REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10998

ALPHALAND MAKATI PLACE, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. AYESHA HAHIA B. GUILING-MATANOG
ATTY. LARA NICOLE T. GONZALES
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

ORBE AND ALTUBAR LAW OFFICES
5th Floor, The City Club at Alpahaland Makati Place
7232 Ayala Avenue corner Malugay Street, Bel-Air
1209 Makati City

GREETINGS:

You are hereby notified by these presents that on **October 1, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **October 2, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

ALPHALAND MAKATI PLACE, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10998

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
OCT 01 2025; 1:10 PM

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DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Alphaland Makati Place, Inc. (**petitioner/AMPI**) against respondent Commissioner of Internal Revenue (**respondent/CIR**) pursuant to Section 3(a)[2], Rule 8[3]

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[1] Filed on 03 October 2022, Division Docket, Volume I, pp. 7-372, with annexes.

[2] **SEC. 3**. *Who may appeal; period to file petition. —*
(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

[3] PROCEDURE IN CIVIL CASES.

in relation to Section 3(a)(1)[4], Rule 4[5] of the Revised Rules of the Court of Tax Appeals (**RRCTA**).

It prays that judgment be rendered ordering the cancellation and withdrawal of the deficiency income tax (**IT**), value-added tax (**VAT**), expanded withholding tax (**EWT**), and documentary stamp tax (**DST**) assessment aggregating ₱186,327,554.10 (inclusive of interest, surcharges, and compromise penalties), as laid out in the Formal Letter of Demand with Assessment Notices (**FLD/FAN**) dated 08 January 2020[6], which respondent issued against petitioner. The foregoing stemmed from the examination of the latter's books of accounts and other accounting records for the taxable period from 01 January to 31 December 2015, or calendar year (**CY**) 2015, for brevity.

Petitioner likewise seeks the invalidation of the Warrant of Distraint and/or Levy (**WDL**) dated 31 August 2022[7] and Warrants of Garnishment (**WOGs**) dated 05 September 2022.[8]

PARTIES TO THE CASE

Petitioner is a Filipino domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at Alphaland Makati Place, 7232 Ayala Avenue Extension corner Malugay St., Brgy, Bel-Air, Makati City.[9] It was created primarily to acquire and lease a specific three-storey building (along with its improvements and leasehold rights on the land) situated at Ayala Avenue.[10]

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4 **SEC. 3**. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
(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[.]

5 JURISDICTION OF THE COURT.

6 Exhibits "P-8" to "P-8-5", Division Docket, Volume II, pp. 440-449 / Exhibit "R-13", BIR Records, pp. 405-407.

7 Exhibit "P-1", id., p. 418 / Exhibit "R-18", id., pp. 464-465.

8 Exhibit "P-12", id., p. 483 / Exhibits "R-20" and "R-21", id., pp. 514 and 516, respectively.

9 Par. I.1, Joint Stipulation of Facts and Issues (JSFI), id., Volume II, p. 648.

10 See *Notes to Financial Statements*, BIR Records, p. 150.

Respondent, on the other hand, is the CIR who is charged with, among others, the duty of assessing and collecting internal revenue taxes, fees or other charges, penalties imposed under the National Internal Revenue Code (**NIRC**) of 1997, as amended, or other laws or portions thereof, administered by the Bureau of Internal Revenue (**BIR**). He or she holds office at the BIR National Office Building, Sen. Miriam P. Defensor-Santiago Avenue, Diliman, Quezon City.[11]

FACTS OF THE CASE

On 20 October 2016, Regular Large Taxpayer Division III (**RLTAD III**) of the BIR's Large Taxpayers Service (**LTS**) issued a Letter of Authority (**LOA**) with Reference No. AUDR01/008206/2016[12] (SN: eLA201200042595), through then Officer-in-Charge-Assistant Commissioner of the LTS, Teresita M. Angeles (**OIC-ACIR Angeles**). The LOA authorized Group Supervisor (**GS**) Teodore Maroket (**Maroket**) and Revenue Officers (**ROs**) Juan Luna, Jr. (**Luna**) and Melinda Lim (**Lim**) to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for CY 2015. Respondent received a copy of the said LOA on 02 November 2016.

On 25 April 2018, the BIR served on petitioner a Notice for Informal Conference (**NIC**) of even date[13], inviting petitioner to present its side and address the BIR's findings. In the course of the BIR's investigation, petitioner executed Waivers of the Defense of Prescription dated 29 August 2018[14], 15 October 2018[15], 10 May 2019[16], and 16 September 2019[17], the last of which extended respondent's right to assess until 31 July 2020.

Later, on 29 November 2019, respondent issued a Preliminary Assessment Notice (**PAN**) dated 28 November 2019[18], stating that petitioner had deficiency IT, VAT, EWT, and DST, collectively amounting

11 Par. I.2, JSFI, Division Docket, Volume II, pp. 648-649.
12 Exhibit "P-3", id., Volume II, p. 420 / Exhibit "R-1", BIR Records, p. 168.
13 Exhibit "P-4", id., p. 421 / Exhibit "R-6", id., p. 260.
14 Exhibit "R-4", BIR Records, p. 258.
15 Exhibit "P-5", Division Docket, Volume II, p. 422 / Exhibit "R-5", BIR Records, p. 259.
16 Exhibit "P-5-1", id., p. 423 / Exhibit "R-7", id., p. 266.
17 Exhibit "P-5-2", id., p. 424 / Exhibit "R-8", id., p. 267.
18 Exhibit "P-6", id., pp. 425-431 / Exhibit "R-11", id., pp. 325-328.

to ₱183,017,841.37, inclusive of interest and surcharges, summarized as follows:

Tax Type	Basic Tax Due	Surcharge	Interest	Total Due
IT	₱80,373,196.75	-	₱46,744,170.42	₱127,117,367.18
VAT	1,901,403.38	-	1,190,226.42	3,091,629.80
EWT	2,674,013.56	-	1,695,837.42	4,369,850.98
DST	25,678,231.30	₱6,419,557.82	16,341,204.29	48,438,993.41
Total	**₱110,626,844.99**	**₱6,419,557.82**	**₱65,971,438.55**	**₱183,017,841.37**

On 16 December 2019, petitioner filed a Reply to the PAN dated 09 December 2019.[19] Therein, petitioner presented its position and disputed each item of the assessment, as laid out in the PAN. It also asked for the PAN's cancellation.

Thereafter, on 09 January 2020, the BIR served on petitioner the FLD/FAN dated 08 January 2020.[20] It demanded anew the payment of the same basic tax deficiencies as stated in the PAN, plus the introduction of Compromise Penalties, this time aggregating ₱186,327,554.10 (as adjusted for incremental interest), broken down as follows:

Tax Type	Basic Tax Due	Surcharge	Interest	Total Due
IT	₱80,373,196.75	-	₱49,148,760.31	₱129,521,957.06
VAT	1,901,403.38	-	1,247,112.24	3,148,515.62
EWT	2,674,013.56	-	1,775,838.04	4,449,851.61
DST	25,678,231.30	₱6,419,557.82	17,109,440.69	49,207,229.81
Compromise	125,000.00	-	-	125,000.00
Total	**₱110,751,844.99**	**₱6,419,557.82**	**₱69,281,151.28**	**₱186,327,554.10**

On 07 February 2020, petitioner filed with the BIR its Letter-Protest dated 06 February 2020 (**Letter-Protest**) in the form of a Request for Reconsideration.[21] Therein, it again outlined its positions for each item of the deficiency assessment. Likewise, it underscored that the FLD/FAN was void for having been issued beyond the allowed

19 Exhibit "P-7" offered as "Reply [to Preliminary Assessment Notice (PAN)] dated 09 December 2019", Division Docket, Volume II, pp. 432-439, and Exhibit "R-23", "Petitioner's Reply to PAN dated 09 December 2019 found in pages 372 to 379 of the BIR Investigation Records", BIR Records, pp. 372-379.

20 Exhibits "P-8" to "P-8-5" and "R-13", supra at note 6.

21 Exhibit "P-9", Division Docket, Volume II, pp. 451-461 / Exhibit "R-14", BIR Records, pp. 425-435.

prescriptive period and without the proper requisite for authority for the investigating RO. Petitioner addressed the same to then CIR Caesar R. Dulay (**CIR Dulay**), through Deputy Commissioner of the Operations Group Arnel SD. Guballa (**DepComm Guballa**). The BIR received the Letter-Protest through RLTAD III.

On 31 August 2022, on the same day as its issuance, petitioner received WDL No. 126-2022-127 dated 31 August 2022.[22] The WDL stated that it failed and refused to pay the amounts due *per* the FLD/FAN amounting to ₱186,327,554.10.

On 06 September 2022, petitioner filed with the BIR a letter entitled "Request for Lifting of [WDL]" dated 05 September 2022[23], asking respondent to lift the WDL as petitioner still had a pending Letter-Protest (thus the FLD/FAN allegedly had not attained finality). On the same day, respondent served on petitioner a letter denominated as an "Action on Protest Letter dated February 6, 2020 filed against the [FLD/FAN] dated January 8, 2020"[24], which essentially stated that petitioner's request for reconsideration through its Letter-Protest was void and without force and effect.

On 19 September 2022, petitioner represented that it was able to secure copies of the WOGs that the BIR issued to and served on its banks of account.[25]

Aggrieved, on 03 October 2022, pursuant to Section 228[26] of the NIRC of 1997, as amended, and invoking this Court's "other matters" jurisdiction, petitioner filed the instant Petition for Review[27], wherein petitioner prayed that the Court: (1) cancel and set aside the assessment; (2) strike down the FLD/FAN; (3) enjoin the BIR's ongoing collection efforts *via* the WDL and WOGs. The case was initially raffled to this Court's Second Division.

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[22] Exhibits "P-1" and "R-18", supra at note 7.
[23] Exhibit "P-10", Division Docket, Volume II, pp. 479-480.
[24] Exhibit "P-11", id., p. 481.
[25] Par. 26, III. Statement of Facts, Petition for Review, id., Volume I, p. 14; Exhibits "P-12", "R-20", and "R-21", supra at note 8.
[26] SEC. 228. *Protesting of Assessment.*
[27] Supra at note 1.

PROCEEDINGS BEFORE THE SECOND DIVISION

On 14 October 2022, the Second Division served Summons[28] on respondent, requiring the latter to submit an Answer within thirty (30) days from service. Respondent received a copy thereof on 18 October 2022 and thus had until 17 November 2022, to file an Answer.[29]

On 15 November 2022, respondent filed a "Motion for Extension of Time to File Answer"[30], requesting for a 30-day extension, considering that his or her counsels have yet to be furnished the BIR Records for the case. According to respondent, the absence of the BIR Records precluded him or her from intelligently filing an Answer. The Second Division granted the same and gave respondent a non-extendible period of 30 days from 17 November 2022, or until 17 December 2022 (or until 19 December 2022, the next working day therefrom), to file an Answer.[31] It likewise ordered respondent to transmit the entire BIR Records for the case within ten (10) days from filing his or her Answer.[32]

In compliance with the Second Division's directives, on 19 December 2022, respondent filed his or her Answer dated 19 December 2022[33].

Therein, respondent essentially cited the following special and affirmative defenses: (1) the Court lacks jurisdiction over the instant petition since the subject assessment had been rendered final, executory, and demandable due to petitioner's failure to timely file a valid administrative protest; (2) the RO that examined petitioner's books was armed with a valid LOA; (3) respondent issued the subject FLD/FAN within the extended periods under the Waivers of the Defense of Prescription that petitioner executed; and (4) petitioner is liable for the deficiency taxes, including the compromise penalties.[34]

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28 Division Docket, Volume I, p. 373.
29 Id., p. 374.
30 Id., pp. 375-378.
31 See Order dated 25 November 2022, id., p. 380.
32 Id.
33 Id., pp. 381-403.
34 Id.

With the admission of respondent's Answer, the Second Division set the Pre-Trial on 27 April 2023.[35] Ahead of the same, on 20 April 2022, petitioner filed his Pre-Trial Brief.[36] Meanwhile, respondent filed his or her Pre-Trial Brief[37] on 24 April 2023.

On 25 April 2023, respondent transmitted the complete BIR Records (in one [1] folder of 520 pages).[38]

On 27 April 2023, the Pre-Trial Conference proceeded, as scheduled. Therein, the Second Division set the schedules for the presentation of the parties' witnesses (the first of which was set on 19 September 2023) and Commissioner's Hearings for the marking of their documentary exhibits. It likewise ordered the parties to file their Joint Stipulation of Facts and Issues (**JSFI**) within 30 days, or by 29 May 2023.[39]

On 29 May 2023, in compliance with the Court's above directive, the parties filed their JSFI.[40] Therein, the parties stipulated on the existence, authenticity, and due execution of Revenue Travel Assignment Order (**RTAO**) No. 337-2018 dated 31 October 2018.[41]

On the same day, pursuant to CTA Administrative Circular No. 01-2023 dated 23 May 2023, the present case was transferred to this Court's First Division, which continued to hear the same.[42]

PROCEEDINGS BEFORE THE FIRST DIVISION

On 07 June 2023, the First Division approved the parties' JSFI, terminated the pre-trial, and issued a Pre-Trial Order.[43]

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35 See Notice of Pre-Trial Conference, id., pp. 407-408.
36 Id., Volume II, pp. 409-417.
37 Id., pp. 629-634.
38 See Respondent's Compliance dated 25 April 2023, id., pp. 637-639.
39 See Minutes of the Hearing and Order, both dated 27 April 2023, id., pp. 642 and 643-645, respectively.
40 Id., pp. 648-656.
41 Par. II.3, JSFI, id., p. 649, *vis-à-vis* Exhibit "P-19", Revenue Travel Assignment Order (RTAO) No. 337-2018 dated 31 October 2018, id., pp. 777-780.
42 Reorganizing the Divisions of the Court.
43 See Resolution dated 07 June 2023, Division Docket, Volume II, p. 659. The First Division later issued the Pre-Trial Order on 16 October 2023. See Notice of Pre-Trial Order dated 16 October

On 14 September 2023, petitioner filed an Omnibus Motion[44] mainly asking the Court that it be allowed to substitute one of its intended witnesses who has since resigned from their company (and accordingly, have the replacement witness' Judicial Affidavit admitted and marked). Petitioner likewise asked that it be allowed to mark a copy of RTAO No. 337-2018[45] that it had inadvertently excluded from presentation during the Commissioner's Hearings previously set and held for the marking of its documentary exhibits. To this end, petitioner raised that the said RTAO's existence, authenticity, and due execution had already been stipulated in the parties' JSFI.

In the hearing of 19 September 2023[46], the First Division granted petitioner's aforementioned Omnibus Motion in open court. Trial then ensued, with Jennette M. Manlosa (**Manlosa**), petitioner's Vice President – Finance Controller, taking the stand as petitioner's first witness.

Through her Judicial Affidavit[47], Manlosa declared she was in charge of petitioner's Accounting Department (which included the latter's transactions with the BIR) and thus had custody and control over petitioner's accounting records. She represented that, over the course of the BIR's examination, she submitted copies of petitioner's IT, EWT, and withholding tax on compensation (**WTC**) returns (or BIR Form Nos. 1702-Q/1702-RT, 1601-E, and 1601-C, respectively) for CY 2015. Accordingly, she presented copies to the Court and identified the same. As for DST, she confirmed that petitioner did not file any DST returns, as petitioner is of the position that not of its transactions are subject to DST. As to the returns petitioner did file, Manlosa pointed out each return's filing date and stressed that the CIR may have issued the present assessment beyond the three (3)-year prescriptive period to assess deficiency taxes for the types of taxes covered by the said returns.

During her cross-examination, Manlosa confirmed that she primarily communicated with the BIR for petitioner's CY 2015 audit and

2023 and Pre-Trial Order dated 13 October 2023, id., Volume III, pp. 999 and 1001-1023, respectively.

44 Petitioner's "Omnibus Motion (for (i) Substitution of Authorized Representative and Witness; (ii) to Admit the Attached Judicial Affidavit of Charles Edward M. Cheng; and (iii) to mark said Judicial Affidavit and an Exhibit attached thereto)" dated 13 September 2023, id., Volume II, pp. 690-692.

45 Exhibit "P-19", supra at note 41.

46 See Order dated 19 September 2023, Division Docket, Volume II, pp. 791-793.

47 Exhibit "P-18", Judicial Affidavit of Jennette M. Manlosa, id., pp. 590-600.

that her team prepared and collated the records transmitted to the BIR for its examination (though she is unable to recall a detailed itemization of their submissions and whether the same is complete). After being shown copies of petitioner's waivers appearing to bear her signature, she likewise attested to having signed and executed Waivers of the Defense of Prescription on petitioner's behalf. As to respondent's deficiency DST finding, she recalled having discussed with RO Luna, wherein they were able to discuss why petitioner believes it does not have any transactions subject to DST, though she does not recall whether petitioner was able to proffer any relevant supporting documentation.[48]

In the redirect examination that followed, petitioner's counsel had Manlosa examine copies of the waivers shown by respondent's counsel *vis-à-vis* the copies petitioner presented to this Court. She observed that while respondent's copies bears the CIR's signature (an indication of his acceptance), the copies from petitioner's files were unsigned. No re-cross examination followed.[49]

In the same hearing, Atty. Charles Edward M. Cheng (**Cheng**), petitioner's Senior General Counsel, testified as petitioner's second and final witness.[50] As the Court permitted, he testified through his Judicial Affidavit[51] in place of Atty. Jason J. Alba, petitioner's former General Counsel.

On the witness stand, Cheng stated that his position puts him in charge of all of petitioner's legal dealings as well as custody over the documentation involved (which included the BIR's issuances relating to the present assessment). He outlined petitioner's receipt of the BIR's issuances (from the LOA and eventually leading to the FLD/FAN followed by the BIR's collection efforts) then the actions petitioner took as well as correspondences and submissions filed to address each, presenting and identifying documentation pertinent thereto. Apart from flagging the belated issuance of the assessment (beyond the CIR's right to assess), Cheng also observed that the RO assigned to carry out the examination of petitioner's books, RO Luna, had already been reassigned to a different office but still proceeded with the investigation (when he

48 TSN dated 19 September 2023, pp. 10-17.
49 Id., p. 18.
50 Supra at note 46.
51 Exhibit "P-17", Judicial Affidavit of Charles Edward M. Cheng, Division Docket, Volume II, pp. 693-712.

supposedly already lost authority to do so upon his reassignment). He represented that petitioner protested the said FLD/FAN through a Request for Reconsideration with the CIR, though the latter initially did not render a decision addressing its protest but instead initiated collection efforts by issuing a WDL. He further declared that petitioner, in response, filed a "Request for Lifting of [WDL]" on 06 September 2022, only to receive from the BIR on the same day a letter denominated as "Action on Protest Letter dated February 6, 2020 filed against the [FLD/FAN] dated January 8, 2020" which denied its protest. He added that by 19 September 2022, the BIR had sent WOGs to petitioner's banks of account (namely, Metrobank and Philippine Bank of Communications' Makati branches).[52]

During his cross-examination[53], Cheng clarified that the earlier stages of the administrative proceedings that gave rise to the FLD/FAN predated his employment with petitioner, though he is testifying based on his knowledge over corporate records in his custody. In this regard, he was unsure whether petitioner's Reply to the PAN included any supporting documentation as attachments when the same was filed with the BIR, though was inclined to believe the affirmative as he noted that the cover letter's body made reference to supposedly attached annexes. Respondent's counsel thus took the opportunity to peruse the BIR Records; then, thereafter, manifesting that contrary to petitioner's position, the cover letter to petitioner's Reply to the PAN was unaccompanied by supporting documentation. Respondent's counsel then had petitioner's Reply to the PAN (maintained in the BIR Records) marked as Exhibit "R-23".[54]

As to petitioner's protest, when respondent's counsel inquired as to whether a copy thereof had been filed with the Office of the Deputy Commissioner for Operations, Cheng clarified that petitioner only filed the same with the RLTAD. Cheng also confirmed that petitioner's basis for questioning RO Luna's authority to examine petitioner's books is based on RTAO No. 337-2018. Finally, he attested that petitioner had not filed any other actions before this Court (apart from the present Petition for Review) in relation to the WDL issued by respondent.[55]

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52 Id.
53 TSN dated 19 September 2023, pp. 30-40.
54 Exhibits "P-7" and "R-23", supra at note 19.
55 TSN dated 19 September 2023, pp. 41-42.

In his redirect examination, in discussing whether petitioner received any further correspondence from the BIR subsequent to the WDL, Cheng reiterated that petitioner received a letter from the BIR acting upon and essentially denying its protest.[56] Cheng no longer underwent a re-cross examination.[57]

In response to clarificatory inquiries from the Court, Cheng explained that he was not updated as to the status of the WOGs' enforcement at the time of the hearing (*i.e.*, whether the bank accounts involved were actually frozen).[58]

With the conclusion of both petitioner's witnesses' testimonies, its turn to present evidence had thus ended. The First Division then gave petitioner 10 days, or until 29 September 2023, to file its Formal Offer of Evidence (**FOE**). Correspondingly, respondent was given 10 days from receiving a copy of the FOE to file a Comment thereon. The First Division also set the hearing for respondent's initial presentation of evidence on 06 February 2024.[59]

On 28 September 2023, petitioner filed its FOE.[60] On 05 October 2023, respondent filed his or her Comment[61] thereto, interposing no objections apart from against any possible lapses in the manner that petitioner identified its exhibits in open court and its compliance with the requirement to have them compared with originals, where applicable.

In the Resolution dated 28 December 2023[62], the First Division acted upon petitioner's FOE, admitting most of its offered exhibits. It denied admission of petitioner's offered Exhibit "P-12-1"[63] (for petitioner's failure to present the original for comparison) and Exhibit "P-16-11-1"[64] (for petitioner's failure to present the duly marked documentary exhibit).

56 Id., pp. 43-45.
57 Id., p. 45.
58 Id., pp. 49-50.
59 Supra at note 46.
60 Division Docket, Volume II, pp. 795-800.
61 Respondent's "Comment Re: Petitioner's Formal Offer of Evidence" dated 25 September 2023, id., Volume III, pp. 993-995.
62 Id., pp. 1026-1027.
63 Offered as a copy of the Warrant of Garnishment (WOG) No. 126-2022-127 dated 05 September 2022 supposedly received by the Philippine Bank of Communications, id., Volume II, p. 868.
64 Offered as a copy of petitioner's Quarterly Value-Added Tax (VAT) Return (BIR Form No. 2550-Q) for the 4th Quarter ended 31 December 2015, id., pp. 955-956.

Later, in the hearing of 06 February 2024, respondent presented his or her two (2) witnesses, each testifying through their respective Judicial Affidavits.[65]

As respondent's first witness, RO Luna testified through his Judicial Affidavit.[66] He declared that his group conducted the examination of petitioner's books of accounts for CY 2015. He confirmed that he derived his authority to audit and investigate petitioner's records from LOA No. eLA201200042595 dated 07 January 2016. He recounted the circumstances surrounding his participation in the BIR's investigation, beginning from when the BIR asked petitioner to present its records, up until the issuance of the FLD/FAN. RO Luna explained that he received information that petitioner had filed a Letter-Protest with the RLTAD III. He recalled that the FLD/FAN explicitly indicated that any protests should be filed with the LTS-ACIR; otherwise, such protest would be deemed void. As such, their team deemed the Letter-Protest as not filed, and in turn, rendering the assessment final and executory. Their team then forwarded the case to the LTS Collection and Enforcement Division for collection.

In his cross-examination, RO Luna clarified that DepComm Guballa signed the FLD/FAN in petitioner's case. He likewise attested to having served on petitioner the PAN and FLD/FAN subsequent to his reassignment *via* the RTAO dated 31 October 2018.[67]

In the re-direct examination that followed, RO Luna confirmed once again that: (1) based on the stamp of receipt thereon, petitioner's Letter-Protest was received by the BIR's RLTAD III; (2) the FLD/FAN had been reviewed and signed by DepComm Guballa; (3) the LOA for this case authorized him alongside RO Lim and GS Maroket; and (4) there was no other LOA issued for this case.[68]

RO Luna no longer underwent a re-cross examination, but the Court interposed a few clarificatory inquiries.[69] In response, he expounded that the BIR deemed petitioner's Letter-Protest as not filed

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65 See Order dated 06 February 2024, Division Docket, Volume III, pp. 1029-1030.

66 Exhibit "R-25", Judicial Affidavit of Revenue Officer Juan M. Luna, Jr., id., Volume II, pp. 618-628.

67 TSN dated 06 February 2024, pp. 16-20.

68 Id., pp. 21-23.

69 Id., p. 24.

(as petitioner supposedly filed the same with the "wrong venue" when it did so with the RLTAD III instead of the LTS-ACIR). RO Luna also verified that a total of four (4) waivers were executed for petitioner's case.[70]

In the same hearing, RO Jejomar G. Cedeño (**RO Cedeño**) next took the stand as respondent's final witness. Through his Judicial Affidavit[71], he proclaimed that he was assigned at the BIR's Large Taxpayers Collection Enforcement Division and was tasked with the enforcement of collections through summary remedies. Particularly, for petitioner's case, she explained that he served the approved WDL and WOG on petitioner and its banks, then handled the exchanges that followed. He further narrated that he sent copies of the WOGs to the various banks where petitioner held accounts, as the deficiency tax previously assessed against petitioner was already due for collection. He attested that petitioner was duly informed that its Letter-Protest had been deemed not filed, rendering the assessment final and was thus being collected. RO Cedeño did not undergo cross-examination.[72]

Having no witnesses left to present, the First Division directed respondent to file his or her FOE within fifteen (15) days, or until 21 February 2024. In turn, it gave petitioner 15 days from receiving a copy thereof, to file its Comment. Finally, it gave each of the parties 30 days to file their Memoranda from receiving a copy of the Court's later resolution acting on respondent's FOE.[73]

On 16 February 2024, respondent filed his or her FOE.[74] However, on 21 February 2024, respondent filed an Amended FOE[75], accompanied with an Omnibus Motion[76] asking the Court to admit the Amended FOE. Respondent clarified that an amended FOE became necessary after his or her counsels inadvertently reused an exhibit number already assigned to an existing exhibit (*i.e.,* Exhibit "R-23"[77]). In line with this, respondent

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70 Id., pp. 24-25.
71 Exhibit "R-24", Judicial Affidavit of Revenue Officer Jejomar G. Cedeño, Division Docket, Volume II, pp. 606-612.
72 Supra at note 65.
73 Id.
74 Division Docket, Volume III, pp. 1032-1039.
75 Id., pp. 1050-1057.
76 Id., pp. 1045-1048.
77 Exhibit "R-23", supra at note 54.

likewise sought to rectify the overlapping markings and asked that a Commissioner's Hearing be set for the purpose.

In a Resolution dated 12 March 2024[78], the First Division granted respondent's Omnibus Motion, thus admitting the Amended FOE. Accordingly, it gave petitioner a fresh period of 10 days from 13 March 2024, or until 25 March 2024, to file a Comment or Opposition on respondent's Amended FOE.

On 08 March 2024, petitioner filed its Comment on respondent's Amended FOE.[79] In the Resolution dated 12 July 2024[80], over petitioner's objections, the First Division admitted all of respondent's offered exhibits.

The same Resolution reiterated its directive for the parties to file their respective memoranda.[81] In compliance, respondent and petitioner filed their Memoranda on 15 August 2024[82] and 22 August 2024[83], respectively. Accordingly, in its Resolution dated 13 September 2024[84], the First Division noted the submission of both memoranda then submitted the case for decision.

ISSUE

As the parties so stipulated during the Pre-Trial, the following issue was laid out for this Court's determination —

> WHETHER PETITIONER ALPHALAND MAKATI PLACE, INC. IS LIABLE FOR DEFICIENCY INCOME TAX (IT), VALUE-ADDED TAX (VAT), EXPANDED WITHHOLDING TAX (EWT), AND DOCUMENTARY STAMP TAX (DST) IN THE AGGREGATE AMOUNT OF ₱186,327,554.10, INCLUSIVE OF INTEREST, SURCHARGES AND COMPROMISE PENALTIES, FOR THE CALENDAR YEAR (CY) ENDED 31 DECEMBER 2015.

78 Division Docket, Volume III, p. 1059.
79 Petitioner's "Comment/Opposition (to Respondent's Formal Offer of Evidence dated 16 February 2024)", id., pp. 1062-1068.
80 Id., pp. 1092-1093.
81 Id.
82 Id., pp. 1094-1128.
83 Id., pp. 1131-1158.
84 Id., p. 1160.

ARGUMENTS OF THE PARTIES

In support of his petition, petitioner primarily argues that the FLD/FAN issued in this case is void, and consequently, the WDL and WOGs cannot be enforced against it.

First, petitioner raises that the items of the assessment stated in the FLD/FAN have already prescribed, having been issued beyond the three (3)-year prescriptive period (even after accounting for the extended periods granted by the executed Waivers of the Defense of Prescription). In any ciase, petitioner also contends that the said Waivers cannot be enforced against it since they lack acceptance from respondent (as would be indicated thereon by his or her signature).

Second, petitioner argues that the investigating RO, RO Luna, lacked the authority to recommend the issuance of the FLD/FAN as he carried out the investigation subsequent to the issuance of the RTAO that reassigned him to a different office. For petitioner, the reassignment had stripped him of the authority to continue with petitioner's investigation.

Finally, petitioner maintains that it timely filed its Letter-Protest or Request for Reconsideration of the FLD/FAN. It asserts that it cannot be faulted for the supposedly ambiguous regulations regarding the venue for filing (namely, Revenue Memorandum Circular [**RMC**] No. 39-2013[85]), considering that it had substantially complied with the filing requirement in good faith by filing the Letter-Protest with the RLTAD III (which fell under the LTS-ACIR in terms of hierarchy).

Petitioner also questions the imposition of Compromise Penalties, insinuating that it never agreed to pay the same.

On the other hand, respondent counters that petitioner is liable for all the deficiency taxes as laid out in the FLD/FAN, including the Compromise Penalties.

Respondent then assails this Court's jurisdiction over the present petition, stating that the assessment had become final upon petitioner's

[85] Receipt of Protest Letter on Final Assessment Notices and Final Decision on Disputed Assessments.

failure to file a valid administrative protest against the FLD/FAN. For respondent, petitioner's filing in the wrong venue (*i.e.*, with the RLTAD III instead of the LTS-ACIR) was tantamount to non-filing. Respondent thus submits that the instant case should be dismissed for lack of jurisdiction.

Moreover, respondent maintains that RO Luna possessed the necessary authority to examine petitioner's books, as conferred *via* a valid LOA. Respondent shot down the relevance of the reassignment through the RTAO, proffering the LOA as the main source of the RO's authority.

Lastly, respondent claims that the BIR issued the subject FLD/FAN within the extended periods under the Waivers of the Defense of Prescription that petitioner executed. Recalling that petitioner utilized the extended periods to submit more supporting documentation over the course of the audit, respondent retorts that petitioner should not be permitted to attack the validity of the Waivers after it had benefited from their execution.

RULING OF THE COURT

Before delving into the merits of the case, We find it propitious to first determine whether this Court has jurisdiction over the instant petition.

THE COURT OF TAX APPEALS (CTA) HAS NO JURISDICTION OVER THE INSTANT PETITION FOR REVIEW.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. For the court or any adjudicative body to have authority to dispose of the case, it must acquire jurisdiction over the subject matter. Thus, **when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.**[86]

[86] *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. No. 209830, 17 June 2015.

At the outset, We must highlight that the present petition warrants dismissal for being filed out of time, as shall be discussed below.

It bears emphasis that the CTA, being a court of special jurisdiction, can only take cognizance of matters which are clearly within its jurisdiction.[87] Section 7(a)(1) of Republic Act (**RA**) No. 1125[88], as amended by RA 9282[89], provides:

> ...
>
> **Sec. 7.** *Jurisdiction.* — The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. **<u>Decisions</u> 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 **<u>other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue[.]</u>**[90]
>
> ...

It is well-settled that the perfection of an appeal in the manner and within the period pursuant to the relevant provisions of the law is not only mandatory but jurisdictional and non-compliance with these legal requirements is fatal to a party's cause.[91]

Based on the foregoing provision, this Court has jurisdiction over the decisions of respondent in cases, not only those "involving disputed assessments, and refunds of internal revenue taxes, fees or other charges, penalties in relation thereto" but also regarding "other matters arising under the [NIRC] or other laws administered by the [BIR]."

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87 *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, 25 March 2019, citing *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, 22 October 2014.

88 AN ACT CREATING THE COURT OF TAX APPEALS.

89 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 OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

90 Italics in the original text, emphasis and underscoring supplied.

91 *Team Pacific Corporation v. Josephine Daza in her capacity as Municipal Treasurer of Taguig*, G.R. No. 167732, 11 July 2012.

In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*[92], the Supreme Court held as follows, to wit:

> ...
>
> **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 distraint 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 distraint 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.
>
> ...

The foregoing jurisprudential pronouncements confirm that this Court's appellate jurisdiction is not limited to cases involving respondent's decisions on matters relating to assessments or refunds. The law also provides the Court's appellate jurisdiction over any case that could arise from the NIRC of 1997, as amended, or any other related laws that the BIR administers.

In the case at bar, the subject WDL's issuance is a matter that arose out of respondent's implementation of the provisions of the NIRC of 1997, as amended. Such being the case, this Court has jurisdiction (over the subject matter) to take cognizance of the present petition. True enough, petitioner filed the instant Petition for Review before this Court, reckoning the period to file from the WDL's receipt.[93]

---

92 G.R. No. 162852, 16 December 2004; Citations omitted, emphasis supplied and italics in the original text.

93 Par. 5, I. Statement of Jurisdictional Matters and Timeliness of the Petition, Division Docket, Volume I, p. 9.

However, anent the timeliness of the petition, as to whether the same had been filed within the reglementary period, **We find differently**.

Respondent represented that the subject assessment had lapsed into finality due to petitioner's failure to file a valid protest to the FLD/FAN. From here, respondent then initiated collection efforts by issuing the WDL.

On the other hand, petitioner adheres to the valid and timely filing of its Letter-Protest. For petitioner then, it expected an action upon its protest, such as through the issuance of an FDDA or equivalent. It thus saw the WDL's issuance as premature, and responded by filing with respondent a "Request for Lifting of [WDL]", wherein it emphasized that it had an outstanding Letter-Protest pending respondent's action.

The mismatch arose from the venue of filing of the aforementioned Letter-Protest.[94] In the Details of Discrepancies accompanying the FLD/FAN, the heading for "Filing of Valid Protest" explicitly specified that should petitioner disagree with the BIR's findings, it may file an administrative protest against the FLD/FAN through the office of the LTS-ACIR.[95] Petitioner filed its Letter-Protest with the RLTAD III.[96]

RMC No. 39-2013[97] definitively addresses the question of venue for the filing of an administrative protest as well as the implications of a deviation therefrom:

> ...
>
> II. *Clarification*
>
> In order to **avoid the conduct of unwarranted reinvestigation cases, to prevent the undue accumulation of delinquent accounts, and to obviate the premature enforcement of summary remedies against the concerned**

94 Exhibits "P-9" and "R-14", supra at note 21.
95 Exhibit "P-8", Division Docket, Volume II, p. 444.
96 Exhibits "P-9" and "R-14", supra at note 21.
97 Supra at note 85.

taxpayers, the guidelines for receipt of protest letters and other similar correspondences are clarified as follows:

1. **All letters of protest, requests for reinvestigation/reconsideration** and similar correspondences shall only be filed by the taxpayers or their duly authorized representatives, in person or through registered mail with return card, with the **Office of the concerned Regional Director (RD), Assistant Commissioner-Large Taxpayers Service (ACIR-LTS) and Assistant Commissioner-Enforcement Service (ACIR-ES), who signed the Preliminary Assessment Notices (PANs), FANs and Formal Letters of Demand,** for proper recording of the protests, and evaluation if the same is in accordance with Section 228 of the NIRC, as implemented by Revenue Regulations No. 12-99 . <u>If the aforesaid procedures are not followed, then the letters of protest, requests for reinvestigation/reconsideration and similar correspondences shall be considered void and without force and effect.</u>[98]

...

A subsequent issuance introduced further clarifications, consistent with RMC No. 39-2013. RMC No. 11-2014[99], much like the preceding RMC No. 39-2013, specified and limited the recipients of administrative protests:

...

This Circular is issued to clarify certain issues relative to the amendments introduced to Revenue Regulations (RR) 12-99 by RR 18-2013.

(1) RR 12-99, as amended by RR 18-2013, provides that the Commissioner or his duly authorized representative shall issue the Preliminary Assessment Notice (PAN), Formal Letter of Demand/Final Assessment Notice (FLD/FAN) and Final Decision on Disputed Assessment (FDDA). <u>The term "**duly authorized representative**" therein refers to Revenue Regional Directors,</u>

98 Italics in the original text, emphasis and underscoring supplied.

99 Clarifying Certain Issues Relative to Due Process Requirement in the Issuance of a Deficiency Tax Assessment Pursuant to Revenue Regulations (RR) 12-99, as Amended by RR 18-2013 (Clarifying Certain Issues Relative to Due Process Requirement in the Issuance of a Deficiency Tax Assessment Pursuant to Revenue Regulations (RR) 12-99, as Amended by RR 18-2013.

> Assistant Commissioner-Large Taxpayers Service, and Assistant Commissioner-Enforcement and Advocacy Service.
>
> Accordingly, pursuant to Revenue Memorandum Circular No. 39-2013 , taxpayers shall submit/file their responses to the PAN and protests (requests for reconsideration/reinvestigation) to the FLD/FAN with the **duly authorized representative** of the Commissioner who signed the PAN and FLD/FAN. Protests in the nature of requests for reconsideration of taxpayers elevated to the Commissioner arising from inactions or adverse decisions of the "duly authorized representatives" shall be filed with the Office of the Commissioner.[100]

...

From a reading of the foregoing issuances, it is made abundantly clear that the pertinent provision of RMC No. 39-2013 intends to limit the offices of the BIR that would receive administrative protests, precisely to curtail timing and venue issues that materialize as incorrectly commenced reinvestigations or prematurely initiated collection efforts.

Thus, in order to be considered valid (with respect to the venue or office of filing), administrative protests may be filed with the following offices, whichever signed the FLD/FAN:

1. Office of the RD;
2. Office of the ACIR-LTS; and
3. Office of the ACIR-Enforcement Service (**ACIR-ES**).

While there is a disconnect between the BIR's practice (as has been observed in the present case) and that indicated in either RMCs (*i.e.*, to file the protest with whichever "duly authorized representative" *signed the FLD/FAN*, it remains clear that the issuances in question did not purport to permit filing with any other office beyond the initial enumeration. In any event, as discussed further above, the Details of Discrepancies accompanying the FLD/FAN particularly identified as

100 Emphasis and underscoring supplied.

well that petitioner must file its administrative protest with the LTS-ACIR, still aligning with RMC No. 39-2013.

With the foregoing, considering the improper filing of petitioner's Letter-Protest, We share respondent's view that the instant assessment had become final and executory. Respondent was thus within discretion to initiate collection efforts *via* the issuance of the WDL.

A taxpayer adversely affected by a decision or inaction of the CIR should appeal to this Court within 30 days from receipt of the decision or after the expiration of the period fixed by law for action as referred to in Section 7(a)(1) of RA 1125, as amended.[101] Thus, in the context of this Court's "other matters" jurisdiction, petitioner has **30 days from receipt of the WDL** to file a Petition for Review.

Petitioner received a copy of respondent's WDL No. 126-2022-127 on the same day as its issuance on **31 August 2022**.[102] Apart from being reflected on the accomplished portion for the "Service of the Warrant" on the WDL's overleaf[103], the date of receipt likewise formed part of petitioner's statement of facts in the Petition for Review:

> ...
>
> 21. On 31 August 2022, instead of receiving a decision on the Protest, *i.e. Final Decision on Disputed Assessment,* AMPI was served with an evenly WDL, issued by OIC- Assistant Commissioner for the Large Taxpayers Service, Maridur V. Rosario ("AC Rosario"), stating that AMPI allegedly failed and refused to pay delinquent internal revenue taxes and incidental charges in the total amount of PhP186,327,554.10, pursuant to the following assessments[.][104]
>
> ...

Petitioner's witness further corroborated[105] the same fact:

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101 Supra at p. 17.
102 Exhibits "P-1" and "R-18", supra at note 7.
103 Id.
104 Par. 21, III. Statement of Facts, Petition for Review, Division Docket, Volume I, p. 12; Citations omitted and italics in the original text.
105 TSN dated 19 September 2023, pp. 47-48.

...
JUSTICE DAVID:

Thank you, Justice. Atty Cheng, your company received the Warrant of Distraint and Levy when?

ATTY. CHENG:

Your Honors, as stated in Item 59[106] of my Judicial Affidavit, August 31, 2022, your Honors.

JUSTICE DAVID:

Okay. So, you received the Warrant of Distraint and Levy dated August 31 also on the same date? The WDL was... (interrupted)

ATTY. CHENG:

Yes, your Honors.

JUSTICE DAVID:

Dated August 31 also, right?

ATTY. CHENG:

From my understanding, yes, your Honors.

JUSTICE DAVID:

Yes, August 31, 2022.

ATTY. CHENG:

Yes, your Honors.

JUSTICE DAVID:

And you received the same also on August 31, 2022?

ATTY. CHENG:

Yes, your Honors, it is the Exhibit "1"[107].

JUSTICE DAVID:

And after the WDL, you received a Warrant of Garnishment?

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106 See Exhibit "P-17", supra at note 51, p. 705.

107 Exhibit "P-1", supra at note 7.

ATTY. CHENG:

Yes, your Honors.

...

Counting 30 days therefrom, petitioner had until **30 September 2022** to file its judicial appeal.

Based on the foregoing, the instant Petition for Review was filed *belatedly* on **03 October 2022.**[108]

The timeliness of an appeal is a factual issue that requires a review of the evidence presented.[109] After accounting for the events that transpired in the administrative level, the records show that the Petition for Review was filed out of time.

With the foregoing findings, the Court's hands are tied. We are thus constrained to dismiss the instant Petition for Review, having been filed out of time, beyond the 30-day reglementary period to do so. As this is a jurisdictional requirement, this Court has no other recourse but to dismiss the petition for lack of jurisdiction.

Basic is the rule that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint.[110] Thus, the limits of this Court's jurisdiction is unaffected by petitioner's erroneous interpretation of the law. In *Glynna Foronda-Crystal v. Aniana Lawas Son*[111], the Supreme Court aptly stated - "**[i]n law, nothing is as elementary as the concept of jurisdiction, for the same is the foundation upon which the courts exercise their power of adjudication, and without which, no rights or obligation could emanate from any decision or resolution.**"

In losing our authority to review the subject deficiency assessment assailed and collection efforts in the instant case, We find no relevant

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108 Supra at note 1.

109 *Republic of the Philippines, represented by The Presidential Commission on Good Government (PCGG) and Mid-Pasig Land Development Corp. v. Augustus Albert V. Martinez, et al.*, G.R. Nos. 224438-40, 03 September 2020.

110 *Editha Padlan v. Elenita Dinglasan, et al.*, G.R. No. 180321, 20 March 2013.

111 G.R. No. 221815, 29 November 2017.

need to further belabor in rendering disquisitions tackling the parties' other issues as these will not change the outcome of the case.

WHEREFORE, the foregoing premises considered, the present Petition for Review filed by petitioner Alphaland Makati Place, Inc. on 03 October 2022 is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

With due respect, see Dissenting Opinion
ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

ALPHALAND MAKATI PLACE, INC., Petitioner,	**CTA CASE NO. 10998**
	Members:
-versus-	DEL ROSARIO, *P.J., Chairperson* BACORRO-VILLENA, and CUI-DAVID, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: OCT 01 2025 ; 1:10 PM

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DISSENTING OPINION

***DEL ROSARIO, P.J.*:**

With due respect, I am constrained to withhold my assent to the *ponencia* dismissing the present Petition for Review for lack of jurisdiction on the grounds that:

i. the present Petition for Review was filed beyond the 30-day period to file an appeal before the Court of Tax Appeals reckoned from petitioner's receipt of the assailed Warrant of Distraint and/or Levy (WDL); and,

ii. the petitioner's Letter Protest dated February 6, 2020 was void and without force and effect for having been filed before a wrong venue as required by Revenue Memorandum Circular (RMC) Nos. 39-2013 and 11-2014.

The controversy stems from the purported invalidity of the Letter Protest assailing the Formal Letter of Demand/Final Assessment

Notice dated January 8, 2020 (FLD/FAN)[1] having been filed with the Regular Large Taxpayers Audit Division III (RLTAD III) instead of being filed with the Office of the Assistant Commissioner-Large Taxpayers Service (LTS-ACIR) pursuant to RMC Nos. 39-2013 and 11-2014.

The subject FLD/FAN was issued by the RLTAD III signed by Arnel SD. Guballa, Deputy Commissioner-Operations Group. The Letter Protest was addressed to the Bureau of Internal Revenue with attention to the Commissioner of Internal Revenue (CIR) through Arnel SD. Guballa, Deputy Commissioner-Operations Group, also.

Respondent claims that the venue where petitioner's Letter Protest was filed is an improper venue. Thus, the Letter Protest is without force and effect, and the filing of its Letter Protest did not toll the period for filing a protest. Consequently, the FAN/FLD became final, executory and demandable and warranted the issuance of the WDL. It asserts that the Letter Protest should have been filed before the **Office of the Deputy Commissioner for Operations, who signed and approved the FAN/FLD**.[2]

The *ponencia* agrees with respondent that the Letter Protest was invalid but rules that the Letter Protest should have been filed with the **LTS-ACIR**, reasoning that:

> The mismatch arose from the venue of filing of the aforementioned Letter-Protest. In the Details of Discrepancies accompanying the FLD/FAN, the heading for "Filing of Valid Protest" explicitly specified that should petitioner disagree with the BIR's findings, it may then file an administrative protest against the FLD/FAN through the office of the **LTS-ACIR**. **Petitioner filed the Letter-Protest with the [Regular Large Taxpayers Division III (RLTAD III)].**
>
> RMC No. 39-2013 definitively addresses the question of venue for the filing of an administrative protest as well as the implications of a deviation therefrom:
>
> xxx
>
> A subsequent issuance introduced further clarifications, consistent with RMC No. 39-2013. RMC No. 11-2014, much like the preceding RMC No. 39-2013, specified and limited the recipients of administrative protests:
>
> xxx

[1] Exhibit "P-8", Docket, Vol. II, pp. 450.
[2] Docket, Vol. III, p. 1100-1101.

> From a reading of the foregoing issuances, it is made abundantly clear that the pertinent provision of RMC No. 39-2013 intends to limit the offices of the BIR that would receive administrative protests, precisely to curtail timing and venue issues that materialize as incorrectly commenced reinvestigations or prematurely initiated collection efforts.
>
> Thus, in order to be considered valid (with respect to the venue or office of filing, administrative protests may be filed with the following offices, whichever signed the FLD/FAN:
>
> 1. Office of the RD;
> 2. Office of the Assistant Commissioner-Large Taxpayers Service (ACIR-LTS); and,
> 3. Office of the Assistant Commissioner-Enforcement Service (ACIR-ES),
>
> While there is a disconnect between the BIR's practice (as has been observed in the present case) and that indicated in either RMCs (*i.e.,* to file the protest with whichever "duly authorized representative *signed the FLD/FAN*, it remains clear that the issuances in question did not purport to permit filing with any other office beyond the initial enumeration. In any event, as discussed further above, the Details of Discrepancies accompanying the FLD/FAN particularly identified as well that petitioner must file its administrative protest with the **LTS-ACIR**, still aligning with RMC No. 39-2013.
>
> With the foregoing, considering the improper filing of petitioner's Letter-Protest, We share respondent's view that the instant assessment has become final and executory. Respondent was thus within [his] discretion to initiate collection efforts *via* the issuance of the WDL.[3]

Consequently, for the *ponencia*, the period for filing of the present appeal cannot be counted from petitioner's receipt of the Letter dated July 28, 2022 with the subject "Action on Protest Letter dated February 6, 2020 filed against the Formal Letter of Demand and Final Assessment Notice (FLD/FAN) dated January 8, 2020",[4] considering that petitioner's Letter Protest is considered void, as if the FAN/FLD was not protested and became final and executory.

I disagree that the Letter Protest is void for having been filed with the wrong office.

The LTS-ACIR before which the *ponencia* concludes that the protest should have been filed has direct administrative supervision over the RLTAD III. Otherwise stated, RLTAD III before which the

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[3] *Ponencia*, pp. 19-22.
[4] Exhibit "P-11", Docket, Vol. II, p. 481.

protest was filed is itself under the Large Taxpayers Service (LTS). In filing the protest, the taxpayer cannot be expected to know the different sub-offices of the LTS within the BIR. What procedurally matters is that the protest itself was filed with the LTS and if there is an imperative need for the protest to be lodged with the LTS-ACIR, good faith and administrative fair play simply requires that the protest be forwarded to aforesaid office. To outrightly deny petitioner's Letter Protest due to the flimsy excuse that it was filed with a wrong venue deprives petitioner of his right to due process.

Besides, petitioner cannot be solely faulted for coursing its Letter Protest to Arnel SD. Guballa, Deputy Commissioner-Operations Group and filing the same with the RLTAD III. As noted by the *ponencia*, "there is a disconnect between the BIR's practice (as has been observed in the present case) and that indicated in either RMCs (*i.e.,* to file the protest with whichever "duly authorized representative *signed the FLD/FAN)".* Nonetheless, the *ponencia*, only makes petitioner bear the consequences of the BIR's non-compliance with its own issuances.

While the Details of Discrepancies attached to the FAN/FLD instructed that the protest be filed before the LTS-ACIR, the subject FAN/FLD was, however, issued by the RLTAD III and signed by Arnel SD. Guballa, Deputy Commissioner – Operations Group. Under RMC No. 39-2013, the protest should be filed with "**the Office of the concerned Regional Director (RD), Assistant Commissioner-Large Taxpayers Service (ACIR-LTS) and Assistant Commissioner-Enforcement Service (ACIR-ES)**, "**<u>who signed the xxx FANs and Formal Letters of Demand</u>"**, *viz.*:

> III. *Clarification*
>
> In order to avoid the conduct of unwarranted reinvestigation cases, to prevent the undue accumulation of delinquent accounts, and to obviate the premature enforcement of summary remedies against the concerned taxpayers, the guidelines for receipt of protest letters and other similar correspondences are clarified as follows:
>
> 1. **All letters of protest**, requests for reinvestigation/reconsideration and similar correspondences **shall only be filed by the taxpayers** or their duly authorized representatives, in person or through registered mail with return card, **with the Office of the concerned Regional Director (RD), Assistant Commissioner-Large Taxpayers Service (ACIR-LTS) and Assistant Commissioner-Enforcement Service (ACIR-ES)**, **<u>who signed the</u>** Preliminary Assessment Notices (PANs), **<u>FANs and Formal Letters of Demand</u>,** for proper recording of the protests, and evaluation if the same is in accordance with Section 228 of the NIRC, as implemented by Revenue Regulations No. 12-99 . If the aforesaid

ON

> procedures are not followed, then the letters of protest, requests for reinvestigation/reconsideration and similar correspondences shall be considered void and without force and effect.
>
> The abovementioned revenue officials shall be primarily responsible in ensuring the preparation of a complete/accurate report on all protests that were filed in their respective offices and the prompt submittal thereof to the Commissioner of Internal Revenue (CIR) every Monday of each week in hard and soft copies. The soft copy of the report shall be emailed to *kim.jacinto-henares@bir.gov.ph* and *flor.mercado@bir.gov.ph*. The format of the Report on Protest Letters Received Covering Final Assessment Notices and Final Decisions on Disputed Assessments is hereto attached as Annex "A".

The above provision was reiterated in RMC No. 11-2014.

Both the RLTAD III and Arnel SD. Guballa, Deputy Commissioner – Operations Group, are not mentioned in RMC Nos. 39-2013 and 11-2014 and yet the same RMCs require that the protest to the FAN/FLD be filed with the named offices and the signatory of the FAN/FLD.

The *ponencia* and respondent's differing stance as to the proper venue for filing the subject Letter Protest further underscores the confusion caused by respondent's issuances and his non-compliance therewith.

To my mind, under the circumstances, petitioner is justified in filing its Letter Protest with the RLTAD III and should be deemed to have substantially complied with RMC Nos. 39-2013 and 11-2014. Consequently, its Letter Protest should be deemed duly filed.

Indeed, it is settled that the Court of Tax Appeals (CTA) has no jurisdiction over petitions filed beyond 30-days from receipt of the adverse decision of the Commissioner of Internal Revenue.

In this light, while petitioner anchored the timeliness of its petition from its receipt of the WDL, I submit that the Court should reckon the period to file the petition from petitioner's receipt of the Letter dated July 28, 2022 denying its request for reconsideration stated in its Letter Protest.

At the time when petitioner received the WDL on **August 31, 2022**, as far as petitioner is concerned, its protest was still pending with the BIR having received the Letter dated July 28, 2022 only on **September 6, 2022**. *Light Rail Transit Authority vs. Bureau of Internal*

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Revenue,[5] explains that a WDL issued during the pendency of a protest on the assessment is not a final decision appealable to the CTA:

> Neither can the 30-day period for filing a petition for review be reckoned from petitioner's receipt of any of the following issuances: the Preliminary Collection Letter, the Final Notice Before Seizure, **the Warrant of Distraint and/or Levy**, the April 4, 2013 Letter reconsidering the issuance of the Warrant of Distraint and/or Levy, and the June 9, 2014 Letter dropping the request for reconsideration of the Warrant of Distraint and/or Levy. Like the Final Decision on Disputed Assessment, **all of these were not final decisions on the appeal by the Commissioner of Internal Revenue. They remained tentative given the pendency of the petitioner's appeal with the Office of the Commissioner. More importantly, all of these were issued on the premise that "delinquent taxes" exist,[97] an incorrect premise. To repeat, the assessment was still pending appeal with the Office of the Commissioner when these issuances were made.** The Preliminary Collection Letter, the Final Notice Before Seizure, the Warrant of Distraint and/or Levy, the April 4, 2013 Letter reconsidering the issuance of the Warrant of Distraint and/or Levy, and the June 9, 2014 denying the request for reconsideration all emanated from a non-demandable assessment. **As such, all were void and should be of no force and effect.**

Petitioner received the Letter dated July 28, 2022[6] on **September 6, 2022**. Thus, petitioner had until **October 6, 2022** to appeal before the CTA. Consequently, the filing of the present Petition for Review on **October 3, 2022** was timely. Hence, the Court may take cognizance of the present petition.

In fine, I VOTE to 1) DECLARE that the Petition for Review was timely filed, and 2) RESOLVE the present Petition for Review based on the merits of the parties' respective arguments.

ROMAN G. DEL ROSARIO
Presiding Justice

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[5] G.R. No. 231238, June 20, 2022.
[6] Exhibit "P-11", admitted in evidence in the Resolution dated December 28, 2023, Docket, Vol. III, pp. 1026-1027.