REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

GENSBIO MARKETING CORP. Represented by the President, ABNIL O. MERCADO, Petitioner,	**CTA CASE NO. 10054**
	Members: **RINGPIS-LIBAN,** *PJ, Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 18 2026

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a *Petition*, filed on April 1, 2019, praying that this Court (1) lift and cancel the Warrant of Distraint and/or Levy ("WDL") against petitioner, dated March 5, 2019; and (2) declare the assessment against petitioner, for Income Tax ("IT") and Expanded Withholding Tax ("EWT") for calendar year ("CY") 2013, as having already prescribed.

The Parties[1]

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines.

Respondent is the duly appointed Commissioner of Internal Revenue ("CIR"), of the Bureau of Internal Revenue ("BIR"), who is tasked to assess and collect all national internal revenue taxes, fees, and charges, and enforce all forfeitures, penalties, and fines connected therewith.

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1 Pre-Trial Order, dated March 6, 2020, p. 2, *Rollo* Vol. 1, p. 228.

The Facts

On March 15, 2015, petitioner received a Letter of Authority ("LOA") authorizing certain BIR officers to examine petitioner's accounting records for CY 2013.[2]

The BIR followed this up with a First Notice, dated April 16, 2015, and received by petitioner on even date, which requested that petitioner submit the accounting records earlier requested via the LOA. Petitioner submitted said records on April 20, 2015. Petitioner also received a Second and Final Request for Presentation of Records on May 20, 2015, but did not act on the same.[3]

The BIR then issued a Preliminary Assessment Notice ("PAN") on October 6, 2016, which was received by petitioner on November 9, 2016.[4] Petitioner replied to this on November 23, 2016.[5]

The BIR then issued the assailed assessment via the Formal Letter of Demand ("FLD"), with attached Details of Discrepancies and Audit Reports/Assessment Notices ("ARAN"), on December 1, 2016. Petitioner received this on December 27, 2016.[6] Aggrieved, petitioner sent a letter, with a prayer for reinvestigation, to the BIR on January 23, 2017.[7]

Petitioner then received three letters in reply: the first on February 9, 2017,[8] the second on May 29, 2017,[9] and the third on February 26, 2018.[10] The first two asked petitioner to complete, sign, and submit a Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code. The last, dated January 22, 2018, and issued by Regional Director Esmeralda M. Tabule, informed petitioner that the records of its case were being transferred to a different office for the enforcement of collection. Petitioner replied only to the January 22, 2018 letter, personally serving its reply on March 15, 2018.[11]

Two letters followed. First was a letter, dated April 18, 2018, and received by petitioner on May 3, 2018, informing the latter that the records of its case had already been transferred to a different office.[12] Petitioner replied on May 17, 2018.[13] Second was a letter, dated July 12, 2018, and received by

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2 Petition, p. 6, *id.* at 15.
3 Petition, pp. 6-7, *id.* at 15-16.
4 Petition, p. 7, *id.* at 16.
5 Petition, pp. 9-10, *id.* at 18-19.
6 Petition, p. 10, *id.* at 19.
7 Petition, pp. 10-11, *id.* at 19-20.
8 Petition, pp. 12-13, *id.* at 21-22.
9 Petition, pp. 13-14, *id.* at 22-23.
10 Petition, p. 14, *id.* at 23.
11 Petition, pp. 14-15, *id.* at 23-24.
12 Petition, p. 15, *id.* at 24.
13 Petition, p. 16, *id.* at 25.

petitioner on August 16, 2018, reiterating that the records of petitioner's case had already been transferred.[14]

Petitioner did not reply to the July 12, 2018 letter. Allegedly, its president instead went to "the office of the Chief, Collection Division" and "verbally informed them of the corporation's intent and desire to settle tax liabilities and avail such remedies provided for by law,"[15] referring to the remedies provided by *Section 204 of the National Internal Revenue Code of 1997, as amended* ("*NIRC*").

Through Valerie L. Sol, Chief of the Collection Division of Revenue Region No. 18, respondent then issued a Preliminary Collection Letter on September 25, 2018, which was received by petitioner on September 28, 2018.[16] Aggrieved, petitioner replied via a letter served on October 9, 2018.[17] Division Chief Sol replied to this protest via a letter, dated October 11, 2018,[18] but this was only received by petitioner on November 21, 2018.[19]

Before such receipt, on October 18, 2018, petitioner received a Final Notice Before Seizure, dated October 17, 2018.[20] It then protested the collection via a letter, served on Division Chief Sol on November 7, 2018,[21] before sending another letter to Division Chief Sol on November 15, 2018,[22] this time stating its intention to avail of the remedies provided by *Section 204 of the NIRC*. It also sent a third letter to the Regional Director of Revenue Region No. 18 on November 19, 2018, informing them that it sought to avail of the aforementioned remedies.[23]

Petitioner received a reply to its November 19 2018, letter on February 1, 2018, informing it that its request to avail the remedies provided by *Section 204 of the NIRC* did not comply with the requirements laid down by said provision.[24] Petitioner replied to this on February 14, 2019.

Respondent then issued the assailed WDL on March 5, 2019. Petitioner received the same on March 6, 2019.

Aggrieved, petitioner filed the instant Petition on April 1, 2019. Respondent filed his Answer[25] on August 22, 2019.

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14 Petition, pp. 16-17, *id.* at 25-26.
15 Petition, p. 18, *id* at 27.
16 Petition, pp. 18-19, *id.* at 27-28.
17 Petition pp. 19-20, *id.* at 28-29.
18 Petition, pp. 20-21, *id.* 29-30.
19 See annotation to the bottom-left corner of every page of the letter, dated October 11, 2018, stating that witness Jean A. Vicencio received said letter on November 21, 2018, *id.* at 118-122.
20 Petition, pp. 21-22, *id.* at 30-31.
21 Petition, p. 22, *id.* at 31.
22 Petition, pp. 22-23, *id.* at 31-32.
23 Petition, pp. 23-24, *id.* at 32-33.
24 Petition, p. 24, *id.* at 33.
25 *Id.* at 156-162.

This Court then conducted a full-blown trial, during which petitioner presented witnesses Nancy M. Mercado and Jean A. Vicencio[26] while respondent presented witness Irene A. Balleque.[27] Neither party filed a Memorandum, with respondent merely manifesting that he was adopting his Answer as such[28] and petitioner simply failing to file any Memorandum.[29]

Consequently, the Court submitted this case for decision via a Minute Resolution, dated March 18, 2025.[30] Hence, this Decision.

The Issues[31]

I. Whether or not this Court has jurisdiction over this case;

II. Whether or not the BIR's right to assess and collect the alleged deficiency taxes has prescribed; and

III. Whether or not petitioner is liable for deficiency IT and EWT for CY 2013.

Arguments of the Parties

Petitioner's Arguments

Petitioner raises the following arguments:

(1) It never received a Final Assessment Notice ("FAN"), as required by law, so the assessment is void;[32]

(2) No valid assessment was issued within the period for such, so respondent's right to asses petitioner for the alleged deficiency taxes has prescribed;[33] and

(3) The WDL is also void as the assessment upon which it is based never reached finality.[34]

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[26] Minutes of the Hearing, held on February 27, 2024, *Rollo* Vol. 2, p. 595.
[27] Minutes of the Hearing, held on August 15, 2024, *id.* at 615.
[28] Manifestation, filed on January 15, 2025, *id.* at 635.
[29] Records Verification, dated February 25, 2025, *id.*, unpaginated.
[30] *Id.*, unpaginated.
[31] Pre-Trial Order, p. 3, *Rollo* Vol. 1, p. 229.
[32] Petition, p. 26, *id.* at 35.
[33] *Id.*
[34] *Id.*

Respondent's Arguments

Respondent argues that this case should either be dismissed or denied, due to the following:

(1) As petitioner failed to timely file its Petition, this Court has no jurisdiction over the case;[35]

(2) The FAN was included as the ARANs attached to the FLD;[36] and

(3) The assessment is valid.[37]

The Ruling of the Court

The Petition has merit.

This Court has jurisdiction over appeals from decisions of the CIR on disputed assessments

Under *Section 7(a)(1) of Republic Act No. 1125, as amended* ("*CTA Law*"), this Court has jurisdiction over decisions of the CIR on disputed assessments:

> 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;

(Italics supplied.)

This is further constrained by *Rule 8, Section 3(a) of the Revised Rules of the Court of Tax Appeals, as amended* ("*RRCTA*"), which requires that appeals from such decisions are filed within 30 days from receipt of the denial. The period is drawn from *Section 228 of the NIRC*, whose last paragraph states:

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35 Answer, pp. 2-4, *id.* at 157-159.
36 Answer, pp. 4-5, *id.* at 159-160.
37 Answer, p. 6, *id.* at 160.

> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

Importantly, while an aggrieved taxpayer may file a judicial protest within 30 days from the lapse of the 180-day period, it may alternatively await the decision of the CIR, even if the same is issued past said 180-day period, before elevating its case to this Court. This has consistently been affirmed by the Supreme Court, as in cases such as *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*,[38] *Lascona Land Co., Inc. v. Commissioner of Internal Revenue*,[39] and, more recently, *Light Rail Transit Authority v. Bureau of Internal Revenue*[40] ("*LRTA*").

Petitioner claims to have filed the instant Petition after awaiting the CIR's final decision on its administrative protest. In particular, it treats the assailed WDL as such final decision. Since it filed the Petition within 30 days from receipt of the WDL, the Petition was filed on time.

Petitioner is mistaken.

The assessment is final and executory; hence, this Court has no jurisdiction over the assessment

In *LRTA*, the High Court characterized the CIR's final decision on an assessment as (1) issued by the CIR or their duly authorized representative (an officer with a position at least equivalent to a division chief, following *Section 7 of the NIRC*); and (2) final and not tentative. Thus, if the reply to a protest to a FLD exhibits both characteristics, it may be considered the decision from which a judicial protest may be raised.

Recall the January 22, 2018 letter informing petitioner that its case was being forwarded to a different division for the enforcement of collection. Said letter was (1) issued by a Regional Director, a position equivalent to a division chief; and (2) stated that the BIR would begin attempting to collect the assessed amount. That statement of intent to collect signals that respondent considers the assessment *final*. He no longer entertained protests against the assessment and instead began moving to the collection stage. Given that petitioner's case was already being transferred to a different office for *the enforcement of collection*, it is clear that respondent would not have issued any further decision on the assessment.

[38] G.R. No. 168498, April 24, 2007.
[39] G.R. No. 171251, March 5, 2012.
[40] G.R. No. 231238, June 20, 2022.

With these in mind, and with the absence of a more traditional Final Decision on Disputed Assessment, the January 22, 2018 letter must be considered equivalent to a final decision.

Having received the January 22, 2018 letter on February 26, 2018, petitioner had until March 28, 2018 within which to file a judicial appeal. It failed to do so, having filed the instant Petition over a year later on April 1, 2019. Consequently, the assessment against it became final and executory.

We are not unaware that, in its letter, dated March 15, 2018, petitioner claims that it was still "waiting for the resolution of [its] valid protest." Such a position, however, rests on the belief that only the CIR can validly resolve a taxpayer's protest, as if the January 22, 2018 letter was not itself a decision resolving the matter. This directly contradicts the CIR's aforementioned power to delegate such duties, as granted by *Section 7 of the NIRC*. Being contrary to law, then, the Court cannot accept such a line of argument.

Neither can petitioner's case be saved by considering its March 15, 2018 letter as a Motion for Reconsideration to the decision under *Section 3.1.4 of Revenue Regulations* ("*RR*") *No. 12-99, as amended by RR No. 18-13*. If such a stance is taken, then the April 18, 2018 reply must be considered the CIR's final decision. Since petitioner received the same on May 3, 2018, it would have only until June 2, 2018 within which to raise a judicial protest. Its right to appeal would still have prescribed, leaving the assessment final and executory.

A second flaw in petitioner's protest against the assessment is its treatment of the WDL as respondent's final decision on said assessment. This is, however, a mistake as well.

LRTA is instructive once again. There, the taxpayer protested an assessment and opted to wait for the CIR's final decision on such protest. It continued to wait even after it was served with seizure notices and a WDL, only filing a Petition for Review before this Court years later, when it finally received a letter directly denying its protest.

In *LRTA*, the Supreme Court affirmed petitioner's course of action. It explicitly rejected the interpretation which saw the BIR's collection efforts, such as its seizure notices and WDL, as a final decision on the assessment. Such a practice, it held, was valid before (i) the *NIRC* was amended to allow raising judicial appeals from the inaction of the CIR on a disputed assessment; and (ii) case law affirmed that a taxpayer can await the decision of the CIR even after the period provided for rendering such. In light of the new remedies, then, a WDL cannot be considered a final decision on a disputed assessment.

Under normal circumstances, then the assessment would be final and executory, with petitioner barred from appealing it before this Court.

After a review of the records, however, the Court finds that these are not normal circumstances. The assessment was void *ab initio* and thus never actually attained finality.

The assessment is void due to participation by an unauthorized Revenue Officer

Under *Section 13 of the NIRC*, a Revenue Officer ("RO") can participate in the assessment of a taxpayer if said RO is authorized by a LOA:

> Section 13. Authority of a Revenue Officer. — Subject to rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, *a Revenue Officer assigned to perform assessment functions in any district may,* ***pursuant to a Letter of Authority*** issued by the Revenue Regional Director, *examine taxpayers* within the jurisdiction of the district in order to collect the correct amount of tax, *or to recommend the assessment of any deficiency tax due* in the same manner that the said acts could have been performed by the Revenue Regional Director himself.
> (Emphasis and italics supplied.)

From the above, a RO may only perform assessment functions, such as the recommendation of an assessment, if they are authorized to do so by a LOA.

What is the result, then, when a RO lacks the authority granted by a valid LOA? The Supreme Court has, in various cases, judged such a lack sufficient ground to declare an assessment void. In *Commissioner of Internal Revenue v. Sony Philippines, Inc.*[41] ("*Sony*"), the High Court stated that the lack of authority granted by a LOA renders any examination or assessment conducted by a RO a nullity. Later, in *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*[42] ("*Medicard*") the Supreme Court affirmed this stance, adding that the absence of a LOA authorizing a RO to examine and assess a taxpayer is a violation of said taxpayer's right to due process. The issue has been so thoroughly threshed out in the decade since *Sony* that in 2020, the Supreme Court resolved the case of *Commissioner of Internal Revenue v. Opulent Landowners, Inc.*[43] ("*Opulent Landowners*") through a short Notice, observing that "[i]t is axiomatic that only the revenue officers actually named under the LOA are authorized to examine the

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41 G.R. No. 178697, November 17, 2010.
42 G.R. No. 2222743, April 5, 2017.
43 G.R. No. 249883-84, January 27, 2020.

taxpayer." The message is clear and unwavering: a RO *needs* to be authorized by a LOA before said RO can examine and/or assess a given taxpayer.

Neither can the lack of a LOA be remedied by the issuance of a mere Memorandum of Assignment ("MOA"). In the landmark case of *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*[44] ("*McDonald's*"), the Supreme Court deemed the issuance of a mere MOA insufficient to validly grant a RO with the authority to examine a taxpayer's records. There, the High Court observed that MOAs issued for the reassignment of ROs are generally not signed by the CIR or a Revenue Regional Director. As only the CIR or his duly authorized representative can authorize ROs to examine a given taxpayer, such MOAs are invalid for the purpose of proper reassignment, and their use for reassignment amounts to "a usurpation of the statutory power of the CIR or his duly authorized representative."[45] Following *Section D(5) of RMO No. 43-90*, the Supreme Court then ruled that the issuance of a new LOA is necessary for reassignment. The above constitutes a due process requirement, as also explained in *McDonald's*. Allowing a RO to examine a taxpayer when the former is armed only with a MOA is thus a violation of said taxpayer's due process rights, voiding any assessment produced.[46]

Indeed, proper authorization via a LOA is so important that defects in the same can negate non-compliance with prescriptive periods. In the case of *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue*[47] ("*Himlayang Pilipino*"), this Court, sitting both in Division and *En Banc*, dismissed the taxpayer's judicial protest for being filed late. The Supreme Court overturned this dismissal, however, as the RO who examined said taxpayer was not properly authorized by a LOA. This led to the Supreme Court declaring the assessment void, even in the face of the taxpayer's late filing of its judicial protest.

From the above, then, the late filing of a Petition for Review cannot serve as an impediment preventing this Court from nullifying an assessment found to be void *ab initio* due to the participation of an unauthorized RO. Such a Petition for Review would *normally* have to be dismissed, as the assessment would have already become final and executory. However, as explained in *Himlayang Pilipino*, the absence of proper authorization affects the validity of the assessment itself. An assessment poisoned by the participation of an unauthorized RO consequently cannot attain finality and can be assailed even past the regular prescriptive periods.

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44 G.R. No. 242670, May 10, 2021.

45 *Id.*

46 It should be noted that *McDonald's* is not a new doctrine that overturned a previous ruling; it can thus be retroactively applied. *See Commissioner of Internal Revenue v. Manila Medical Services, Inc.*, G.R. No. 255473, February 13, 2023, where the High Court used *McDonald's* to declare a PAN issued in 2010 void.

47 G.R. No. 241848, May 14, 2021.

The procedural and due process lapses that afflicted these cases is present here as well.

The March 12, 2015 LOA,[48] received by petitioner on March 15, 2015, authorizes RO Irene Balleque and Group Supervisor Nenita Cubelo. No other BIR officials were named. However, the issuance of the PAN was recommended by RO Reinhart N. Buenavente, in a June 27, 2016 letter to Revenue District Officer Nelia B. Demalata.[49] To reiterate, Buenavente was *not* named in the LOA issued to petitioner. He was instead assigned to the case via a mere MOA, dated June 13, 2016.[50]

Following *Sony*, *Medicard*, *Opulent Landowners*, and the many cases similarly decided by the Supreme Court, respondent violated petitioner's due process rights due to RO Buenavente's recommendation of a deficiency assessment despite a lack of proper authorization via a full-bodied LOA. This is true even in the face of the MOA, which, following *McDonald's*, is insufficient to overcome the LOA requirement. As a result, the assessment against petitioner is void.

Finally, petitioner's late filing of the Petition for Review does not prevent this Court from acquiring jurisdiction over it. Being void *ab initio*, the assessment never attained finality and could thus be assailed at any time, consistent with *Himlayang Pilipino*. We thus have the authority and power to declare the disputed assessment void.

Considering the above, the Court shall no longer discuss petitioner's argument on prescription. We simply note that the FLD was accompanied by ARANs, which serve as FANs here despite not explicitly having the word "final" in their title. Petitioner is thus incorrect in arguing that it did not receive the FANs. This, of course, is moot and academic, as RO Buenavente's lack of authority already rendered the assessment void even before the issuance of the PAN.

This Court has jurisdiction over the prayer to void the WDL

This case involves two matters: the assessment against petitioner and respondent's collection efforts. Having discussed the former, We now turn to the latter.

[48] BIR Records, p. 482.
[49] *Id.* at 619-619A.
[50] *Id.* at 487.

Recall that *Section 7(a)(1) of the CTA Law* gives this Court jurisdiction over decisions of the CIR on "other matters arising under the *National Internal Revenue Code*." Such other matters include decisions on disputed collection efforts. Furthermore, this Court can consider a WDL as the appealable decision in such cases. The case of *Commissioner of Internal Revenue v. Court of Tax Appeals, Second Division*[51] is instructive here:

> Based on the foregoing provision, the exclusive appellate jurisdiction of the CTA Division is not limited to cases involving decisions of the CIR or matters relating to assessments or refunds. *In CIR v. Hambrecht & Quist Philippines, Inc., the Court held that the issue of prescription of the CIR's right to collect taxes is covered by the term "other matters" over which the CTA has appellate jurisdiction*:
>
> . . . .
>
> To be sure, the fact that an assessment has become final for failure of the taxpayer to file a protest within the time allowed only means that the validity or correctness of the assessment may no longer be questioned on appeal. *However, the validity of the assessment itself is a separate and distinct issue from the issue of whether the right of the CIR to collect the validly assessed tax has prescribed.* This issue of prescription, being a matter provided for by the NIRC, is well within the jurisdiction of the CTA to decide.

As stated, the issue of an assessment's validity is distinct from the issue of the concomitant collection's validity. Thus, even in cases where an assessment is valid, the related collection efforts can still be protested.

Applied here, the Court can take cognizance of petitioner's prayer to nullify the WDL. Petitioner received the assailed WDL on March 6, 2019. Following *Rule 8, Section 3(a) of the RRCTA*, petitioner had until April 5, 2019, within which to file a judicial protest against respondent's attempt to collect. Petitioner filed the instant Petition on April 1, 2019. It thus timely filed the Petition, and this Court properly acquired jurisdiction over its prayer on the WDL.

The assessment is void, so the WDL is void as well.

Petitioner's main argument against the validity of the WDL is that it is based on a void assessment. Since it allegedly never received the FAN, the assessment against it is void. Since the assessment is void, respondent is barred from attempting to collect, rendering the WDL void as well.

[51] G.R. No. 258947, March 29, 2022.

While petitioner's argument on not receiving the FAN is incorrect, as briefly discussed above, this Court already found the assessment void due to due process rights violations. We thus find the WDL void as well.

The saying that "a void assessment bears no fruit" has been repeated in a bevy of Supreme Court decisions.[52] This simply means that when an assessment is void, no valid collection can be made from it. Any collection efforts based on such a void assessment, then, are void as well. To quote *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*,[53] which restates the saying in less metaphorical terms, "the BIR's right to collect deficiency taxes must flow from a valid assessment."

The assessment here being void and invalid, no valid collection can flow from it. As such, the WDL is null and void as well.

In sum, both respondent's assessment and his collection efforts are void *ab initio*, ultimately due to improper authorization of a RO.

ACCORDINGLY, the instant *Petition*, filed on April 1, 2019, is hereby **GRANTED**. The assessments against petitioner for alleged deficiency Income Tax and Expanded Withholding Tax for calendar year 2013 are declared **NULL** and **VOID**. The Formal Letter of Demand, and attached Details of Discrepancies and Audit Reports/Assessment Notices, are **CANCELLED** and **SET ASIDE**.

Similarly, the Warrant of Distraint and/or Levy, dated March 5, 2019, is also declared **VOID**.

Respondent and an of his officers are **ENJOINED** and **PROHIBITED** from enforcing the void Warrant or otherwise attempting to collect the void assessment.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[52] See, for example, *People of the Philippines v. Italcar Pilipinas Inc.*, G.R. No. 222280, January 18, 2023; and *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*, G.R. No. 223767, April 24, 2023; among many others.
[53] G.R. No. 249153, September 12, 2022.

WE CONCUR:

With Separate Opinion
MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

With due respect, please see CDO
CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

GENSBIO MARKETING CORP., Petitioner,	**CTA Case No. 10054**
	Members:
- versus -	**RINGPIS-LIBAN**, *P.J., Chairperson,* **MODESTO-SAN PEDRO**, and **FERRER-FLORES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated:
	MAR 18 2026

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SEPARATE OPINION

I agreee with the conclusion reached in the *ponencia* that the Present *Petition* should be granted, on the ground that the Revenue Officer who issued the Preliminary Assessment Notice was not authorized to conduct the audit investigation under the relevant Letter of Authority.

Meanwhile, I proffer a different view with respect to the Court of Tax Appeals (CTA)'s jurisdiction over the subject assessment and Warrant of Distraint and/or Levy (WDL).

On this score, the *ponencia* found that the assessment involved had become final and executory due to petitioner's failure to file its judicial appeal within the reglementary period. The thirty (30)-day period to file the appeal before the CTA was reckoned from petitioner's receipt of the letter on February 26, 2018. Thus, petitioner had until March 28, 2018 within which to file the appeal. Considering that the Petition was only filed on April 1, 2019, the *ponencia* concluded that the same was not timely filed.

The Letter received by petitioner on February 26, 2018 may not be considered as respondent's final decision

In considering that the letter received by petitioner on February 26, 2018 should be the reckoning date for the 30-day period to file judicial appeal, the *ponencia* reasoned that the same is "*considered equivalent to a final decision.*" For easy reference, pertinent portions of the said letter are reproduced here, as follows:

> Sir:
>
> This has reference to the deficiency tax assessment of GENSBIO MARKETING CORPORATION for taxable year 2013.
>
> In view of the failure of the corporation to take action to our letter dated April 10, 2017, the entire tax docket of the case shall be forwarded to Revenue District Office No. 110, General Santos City for the enforcement of collection.
>
> We hope that you give this matter your preferential attention[1]

After careful consideration, it is my humble view that the above-quoted letter may not be considered the Final Decision on Disputed Assessment (FDDA) which is appealable before this Court. Consequently, the instant Petition was timely filed on April 1, 2019, or within 30 days from petitioner's receipt of the WDL on March 6, 2019.

Section 3.1.6 of Revenue Regulations (RR) No. 12-99 provides the elements of a valid FDDA. It provides:

> 3.1.6 Final Decision on a Disputed Assessment (FDDA). – The decision of the Commissioner or his duly authorized representative shall state the:
>
> (i) Facts, applicable law, rules and regulations, or jurisprudence on which such decision is based, otherwise, the decision shall be void xxx, and
>
> (ii) that the same is his *final decision.*

Here, none of the above elements are present in the subject letter because:

[1] Annex "K," Division Docket, Vol. I, p. 100.

(1) It failed to provide the facts, applicable law, rules and regulations, or jurisprudence on which such decision is based; and

(2) There was no indication of the finality of a decision, if any, on the disputed assessment.

Considering that the subject letter received by petitioner on February 26, 2018 lacks the essential elements of a valid FDDA, the same may not be considered as the final decision of respondent that is appealable before the CTA.

Meanwhile, I am aware that on several occasions, the Supreme Court had ruled that demand letters and summary collection remedies may be treated as adverse decisions appealable to the CTA. The case of *Mindanao Sanitarium and Hospital, Inc. v. Commissioner of Internal Revenue*[2] decided by this Court's Second (2nd) Division cited the relevant Supreme Court decisions, as follows:

> In *Advertising Associates, Inc. v. Court of Appeals*, the BIR issued WDLs against petitioner. Subsequently, petitioner wrote a letter to the BIR requesting for the cancellation of the assessments and for the withdrawal of the Warrants of Distraint. In reply thereto, the CIR sent a demand letter informing petitioner that it is the BIR's final decision. **In determining whether the appeal was timely filed, the Supreme Court considered the date when the final demand letter was issued and not the date of the Warrants of Distraint.**
>
> In *Commissioner of Internal Revenue v. Algue, Inc.*, a Warrant of Distraint and Levy was issued to the taxpayer without ruling on its request for reconsideration. The Supreme Court held that while, as a rule, the Warrant of Distraint and Levy is proof of finality of the assessment and is tantamount to an outright denial of the request for reconsideration, the issuance of the Warrant of Distraint and Levy in that case was not deemed a denial of the request. The Supreme Court found that said request cannot be found in the records and the BIR cannot be presumed to have taken it into consideration.
>
> In *Commissioner of Internal Revenue v. Union Shipping Corp.*, the BIR issued a Warrant of Distraint and Levy after respondent filed a request for reconsideration. The Supreme Court held that the BIR should always indicate to the taxpayer in clear and unequivocal language what constitutes a final action on a disputed assessment. Consequently, the Supreme Court declared that considering the failure of the CIR to clearly signify his final action on the disputed assessment, the period to appeal has not commenced to run. As such, the Supreme Court adopted its ruling in *Advertising Associates* case. Interestingly, it was held that the period to appeal commenced

[2] CTA Case No. 8700, August 8, 2016, penned by Retired Associate Justice Juanito C. Castañeda, Jr.

> to run only at the time when respondent received the summons on the civil case initiated by the BIR for collection of deficiency income.
>
> In *Commissioner of Internal Revenue v. Isabela Cultural Corporation*, the BIR issued a Final Notice Before Seizure after respondent filed its request for reconsideration. The Supreme Court held that **the Final Notice Before Seizure is tantamount to a denial of respondent's request for reconsideration because the tenor thereof indicates that respondent was being given "this LAST OPPORTUNITY" to pay; otherwise, its properties would be subjected to distraint and levy.**[3] *(Emphasis supplied)*

As stated earlier, none of the above-cited decisions of the Supreme Court applies to the subject letter in this case. No demand or any indication of finality of a decision on the disputed assessment was mentioned therein. As such, the same may not be considered as the equivalent of an FDDA.

There being no FDDA issued in this case, I am constrained to opine that the present Petition is a case of inaction of respondent on the protest.

The ruling of the Supreme Court in Lascona Land Co., Inc. v. Commissioner of Internal Revenue[4] *(Lascona), in relation to the ruling in Light Rail Transit Authority v. Bureau of Internal Revenue*[5] *(LRTA), squarely applies here*

In *Lascona*, the Supreme Court explained the mutually exclusive remedies of a taxpayer in cases of inaction by the CIR on a protest, *i.e.*, the CIR fails to act on the protest within one hundred eighty (180) days, as follows:

> Therefore, as in Section 228, when the law provided for the remedy to appeal the inaction of the CIR, it did not intend to limit it to a single remedy of filing of an appeal after the lapse of the 180-day prescribed period. Precisely, when a taxpayer protested an assessment, he naturally expects the CIR to decide either positively or negatively. A taxpayer cannot be prejudiced if he chooses to wait for the final decision of the CIR on the protested assessment. More so, because the law and jurisprudence have always contemplated a scenario where the CIR will decide on the protested assessment.

[3] Citing G.R. No. L-59758, December 26, 1984, G.R. No. L-28896, February 17, 1988, G.R. No. L-66160, May 21, 1990, and G.R. No. 135210, July 11, 2001, respectively.
[4] G.R. No. 171251, March 5, 2012.
[5] G.R. No. 231238, June 20, 2022.

> It must be emphasized, however, that in case of the inaction of the CIR on the protested assessment, while we reiterate – the taxpayer has two options, either: (1) file a petition for review with the CTA within 30 days after the expiration of the 180-day period; or (2) await the final decision of the Commissioner on the disputed assessment and appeal such final decision to the CTA within 30 days after the receipt of a copy of such decision, **these options are mutually exclusive and resort to one bars the application of the other**.

As explained in *Lascona*, a taxpayer is also given the option to wait for the final decision of the CIR on the disputed assessment and appeal the same with the CTA within thirty (30) days from receipt thereof.

In this case, records reveal that petitioner communicated its intention to await the decision on its protest on the assessment as per letter[6] dated March 15, 2018. It pertinently states:

> As of this date, we are waiting for the resolution of our valid protest so we may be accorded procedural and substantive due process and comply what the law provides.

Thereafter, in its November 19, 2018 letter[7] request for compromise, petitioner reiterated that it opted to await the decision on its protest, thus:

> The intention of GESBIO marketing Corporation to avail the aforementioned remedies are due to the following compelling reasons:
>
> xxx xxx xxx
>
> 2. Continuous communication with the Bureau of Internal Revenue to resolve request for rteinvestigation has been made, so we may be given an opportunity to submit relevant documents in relation to the disputed assessment, however, the same has not been acted upon, up to the present;

Hence, applying the remedy laid down in *Lascona*, it is clear that petitioner opted to wait for the FDDA. However, instead of issuing one, respondent issued the subject WDL.

In this regard, the *LRTA* case finds its relevance.

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[6] Exhibit "P-12", Annex "L" of the Petition, Division Docket, Vol. I, p. 101.
[7] Exhibit "P-20", Annexes "V-1" and "V-2" of the Petition, Division Docket, Vol. I, pp. 126-127.

In *LRTA*, the Regional Director (RD) issued an FDDA denying LRTA's protest on April 1, 2011. On May 6, 2011, LRTA appealed the RD's protest to the CIR. On September 20, 2011, pending resolution of the appeal to the CIR, the Officer-in-Charge Revenue District Officer (RDO) of Revenue Region No. 8 issued a Preliminary Collection Letter demanding payment of LRTA's tax deficiencies. On September 30, 2011, LRTA informed the RD that it had filed an appeal with the CIR.

Still, on November 23, 2011, the RDO issued a Final Notice Before Seizure. On February 3, 2012, LRTA sent a letter to the Revenue District Office where it reiterated its pending appeal before the CIR, and that it shall act on the matter as soon as it receives the CIR's decision on its appeal. However, on May 17, 2012, LRTA received the RDO's WDL issued on March 5, 2012.

Ruling in favor of LRTA, the Supreme Court stated that:

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

Here, the *ponencia* found that a WDL was issued on March 5, 2019. Considering that a WDL was issued in this case despite petitioner's availment of its remedy under *Lascona*, *i.e.*, option to wait for the final decision of the CIR on the disputed assessment and appeal the same with the CTA within thirty (30) days from receipt thereof, the *LRTA* case instructs that the subject WDL is void because it emanated from a non-demandable assessment, *i.e.*, no FDDA was issued by respondent.

Considering the foregoing, I **VOTE** to (1) **GRANT** the instant *Petition; (2)* **LIFT** the Warrant of Distraint and/or Levy dated March 5, 2019; and (3) **ENJOIN** respondent Commissioner of Internal Revenue or any person acting on his behalf from proceeding with the collection of the deficiency taxes subject of the instant case.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

GENSBIO MARKETING CORP., Petitioner,	**CTA CASE NO. 10054** Members:
- versus -	**RINGPIS-LIBAN,** *P.J., Chairperson* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 1 8 2026

x- x

CONCURRING and DISSENTING OPINION

FERRER-FLORES, J.:

I concur with the *ponencia* that the *Petition* should be granted by reason of the invalidity of the assessment, considering the absence of a valid Letter of Authority (LOA) authorizing Revenue Officer (RO) Reinhart N. Buenavente to examine petitioner's books and accounting records for taxable year (TY) 2013.

It is my humble opinion, however, that the letter dated January 22, 2018 signed by Regional Director (RD) Esmeralda M. Tabule cannot be considered as the "final decision" on petitioner's Protest to the Formal Letter of Demand (FLD).

While I submit that the Final Decision on Disputed Assessment (FDDA) is not the only issuance of the CIR or his duly authorized representative which may be considered to be the final decision on a disputed assessment, the receipt of which would, in turn, trigger the 30-day period for taxpayer to file his protest, I respectfully maintain that irrespective of nomenclature, the issuance must be intended to and must, in fact, operate as an FDDA by unequivocally conveying respondent's final determination on the taxpayer's protest.

In *Commissioner of Internal Revenue vs. Isabela Cultural Corporation* (*Isabela*),[1] the Supreme Court considered the Final Notice Before Seizure (FNBS) issued by the CIR to be his decision disposing of the taxpayer's request for consideration because its content and tenor revealed that it was indeed his final act regarding the said request. The Supreme Court also emphasized the significance of the language used in the letter, particularly the presence of a "threat" of collection, in determining whether the letter constituted a final decision.

In *Oceanic Wireless Network Inc. vs. Commissioner of Internal Revenue*,[2] the Supreme Court likewise held that the determination on whether or not a demand letter is final is conditioned upon the language used or the tenor of the letter being sent to the taxpayer, *viz*:

> We laid down the rule that the Commissioner of Internal Revenue should always indicate to the taxpayer in **clear and unequivocal language what constitutes his final determination of the disputed assessment**, thus:
>
> > . . . we deem it appropriate to state that the Commissioner of Internal Revenue should always indicate to the taxpayer in clear and unequivocal language whenever his action on an assessment questioned by a taxpayer constitutes his final determination on the disputed assessment, as contemplated by Sections 7 and 11 of Republic Act No. 1125, as amended. On the basis of his statement indubitably showing that the Commissioner's communicated action is his final decision on the contested assessment, the aggrieved taxpayer would then be able to take recourse to the tax court at the opportune time. Without needless difficulty, the taxpayer would be able to determine when his right to appeal to the tax court accrues.
> >
> > The rule of conduct would also obviate all desire and opportunity on the part of the taxpayer to continually delay the finality of the assessment — and, consequently, the collection of the amount demanded as taxes — by repeated requests for recomputation and reconsideration. On the part of the Commissioner, this would encourage his office to conduct a careful and thorough study of every questioned assessment and render a correct and definite decision thereon in the first instance. This would also deter the Commissioner from unfairly making the taxpayer grope in the dark and speculate as to which action constitutes the decision appealable to the tax court. Of greater import, this rule of conduct would meet a pressing need for fair play, regularity, and orderliness in administrative action.
>
> In this case, the letter of demand dated January 24, 1991, unquestionably constitutes the final action taken by the Bureau of Internal

[1] G.R. No. 135210, July 11, 2001.
[2] G.R. No. 148380, December 9, 2005.

Revenue on petitioner's request for reconsideration when it reiterated the tax deficiency assessments due from petitioner, and requested its payment. Failure to do so would result in the "issuance of a warrant of distraint and levy to enforce its collection without further notice." In addition, the letter contained a notation indicating that petitioner's request for reconsideration had been denied for lack of supporting documents.

The above conclusion finds support in *Commissioner of Internal Revenue v. Ayala Securities Corporation*, where we held:

> The letter of February 18, 1963 (Exh. G),in the view of the Court, is tantamount to a denial of the reconsideration or [respondent corporation's] ...protest o[f] the assessment made by the petitioner, considering that the said letter [was] in itself **a reiteration of the demand by the Bureau of Internal Revenue for the settlement of the assessment already made**, and for the **immediate payment** of the sum of P758,687.04 in spite of the vehement protest of the respondent corporation on April 21, 1961. This certainly is a clear indication of the firm stand of petitioner against the reconsideration of the disputed assessment ... This being so, the said letter amount[ed] to a decision on a disputed or protested assessment, and, there, the court *a quo* did not err in taking cognizance of this case.

Similarly, in *Surigao Electric Co., Inc. v. Court of Tax Appeals*, and in *CIR v. Union Shipping Corporation*, we held:

> ...In this letter, the commissioner not only in effect demanded that the petitioner pay the amount of P11,533.53 but also gave warning that in the event it failed to pay, the said commissioner would be constrained to enforce the collection thereof by means of the remedies provided by law. The **tenor of the letter, specifically the statement regarding the resort to legal remedies, unmistakably indicate[d] the final nature of the determination** made by the commissioner of the petitioner's deficiency franchise tax liability. (Emphases supplied)

In *Commissioner of Internal Revenue vs. South Entertainment Gallery, Inc.*[3], the Supreme Court reiterated its ruling in *Surigao Electric Co., Inc. vs. Court of Tax Appeals*[4], to wit:

> It was under the factual backdrop of *Surigao Electric Co., Inc.* that this Court admonished Commissioner to **indicate in clear and unequivocal language what constitutes final action on a disputed assessment** to avoid repeated requests for reconsideration by the taxpayer. This is also **to avoid the taxpayer grope in the dark as to which communication or action from the Bureau of Internal Revenue may be the decision appealable to the tax court.**

3 G.R. No. 225809, March 17, 2021.
4 G.R. No. L-25289, June 28, 1974.

In *Allied Banking Corporation vs. Commissioner of Internal Revenue*,[5] moreover, the Supreme Court held:

> The Commissioner of Internal Revenue (CIR) as well as his duly authorized representative **must indicate clearly and unequivocally to the taxpayer whether an action constitutes a final determination on a disputed assessment. Words must be carefully chosen in order to avoid any confusion that could adversely affect the rights and interest of the taxpayer**.
>
> xxx xxx xxx
>
> xxx We have time and again reminded the CIR to indicate, in a clear and unequivocal language, whether his action on a disputed assessment constitutes his final determination **thereon in order for the taxpayer concerned to determine when his or her right to appeal to the tax court accrues**. xxx (Emphases supplied)

Section 3.1.6 of Revenue Regulations (RR) No. 12-99, as amended by RR No. 13-2018, in addition, reads:

> 3.1.6 Administrative Decision on a Disputed Assessment. – The decision of the Commissioner or his duly authorized representative shall (a) state the **facts, applicable law, rules and regulations, or jurisprudence** on which such decision is based, **otherwise, the decision shall be void**, in which case, the same shall **not be considered a decision on a disputed assessment**; and (b) that the same is his **final decision**. (Emphases supplied)

In *Commissioner of Internal Revenue vs. Liquigaz Philippines Corporation*[6], the Supreme Court held that the FDDA, like the Formal Letter of Demand and Final Assessment Notice (FLD/FAN), **must also state the law and facts on which it is based**, *viz*:

> Nevertheless, the requirement of providing the taxpayer with written notice of the facts and law used as basis for the assessment is not to be mechanically applied. Emphasis on the purpose of the written notice is important. The requirement should be in place so that the taxpayer could be adequately informed of the basis of the assessment enabling him to prepare an intelligent protest or appeal of the assessment or decision. xxx
>
> xxx xxx xxx
>
> Thus, substantial compliance with the requirement under Section 228 of the NIRC is permissible, provided that the taxpayer would be eventually **apprised in writing of the factual and legal bases of the assessment to allow him to file an effective protest against.**

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[5] G.R. No. 175097, February 5, 2010.

[6] G.R. Nos. 215534 & 215557, April 18, 2016.

> The above-cited cases refer to the compliance of the FAN/FLD of the due process requirement embodied in Section 228 of the NIRC and RR No. 12-99. These may likewise [be] **applied to the FDDA, which is similarly required to include a written notice of the factual and legal bases thereof**. Without sounding repetitious, it is important to note that Section 228 of the NIRC did not limit the requirement of stating the facts and law only to the FAN/FLD. On the other hand, **RR No. 12-99 detailed the process of assessment and required that both the FAN/FLD and the FDDA state the law and facts on which it is based**. (Emphases supplied)

Considering the foregoing, the letter dated January 22, 2018, which contains the statement, "In view of the failure of the corporation to take action to our letter dated April 10, 2017, the entire tax docket of the case shall be forwarded to Revenue District Office No. 110, General Santos City for the enforcement of collection", cannot be deemed as the final decision of respondent or his duly authorized representative on the disputed assessment.

Notably, the January 22, 2018 letter does not state that it constitutes the final decision on the Protest, nor does it set forth the facts and the law upon which it is based. It merely informs petitioner that the entire tax docket of its case shall be forwarded to Revenue District Office No. 110, General Santos City for the "enforcement of collection". It is silent on, and thus fails to resolve, petitioner's Protest filed on January 23, 2017.

It bears emphasis that the earlier-mentioned April 10, 2017 letter merely required petitioner to submit a Waiver of the Defense of Prescription under the Statute of Limitations before respondent would act on its Protest. Such requirement merely grants respondent more time to determine the merits of the Protest, his request for a Waiver is neither a demand for additional supporting documents nor a resolution of, or even a step toward resolving, the substantive issues raised in the Protest.

It is also noted that petitioner replied to the January 22, 2018 letter. In its letter dated March 15, 2018,[7] petitioner informed Regional Director (RD) Esmeralda M. Tabule that it is still "waiting for the resolution" of its Protest. In her reply on April 18, 2018,[8] RD Tabule again reiterated the referral of the entire tax docket to the Collection Division of Revenue Region No. 18 for enforcement of collection. Nowhere is it indicated therein that the letter dated January 22, 2018 of RD Tabule already resolved petitioner's Protest. Truth to tell, both the April 18, 2018 and the January 22, 2018 letters failed to refer to or address petitioner's Protest. RD Tabule, moreover, did not mention any demand for the immediate payment of petitioner's alleged deficiency taxes.

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[7] BIR Records, p. 748.
[8] Exhibit "P-13" and Exhibit "R-10", *Id.*, p. 750.

Petitioner, on May 16, 2018, again replied to the RD Tabule's May 16, 2018 letter.[9] In petitioner's letter, it reiterated that it had filed a valid protest and that the same should be given due course, otherwise, it would be deprived of its right to due process. RD Tabule, in her letter dated July 12, 2018[10], responded to petitioner and stated that the latter may avail itself of the remedies under Section 204 of the National Internal Revenue Code (NIRC) of 1997, as amended, to wit:

> As stated in your letter, you may avail of the remedies provided for under **Section 204 of the Tax Code** and related revenue issuances, if applicable, subject to the evaluation of the Regional Evaluation Board and National Evaluation Board and approval of the Commissioner of Internal Revenue.

RD Tabule, thus, expressly informed petitioner that it may avail of the remedies under Section 204 of the NIRC, as amended. This provision reads:

> **SEC. 204.** ***Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. –***
>
> The Commissioner may –
>
> *(A) Compromise the payment of any internal revenue tax, when:*
>
> (1) A reasonable doubt as to the validity of the claim against the taxpayer exists; or
>
> (2) The financial position of the taxpayer demonstrates a clear inability to pay the assessed tax.
>
> xxx
>
> *(B) Abate or cancel a tax liability, when:*
>
> (1) The tax or any portion thereof appears to be unjustly or excessively assessed; or
>
> (2) The administration and collection costs involved do not justify the collection of the amount due.
>
> All criminal violations may be compromised except: (a) those already filed in court, or (b) those involving fraud.
>
> *(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority*, xxx

By extending this option, RD Tabule effectively acknowledged that the matter was still subject to further consideration by respondent, including the

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[9] *Id.*, pp. 815 to 823.
[10] Exhibit "P-15" and Exhibit "R-11", *Id*, p. 825.

possible grant of a tax compromise, abatement, refund or credit, if warranted and approved by respondent.

If petitioner was, thus, still being given the opportunity to avail of these administrative remedies, it necessarily follows that the January 22, 2018 letter could not have been intended as, nor treated as, the final decision on the disputed assessment.

In sum, the January 22, 2018 letter did not provide, in clear and unequivocal manner, that the same was respondent's final decision on petitioner's Protest. The 30-day period for petitioner to file its judicial appeal of the assessment, therefore, did not commence on the day of its receipt of the said letter.

It is my humble view that, if a letter of the same tenor is to be considered the final decision on the disputed assessment, it would create uncertainty for the taxpayer as to which ruling is properly appealable to this Court and the reckoning period within which such an appeal must be filed. This situation is problematic because it may effectively deprive the taxpayer of judicial remedy. The taxpayer's appeal to this Court could be viewed as prematurely filed, on the ground that no final decision had yet been issued by the CIR, or, as the *ponencia* suggests, deemed filed out of time for the taxpayer's failure to elevate the appeal within 30 days from receipt of the said letter.

Nevertheless, the instant *Petition* was timely filed, i.e. within 30 days from petitioner's receipt of the WDL. The Court, thus, has jurisdiction over the instant case.

The assessment is void; consequently, the WDL is likewise void.

All told, I **VOTE** to **GRANT** the **Petition** filed on April 1, 2019.

CORAZON G. FERRER-FLORES
Associate Justice