

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

JOSE UY UNG, substituted by CTA CASE NO. 10166
PATRICK JOSEPH S. UNG,

Petitioner,

Members:

- versus -

REYES-FAJARDO,
Chairperson, and
ANGELES, JJ.

FLORANTE R. ANINAG OIC -
REGIONAL DIRECTOR
BUREAU OF INTERNAL
REVENUE REVENUE REGION
NO. 10,

Promulgated:

Respondent.

OCT 02 2026

1:02 p.m.

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DECISION

ANGELES, J.:

Before the Court of Tax Appeals (CTA) is a *Petition for Review*¹ filed on September 16, 2019 by Jose Uy Ung (Petitioner), who was later substituted² by Patrick Joseph S. Ung, praying for the reversal of the Final Decision on Disputed Assessment (FDDA) of the Officer-in-Charge – Regional Director Florante R. Aninag (OIC-RD Aninag) (Respondent), Bureau of Internal Revenue (BIR), Revenue Region No. 10, Legazpi City dated August 05, 2019.³

The assailed FDDA⁴ is reproduced herein below as follows:

FINAL DECISION ON DISPUTED ASSESSMENT

This refers to your ***request for reconsideration*** dated July 1, 2019 received by our Office on July 3, 2019 relative to our 2015 deficiency internal revenue tax assessment contained in our Formal Letter of Demand under Assessment Notice No. 065-15-114-108-404-000 dated May 16, 2019 which you received on June 25, 2019.

¹ Docket, pp. 06 to 18.

² Docket, pp. 381 to 382; Resolution dated July 07, 2021, Docket, pp. 441 to 442.

³ Prayer for Relief, *Petition for Review*, Docket, p. 17.

⁴ Exhibit "P-5," Final Decision on Disputed Assessment, BIR Records, p. 333; Emphasis in the original.

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Your protest is premised on your failure to receive a Letter of Authority, hence, the assessment is void pursuant to Revenue Memorandum Circular No. 75-2018, and your assertion that the period to assess has already prescribed, hence, making the Formal Letter of Demand/Final Assessment Notice invalid.

Please be informed that the Letter of Authority was duly received by your authorized representative, Ms. Ana Henrietta Delovieres. Furthermore, you executed a valid Waiver of the Statute of Limitations which extends the period to assess until December 31, 2019. Based on the foregoing facts you failed to overthrow our assessment with sufficient evidence, hence your protest is **DENIED**.

Your deficiency income, value-added & expanded withholding taxes and compromise penalties in the amount of P 584,197.58, P 806,536.91, P 45,113.01 and P 76,000.00, respectively, or in the sum of P 1,511,847.50 contained in our Formal Letter of Demand/Final Assessment Notice [see "Annex A" with Details of Discrepancies ("Annex A.1")] shall become final pursuant to provisions of Paragraph V of Section 3.1.4 of Revenue Regulations (RR) No. 19-2013 dated November 28, 2013.

In view of the foregoing, it is requested that your aforesaid deficiency tax liabilities be paid immediately upon receipt hereof, inclusive of penalties incident to delinquency. This is our final decision. If you disagree, you may appeal this final decision with the Court of Tax Appeals or to the Commissioner of Internal Revenue through request for reconsideration within thirty (30) days from date of receipt hereof, otherwise, our said deficiency tax assessment shall become final, executory, and demandable.

Please give this matter your preferential attention.

Very truly yours,

[SIGNED]

FLORANTE R. ANINAG
OIC-Regional Director

THE PARTIES

Petitioner, Jose Uy Ung, is the owner of New Hi Quality Merchandising with business address at 107 Caceres Street, Dinaga, Naga City, where notices, orders, resolution and other legal processes may be served upon him or thru his counsel.⁵

Respondent, Florante R. Aninag, is the OIC-RD of the BIR Revenue Region No. 10, Legaspi City[sic].⁶

⁵ *Petition for Review*, Docket, p. 06.

⁶ Par. 1, Summary of Admitted Facts, *Pre-Trial Order*, Docket, p. 399.

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**THE ANTECEDENTS
(ADMINISTRATIVE LEVEL)**

The following factual antecedents are undisputed by the parties and borne by the records of this case:

A letter request for extension on time to file Petitioner's answer to the Preliminary Assessment Notice (PAN) was prepared by Ana Henrietta Delovieres (Ms. Delovieres) dated April 11, 2019 and was mailed through a private courier on April 12, 2019, to the Regional Director, BIR, Revenue Regional No. 10, Legazpi City.⁷

On June 25, 2019, petitioner received a copy of the Formal Letter of Demand (FLD)/Final Assessment Notices (FANs) dated May 16, 2019. The FANs assessed that petitioner have deficiency income tax (IT), value-added tax (VAT), expanded withholding taxes (EWT), and compromise penalties in the aggregate amount of PHP1,511,847.50.⁸

Petitioner then submitted a Letter-Protest dated July 01, 2019 addressed to the BIR Revenue Region No. 10, Regional Director, Gerry O. Dumayas, stating that he received no Letter of Authority (LOA), and that the FLD/FANs has already prescribed.⁹

On August 05, 2019, the Commissioner of Internal Revenue (CIR), through OIC-RD Aninag, denied the protest of petitioner, thus:¹⁰

"Please be informed that the Letter of Authority was duly received by your authorized representative, Ms. Ana Henrietta Delovieres. Furthermore, you executed a valid Waiver of the Statute of Limitations which extends the period to assess until December 31, 2019. Based on the foregoing facts you failed to overthrow our assessment with sufficient evidence, hence your protest is DENIED."

On August 19, 2019, petitioner received the FDDA dated August 5, 2019 of the OIC-RD Aninag.¹¹

⁷ Par. 2, Summary of Admitted Facts, *Pre-Trial Order*, Docket, pp. 399 to 400.

⁸ Par. 3, Summary of Admitted Facts, *Pre-Trial Order*, Docket, pp. 399 to 400.

⁹ Exhibit "P-4," BIR Records, pp. 317 to 318.

¹⁰ Par. 4, Summary of Admitted Facts, *Pre-Trial Order*, Docket, pp. 399 to 400.

¹¹ Par. 5, Summary of Admitted Facts, *Pre-Trial Order*, Docket, pp. 399 to 400.

The OIC-RD holds petitioner liable for deficiency taxes in the total amount of PHP1,511,847.50 for taxable year (TY) 2015, to wit:¹²

TAX	AMOUNT
Income Tax	PHP 585,197.58
Value-Added Tax	806,536.91
Expanded Withholding Tax	45,113.01
Compromise Penalties	76,000.00
TOTAL	PHP 1,511,847.50

THE PROCEEDINGS BEFORE THIS COURT

On September 16, 2019, the present *Petition for Review* was filed.¹³

Summons was thereafter issued requiring the respondent to file an answer within fifteen (15) days.¹⁴ Respondent requested a couple of extensions¹⁵ to file the same and was granted by the Court.¹⁶

Within the extended period allowed, respondent filed his *Answer* on February 10, 2020.¹⁷

Thereafter, the case was referred to mediation.¹⁸

On March 10, 2020, petitioner then filed his *Reply*.¹⁹ The BIR Records consisting of one (1) folder, with Three Hundred Ninety-Nine (399) pages was likewise later transmitted by the respondent on September 08, 2020.²⁰

Meanwhile, considering that the parties refused to have their case mediated before the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA), a *Back to Court* was issued on October 05,

¹² Par. 6, Summary of Admitted Facts, *Pre-Trial Order*, Docket, pp. 399 to 400.

¹³ Docket, pp. 06 to 18.

¹⁴ Docket, p. 54.

¹⁵ *Motion for Extension of Time to File Answer*, Docket, pp. 58 to 60; *Motion for Additional Time to File Answer*, Docket, pp. 66 to 69.

¹⁶ *Order* dated December 20, 2019, Docket, p. 62; *Resolution* dated January 28, 2020, Docket, p. 74.

¹⁷ Docket, pp. 75 to 91.

¹⁸ *Resolution* dated February 17, 2020, Docket, p. 96.

¹⁹ Docket, p. 98 to 109.

²⁰ *Compliance*, Docket, pp. 133 to 135.

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2020,²¹ and the Pre-Trial Conference was set²² and held²³ on February 18, 2021.

Prior thereto, *Respondent's Pre-Trial Brief* was submitted on February 11, 2021;²⁴ while the *Pre-Trial Brief of the Petitioner* was filed on February 16, 2021.²⁵

On March 04, 2021, the parties filed a *Joint Motion to Admit Attached Joint Stipulation of Facts and Issues*,²⁶ which the Court denied for being filed out of time.²⁷

Unfortunately, on June 08, 2021, during the pendency of the proceedings of this case, a *Notice of Death of the Petitioner with Motion for Substitution*²⁸ was filed informing this Court that petitioner died on May 24, 2021 after suffering Acute Respiratory Distress and Cerebrovascular Disease as indicated in the attached Death Certificate therein. It was likewise moved that petitioner be substituted by his children, Patrick Joseph S. Ung, Joy Ung-Dimaano, Marianne Ung-Lao, Henrick Jefferson S. Ung, and Kimberly Anne S. Ung.

A *Motion to Withdraw as Counsel with Motion for Extension*²⁹ was likewise filed by Atty. Francisco R. Velasco requesting for more time for the bereaved family of the petitioner to engage the services of a new counsel, as he withdraws his representation due to health reasons.

Meanwhile, on June 16, 2021, the Pre-Trial Order for this case was issued.³⁰

In a Resolution dated July 07, 2021,³¹ acting on the *Motion to Withdraw as Counsel with Motion for Extension*, the Court resolved to grant petitioner's *Motion for Extension*; note the Certificate of Death, the substitution of Patrick Joseph S. Ung as legal representative of the deceased petitioner, Jose Uy Ung; defer action on the *Motion to Withdraw as Counsel* of Atty. Francisco R. Velasco; and required

²¹ Docket, p. 150.

²² Notice of Pre-Trial Conference, Docket, pp. 156 to 158.

²³ Order, Docket, pp. 212 to 214.

²⁴ Docket, pp. 179 to 183.

²⁵ Docket, pp. 202 to 208.

²⁶ Docket, pp. 300 to 307.

²⁷ Order dated March 15, 2021, Docket, pp. 342 to 344.

²⁸ Docket, pp. 381 to 382.

²⁹ Docket, pp. 386 to 387.

³⁰ Docket, pp. 395 to 405.

³¹ Docket, pp. 441 to 442.

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Patrick Joseph S. Ung to give the name of his new counsel within thirty (30) days. On July 14, 2021, the Court likewise noted the *Notice of Death of the Petitioner with Motion for Substitution*.³²

Consequently, on September 15, 2021, a *Formal Entry of Appearance with Motion for Time to Prepare the Case for Petitioner*³³ was filed by Atty. Adan Marcelo B. Botor and Atty. Dominick Adan R. Botor, CPA. The latter prayed that the *Motion to Withdraw* filed by Atty. Francisco R. Velasco be approved and that a commissioner's hearing be scheduled for the marking of documentary exhibits, and to schedule the hearing of the case through online virtual video and audio conferencing.

In a Resolution dated November 04, 2021, the Court noted the *Formal Entry* and partially granted the *Motion for Time to Prepare the case for Petitioner*. It likewise granted the *Motion to Withdraw* and set the commissioner's hearing for the marking of petitioner's evidence.³⁴

On February 10, 2022, in a *Manifestation with Motion for Leave of Court*,³⁵ petitioner stated, among others, that respondent's Exhibit "R-4," which pertains to the *Waiver of the Defense of Prescription* contains the forged signature of the late Jose Uy Ung. Hence, it was requested that a technical examination of the disputed signature be ordered to be conducted by the Questionable Document Division of the National Bureau of Investigation (NBI). It was likewise requested that the hearing for the testimonies of the witnesses be set and conducted online *via* video-conferencing. On the other hand, respondent submitted the NBI identification of the late petitioner's signature to the sound discretion of the Court.³⁶

In a Resolution dated May 04, 2022,³⁷ the Court allowed petitioner to submit additional evidence which specifically provides samples of the signature the late Jose Uy Ung to prove the alleged forgery. As regards petitioner's previous plea to a technical examination of the disputed signature, the Court treated the same as a ***Motion to Order the Questionable Document Division of the NBI to Conduct Technical Examination of Petitioner's Signature*** and granted the same. The hearing for the presentation of

³² Resolution dated July 14, 2021, Docket, pp. 441 to 442.

³³ Docket, pp. 448 to 453.

³⁴ Docket, pp. 472 to 474.

³⁵ Docket, pp. 522 to 525.

³⁶ *Comment and Opposition (Re: Petitioner's Manifestation with Motion for Leave of Court)* Docket, pp. 573 to 579.

³⁷ Docket, pp. 583 to 591.

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petitioner's evidence for the testimonies of Teodora S. Ung and Patrick Joseph S. Ung was likewise set on June 23, 2022.

On June 13, 2022, a Letter addressed to the former Presiding Justice Roman G. Del Rosario, from Asst. Director Ferdinand M. Lavin (Asst. Director Lavin) of the Forensic Investigation Service of the NBI was submitted to this Court, stating that the original copy of the *Waiver of the Defense of Prescription* together with at least seven (7) or more sample specimen signatures of Jose Uy Ung, must be submitted to the Questioned Documents Laboratory Division of the NBI.³⁸

Acting thereon, the Court noted such letter and ordered petitioner to secure from the Judicial Records Division of the CTA, the original copy of Exhibit "R-4" and forward the same with the sample specimen signatures to the Questioned Documents Laboratory Division of the NBI.³⁹

Trial eventually ensued.

Petitioner presented his testimonial and documentary evidence, and offered the testimonies of Mr. Patrick Joseph Ung,⁴⁰ and Teodora S. Ung.⁴¹

Subsequently, another Letter dated August 02, 2022, from the NBI Asst. Director Lavin was submitted to the Court, stating that no definite opinion can be rendered on the ground of insufficient specimen signatures. Thus, it was recommended that additional specimen signatures be submitted.⁴²

On August 19, 2022, petitioner filed a *Manifestation with Urgent Motion for Extension of Time to File Formal Offer of Petitioner's Documentary Evidence*, where he explained that he intends to offer as evidence, the result of the technical examination of the NBI as regards Exhibit "R-4," or the *Waiver of Prescription*. He likewise manifested that he already forwarded a total of twenty-eight (28) sample original documents to the NBI on August 15, 2022 for their reference and

³⁸ Docket, p. 609.

³⁹ Resolution dated June 23, 2022, Docket, pp. 635 to 636.

⁴⁰ Exhibit "P-12," Docket, pp. 223 to 227; Exhibit "P-13," Docket pp. 618 to 623; Minutes of the hearing held on June 23, 2022, Docket, *unpaginated*; and Order dated June 23, 2022, Docket, *unpaginated*.

⁴¹ Exhibit "P-14," Docket, pp. 191 to 194; Minutes of the hearing held on June 23, 2022, Docket, *unpaginated*; and Order dated June 23, 2022, Docket, *unpaginated*.

⁴² Docket, p. 643.

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perusal. Nevertheless, in compliance with the August 02, 2022 Letter of the NBI, petitioner likewise submits additional documents for comparison. Hence, considering that the result of the NBI determination is not yet available, petitioner prays for more time to file his formal offer, pending the results.⁴³

Pending the Court's action and determination on the *Manifestation with Urgent Motion*, petitioner filed an *Ad Cautelam Formal Offer of Evidence* on August 23, 2022, with a reservation to offer the result of the technical examination of the NBI.⁴⁴

However, in a Resolution dated September 13, 2022, the Court denied petitioner's *Urgent Motion for Extension of Time to File Formal Offer of Petitioner's Documentary Evidence*.⁴⁵

Subsequently, a Letter dated September 8, 2022 from the NBI was filed before the Court, submitting the copy of the Questioned Documents Report.⁴⁶ The Court then noted such Letter and the attached Questioned Documents Report No. 276-822 dated September 05, 2022.⁴⁷

In light of the foregoing developments, the Court then allowed the Questioned Documents Report No. 276-822 dated September 05, 2022 to be marked as Exhibit "P-15," and to be considered as part of petitioner's formal offer of evidence. Furthermore, the Court then directed petitioner to file an amended formal offer of evidence, and to return the Exhibit "R-4."⁴⁸ In compliance therewith, petitioner filed its *Transmittal Letter to Records Division, CTA 1st Division of Exhibit "R-4" pertaining to Case No. 10166*.⁴⁹

Finally, on November 09, 2022, the *Amended Formal Offer of Petitioner's Documentary Exhibits* was filed.⁵⁰ Respondent, on the other hand, failed to file any comment or objection thereon.⁵¹ In the Resolution dated January 18, 2023,⁵² the Court resolved to admit all of petitioner's offered exhibits.

⁴³ Docket, pp. 697 to 700.

⁴⁴ Docket, pp. 757 to 764.

⁴⁵ Docket, pp. 769 to 770.

⁴⁶ Docket, pp. 774 to 777.

⁴⁷ Docket, p. 820.

⁴⁸ Resolution dated October 20, 2022, Docket, pp. 822 to 823.

⁴⁹ Docket, pp. 829 to 830.

⁵⁰ Docket, pp. 849 to 857.

⁵¹ Records Verification dated December 5, 2022, Docket, p. 862.

⁵² Docket, pp. 873 to 874.

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For his part, respondent was supposed to present the testimony of his witness, Revenue Officer Hazel Barrios-Latumbo (RO Latumbo). However, he filed an *Omnibus Motion (to Substitute Witness and Reset Hearing Scheduled on 28 March 2023)*,⁵³ in light of the resignation of RO Latumbo. The Court then granted the *Omnibus Motion* in open court and reset the hearing to May 25, 2023.⁵⁴

Nonetheless, respondent later filed a *Manifestation*⁵⁵ stating that RO Latumbo is now willing to testify despite her resignation. The Court noted such *Manifestation* and set the presentation of the testimony of RO Latumbo on May 25, 2023.⁵⁶

After several resettings,⁵⁷ respondent then filed an *Urgent Motion to Conduct the Hearing through Videoconference*,⁵⁸ for the reason that RO Latumbo can no longer travel to Manila as she is now employed under a different employer. Petitioner filed his *Comment Re: Urgent Motion to Conduct the Hearing through Videoconference*,⁵⁹ thereby stating his numerous firm objections. The Court denied the same, as the resignation of RO Latumbo is not an exceptional circumstance that would warrant the conduct of the hearing through videoconference.⁶⁰

Then again, on March 11, 2024, respondent filed another *Omnibus Motion [(a) to Substitute Witness, (b) and Reset the Hearing on 19 March 2024 and (c) Extension of Time to File Judicial Affidavit of Intended Witness]*,⁶¹ with petitioner's *Vehement Objection to the Omnibus Motion to Substitute Witness and Reset the 19 March 2024 Hearing*) filed on March 14, 2024.⁶² In open court, the *Omnibus Motion* and *Vehement Objection* were noted. After considering the arguments of both parties, the Court resolved to deny the *Omnibus Motion* on the ground of the pendency of the case for four (4) years and six (6) months, and the unnecessary expenses for litigation due to the series of extensions.

⁵³ Docket, pp. 875 to 878.

⁵⁴ Minutes of the Hearing dated March 28, 2023, Docket, pp. 880 to 880-A; Order dated March 28, 2023, pp. 881 to 882.

⁵⁵ Docket, pp. 885 to 887.

⁵⁶ Docket, p. 892.

⁵⁷ Notice of Resetting dated May 11, 2023, Docket, p. 893; Notice of Resetting dated August 24, 2023, Docket, *unpaginated*.

⁵⁸ Docket, pp. 899 to 902.

⁵⁹ Docket, pp. 911 to 913.

⁶⁰ Resolution dated November 13, 2023, Docket, pp. 919 to 921.

⁶¹ Docket, pp. 922 to 925.

⁶² Docket, pp. 927 to 930.

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Consequently, the right of respondent to present evidence was forfeited/waived. The parties were then ordered to file their respective memoranda.⁶³

On April 18, 2024, the *Memorandum for Petitioner* was filed.⁶⁴

Respondent, on the other hand, filed an *Omnibus Motion [(a) For Reconsideration, and (b) Defer the Filing of Memorandum]*⁶⁵ and a *Supplemental Omnibus Motion [(a) For Reconsideration, and (b) Defer the Filing of Memorandum]*.⁶⁶ The Court eventually denied both motions in a Resolution dated July 22, 2024.⁶⁷

Respondent then filed a *Motion to Admit Attached Memorandum*.⁶⁸

Undeterred and pending the Court's action on the *Motion to Admit*, respondent filed a *Motion to Suspend Resolution of the Case*,⁶⁹ stating that it filed before the Supreme Court, a *Petition for Certiorari and Prohibition (with Prayer for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction)*⁷⁰ with regard to the previous Resolution dated July 22, 2024.

In a Resolution dated January 20, 2025, the respondent's *Motion to Admit Attached Memorandum* was granted, the attached *Memorandum* was admitted, and the case was submitted for decision.⁷¹

In a subsequent Resolution,⁷² the Court granted the *Motion to Suspend Resolution of the Case*, in view of the pendency of the *Petition for Certiorari* filed before the Supreme Court.

The case was then submitted for decision.⁷³

⁶³ Minutes of the Hearing dated March 19, 2024, Docket, p. 934; Order dated March 19, 2024, Docket, pp. 937 to 938.

⁶⁴ Docket, pp. 1005 to 1015.

⁶⁵ Docket, pp. 939 to 944.

⁶⁶ Docket, pp. 947 to 952.

⁶⁷ Docket, pp. 1037 to 1039.

⁶⁸ Docket, pp. 1040 to 1044.

⁶⁹ Docket, pp. 1109 to 1112.

⁷⁰ Docket, pp. 1115 to 1130.

⁷¹ Docket, pp. 1180 to 1181.

⁷² Docket, *unpaginated*.

⁷³ Minute Resolution dated October 13, 2025, Docket, p. 1190.

Eventually, the Supreme Court issued a *Notice* dated September 29, 2025, which this Court received on March 30, 2026.⁷⁴ The dispositive portion of which provides:

FOR THESE REASONS, the Petition for *Certiorari* and Prohibition is **DISMISSED**. The July 22, 2024 Resolution of the Court of Tax Appeals Third Division in CTA Case No. 10166 is **AFFIRMED**. Perforce, the application for the issuance of a temporary restraining order and/or writ of preliminary injunction is **DENIED**.

SO ORDERED. (*Emphasis in the original*)

Subsequently, petitioner filed a *Manifestation with Motion for Resolution*,⁷⁵ stating that in view of the Supreme Court's ruling, it prays that the case be finally resolved on the merits, there being no standing impediment subsequent to the denial of respondent's *Petition for Certiorari and Prohibition*. Accordingly, the *Manifestation with Motion for Resolution* is **NOTED**.

Hence, this Decision.

THE ISSUE

As duly stipulated by the parties, the sole issue for this Court's resolution is:

Whether petitioner is liable for the payment of deficiency income tax, value-added tax, expanded withholding tax, and compromise penalties, plus interests and surcharges, in the aggregate amount of ₱1,511,847.50 for taxable year 2015.⁷⁶

*Petitioner's arguments*⁷⁷

First, petitioner claims that he was **not accorded due process when he did not receive the LOA and PAN**.

As to the LOA, petitioner claims that he did not receive the same. Moreover, as to the PAN, he claims that he was surprised when his

⁷⁴ Docket, pp. 1192 to 1198, Minute Resolution dated April 30, 2026, p. 1200.

⁷⁵ Docket, *unpaginated*.

⁷⁶ Issue to be Tried or Resolved, *Pre-Trial Order*, Docket, p. 400.

⁷⁷ Discussion/Arguments, *Petition for Review*, Docket, pp. 11 to 17.

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bookkeeper, Ms. Delovieres, merely informed him that the latter's assistant received the PAN while transacting in his office. He then argues that he never obtained any copy of the LOA nor the PAN from his bookkeeper, and that the latter is without proper authority to act for and in his behalf, as she is but a mere independent contractor – where none of the duties entrusted to her include the right to accept and receive important documents from the BIR.

Thus, the absence of such LOA and PAN is a direct violation of his right to due process, which voids the whole assessments.

***Second*, petitioner likewise argues that the assessments of the deficiency taxes against him for TY 2015 has already prescribed.**

He claims that he filed his Annual Income Tax Return (AITR) for TY 2015 on April 04, 2016; and that the FLD/FANs were only issued on May 16, 2019, and received on June 25, 2019. Considering that the BIR is only given a period of three (3) years to issue an assessment, the issuance of the subject FLD/FANs beyond such period is already time-barred.

Furthermore, as to the existence of a particular waiver which purports to extend the period to assess until December 31, 2019, petitioner claims that the same is invalid as he did not execute nor sign the same.

Respondent's counter-arguments⁷⁸

Respondent, by way of his *Answer*, submitted the following special and affirmative defenses:

First, respondent argues that the LOA and PAN were properly served upon petitioner when it was duly received by his bookkeeper, Ms. Delovieres and the latter's secretary, Yuanne Peñas, respectively. Thus, there was no violation of petitioner's right to due process of law, and the assessments are valid.

Second, respondent claims that petitioner executed a valid waiver and thus, the period to assess was effectively extended. While petitioner insists that the waiver was not executed by him, it is incumbent upon the latter to substantiate and prove the same.

⁷⁸ Special and Affirmative Defenses, *Answer*, Docket, pp. 76 to 89.

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Lastly, respondent maintains that withholding tax is not an internal revenue tax but only a system used to collect income tax in advance. Thus, the period within which to assess finds no application in the assessment for deficiency withholding tax.

JURISDICTION OF THE COURT AND TIMELINESS OF THE APPEAL

Before delving into the arguments of the parties, We shall first determine whether this Court has jurisdiction over the present *Petition for Review*, and if it was timely filed.

***The Court has jurisdiction
over the instant Petition for
Review and the same was
filed on time***

Fundamentally, Republic Act (R.A.) No. 1125, as amended by R.A. No. 9282, or the law governing the CTA, (CTA Law),⁷⁹ provides for the exclusive appellate jurisdiction of the CTA over decisions or inactions of the CIR with regard to disputed assessments, among others, to wit:

SECTION 7. Section 7 of the same Act is hereby amended to read as follows:

"SEC. 7. *Jurisdiction*. — The CTA shall exercise:

"(a) **Exclusive appellate jurisdiction** to review by appeal, as herein provided:

"(1) **Decisions** of the Commissioner of Internal Revenue in cases **involving disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;*(Emphasis supplied)*

The same is likewise provided in the Revised Rules of the Court of Tax Appeals (RRCTA),⁸⁰ viz.:

⁷⁹ Expanding the Jurisdiction of the Court of Tax Appeals, Republic Act No. 9282, March 30, 2004.

⁸⁰ Revised Rules of the Court of Tax Appeals, A.M. No. 05-11-07-CTA, November 22, 2005.

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RULE 4
Jurisdiction of the Court

SECTION 1. Jurisdiction of the Court. — The Court shall exercise exclusive original jurisdiction over or **appellate jurisdiction to review by appeal the cases specified in Republic Act No. 1125, Section 7, as amended by Republic Act No. 9282, Section 7. (n)**

XXX XXX XXX

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 other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue; (*Emphasis supplied*)

Moreover, the party adversely affected by such decision has a period of thirty (30) days to elevate the matter before the CTA Division, to wit:

RULE 8
Procedure in Civil Cases

SECTION 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. xxx (*Emphasis and underscoring supplied*)

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In the case at hand, respondent did not dispute⁸¹ the fact that on **August 19, 2019**, petitioner received the assailed FDDA issued by the respondent.⁸²

On **September 16, 2019**, or twenty-eight (28) days from the petitioner's receipt of the assailed FDDA, the *Petition for Review* was timely filed before this Court in accordance with the prevailing rules.

We shall now discuss the merits of the present case.

THE RULING OF THE COURT

Upon careful examination and consideration, the arguments of petitioner and the evidence in support thereof are meritorious. Hence, the instant *Petition for Review* is **granted**.

The Court rules that: **(1)** petitioner's right to due process of law was violated; and that **(2)** respondent's right to assess herein petitioner has already lapsed.

We shall expound.

⁸¹ Par. 1, *Answer*, Docket, p. 75; Annex "C", Docket, p. 29; Par. 5, Summary of Admitted Facts, *Pre-Trial Order*, Docket, p. 399; Exhibit "P-5", Final Decision on Disputed Assessment, BIR Records, p. 333.

⁸² 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, Revenue Memorandum Circular No. 011-14, February 18, 2014:

(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)**. The term "**duly authorized representative**" therein **refers to Revenue Regional Directors**, Assistant Commissioner-Large Taxpayers Service, and Assistant Commissioner-Enforcement and Advocacy Service. (*Emphasis supplied*)

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Petitioner's right to due process of law was violated on the ground of his non-receipt of the necessary LOA and PAN

As to the absence of a LOA

At the outset, petitioner has been consistent in his contention that he did not receive any LOA from the BIR. In fact, as early as in the administrative proceedings, petitioner has stated such argument in his Letter-Protest.⁸³

Moreover, while respondent argued that the purported LOA was duly received by petitioner's bookkeeper, Ms. Delovieres, no such proper evidence – be it testimonial or documentary, was offered to and admitted by this Court.

Essentially, basic is the rule that before a taxpayer may be assessed to arrive at the correct amount of taxes to be paid, the examination of the latter's books and other accounting records must first be authorized by the CIR or his or her authorized representative. The National Internal Revenue Code of 1997, as amended (Tax Code) provides, to wit:

Sec. 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. —

- (A) Examination of Return and Examination of Tax Due. — After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.

In relation to the foregoing provision, jurisprudence has likewise spelled out the critical role of a valid LOA – in *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*,⁸⁴ the Supreme Court thus held:

⁸³ Exhibit "P-4," Protest Letter dated July 01, 2019, BIR Records pp. 317 to 308.

⁸⁴ G.R. No. 222743, April 05, 2017.

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Sec. 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. —

- (A) Examination of Return and Examination of Tax Due. — After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.

Based on the afore-quoted provision, it is clear that **unless authorized by the CIR himself or by his duly authorized representative, through an LOA, an examination of the taxpayer cannot ordinarily be undertaken.** (*Emphasis and underscoring supplied*)

Thus, it may be gleaned from the above that there can only be a valid tax assessment, when there is a valid and proper LOA. Otherwise stated, without an LOA, no revenue officer can undertake to proceed to audit a taxpayer and his or her books. The High Court then further ruled the same in the later case of *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*,⁸⁵ viz.:

The audit process normally commences with the issuance by the CIR of a Letter of Authority. The LOA gives notice to the taxpayer that it is under investigation for possible deficiency tax assessment; at the same time it authorizes or empowers a designated revenue officer to examine, verify, and scrutinize a taxpayer's books and records, in relation to internal revenue tax liabilities for a particular period.

Additionally, in the recent case of *Commissioner of Internal Revenue v. Manila Medical Services, Inc.*,⁸⁶ the Supreme Court likewise ruled:

To emphasize, a LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax.

Hence, in light of foregoing jurisprudential precepts, it is well-settled that **without a LOA, no audit of the taxpayer's books**

⁸⁵ G.R. No. 183408, July 12, 2017.

⁸⁶ G.R. No. 255473, February 13, 2023.

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and records can be validly pursued, and any resulting assessment thereto cannot be valid.

In the present case, with the late petitioner's constant and timely assertion of his non-receipt of a particular LOA, no valid assessments could have resulted. Moreover, it was incumbent upon herein respondent to prove otherwise. Unfortunately, he failed to do so. After all, the Supreme Court has consistently emphasized time and again that allegations must be proven by sufficient evidence because mere allegation is definitely not evidence.⁸⁷

As to the absence of a PAN

Section 228 of the Tax Code provides the crucial rule that a taxpayer must be informed of the findings of the CIR or his duly authorized representative of any tax assessment as may be found against it – and the failure to do so renders such assessment void. It likewise recognizes the right of a taxpayer to be given a pre-assessment notice, save for certain exceptions, to wit:

CHAPTER III PROTESTING AN ASSESSMENT, REFUND, ETC.

SEC. 228. *Protesting of Assessment.* When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he **shall first notify the taxpayer of his findings**: Provided, however, That a **pre-assessment notice** shall not be required in the following cases:

- (a) When the finding for any deficiency tax is the result of mathematical error in the computation of the tax as appearing on the face of the return; or
- (b) When a discrepancy has been determined between the tax withheld and the amount actually remitted by the withholding agent; or
- (c) When a taxpayer who opted to claim a refund or tax credit of excess creditable withholding tax for a taxable period was determined to have carried over and automatically applied the same amount claimed against the estimated tax liabilities for the taxable quarter or quarters of the succeeding taxable year; or
- (d) When the excise tax due on excisable articles has not been paid; or

⁸⁷ *Real v. Sangu Philippines, Inc.*, G.R. No. 168757, January 19, 2011.

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(e) When the article locally purchased or imported by an exempt person, such as, but not limited to, vehicles, capital equipment, machineries and spare parts, has been sold, traded or transferred to non-exempt persons.

The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.

Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings. (*Emphasis supplied*)

Furthermore, the Supreme Court, in its numerous rulings explicitly discussed the nature and crucial role of the PAN in affording the taxpayer of its right to due process of law. In *Commissioner of Internal Revenue v. Metro Star Superama*,⁸⁸ the High Court highlighted that the sending of a PAN is not a mere formality, and is very much part of due process, to wit:

Indeed, Section 228 of the Tax Code clearly requires that the **taxpayer must first be informed that he is liable for deficiency taxes through the sending of a PAN**. He must be informed of the facts and the law upon which the assessment is made. **The law imposes a substantive, not merely a formal, requirement.** To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations — that taxpayers should be able to present their case and adduce supporting evidence.

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xxx

it is clear that **the sending of a PAN** to taxpayer to inform him of the assessment made **is but part of the "due process requirement in the issuance of a deficiency tax assessment," the absence of which renders nugatory any assessment made by the tax authorities.** The use of the word "shall" in subsection 3.1.2 describes the mandatory nature of the service of a PAN. **The persuasiveness of the right to due process reaches both substantial and procedural rights** and the failure of the CIR to strictly comply with the requirements laid down by law and its own rules is a denial of Metro Star's right to due process. Thus, for its failure to send the PAN stating the facts and the law on which the assessment was made as required by Section 228 of R.A. No. 8424, the assessment made by the CIR is void. (*Emphasis supplied*)

⁸⁸ G.R. No. 185371, December 8, 2010.

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Furthermore, in the case of *Commissioner of Internal Revenue v. Transitions Optical Philippines, Inc.*,⁸⁹ not only does the PAN serve to inform a taxpayer of its tax liability, more importantly, it gives the taxpayer and the BIR an opportunity to settle the case, viz.:

The PAN is a part of due process. It gives both the taxpayer and the Commissioner of Internal Revenue the opportunity to settle the case at the earliest possible time without the need for the issuance of a FAN.

Applying the foregoing to the present case, the late petitioner denied ever receiving a PAN from the BIR. On the other hand, the BIR's assertion that the PAN was validly received by one Yianne Peñas, the mere secretary of petitioner's bookkeeper is not meritorious nor supported. Herein respondent failed to adduce evidence which would controvert such a denial, nor was it established that petitioner falls within the exceptions where a pre-assessment notice is not required. After all, settled is the rule that if a taxpayer disputes or denies the receipt of an assessment, the burden to prove otherwise by competent evidence is shifted to the BIR.⁹⁰

While it may be argued that tax assessments are presumed correct under the law and issued in the regular performance the tax authorities' duty, and that as a consequence, it is incumbent upon the taxpayer to dispute such correctness and regularity,⁹¹ We find that petitioner was able to disprove the same by establishing the irregularities which surrounded the subject assessments of this case.

More importantly, the Court cannot give credence to the bare assertions and defenses of the respondent, absent any evidence offered to support the same. As previously stated, bare allegations without proof deserve scant consideration from this Court as these are not evidence by themselves. Thus, jurisprudence provide, to wit:

It must, however, be observed that PGAI **has not proffered any evidence to substantiate its claim**, as it **merely presented bare allegations** thereon. It is **hornbook doctrine that mere allegations do not constitute proof**. As held in *Real v. Belo*, "[i]t is basic in the rule of evidence that **bare allegations**,

⁸⁹ G.R. No. 227544, November 22, 2017.

⁹⁰ *Commissioner of Internal Revenue v. GJM Phil. Manufacturing Inc.*, G.R. No. 202695, February 29, 2016.

⁹¹ *McDonald's Philippines Realty Corp. v. Commissioner of Internal Revenue*, G.R. No. 247737, August 08, 2023.

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unsubstantiated by evidence, are not equivalent to proof. In short, mere allegations are not evidence."⁹²

Therefore, in view of the foregoing, since it is duly established and uncontroverted that petitioner was not duly furnished with a LOA and PAN, the **latter's right to due process of law was violated.** Hence, **the resulting assessments** for deficiency IT, VAT, and EWT, and compromise penalties in the sum of PHP1,511,847.50, as later appearing in the FLD/FANs and reiterated in the assailed FDDA **are void and cannot be given effect.**

Let it be emphasized that between the lifeblood doctrine and the right to due process of law, the latter prevails. The Supreme Court in the case of *Commissioner of Internal Revenue v. Manila Medical Services, Inc.*, ruled as follows:⁹³

While it is true that taxation is the lifeblood of the government, the power of the State to collect tax must be balanced with the taxpayer's right to substantial and procedural due process. **The Court has recognized that, between the power of the State to tax and an individual's right to due process, the scale favors the right of the taxpayer to due process.** (*Emphasis supplied*)

Aside from the violation of due process of herein petitioner, the Court finds that subject assessments still cannot prosper on the ground that they have already prescribed.

The right of respondent to assess petitioner for deficiency taxes for TY 2015 has already lapsed

Petitioner argued that he is not liable for the assessed deficiency taxes on the ground that it has already been barred by prescription. He likewise refutes the allegation of respondent that he executed a valid waiver to extend such prescriptive period.

On the other hand, respondent again failed to offer any specific countervailing testimonial or documentary evidence to counter such matter. He merely insisted in his *Answer* that petitioner allegedly

⁹² *Government Service Insurance System v. Prudential Guarantee and Assurance, Inc.*, G.R. Nos. 165585 & 176982, November 20, 2013.

⁹³ G.R. No. 255473, February 13, 2023.

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executed a waiver which extends the period to assess until December 31, 2019.⁹⁴

We rule in favor of petitioner.

As a general rule, the Tax Code provides that taxes should be assessed within three (3) years from the last day of filing a return or from the time of its actual filing – whichever comes later:

Section 203. Period of Limitation Upon Assessment and Collection.

Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: Provided, That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

As borne by the evidence offered⁹⁵ by petitioner and admitted⁹⁶ by the Court, it is clear that the period to assess the petitioner has already prescribed.

Petitioner filed his AITR for TY 2015 on **April 04, 2016**.⁹⁷ Thus, respondent only had **three (3) years** from the last day to file a return or until **April 15, 2019** to issue assessments. Considering that the FLD/FANs⁹⁸ were only issued by respondent on **May 16, 2019**, and later received by petitioner on June 25, 2019, the deficiency tax assessments against petitioner finds cannot be sustained as they have already been prescribed.

Furthermore, to address the allegation of herein respondent that a waiver was executed to extend such prescriptive period, We find the same to be unsupported. In fact, petitioner has successfully presented countervailing evidence to disprove such matter.

We explain.

⁹⁴ Pars. 22 to 29, *Answer*, Docket, pp. 82 to 83.

⁹⁵ Amended Formal Offer of Petitioner's Documentary Exhibits, Docket, pp. 849 to 858.

⁹⁶ Resolution dated January 18, 2023, Docket, pp. 873 to 874.

⁹⁷ Exhibit "P-1," Annual Income Tax Return, BIR Records, p. 42.

⁹⁸ Exhibit "P-3," BIR Records, p. 271.

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It is true, that the prescriptive period of three (3) years to assess a taxpayer is not without any exceptions – and among such recognized exceptions by the Tax Code itself, is when the taxpayer and the CIR agreed to have the period of assessment extended. Such agreement must then be reduced into writing, accepted by both parties, and executed before the expiration of the original period, *viz.*:

Section 222. Exceptions as to Period of Limitation of Assessment and Collection of Taxes. –

xxx xxx xxx

(b) If before the expiration of the time prescribed in Section 203 for the assessment of the tax, both the Commissioner and the taxpayer have agreed in writing to its assessment after such time, the tax may be assessed within the period agreed upon. The period so agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon.

On the other hand, Revenue Memorandum Order No. 20-90 (RMO 20-90),⁹⁹ laid down the pertinent guidelines with regard to the execution of waivers, and called for its strict compliance:

Pursuant to Section 223 of the Tax Code, internal revenue taxes may be assessed or collected after the ordinary prescriptive period, if before its expiration, both the Commissioner and the taxpayer have agreed in writing to its assessment and/or collection after said period. The period so agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon. This written agreement between the Commissioner and the taxpayer is the so-called Waiver of the Statute of Limitations. In the execution of said waiver, the **following procedures should be followed**:

1. The waiver must be in the form identified hereof. This form may be reproduced by the Office concerned but there should be no deviation from such form. The phrase "but not after _____ 19 ____" should be filled up. This indicates the expiry date of the period agreed upon to assess/collect the tax after the regular three-year period of prescription. The period agreed upon shall constitute the time within which to effect the assessment/collection of the tax in addition to the ordinary prescriptive period.

2. **The waiver shall be signed by the taxpayer himself** or his duly authorized representative. In the case of a corporation, the waiver must be signed by any of its responsible officials. Soon after the waiver is signed by the taxpayer, the Commissioner of Internal Revenue or the revenue official authorized by him, as hereinafter provided, shall sign the waiver indicating that the Bureau has accepted and agreed to the waiver. The date of such acceptance

⁹⁹ Proper Execution of Waiver of Statute of Limitations Under the NIRC, Revenue Memorandum Order No. 20-90, April 04, 1990.

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by the Bureau should be indicated. Both the date of execution by the taxpayer and date of acceptance by the Bureau should be before the expiration of the period of prescription or before the lapse of the period agreed upon in case a subsequent agreement is executed.

3. The following revenue officials are authorized to sign the waiver.

xxx (*Emphasis supplied*)

Revenue Delegation Authority Order No. 05-01 (RDAO 05-01),¹⁰⁰ then imposes the duty on the BIR to ensure that waivers are duly executed, to wit:

The authorized revenue official shall ensure that the waiver is duly accomplished and signed by the taxpayer or his authorized representative before affixing his signature to signify acceptance of the same. In case the authority is delegated by the taxpayer to a representative, the concerned revenue official shall see to it that such delegation is in writing and duly notarized. The "WAIVER" should not be accepted by the concerned BIR office and official unless duly notarized.

Subsequently, Revenue Memorandum Order (RMO) No. 014-2016¹⁰¹ stated that a waiver need not be in the form prescribed by RMO 20-90 or RDAO 05-01, as long as the following are essentially present, to wit:

a) The Waiver of the Statute of Limitations under Section 222 (b) and (d) shall be executed before the expiration of the period to assess or to collect taxes. The date of execution shall be specifically indicated in the waiver;

b) **The waiver shall be signed by the taxpayer himself** or his duly authorized representative. In the case of a corporation, the waiver must be signed by any of its responsible officials; and

c) The expiry date of the period agreed upon to assess/collect the tax after the regular three-year period of prescription should be indicated. (*Emphasis supplied*)

Hence, it is clear from the foregoing that, as provided in the Tax Code and the very issuances provided for by the BIR – that such a

¹⁰⁰Delegation of Authority to Sign and Accept Waiver of Defense of Prescription Under Statute of Limitations, Revenue Delegation Authority Order No. 05-01, August 02, 2001.

¹⁰¹Reiterating the Salient Points Arising from RMO No. 14-16 on the Proper Execution of Waivers of the Defense of Prescription and Providing an Illustration of the Basic Requirements Thereof, Revenue Memorandum Circular No. 141-19, December 20, 2019.

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waiver **must be signed by the taxpayer himself** or his duly authorized representative.

At the onset, the late petitioner Jose Uy Ung has been firm and steadfast in his insistence that he did not sign a waiver at all. Even during the administrative proceedings, petitioner has denied ever signing such a waiver.¹⁰²

To support the same, during the proceedings of this case, petitioner sought the approval of the Court for the Questionable Document Division of the NBI to conduct a technical examination on the alleged signature contained in respondent's Exhibit "R-4," denominated as the *Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code*, as may be found in the BIR Records. The Court granted the same and allowed petitioner to obtain Exhibit "R-4" from the Judicial Records Division and submit sample specimen signatures to the NBI to compare and prove the alleged forgery.

Eventually, the result of such examination was submitted¹⁰³ by the NBI to this Court, and offered by the petitioner as part of his evidence. The technical examination concluded that there exist fundamental differences in handwriting characteristics and habits between the questioned and the sample specimen signatures of one "JOSE UY UNG," as reproduced below:¹⁰⁴

QUESTIONED DOCUMENTS REPORT NO. 276-822
(refer to QD Case No. 204-772 & 140-522)

FINDINGS:

Comparative laboratory examination made on the specimens submitted under the stereoscopic microscope, magnifying lens and with the aid of photographic enlargements reveals that **there exist fundamental differences in handwriting characteristics and habits between the questioned and the sample specimen signatures of one "JOSE UY UNG,"** such as in the:

- manner of execution of strokes; and
- identifying details in element formation.

¹⁰² Exhibit "P-4," Protest Letter dated July 01, 2019, BIR Records pp. 317 to 308.

¹⁰³ Exhibit "P-15," Cover Letter dated 08 September 2022 for the Questioned Documents Report No. 276-822, Docket, p. 774.

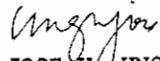
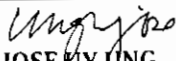
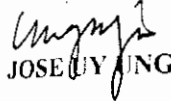
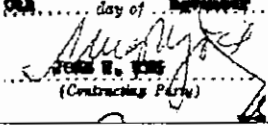
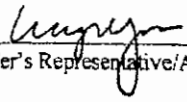
¹⁰⁴ Exhibit "P-15-C," Questioned Documents Report No. 276-822, Docket, p. 777.

CONCLUSION:

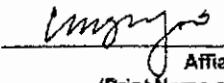
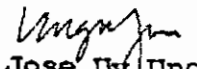
The **questioned and the sample specimen signatures of one “JOSE UY UNG” WERE NOT WRITTEN by one and the same person.**¹⁰⁵ (*Emphasis supplied*)

Thus, petitioner’s claim that he did not sign the alleged waiver is clearly supported and corroborated by the findings of the NBI. Respondent, however, failed to adduce any evidence to refute the same nor show that someone other than the taxpayer was duly authorized to sign the same on his behalf.

Furthermore, upon this Court’s own observation of the signatures of the late petitioner as appearing in the submitted pleadings and other documentary evidence admitted by the Court, We find such a patent discrepancy on the face of such documents from the alleged signature in the disputed *Waiver* which may be found as attached in the docket¹⁰⁶ of this case, as illustrated and summarized below:

Document/Pleading	Signature
Verification and Certification of Non-Forum Shopping ¹⁰⁷	 JOSE UY UNG Affiant
Motion to Reschedule Mediation ¹⁰⁸	 JOSE UY UNG Petitioner-Movant Jin: 114-108-464-000
Special Power of Attorney (presented during Pre-Trial Conference) ¹⁰⁹	 JOSE UY UNG Principal
July 1, 2019 Protest to the FAN/FLD ¹¹⁰	 JOSE UY UNG
Marriage Contract ¹¹¹	 JOSE UY UNG (Contracting Party)
PhilGEPS Sworn Statement ¹¹²	 Bidder's Representative/A

¹⁰⁵ Exhibit “P-15-D,” Docket, p. 777.
¹⁰⁶ Docket, p. 831.
¹⁰⁷ Docket, p. 18.
¹⁰⁸ Docket, p. 144.
¹⁰⁹ Docket, *unpaginated*.
¹¹⁰ Exhibit “P-4,” Protest Letter dated July 1, 2019, BIR Records pp. 317 to 308.
¹¹¹ Exhibit “P-7,” Docket, p. 603.
¹¹² Exhibit “P-8,” Docket, p. 604.

Sworn Statement with Undertaking ¹¹³	 Affiant (Print Name and
Special Power of Attorney ¹¹⁴	 Jose Uy Ung Principal
Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code ¹¹⁵	 JOSE UY UNG TAXPAYER OR DULY AUTHORIZED SIGNAT

Obviously, there is a glaring disparity between the consistent signatures of the late petitioner in the pleadings and evidence submitted to this Court, as compared to the *Waiver* which herein respondent claims that he purportedly signed.

To reiterate, respondent failed to present any evidence – testimonial or documentary, to counter the same.

Hence, in light of the foregoing, the Court rules that the period to assess petitioner has already prescribed and that no waiver was validly executed and signed by the late taxpayer himself, Jose Uy Ung so as to extend the same.

The Court finds probative value on the totality of the evidence presented by herein petitioner, and none from herein respondent.

It is likewise worthy to emphasize that the Supreme Court, in *Commissioner of Internal Revenue v. Kudos Metal Corporation*,¹¹⁶ pronounced that extending the period of assessment must be strictly construed, *viz.*:

The prescriptive period on when to assess taxes benefits both the government and the taxpayer. **Exceptions extending the period to assess must, therefore, be strictly construed.**

¹¹³ Exhibit “P-9,” Docket, p. 606.
¹¹⁴ Exhibit “P-10,” Docket, p. 607.
¹¹⁵ Exhibit “R-4,” Attached to the Transmittal Letter to Records Division, CTA 1st Division of Exhibit “R-4” Pertaining to Case No. 10166, Docket, pp. 829 to 831.
¹¹⁶ *Commissioner of Internal Revenue v. Kudos Metal Corporation*, G.R. No. 178087, May 05, 2010.

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Moreover, bearing in mind that execution of waivers in relation to assessment of taxes entails to a certain extent, a derogation of the taxpayer's right to security against prolonged and unscrupulous investigations, it is only proper that it must be carefully and strictly construed.¹¹⁷ The BIR ought to carefully scrutinize and verify that indeed, they are meeting with the mind of the taxpayer and that such agreement be duly reduced and signed into writing. Such is unavailing in this case.

All told, considering that the late petitioner was denied due process for respondent's failure to establish the receipt of the LOA and PAN, and given that a waiver was not validly executed and signed by him to extend the period of assessments, We find the assessment for deficiency taxes issued against him for TY 2015 as void.

WHEREFORE, in light of the foregoing, the *Petition for Review* is **GRANTED**.

The assailed Decision dated August 05, 2019 of herein respondent Officer-In-Charge-Regional Director Florante R. Aninag is hereby **SET ASIDE**. The assessments contained therein and the Formal Letter of Demand (FLD)/Final Assessment Notices (FANs) are rendered **NULL** and **VOID**.

Respondent, or his agents, are **PROHIBITED** from collecting on petitioner, the 2015 assessed deficiency taxes in CTA Case No. 10166.

SO ORDERED.


HENRY S. ANGELES
Associate Justice

¹¹⁷ Salient Features of SC Decision on Waiver of the Statute of Limitations Under the Tax Code, Revenue Memorandum Circular No. 06-05, February 02, 2005.

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I CONCUR:

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
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.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice
Chairperson.

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CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division 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 Court's Division.



MA. BELEN M. RINGPIS-LIBAN

Presiding Justice