REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10779

SCG MARKETING PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

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

ATTY. SHERYLL P. CACAYURAN
ATTY. ANNA KARENINA S. PABRUA
Bureau of Internal Revenue
Legal Division, Revenue Region 8B
2nd Floor, BIR Regional Office Building
No. 313, Sen. Gil Puyat Avenue, Makati City

N T VIGO LAW OFFICE
36 Snapdragon St., Midtown Village
San Andres, Cainta, Rizal

GREETINGS:

You are hereby notified by these presents that on **October 9, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **October 9, 2025.**

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

REPUBLIC OF THE PHILIPPINES
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SCG MARKETING PHILIPPINES, INC.,
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-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10779

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:
OCT 09 2025; 8:30 AM

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DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review* filed on February 22, 2022, by petitioner SCG Marketing Philippines, Inc., ("**Petitioner**") against respondent Commissioner of Internal Revenue ("**CIR**" or "**Respondent**"), seeking the reversal and setting aside of the CIR Decision dated May 17, 2021, which upheld the Final Decision on Disputed Assessment (**FDDA**) dated August 25, 2017 assessing petitioner for deficiency Value-Added Tax (**VAT**) in the amount of ₱9,216,332.93, inclusive of interest and surcharges, for the calendar year (**CY**) 2013.

THE PARTIES

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address at Unit 903, 9th Floor, Fort Legend Towers, 3rd Avenue corner 31st Street, Fort Bonifacio, Taguig City, and with Tax Identification Number (**TIN**) 008-005-846-000.[1]

[1] Docket – Vol. II, pp. 997–1030, Petitioner's Memorandum.

Respondent is the duly appointed CIR, vested under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of said office, including, *inter alia*, the power to decide disputed assessments, grant tax refunds and issue tax credit certificates, pursuant to the provisions of the National Internal Revenue Code (**NIRC**) of 1997, as amended, and other tax laws, rules and regulations. Respondent's office address is at the BIR National Office Building, Diliman, Quezon City.

THE FACTS

On May 8, 2014, respondent issued [e]lectronic Letter of Authority No. eLA201100053564/LOA-V08-2014-00000206 (**eLOA**), authorizing Revenue Officer (**RO**) Imelda Sumagaysay and Group Supervisor (**GS**) Ricaredo Balderas to examine petitioner's books of accounts and other accounting records for VAT covering the period January 1 to June 30, 2013.[2]

On March 3, 2016, petitioner received a Preliminary Assessment Notice (**PAN**) dated the same day, indicating a deficiency VAT assessment amounting to **₱25,219,471.52**, inclusive of increments.[3]

On March 22, 2016, petitioner received a Formal Assessment Notice (**FAN**), also dated the same day, reiterating the findings in the PAN with updated interest computation.[4]

On April 1, 2016, petitioner filed a formal Protest dated March 28, 2016, assailing the validity of the FAN with a request for reinvestigation.[5]

In a Letter dated April 22, 2016, respondent, through the then Assistant Regional Director of Revenue Region No. 8, informed petitioner that its Request for Reinvestigation had been granted.[6]

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2 Docket – Vol. II, p. 647, Pre-Trial Order, Admitted Facts and Stipulation of Facts, par. 2; Exhibit "P-1"; Exhibit "R-1".

3 Docket – Vol. II, pp. 647–648, Pre-Trial Order, Admitted Facts and Stipulation of Facts, par. 3; Exhibit "P-3" to "P-3-5"; Exhibit "R-3".

4 Docket – Vol. II, p. 648, Pre-Trial Order, Admitted Facts and Stipulation of Facts, par. 4; Exhibit "P-4" to "P-4-6"; Exhibit "R-5".

5 Docket – Vol. II, p. 648, Pre-Trial Order, Admitted Facts and Stipulation of Facts, par. 5; Exhibit "P-5"; Exhibit "R-7".

6 Docket – Vol. II, p. 648, Pre-Trial Order, Admitted Facts and Stipulation of Facts, par. 6; Exhibit "P-6"; Exhibit "R-8".

In a Compliance Letter dated May 23, 2016, and within 60 days from the filing of the Protest, petitioner submitted relevant documents in support of its Protest and Request for Reinvestigation through registered mail.[7]

On August 31, 2017, petitioner received an Amended Assessment dated August 25, 2017,[8] accompanied by the FDDA[9] and Details of Discrepancies.[10] The FDDA assessed petitioner for a reduced amount of ₱9,216,332.93, consisting of a basic tax of ₱5,040,397.84 and interest of ₱4,175,935.09 until September 15, 2017.

On October 2, 2017, petitioner filed a Formal Request for Reconsideration dated September 30, 2017, with the Office of the Commissioner, seeking the reversal of the FDDA.[11]

On May 17, 2021, respondent issued a Decision denying petitioner's Formal Request for Reconsideration.[12] Said Decision was mailed on May 20, 2021, and dispatched from the BIR Post Office on May 21, 2021.[13]

PROCEEDINGS BEFORE THE COURT

On February 21, 2022, petitioner sent its *Petition for Review* via an accredited private courier.[14] The Court received the same on February 22, 2022, and thereafter issued a *Summons* to respondent.[15]

On March 22, 2022, petitioner filed a *Motion to Admit Attached Amended Petition for Review with Supplemental Annexes*.[16]

In a *Resolution* dated March 30, 2022, the Court noted that petitioner's counsels failed to indicate the date of issuance of their *Mandatory Continuing Legal Education* (MCLE) Certificates

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7 Docket – Vol. II, p. 648, Pre-Trial Order, Admitted Facts and Stipulation of Facts, par. 7; Exhibit "P-7" to "P-7-26"; Exhibit "R-9".
8 Docket – Vol. II, p. 648, Pre-Trial Order, Admitted Facts and Stipulation of Facts, par. 8; Exhibit "P-8".
9 Docket – Vol. II, p. 648, Pre-Trial Order, Admitted Facts and Stipulation of Facts, par. 8; Exhibit "P-9" to "P-9-1"; Exhibit "R-11".
10 Docket – Vol. II, p. 648, Pre-Trial Order, Admitted Facts and Stipulation of Facts, par. 8; Exhibit "P-10" to "P-10-4".
11 Docket – Vol. II, p. 648, Pre-Trial Order, Admitted Facts and Stipulation of Facts, par. 9; Exhibit "P-11" to "P-11-11"; Exhibit "R-13".
12 Exhibit "P-12" to "P-12-10"; Exhibit "R-14"
13 Exhibit "R-15", Docket – Vol. I, pp. 378–379.
14 Docket – Vol. I, pp. 32–54.
15 *Id.* at 56.
16 *Id.* at 58–59.

and attach an *Affidavit of Service* executed by the person who brought the *Petition for Review* to the accredited courier or service provider. Accordingly, the Court directed petitioner to comply with the noted deficiencies in the *Petition for Review*.[17]

On March 31, 2022, respondent filed a *Manifestation with Motion for Extension of Time to File Answer*,[18] which the Court granted in a *Resolution* dated April 7, 2022.[19]

In relation to the March 30, 2022 *Resolution*, petitioner filed its *Compliance* on April 25, 2022.[20] In turn, respondent filed his *Answer* on May 6, 2022, in relation to the April 7, 2022 *Resolution*.[21]

On May 16, 2022, respondent elevated the BIR Records of the case, consisting of two (2) folders, consecutively numbered from pages 1 to 1099.[22]

On September 9, 2022, *Petitioner's Pre-Trial Brief* was filed.[23]

During the hearing on September 12, 2022, respondent's counsel, Atty. Anna Karenina S. Pabrua failed to appear despite due notice. Consequently, the Court granted petitioner's motion to present evidence *ex parte*.[24] Respondent filed a *Motion for Reconsideration* on September 21, 2022[25] and a *Motion to Admit Pre-Trial Brief* on September 22, 2022.[26] The Court granted both motions in a *Resolution* dated November 7, 2022.[27]

On July 5, 2023, the Court referred the case to mediation.[28] However, the Philippine Mediation Center Office issued a *No Agreement to Mediate* on August 22, 2023.[29] Accordingly, the Pre-Trial Conference was held on October 26, 2023.[30] Noting that both parties failed to file their Joint

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[17] *Id.* at 173–174.
[18] *Id.* at 175–178.
[19] *Id.* at 182.
[20] *Id.* at 183–186.
[21] *Id.* at 188–201.
[22] *Id.* at 386–387, Compliance.
[23] *Id.* at 398–409.
[24] *Id.* at at 524–525, Order.
[25] *Id.* at 526–528.
[26] *Id.* at 534–545.
[27] *Id.* at 558–559.
[28] *Id.* at 571.
[29] *Id.* at 573.
[30] Docket – Vol. II, pp. 580–582, Order.

Stipulation of Facts and Issues, the Court terminated the pre-trial in a *Resolution* dated January 9, 2024.[31]

At the hearing on February 20, 2024, petitioner's counsel manifested his inability to present witness Ms. Junnel Morcilla (**Ms. Morcilla**), and moved to present substitute and additional witnesses. While the Court found petitioner's reasons frivolous, it nevertheless granted the motion in the interest of substantial justice.[32] The *Pre-Trial Order* was issued on the same date.[33]

During the hearing on April 24, 2024, petitioner presented its witnesses, Ms. Zenaida Cajayon (**Ms. Cajayon**) and Ms. Mary Rose N. Estebar (**Ms. Estebar**), who testified through their Judicial Affidavits.

Petitioner filed its *Formal Offer of Exhibits* on April 29, 2024,[34] which the Court resolved in a *Resolution* dated June 26, 2024.[35] Accordingly, the Court admitted all of petitioner's exhibits except for Exhibit "P-13".

At the hearing on August 6, 2024, respondent presented his witness, RO Atty. Anna Karenina Pabrua, who likewise testified through her Judicial Affidavit.[36]

Respondent then filed his *Formal Offer of Evidence* on August 9, 2024,[37] which the Court resolved in a *Resolution* dated October 3, 2024.[38] Accordingly, the Court resolved to admit respondent's exhibits.

Respondent filed his *Memorandum* on October 29, 2024,[39] while the *Petitioner's Memorandum* was submitted on October 30, 2024.[40]

The case was submitted for decision on November 25, 2024.[41]

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31 *Id.* at 616–617.
32 *Id.* at 656–657.
33 *Id.* at 642–654.
34 *Id.* at 711–715.
35 *Id.* at 733–735.
36 *Id.* at 852–853, Order.
37 *Id.* at 855–858.
38 *Id.* at 981–982.
39 *Id.* at 984–994.
40 *Id.* at 997–1030.
41 *Id.* at 1031.

THE ISSUES

The parties stipulated the following issues for this Court's resolution, *viz.*:[42]

1. Whether or not petitioner is liable to pay deficiency value-added tax (VAT) assessment in the amount of ₱9,216,332.93, inclusive of interest; and,

2. Whether or not the Honorable Court has jurisdiction over the subject matter of this case.

PETITIONER'S ARGUMENTS

In its *Memorandum,* petitioner argues that it should no longer be required to pay the VAT assessment arising from alleged disallowed zero-rated sales in the amount of ₱128,760.08, as it has already paid the same.

Petitioner also argues that the assessment of deficiency VAT arising from alleged undeclared sales from unaccounted inventory, in the amount of ₱24,158,811.94, is void because it fails to state the law and facts on which it is based. Petitioner adds that the assessment of VAT arising out of alleged undeclared sales from unaccounted inventory is (1) based on a mere presumption that is based on another presumption and (2) erroneous and failed to consider the cost of goods sold, and hence, must be cancelled.

Anent the assessment of VAT arising out of alleged undeclared sales from unaccounted importation in the amount of ₱11,415,510.00, petitioner argues that the assessment (1) is based on a mere presumption that is based on another presumption and (2) is erroneous on account of "timing difference."

Petitioner further alleges that the disallowance of the alleged unsupported input tax in the amount of ₱756,028.00 was a result of a mere "timing difference" and that its excess input tax in the amount of ₱3,481,327.88 should have been applied to the period of January 1, 2013 to June 30, 2013.

On the issue of jurisdiction, petitioner maintains that the Court has jurisdiction over its *Petition for Review.* Petitioner

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[42] *Id.* at 642–654, Pre-Trial Order, IV. Issue/s to be Tried or Resolved.

states that the testimonies of Ms. Estebar and Ms. Cajayon support that the *Decision* of the CIR was received on January 20, 2022, and that the *Petition for Review* was timely filed.

RESPONDENT'S ARGUMENTS

In his *Memorandum*, respondent states that the Court has no jurisdiction over the *Petition for Review.* Respondent points out that he mailed the *Decision* by registered mail on May 21, 2021 and that petitioner failed to present any documentary evidence that it received the *Decision* on January 20, 2022. According to respondent, petitioner only filed its appeal nine (9) months from its receipt of the *Decision.*

Respondent also argues that the FAN is valid as the Details of Discrepancy attached thereto indicated the factual and legal bases of the assessment.

THE COURT'S RULING

The Court has no jurisdiction over the instant case.

Before delving into the merits, the Court must first determine whether it has jurisdiction to take cognizance of this *Petition for Review.*

Section 7(a)(1) and (2) of Republic Act (**RA**) No. 1125,[43] as amended by RA No. 9282,[44] vests the Court of Tax Appeals (**CTA**) with exclusive appellate jurisdiction over decisions and inactions of the CIR, *viz.*:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
>
> (1) **Decisions of the [CIR] 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;

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[43] An Act Creating the Court of Tax Appeals, June 16, 1954.

[44] 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, March 30, 2004.

> (2) **Inaction by the [CIR] 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)*

Complementing this, Section 11 of RA No. 1125, as amended, prescribes the 30-day period for filing an appeal:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any <u>party adversely affected</u> by a decision, ruling, or inaction of the [CIR]...**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. ...** *(Emphasis supplied)*

The above provisions are likewise provided under Section 3(a)(1)(2), Rule 4[45] and Section 3(a), Rule 8[46] of the Revised Rules of the Court of Tax Appeals (**RRCTA**). Clearly, the CTA has jurisdiction over appeals from decisions of the CIR, provided the appeal is filed within thirty (30) days from petitioner's receipt of such decision.

In the instant case, respondent issued the assailed *Final Decision* dated May 17, 2021. The parties, however, present conflicting versions as to the **date and manner of receipt**.

Petitioner asserts that it received a copy of the *Final Decision* **by personal service** only on **January 20, 2022.** To substantiate this, it presented the testimonies of Ms. Estebar and Ms. Cajayon, who claimed that the Administrative Office received the *Final Decision* on said date and transmitted a scanned copy internally *via* electronic mail (e-mail). Petitioner

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45 *Section 3. Cases Within the Jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:
(a) Exclusive original 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 <u>other matters</u> arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
(2) Inaction by 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, where the National Internal Revenue Code or other applicable law provides a specific period for action: ...

46 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.

also offered as evidence a screenshot of the January 20, 2022 e-mail of Ms. Cajayon to Ms. Morcilla attaching the *Final Decision.*[47]

Ms. Estebar, in her *Judicial Affidavit,*[48] testified as follows:

> 33. Q. What is your proof that your request for reconsideration was denied by the office of CIR?
>
> A. We received a copy of Decision made by the office of CIR dated May 17, 2021 contained in 11 page document affirming the decision contained in the FDDA dated August 25, 2017 wherein demand for payment of alleged deficiency VAT in the amount of P9,216,332.93.
>
> ... ...
>
> 34. Q. How did you receive the copy of the Decision?
>
> A. It was by way of **personal delivery**.
>
> 35. Q. When did your office receive it?
>
> A. It was received by our Administrative Office on **January 20, 2022** by way of **personal service**. A scanned copy was [e-mailed] to me by our Admin Executive on the same date she received it. *(Emphasis supplied)*

On the other hand, Ms. Cajayon, in her *Judicial Affidavit,*[49] testified as follows:

> 6. Q. What **mail or correspondence** did you receive sometime in January 20, 2022, if you can recall?
>
> A. On that particular day I received, among others, a correspondence from Bureau of Internal Revenue.
>
> 7. Q. What sort of correspondence did you receive from the Bureau Internal Revenue [sic] on said date, if you can still recall?

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[47] The body of the e-mail reads:

Dear Ma'am Junnel,

Please see attached file.
BIR 2012/2013 DECISION.
2020 SECOND NOTICE for 2020.

Best and Regards
WENG CAJAYON
Admin Executive, Administrative Department

[48] Docket – Vol. II, p. 598.

[49] *Id.* at 609.

> A. I received on that day a copy of Decisions pertaining to the tax assessment of the company for taxable years 2012 and 2013 VAT assessment for the period Jan. 1 to June 30, 2013 as well as a second notice for taxable year 2020, sir.
>
> 8. Q. What did you do after receiving **the mail correspondence from the Bureau of Internal Revenue?**
>
> A. I forwarded them to our Ms. Junnel Morcilla, our Assistant Vice President for Finance, on the same day I received them and that was in **January 20, 2022**; *(Emphasis supplied)*

Petitioner insists that, reckoning from this alleged date of receipt, the *Petition for Review* filed on February 21, 2022, was timely:

> On **January 20, 2022**, petitioner received by **personal service** a copy of the Final Decision [Exh. P-12] dated May 17, 2021 and signed by the CIR denying the request for reconsideration in its entirety.
>
> Hence, this Petition for Review in accordance with Revenue Regulations No. 12-99, as amended, pertinent portion of which reading –
>
> . . . .
>
> The 30-day period within which to file the Petition reckoned from January 20, 2022, the date of receipt by petitioner SCGM of the Final Decision promulgated by the respondent, ends on February 19, 2022, a non-working day being a Saturday. **Thus, said last day to file the Petition for Review falls on February 21, 2022, a Monday, being the next working day.** The Petition was filed by way of LBC courier on February 21, 2022 with a copy furnished CIR likewise through LBC courier. On February 22, 2022, the required number of sets was personally filed and corresponding dockets fees were paid accordingly, (as amended) therefore, is timely filed. [50] *(Emphasis supplied)*

Respondent, on the other hand, contends that the *Final Decision* was served *via* **registered mail** on **May 21, 2021,** to petitioner's registered address at 3rd Avenue corner 31st Street, BGC, Fort Bonifacio, Taguig City. To support this, respondent presented a *Certification (for dispatched)* from the Philippine Postal Corporation dated April 21, 2022, showing that Registered Mail No. RE483247014ZZ was mailed on May 20, 2021, and dispatched on May 21, 2021.[51] Respondent argues

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[50] Docket – Vol. II, p. 1002–1003, Petitioner's Memorandum.
[51] *Id.* at 845, Exhibit "R-15".

that, applying the presumption of regularity in the delivery of registered mail, petitioner is presumed to have received the *Final Decision* in due course of mail, and that its *Petition for Review,* filed only in February 2022, was already nine (9) months late:

> 17. In Paragraph 15 of Petitioner's Amended Petition for Review with Supplemental Annexes, it claimed that on 20 January 2022, it received by personal service a copy of the *Final Decision* dated 17 May 2021.
>
> 18. However, there is no marking, sign or stamp that would show that Petitioner actually received the *Final Decision* on 20 January 2022. In fact, Petitioner failed to present any documentary evidence that it received the *Final Decision* on 20 January 2022.
>
> 19. Contrary to Petitioner's claim, the *Final Decision* was mailed by **registered mail** on **21 May 2021** to Petitioner at its registered address at 3rd Avenue corner, 31st St., BGC, Fort Bonifacio, Taguig City.
>
> 20. As such, Petitioner only had **thirty (30) days from date of receipt of the *Final Decision* or until 20 June 2021** to appeal to the CTA.
>
> 21. Here, Petitioner only filed its appeal or the *Petition for Review* on 21 February 2022 or 9 months from its receipt of the *Final Decision.*
>
> 22. Considering that Petitioner failed to appeal to the CTA within thirty (30) days from date of receipt of the *Final Decision*, the assessment has long been final, executory and demandable.
>
> 23. Hence, the *Petition for Review* was filed out of time.[52] *(Emphasis supplied)*

After careful consideration, the Court finds that petitioner's evidence is insufficient to rebut the presumption that the *Final Decision* was received in the ordinary course of mail.

A close scrutiny of petitioner's evidence, both documentary and testimonial, reveals that the testimonies of Ms. Estebar and Ms. Cajayon, though categorical, are unsupported by competent and credible evidence. Notably, the *Final Decision* itself bears no acknowledgment of receipt, such as a date stamp

[52] *Id.* at 987–988, Respondent's Memorandum.

or signature. This absence is significant, especially considering that during cross-examination, Ms. Cajayon admitted that she affixes a "receiving" stamp along with the date on any document received by their office.[53] Yet, the subject *Final Decision* contains no such markings.

Moreover, while petitioner insists that the *Final Decision* was **personally** served on January 20, 2022, Ms. Cajayon's Judicial Affidavit casts doubt on this claim. She was asked:

> 8. Q. What did you do after receiving **the mail correspondence** from the Bureau of Internal Revenue?
>
> A. I forwarded them to our Ms. Junnel Morcilla, our Assistant Vice President for Finance, on the same day I received them and that was in **January 20, 2022**;[54] *(Emphasis supplied)*

It must be emphasized that the phrase "*mail correspondence from the Bureau of Internal Revenue*" was part of the question posed to the witness, not from her own words. However, the Court carefully reviewed the transcript of Ms. Cajayon's testimony and found no indication that she corrected, clarified, or objected to the use of the term "*mail correspondence*." Her response, in fact, confirmed that she merely forwarded the documents, without identifying them as having been received by **personal service**.

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[53] TSN, April 24, 2024, Ms. Zenaida Cajayon, pp. 11–14:
ATTY. PABRUA
Q In your answer to Question 3, you said that it is your primary duty to acknowledge receipt and receive mail and other correspondences from various sources. How do you acknowledge the mails and correspondences that you received? Do you put stamp received on them or sign the document or put dates on the receipts?
...

MS. CAJAYON
A Upon receiving the docs, and I just receive it and then the things we can put a receiving stamp and then also the date. And after I received that docs, I (interrupted)

ATTY. PABRUA
Q You may stop there Ms. Witness. So, do you confirm that when you receive documents, you put stamp received and the date you received them?

MS. CAJAYON
A Yes Atty.

ATTY. PABRUA
Q May I refer you to the decision dated May 17, 2021?
...

ATTY. PABRUA
Q Do you see any marking or note that would indicate that the decision was received by you on January 20, 2022?

MS. CAJAYON
A No, I don't put a received, yes po.
...

[54] Docket – Vol. II, p. 602.

Petitioner likewise failed to present any other documentary evidence to substantiate its claim that the *Final Decision* was received only on January 20, 2022. The sole document offered, a screenshot of an internal email, merely confirms the internal transmission of a copy and does not establish actual receipt of the *Final Decision* by personal service.

By contrast, respondent established the fact of mailing through a *Certification* from the Philippine Postal Corporation showing that the *Final Decision* was **dispatched by registered mail on May 21, 2021**. However, the mere fact that the mail was dispatched does not necessarily prove actual receipt. As held in *Office of the Ombudsman v. San Pedro*,[55] a certification stating that a letter was "dispatched" does not automatically conclude actual receipt by the addressee or somebody acting on his behalf. The postmaster should include in the certification the manner of delivery, the date it was delivered, and the recipient:

> When the post office makes a Certification regarding delivery of registered mail, such Certification should include the data not only as to whether or not the corresponding notices were issued or sent but also as to how, when and to whom the delivery thereof was made. Accordingly, the **Certification in this case that the registered letter was "dispatched" does not suffice**. It would not be in consonance with the demands of due process and equity for the Court to automatically conclude that from the word "dispatched" alone, the document was in fact received by the addressee or somebody acting on his behalf and on the same date of the notice. **The postmaster should have included in his Certification the manner, date and the recipient of the delivery.** (*Emphasis supplied)*

Thus, only the fact of mailing was established. In such case, the Court turns to the Rules on Evidence, which provide for a disputable presumption regarding the receipt of mailed letters. Section 3(v), Rule 131 of the Rules of Court states:

> Section 3. Disputable presumptions. — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence: ...
>
> (v) That a letter duly directed and mailed **<u>was received in the regular course of the mail</u>**; ... (*Emphasis and underscoring supplied*)

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55 G.R. No. 232142 (Notice), November 11, 2020 [Per Resolution Second Division].

As the Supreme Court explained in *Republic v. Vda. de Neri*,[56] the effect of such presumption is to establish a *prima facie* case of receipt, which prevails unless rebutted by contrary evidence. It does not, however, shift the burden of proof:

> The effect of a presumption upon the burden of proof is to create the need of presenting evidence to overcome the *prima facie* case created thereby which if no proof to the contrary is offered will prevail; it does not shift the burden of proof.

Accordingly, since respondent has proven the fact of mailing, there is a **presumption** that the *Final Decision,* duly directed and mailed, was received by petitioner in the regular course of mail. The burden then shifted to petitioner to overcome this presumption. However, petitioner failed to do so. The unsupported testimonies and the lone e-mail screenshot fall short of the evidentiary standard required to overturn the presumption.

Consequently, the Court is constrained to uphold the presumption that the *Final Decision* was received in due course of mail. The estimated turnaround time for delivery of registered mail is seven (7) working days.[57] Even assuming, for the sake of argument, that petitioner received the *Final Decision* as late as June 20, 2021 (or [30] days from dispatch on May 21, 2021), the 30-day period to appeal would have lapsed on July 20, 2021. Hence, the *Petition for Review* sent *via* private courier (LBC) on February 21, 2022 was clearly filed out of time.

Even if petitioner received the Final Decision on January 20, 2022, the Petition for Review remains belatedly filed via LBC.

Even if the Court were to give credence to petitioner's assertion that it received the *Final Decision* by personal service only on January 20, 2022, the *Petition for Review* would still be belated. Counting thirty (30) days, the last day to file was February 19, 2022, a Saturday. The deadline was thus extended to **February 21, 2022**, a Monday, being the next working day.

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[56] *Republic v. Vda. de Neri, et al.*, G.R. No. 139588, March 4, 2004 [Per J. Callejo, Sr., Second Division].
[57] Philippine Postal Corporation, *Post Office Delivery Lead Time,* available at https://phlpost.gov.ph/postal-office-delivery-lead-time/.

Petitioner claims that it filed the *Petition for Review* via LBC courier on February 21, 2022, furnishing a copy to the CIR through the same courier.[58] However, the records show that the *Petition for Review* was actually received by the Court only on **February 22, 2022.** Moreover, the corresponding filing and docket fees were likewise paid on February 22, 2022.

The Court emphasizes that a *Petition for Review* is an **initiatory pleading**. While the 2019 Amendments to the 1997 Rules of Civil Procedure (**2019 Amendments to the Rules**) introduced additional modes of filing, such as (1) through accredited courier; and (2) transmitting them by electronic means such as e-mail,[59] Section 14, Rule 13 expressly requires that **initiatory pleadings** be filed **<u>personally</u>** or by **<u>registered mail</u>**:

> Section 14. Conventional service or filing of orders, pleadings[,] and other documents. — Notwithstanding the foregoing, the following orders, pleadings, and other documents must be **served or filed personally or by registered mail** when allowed, and shall not be served or filed electronically, unless express permission is granted by the court:
>
> (a) **Initiatory pleadings** and initial responsive pleadings, such as an answer[.]

In *Estrella v. SM Prime Holdings, Inc.*,[60] later cited in the recent case of *So v. Food Fest Land, Inc.*,[61] the Supreme Court clarified that initiatory pleadings must be filed either personally or by registered mail. Filing through a private courier is not among the recognized modes for initiatory pleadings. Consequently, a pleading filed *via* private courier is treated as if sent by ordinary mail, in which case the date of actual receipt by the Court—not the date of mailing—is considered the date of filing, for purposes of determining timeliness. The Court explained:

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[58] Petitioner's Memorandum, p. 7.
[59] Section 3, Rule 13 of the 2019 Amendments to the 1997 Rules of Civil Procedure reads:

Section 3. Manner of filing. — The filing of pleadings and other court submissions shall be made by:
(a) Submitting personally the original thereof, plainly indicated as such, to the court;
(b) Sending them by registered mail;
(c) Sending them by accredited courier; or
(d) Transmitting them by electronic mail or other electronic means as may be authorized by the court in places where the court is electronically equipped.

[60] G.R. Nos. 257814 & 257944, February 20, 2023 [Per J. Lopez, J., Second Division].
[61] G.R. No. 261784, April 2, 2025 [Per J. Inting, Third Division].

> In the 2019 Amendments, Rule 13 was revised and now provides for other forms of filing and service such as (1) through accredited courier; and (2) transmitting them by electronic means such as electronic mail and (in the case of service) facsimile transmission. These modes of filing and service may be availed of by the parties to the action. This is reflected in Section 3, Rule 13 of the 2019 Amendments, which reads: ...
>
> . . . .
>
> However, **the additional modes of filing and service are not applicable to initiatory pleadings and initial responsive pleadings**. Considering that a petition for review on *certiorari* is an initiatory pleading, its service or filing is governed by Section 14, Rule 13 of the 2019 Amendments, which expressly provides:
>
> . . . .
>
> The foregoing provision means that despite the additional modes of filing and service introduced in the 2019 Amendments, initiatory pleadings such as the present Petition should be filed either personally or through registered mail. The provision does not permit the filing of an initiatory pleading *via* private courier. As such, the Petition docketed as G.R. No. 257814 shall be treated as if filed *via* ordinary mail.
>
> **As a pleading filed *via* ordinary mail, it is the date when this Court actually received a copy of the Petition, January 11, 2022, that shall be considered the date of filing, and not the date of mailing** on December 23, 2021. Hence, even assuming for the sake of argument that Estrella, et al., timely filed their motion for extension, the Petition was still filed beyond the allowed extended period. (*Emphasis supplied*)

In light of the foregoing pronouncements, the *Petition for Review,* having been sent through LBC courier, is deemed filed only upon its actual receipt by the Court on February 22, 2022. Accordingly, it was filed **one (1) day late.** Even if petitioner's claim that it dispatched the *Petition for Review* on February 21, 2022 were to be admitted, the filing remains untimely under the applicable rules. Thus, by petitioner's own account, the *Petition for Review* was still belatedly filed.

WHEREFORE, in light of the foregoing, the instant *Petition for Review* is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

I attest 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.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the First Division Acting Chairperson's Attestation, 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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice