendered its Decision¹⁷ annulling both the Notice of Denial and the Warrant of Distrainment and/or Levy. The CTA held that it had jurisdiction over the case under its "other matters" jurisdiction.¹⁸ It found that the Warrant of Distrainment and/or Levy was void for having been issued without the benefit of a prior assessment issued against Pacific Hub.¹⁹ In the same vein, the Notice of Denial was void for failing to state the reasons for the denial of the application, in contravention of the requirements under Revenue Regulations No. 13-2001.²⁰ Withal, the CTA clarified that the voiding of the Notice of Denial does not mean that Pacific Hub is readily entitled to its request for abatement. This matter is still left to the best discretion of the CIR.²¹

With its bid for reconsideration²² having been rebuffed by the CTA Third Division,²³ the CIR filed its Petition for Review²⁴ before the CTA *En Banc*.

In the impugned Decision, the CTA *En Banc* affirmed the rulings of the CTA Third Division.²⁵ It reverberated that the CTA has jurisdiction to review the Notice of Denial issued by the CIR.²⁶ While the courts may not generally interfere with discretionary functions, such as the grant or denial of an application for abatement, it may do so when the exercise thereof is attended by grave abuse of discretion,²⁷ as in this case. Since the Notice of Denial bore no indication as to the reason why Pacific Hub's application was denied, the CIR clearly contravened the requirements under Revenue Regulations No. 13-2001.²⁸ Similarly, the Warrant of Distrainment and/or Levy was also void for being issued without a prior assessment, thereby contravening Pacific Hub's right to due process.²⁹

¹⁵ *Id.* at 123–124.

¹⁶ *Id.* at 124–129.

¹⁷ *Id.* at 58–81. The August 31, 2017 Decision in CTA Case No. 8895 was penned by Associate Justice Esperanza R. Fabon-Victorino, with the concurrence of Associate Justices Lovell R. Bautista and Ma. Belen M. Ringpis-Liban of the Third Division, Court of Tax Appeals.

¹⁸ *Id.* at 65.

¹⁹ *Id.* at 71.

²⁰ *Id.* at 78.

²¹ *Id.* at 79–80.

²² *Id.* at 140–150.

²³ *Id.* at 83–85. Dated March 22, 2018.

²⁴ *Id.* at 151–164.

²⁵ *Id.* at 51.

²⁶ *Id.* at 45–46.

²⁷ *Id.* at 46.

²⁸ *Id.* at 49–50.

²⁹ *Id.* at 47–49.



Unyielding, the CIR sought reconsideration but was again brushed aside by the CTA *En Banc* through the oppugned Resolution.

Now, before this Court, the CIR resolutely asseverates that the CTA *En Banc* erred in holding that: (1) the CTA had jurisdiction to review the Notice of Denial; (2) the Notice of Denial was not issued in accordance with BIR regulations; and (3) the Warrant of Dstraint and/or Levy was not validly issued.

The Court's Ruling

The Petition is devoid of merit.

The first issue raised by CIR calls for a clarification on the extent of the “other matters” jurisdiction of the CTA and whether this can extend to reviewing the CIR’s exercise of its power to grant or deny applications for abatement or cancellation of taxes, penalties, and interests. The CIR argues that it has sole discretion on this matter and the CTA’s act of assuming jurisdiction over the case encroaches upon the prerogatives of the executive department in violation of the principle of separation of powers.³⁰

This argument fails to persuade.

The CTA’s “other matters” jurisdiction in relation to the CIR is enshrined in Section 7(a)(1) of Republic Act No. 1125,³¹ as amended by Republic Act No. 9282:³²

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**[.] (Emphasis supplied)

In *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.*,³³ the Court had occasion to elucidate that the term “other matters” is virtually unbridled save for the qualifying phrase that immediately follows:

³⁰ *Id.* at 18–19.

³¹ Republic Act No. 1125 (1954), An Act Creating the Court of Tax Appeals.

³² Republic Act No. 9282 (2004), 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.

³³ 649 Phil. 446 (2010) [Per J. Leonardo-De Castro, First Division].

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Plainly, the assailed CTA *En Banc* Decision was correct in declaring that there was nothing in the foregoing provision upon which petitioner's theory with regard to the parameters of the term "other matters" can be supported or even deduced. **What is rather clearly apparent, however, is that the term "other matters" is limited only by the qualifying phrase that follows it.**

Thus, on the strength of such observation, we have previously ruled that the appellate jurisdiction of the CTA is not limited to cases which involve decisions of the CIR on matters relating to assessments or refunds. **The second part of the provision covers other cases that arise out of the National Internal Revenue Code (NIRC) or related laws administered by the Bureau of Internal Revenue (BIR).**³⁴ (Emphasis supplied, citation omitted)

Indeed, a plain reading of the provision yields the inevitable conclusion that the CTA has the power to review not only matters arising or incidental to tax assessments or refunds, but also to *any* case arising from the application of the provisions of the Tax Code or other tax laws that are administered by the BIR. In fact, the Court has affirmed the CTA's "other matters" jurisdiction over cases involving: (a) the determination of whether the right of the CIR to collect the validly assessed tax has prescribed;³⁵ (b) cases seeking the cancellation and withdrawal of a warrant of distraint and/or levy;³⁶ (c) cases seeking a determination of the validity of waivers of the statute of limitations as well as the proper availment of tax amnesty;³⁷ and (d) cases on the proper exercise of the CIR's power to compromise delinquent accounts and to grant an informer's reward.³⁸

From the foregoing, it becomes evident that the determination of whether the CIR has properly exercised the powers granted to it by the Tax Code may likewise fall under the CTA's "other matters" jurisdiction. However, does this also apply to the exercise of a power that is purely discretionary on the part of the CIR, such as the power to abate or cancel taxes, penalties, or interests?

The Court answers in the affirmative.

It bears accentuating that the Court had already impliedly recognized the CTA's jurisdiction to review the CIR's denial of an application for abatement in *Qatar Airways Co. v. Commissioner of Internal Revenue*,³⁹ albeit

³⁴ *Id.* at 455.

³⁵ *See Commissioner of Internal Revenue v. Court of Tax Appeals Second Division*, 921 Phil. 1090, 1093 (2022) [Per J. Caguioa, First Division]. (Citation omitted)

³⁶ *See Commissioner of Internal Revenue v. Bank of the Philippine Islands*, 833 Phil. 97, 104 (2018) [Per J. Peralta, Second Division]. (Citation omitted)

³⁷ *See La Flor Dela Isabela, Inc. v. Commissioner of Internal Revenue*, 901 Phil. 11, 18 (2021) [Per J. Hernando, Third Division]. (Citations omitted)

³⁸ *See PNOC v. Court of Appeals*, 496 Phil. 506, 553 (2005) [Per J. Chico-Nazario, *En Banc*]. (Citation omitted)

³⁹ 873 Phil. 592 (2020) [Per J. J. Reyes, Jr., First Division].

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therein petitioner's case was ultimately dismissed for its failure to timely file its judicial petition before the CTA.

All the same, applicable laws and jurisprudence support the foregoing interpretation of the CTA's "other matters" jurisdiction.

The power to abate or cancel a tax liability is vested in the CIR under Section 204(B) of the Tax Code:

Section 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –

....

(B) Abate or cancel a tax liability, when:

(1) The tax or any portion thereof appears to be unjustly or excessively assessed; or

(2) The administration and collection costs involved do not justify the collection of the amount due.

The Court recognizes that this power to abate or cancel a tax liability is purely discretionary on the part of the CIR given that it is "a power or right conferred upon them by law of acting officially, under certain circumstances, according to the dictates of their own judgments and consciences, uncontrolled by the judgments or consciences of others."⁴⁰

While the courts may generally not interfere in an administrative agency's exercise of a purely administrative or discretionary power, this rule admits of exceptions such as when "the issuing authority has gone beyond its statutory authority, has exercised unconstitutional powers or has clearly acted arbitrarily and without regard to his duty or with grave abuse of discretion."⁴¹

This flows from the reigning principle that the judicial power conferred by the 1987 Constitution on the Supreme Court and all other lower courts, including the CTA, necessarily carries with it the power to "determine if any government branch or instrumentality has acted beyond the scope of its powers, such that there is grave abuse of discretion."⁴²

The Court has long settled that the CTA has the authority to issue writs of *certiorari* to review whether the acts or omissions of certain agencies are

⁴⁰ *Province of Maguindanao Del Norte v. Bureau of Local Government Finance, Regional Office No. XII*, G.R. No. 265373, June 26, 2023 [Per J. Lazaro-Javier, Second Division] at 16. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. (Citations omitted)

⁴¹ *Awayan v. Sulu Resources Dev't. Corp.*, 889 Phil. 299, 322–323 (2020) [Per J. Leonen, Third Division]. (Citation omitted)

⁴² *Kilusang Mayo Uno v. Hon. Aquino*, 850 Phil. 1168, 1182 (2019) [Per J. Leonen, *En Banc*]. (Citation omitted)



attended by grave abuse of discretion.⁴³ The Court has likewise declared that this authority is inherent in the exercise of its appellate jurisdiction.⁴⁴

Invariably, it is this very same rationale which the Court applied in *PNOC v. Court of Appeals*⁴⁵ to hold that the exercise of the CIR's discretionary power to enter into a compromise is subject to the CTA's power of judicial review. The Court pronounced that the "[CIR] would have to exercise his discretion within the parameters set by the law, and in case he abuses his discretion, the CTA may correct such abuse if the matter is appealed to them."⁴⁶

By parity of reasoning, the exercise of the CIR's discretionary power to abate or cancel taxes, penalties, and interests, if attended by grave abuse of discretion, is properly appealable to the CTA under its "other matters" jurisdiction, as was done in this case.

Having resolved that the CTA correctly assumed jurisdiction over the case at bench, the Court delves into the second issue on whether the Notice of Denial was indeed issued with grave abuse of discretion. Specifically, in denying Pacific Hub's application, did the CIR exercise its power in an arbitrary or despotic manner to the point that it amounted to an evasion of a positive duty or a refusal to act in contemplation of law?⁴⁷

To this, the Court again answers in the affirmative.

As astutely observed by the CTA, the exercise of the CIR's power to abate or cancel tax liabilities for the applicable taxable period in the case at bench is governed by Revenue Regulations No. 13-2001.⁴⁸ Under Section 4 thereof, it is clear that any denial of an application for abatement must be attended by reasons therefor, viz.:

SEC. 4. THE COMMISSIONER HAS THE SOLE AUTHORITY TO ABATE OR CANCEL TAX, PENALTIES AND/OR INTEREST. – The Commissioner has the sole authority to abate or cancel internal revenue taxes, penalties and/or interest pursuant to Section 204(B), in relation to Section 7(c), both of the Code. This authority is generally applicable to surcharge and compromise penalties only, however, in meritorious instances, the Commissioner may likewise abate the interest as well as basic

⁴³ See *Banco De Oro v. Rep. of the Phils.*, 793 Phil. 97, 124 (2016) [Per J. Leonen, *En Banc*]. (Citations omitted)

⁴⁴ See *People v. Court of Tax Appeals-Third Division*, G.R. Nos. 250736 et al., December 5, 2022 [Per J. Inting, Third Division] at 12. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. (Citations omitted)

⁴⁵ 496 Phil. 506 (2005) [Per J. Chico-Nazario, *En Banc*].

⁴⁶ See *id.* at 573. (Citations omitted)

⁴⁷ See *Imingan v. Office of the Ombudsman*, 872 Phil. 306, 324–325 (2020) [Per J. Inting, Second Division]. (Citations omitted)

⁴⁸ SUBJECT: Implementing Section 204(B), in Relation to Section 290 of the Tax Code of 1997, Regarding Abatement or Cancellation of Internal Revenue Tax Liabilities.

tax assessed, provided, however, that cases for abatement or cancellation of tax, penalties and/or interest by the Commissioner shall be coursed through the following officials:

....

The application for abatement or cancellation of tax, penalties and/or interest should state the reasons and causes for such request. Documentary proofs for the underlying reasons and causes aforestated should be appended to the "Application for Abatement or Cancellation of Tax, Penalties and/or Interest" (Annex "A"). **On the other hand, denial of the application for abatement or cancellation of tax, penalties and/or interest should state the reasons therefor.** (Emphasis supplied)

In retrospect, the Notice of Denial is glaringly devoid of any reason for the CIR's rejection of Pacific Hub's application:

NOTICE OF DENIAL

Notice is hereby given to

PACIFICHUB CORPORATION

of 11th Flr. Robinsons Equitable Tower, ADB Ave., Cor. Poveda Ortigas Center, Pasig City, with Taxpayer Identification Number (TIN) **229-344-619-000**, that its application for abatement pursuant to Revenue Regulations No. 13-2001 of the surcharge, interest and compromise penalty imposed on its [EWT] and [WTC] for taxable year **2005-2006** in the total amount of **THIRTEEN MILLION SEVEN HUNDRED NINETY TWO THOUSAND EIGHT HUNDRED SIXTY SEVEN PESOS AND 56/100 ([PHP] 13,792,867.56)** has been **DISAPPROVED** by the Commissioner of Internal Revenue.

Issued this 10th day of January[] 2014. (Emphasis in the original)

Aside from the lack of an explanation for its denial, the CIR likewise failed to explain how it arrived at its computation which is at odds with the amounts stated in Pacific Hub's application for abatement. This further exacerbates the ambiguity as to its actual tax liability.

Time and again, the Court has stressed that the CIR and its agents must "strictly comply with the requirements of the law, with the [BIR's] own rules, and with due regard to taxpayers' constitutional rights."⁴⁹ Although this principle is usually applied in tax assessment cases, it likewise extends to the exercise of the CIR of any of its powers under the Tax Code and other tax laws.

Given the failure of the CIR to comply with its positive duty to state the

⁴⁹ *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, 841 Phil. 114, 133 (2018) [Per J. Leonen, Third Division]. (Citation omitted)



reasons for denying Pacific Hub's application, the CTA committed no error in setting aside the Notice of Denial.

As to the third issue raised, the Court likewise concurs with the CTA in declaring null and void the Warrant of Dstraint and/or Levy. The CIR postulates that Pacific Hub's failure to pay the correct taxes already made it delinquent. This justified the resort to the summary remedy of dstraint and/or levy.⁵⁰

This postulation cannot stand judicial muster.

Jurisprudence instructs that the issuance of a warrant of dstraint and/or levy must be premised first and foremost on the existence of delinquent taxes which, in turn, requires a final determination of the taxpayer's actual tax liability.⁵¹ Indeed, this final assessment coupled with a formal demand to pay is what triggers an obligation on the part of the taxpayer concerned to pay the amount assessed and demanded, and also signals the reckoning point when penalties and interests begin to accrue.⁵²

Appositely, *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corp.*⁵³ teaches that the issuance of an assessment prior to the collection of taxes is an integral part of due process:

In the normal course of tax administration and enforcement, the BIR must first make an assessment then enforce the collection of the amounts so assessed. "An assessment is not an action or proceeding for the collection of taxes. [. . .] It is a step preliminary, but essential to warrant dstraint, if still feasible, and, also, to establish a cause for judicial action." The BIR may summarily enforce collection only when it has accorded the taxpayer administrative due process, which vitally includes the issuance of a valid assessment.⁵⁴ (Citations omitted)

In this case, it is undisputed that there is no assessment to speak of. Worse, it remains nebular how the CIR arrived at the amounts indicated in the Warrant of Dstraint and/or Levy, which mirrors the amount indicated in the Notice of Denial. If at all, this further shows that Pacific Hub's tax liability is not yet determinate.

Ineludibly, the CTA did not err in setting aside the Warrant of Dstraint and/or Levy for being issued without a prior final assessment against Pacific Hub, in contravention of its right to due process.

⁵⁰ *Rollo*, pp. 20–21.

⁵¹ *See Mannasoft Technology Corp. v. Commissioner of Internal Revenue*, G.R. No. 244202, July 10, 2023 [Per J. Dimaampao, Third Division] at 8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. (Citation omitted)

⁵² *See Commissioner of Internal Revenue v. Unioil Corporation*, 909 Phil. 449, 470 (2021) [Per J. Hernando, Second Division].

⁵³ 835 Phil. 875 (2018) [Per J. Leonardo-De Castro, First Division].

⁵⁴ *Id.* at 904.

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The foregoing notwithstanding, the Court emphasizes the CTA's own observation that the cancellation of both the Notice of Denial and the Warrant of Distrainment and/or Levy does not necessarily result in the grant of Pacific Hub's application for abatement. This matter is still best left to the discretion of the CIR.

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The November 8, 2019 Decision and the June 26, 2020 Resolution of the Court of Tax Appeals *En Banc* in CTA EB No. 1837 are **AFFIRMED**. The January 10, 2014 Notice of Denial and the September 12, 2014 Warrant of Distrainment and/or Levy are **DECLARED NULL and VOID**.

SO ORDERED.



JAPAR B. DIMAAMPAO
Associate Justice

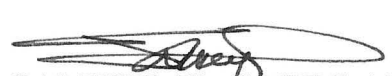
WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

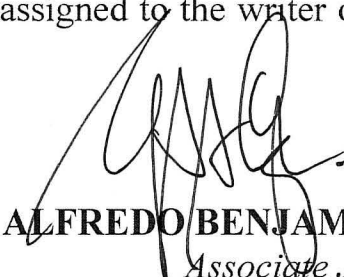


SAMUEL H. GAERLAN
Associate Justice

On official business
MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of this Court.



ALEXANDER G. GESMUNDO
Chief Justice