REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 3046** (CTA Case No. 10316)
	Present:
- versus -	**RINGPIS-LIBAN,** ***P.J.,*** **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** ***JJ.***
FORD GROUP PHILIPPINES, INC., Respondent.	Promulgated: MAY 19 2026 4:10 p.m.

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DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Commissioner of Internal Revenue (**petitioner/CIR**) pursuant to Section 11[2] of

[1] Filed on 09 January 2025, *rollo*, pp. 10-25. Emailed on 10 January 2025, id., p. 9.

[2] **SEC. 11.** Section 18 of the same Act is hereby amended as follows:
SEC. 18. *Appeal to the Court of Tax Appeals En Banc.* - No civil proceeding involving matter arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.
A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA *en banc*.

Republic Act (**RA**) No. 9282[3] in relation to Section 3(b),[4] Rule 8 of the Revised Rules of the Court of Tax Appeals[5] (**RRCTA**). It seeks to reverse and set aside the Decision dated 15 July 2024[6] (**assailed Decision**) and the Resolution dated 29 November 2024[7] (**assailed Resolution**) of this Court's Second Division[8] in CTA Case No. 10316, entitled *"Ford Group Philippines, Inc. v. Commissioner of Internal Revenue."*

Both assailed Decision and Resolution granted respondent Ford Group Philippines, Inc.'s (**respondent**'s) prior "Petition for Review"[9] (**prior petition**) and cancelled the deficiency value-added tax (**VAT**) assessment in the amount of ₱120,332,694.77 as contained in the Final Decision on Disputed Assessment[10] (**FDDA**) of 29 June 2020 that the Bureau of Internal Revenue (**BIR**) had issued against it.

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

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3 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

4 **SEC. 3**. *Who May Appeal; Period to File Petition.* —

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(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

5 A.M. No. 05-11-07-CTA.

6 Division Docket, Volume III, pp. 1018-1051.

7 Id., pp. 1077-1082.

8 Penned by Associate Justice (now Presiding Justice) Ma. Belen M. Ringpis-Liban and concurred by Associate Justice Maria Rowena Modesto-San Pedro and Associate Justice Corazon G. Ferrer-Flores.

9 Division Docket, Volume I, pp. 6-23.

10 Exhibit "P-9", BIR Records, Folder 1, pp. 450-452.

11 See par. 1, Joint Stipulation of Facts and Issues (**JSFI**), Division Docket, Volume II, p. 515.

Respondent, on the other hand, is registered with the Securities and Exchange Commission (**SEC**) as the Philippine branch of FGP, Incorporated, a foreign corporation organized and existing under the laws of Delaware U.S.A.[12] Its principal place of business is located at the 8th floor, Filinvest One Building, Northgate Cyberzone, Filinvest City, Alabang, Muntinlupa City.[13] Respondent is engaged in the wholesale distribution and importation of automotive vehicles, parts and components and providing services relating to the same.[14] It is also registered with the BIR with Tax Identification Number (**TIN**) 206-377-654-00000.[15]

The antecedent facts follow.

On 27 May 2016, respondent received Letter of Authority (**LOA**) No. AUDM52/007212/2016/SN:eLA201500034357 dated 25 May 2016,[16] authorizing Revenue Officers (**ROs**) Leo Aldrin Reyes (**Reyes**), Alvin Joseph Rago (**Rago**) and Group Supervisor (**GS**) Lydia Vito (**Vito**) of the Large Taxpayers Service (**LTS**), to examine respondent's books of accounts for VAT for the period of 01 January 2015 to 31 December 2015, or taxable year (**TY**) 2015.

On 18 April 2017, respondent received the Preliminary Assessment Notice[17] (**PAN**) of even date, together with the Details of Discrepancies.[18] There, respondent was assessed initially with a deficiency VAT of ₱723,466,887.40, inclusive of a compromise penalty of ₱75,000.00. On 03 May 2017, respondent filed its Reply to the PAN and submitted various supporting documents to contest the assessment against it.[19]

Thereafter, or on 10 November 2017, petitioner issued the Formal Letter of Demand[20] (**FLD**) with Details of Discrepancies[21] which

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[12] Exhibit "P-2", SEC License No. A1200002512 dated 22 February 2000, id., Volume III, p. 850.
[13] See par. 2.1, Petition for Review, supra at note 9, p. 7.
[14] Exhibit "P-2", supra at note 12.
[15] Exhibit "P-3", Division Docket, Volume III, pp. 878-879.
[16] Exhibit "P-4", BIR Records, Folder 1, p. 1.
[17] Exhibit "P-5", id., pp. 295-296.
[18] Exhibit "R-6-A', id., pp. 293-294.
[19] Exhibit "P-6", id., pp. 319-329.
[20] Exhibit "P-7", id., pp. 404-405.
[21] Id., pp. 372-374.

reduced the deficiency VAT assessment to ₱512,966,981.42. However, the compromise penalty of ₱75,000.00 was retained. Respondent received the said notices on 24 November 2017.[22]

On 22 December 2017, unable to agree with the BIR's issuances, respondent, by way of a request for reinvestigation, filed its Protest against the FLD.[23] On 20 February 2018, respondent filed a Supplemental Protest to submit additional supporting documents relative to the initial Protest it filed.[24]

On 20 February 2019, respondent issued the Memorandum of Assignment[25] (**MOA**) which reassigned the continuation of the investigation of respondent's books to RO Luzviminda A. Pedrosa (**Pedrosa**), Ailyn R. Ongoco (**Ongoco**), Roselainie M. Magandia (**Magandia**) and GS Fatima P. Sarrosa (**Sarrosa**). Based on their recommendation,[26] on 29 June 2020, petitioner issued the FDDA[27] and the Audit Result/Assessment Notice[28] (**AN**) which further reduced the VAT deficiency assessment to ₱120,332,694.77 and this time, the compromise penalty was removed or cancelled. Based on the FDDA, the VAT deficiency assessment comprised of the following three (3) components, to wit:

1. Vatable Sales Booked as Zero-rated Sales – ₱520,471,920.52;
2. Disallowed Input Tax for Non-compliance of Invoicing Requirements – ₱8,900,000.66; and
3. Deficiency and Delinquency Interests on the Basic Deficiency VAT – ₱48,976,063.64.

Respondent received the FDDA and AN on 13 July 2020.[29]

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[22] See the written notation in the lower right portion of the Formal Letter of Demand (FLD) supra at note 20, p. 405.
[23] Exhibit "P-8", BIR Records, Folder 2, pp. 1330-1340.
[24] Id., p. 1345.
[25] Id., Folder 1, p. 415
[26] See Memorandum for Caesar R. Dulay, id., pp. 439-446.
[27] Supra at note 10.
[28] BIR Records, Folder No. 4, p. 449.
[29] See written notations on the lower portion of the Final Decision on Disputed Assessment (FDDA), supra at note 10, p. 452; see written notation on the lower portion of the. Audit Result/Assessment Notice, id.

PROCEEDINGS BEFORE THE COURT

Undaunted, on 12 August 2020, respondent (then petitioner) filed the prior petition[30] before this Court. The same was docketed as CTA Case No. 10316 and it was raffled to the Court's Third Division.[31] Summons was thereafter issued.[32]

Subsequently, on 16 November 2020, petitioner (then respondent) filed the Answer[33] where he or she countered that respondent's sale of automobiles to Westcoast Automotive Corporation or Ford Subic (**Ford Subic**) are subject to twelve percent (12%) VAT. Under Revenue Memorandum Circular (**RMC**) No. 50-2007,[34] the sale of cars, vehicles or automobiles to a special Freeport Zone enterprises shall be subject to zero percent (**0%**) VAT provided the said vehicles or automobiles are exclusively used within the Freeport Zone. However, in respondent's case, petitioner claimed that it failed to prove the same.

In a Resolution dated 07 December 2020, the case was scheduled for mediation.[35] However, the parties agreed not to have their case mediated.[36]

After petitioner transmitted the BIR Records to the Court,[37] the case was set for Pre-Trial Conference on 08 June 2021.[38] Accordingly, respondent filed its Pre-Trial Brief[39] on 05 March 2021 while petitioner filed his or her Pre-Trial Brief[40] on 03 June 2021.

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30 Supra at note 9.
31 Then composed of Associate Justice Erlinda P. Uy (Ret.), as Chairperson, Associate Justice (now Presiding Justice) Ma. Belen M. Ringpis-Liban and Associate Justice Maria Rowena Modesto-San Pedro, as Members.
32 Division Docket, Volume I, p. 267.
33 Id., pp. 287-297.
34 Tax Treatment of Sale, Barter or Exchange of Goods or Properties or Sale or Exchange of Services Made by Suppliers from the Customs Territory to Registered Freeport Zone Enterprises in the Subic Freeport Zone (SFZ), the Clark Freeport Zone (CFZ), as well as the Poro Point Freeport Zone (PPFZ), and Vice Versa under Sections 12 and 15 of Republic Act No. 7227, as amended by Republic Act No. 9400.
35 Division Docket, Volume I, pp. 308-309.
36 Id., p. 331.
37 See Compliance filed on 15 January 2021, id., pp. 326-328.
38 See Resolution dated 28 January 2021, id., pp. 333-334.
39 Id., pp. 335-343.
40 Id., pp. 465-468.

During the Pre-Trial Conference which proceeded *via* video conference,[41] the parties were directed to submit their Joint Stipulation of Facts and Issues (**JSFI**) within thirty (30) days from hearing date, or until 08 July 2021.[42] After an extension of time[43] was granted unto the parties to file the same, the Court received the parties' JSFI on 19 July 2021.[44] In a Resolution dated 27 July 2021, the Third Division approved the JSFI and terminated the pre-trial.[45] Accordingly, the Pre-Trial Order[46] was issued on 29 July 2021.

In the trial that ensued, respondent presented two (2) witnesses namely: (1) Jo Anne T. Matas (**Matas**), respondent's Tax Manager; and (2) Conrado M. Briones (**Briones**), the court-commissioned Independent Certified Public Accountant (**ICPA**).

Matas was first to assume the witness stand. Based on her Judicial Affidavit,[47] respondent's sale of ₱520,395,473.90 to Ford Subic is exempt from the imposition of 12% VAT. According to Matas, pursuant to Section 106(A)(2)(a)(5)[48] of the NIRC of 1997, as amended,[49] sales to persons or entities who are exempted by virtue of a special law effectively subject the said sales to 0% VAT. She adds that

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41 See Notice of Hearing dated 07 June 2021, id., pp. 470-471; Order dated 08 June 2021, id., pp. 473-475.

42 See Order dated 08 June 2021, id.

43 See Urgent Motion for Extension of Time to File Joint Stipulation of Facts and Issues, id., Volume II. pp. 496-498; Resolution dated 26 July 2021, id., pp. 527-528.

44 Id., pp. 515-523.

45 Then composed of (ret.) Associate Justice Erlinda P. Uy as chairperson, (former Associate Justice) Presiding Justice Ma. Belen M. Ringpis-Liban and Associate Justice Maria Rowena Modesto-San Pedro as members, id., pp. 530-531.

46 Id., pp. 541-547.

47 Exhibit "P-14", Judicial Affidavit of Jo-Anne T. Matas, id., Volume I, pp. 349-360.

48 **SEC. 106**. *Value-Added Tax on Sale of Goods or Properties*. –

(A) *Rate and Base of Tax*. - There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to ten percent (10%) of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor: Provided, That the President, upon the recommendation of the Secretary of Finance, shall, effective January 1, 2006, raise the rate of value-added tax to twelve percent (12%)[.]

...

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) Export Sales. - The term '**export sales**' means:

...

(5) Those considered export sales under Executive Order NO. 226, otherwise known as the Omnibus Investment Code of 1987, and other special laws.

49 The applicable tax code is Republic Act No. 9337 prior to the amendment of Republic Act No. 10963 (TRAIN) and Republic Act No. 12066 (CREATE) considering that the subject period is taxable year 2015.

under Section 4.106-5[50] of Revenue Regulations (**RR**) No. 16-2005,[51] as amended by RR No. 04-2007,[52] sales to enterprises registered and accredited with the Subic Bay Metropolitan Authority (**SBMA**) shall be considered as constructive exports and entitled to VAT zero-rating. Hence, the sales of automotives to Ford Subic, coupled with the issuances of Certificate of Registration and Tax Exemptions[53] and Certificate of Tax Exemption[54] (to Ford Subic) and zero-rated sales invoices, are VAT zero-rated sales.

Matas further explained that the alleged disallowed input tax of ₱8,900,000.66 was already paid as evidenced by the payment form dated 30 June 2020[55] and eFPS payment details with payment transaction no. 205134532.[56] Lastly, Matas averred that the FDDA of 29 June 2020 merely requested respondent to pay the alleged deficiency VAT which is not tantamount to a demand.

During her cross-examination, Matas said that respondent is not privy to the subsequent sales transactions of Ford Subic to its customers; thus, she has no personal knowledge on whether the vehicles that respondent sold to Ford Subic are used outside the Freeport Zone.[57]

No redirect examination was conducted.[58]

Upon the Court's inquiry regarding the disallowance of input tax due to the noncompliance with the invoicing requirements, Matas explained that the relevant invoices did not separately indicate the VAT component, hence, the BIR disallowed the corresponding input taxes.[59]

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[50] SEC. 4.106-5. *Zero-Rated Sales of Goods or Properties.*
[51] Consolidated Value-Added Tax Regulations of 2005.
[52] Amending Certain Provisions of Revenue Regulations No. 16-2005, As Amended, Otherwise Known as the Consolidated Value-Added Tax Regulations of 2005.
[53] Exhibit "P-10", Division Docket, Volume III, p. 883.
[54] Exhibit "P-10-A", id., p. 884.
[55] Exhibit "P-11", id., p. 886.
[56] Exhibit "P-12", id., p. 887.
[57] TSN dated 07 December 2021, pp. 17-19.
[58] Id., p. 19.
[59] Id., pp. 19-20.

Briones testified next. Based on the Judicial Affidavit,[60] he declared that the details of the procedures performed and the relevant findings were summarized in the ICPA Report dated 19 November 2021,[61] while the supporting documents (that were examined) were saved in a USB,[62] both of which were submitted to this Court. As a result of his audit, he recommended that the basic tax assessment of ₱71,356,631.13 (stated in the FDDA) should be reduced to ₱817,110.34. As for the disallowed input tax of ₱8,900,000.66, he no longer verified nor examined the documents relevant thereto as respondent had alleged that this was already paid.

Petitioner did not conduct any cross-examination.[63]

On 08 June 2022, respondent filed its Formal Offer of Evidence[64] (**FOE**) offering Exhibits "**P-1**" to "**P-36**", inclusive of sub-markings. After petitioner's Comment,[65] except for Exhibits "**P-22**", "**P-23**", "**P-24**", "**P-25**", "**P-26**" and "**P-30**"[66] (exclusive of the sub-markings) which were not found in the records and Exhibits "**P-33**" and "**P-34**"[67] for failure of the identified exhibits to correspond with the documents actually marked, the Third Division admitted respondent's offered exhibits.[68]

Aggrieved, respondent moved for the Court to reconsider the admission of the denied exhibits.[69] However, even without petitioner's objections, the Third Division maintained the denial of the aforementioned documents.[70]

On petitioner's part, he or she presented his or her lone witness, RO Reyes, who testified that: (1) he was one (1) of the assigned examiners authorized through the LOA to audit respondent's books

60 Exhibit "P-35", Division Docket, Volume II, pp. 795-811.
61 Exhibit "P-15", id., pp. 669-767.
62 Exhibit "P-36".
63 TSN dated 11 May 2022, p. 5.
64 Division Docket, Volume III, pp. 832-841.
65 See "Comment/Opposition (To Petitioner's Formal Offer of Evidence)", id., pp. 889-891.
66 Exhibits "P-16" to "P-34", inclusive of sub-markings were offered as "Supporting Documents of the ICPA Report".
67 Id.
68 See Resolution dated 27 September 2022, Division Docket, Volume III, pp. 905-908.
69 See Motion for Reconsideration to the Resolution dated September 27, 2022, id., pp. 910-912.
70 See Resolution dated 07 December 2022, id., pp. 925-927; petitioner filed a Manifestation (in *lieu* of COMMENT), id., pp. 920-922.

for TY 2015; (2) he recommended the issuance of the PAN and the FLD after finding respondent's supporting documents insufficient to controvert the deficiency VAT assessment; (3) respondent paid a portion of the tax liability contained in the FLD before filing the Protest by way a request for a reinvestigation; and (4) the reinvestigation was assigned to different BIR officers.[71]

During the cross-examination, RO Reyes said that within 120 days from the LOA's issuance, the BIR sent respondent multiple requests for the presentation of documentary requirements relevant to the audit. When asked if the BIR issued a Notice of Informal Conference (**NIC**) or Notice of Discrepancy (**NOD**), RO Reyes answered in the negative stating that he did not see them in the BIR Records. Lastly, he confirmed that the subject LOA was not revalidated.[72]

No redirect examination was conducted.[73]

Subsequently, on 17 February 2023, petitioner filed his or her FOE[74] and offered Exhibits "**R-1**" to "**R-9**",[75] inclusive of the sub-markings. After respondent filed its Comment,[76] the Third Division

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71 See Exhibit "R-10", Judicial Affidavit of Revenue Officer Leo Aldrin Reyes, id., Volume I, pp. 314-322.

72 TSN dated 01 February 2023, pp. 4-7.

73 Id., p. 7.

74 See "[Petitioner's] Formal Offer of Evidence", Division Docket, Volume III, pp. 932-938.

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Exhibit No.	Description
"R-1"	Letter of Authority No. SN: eLA201500034357 dated May 25, 2016
"R-2"	Notice for the Presentation/Submission of Documents dated May 26, 2016
"R-3"	Reminder Before Issuance of Subpoena Duces Tecum dated June 7, 2016
"R-4"	Reminder Before Issuance of Subpoena Duces Tecum dated September 5, 2016
"R-5"	Memorandum dated April 3, 2017
"R-6"	Preliminary Assessment Notice (PAN) dated April 18, 2017
"R-6-A"	Details of Discrepancies attached to the PAN
"R-7"	Memorandum dated October 14, 2017
"R-8"	Formal Letter of Demand (FLD) dated November 10, 2017
"R-8-A"	Details of Discrepancy attached to the FLD
"R-9", "R-9-A", "R-9-B", and "R-9-C"	BIR Investigation Records, (Four Folders)

76 See "Comment (On [Petitioner's] Formal Offer of Evidence)", Division Docket, Volume III, pp. 940-941.

noted that petitioner failed to mark the documents he or she was supposed to offer in the FOE. Thus, it directed petitioner to mark the said documents in a Commissioner's Hearing.[77] Thereafter, petitioner filed his or her Amended FOE.[78]

In the interim, pursuant to Administrative Circular No. 01-2023,[79] the case was transferred to the Second Division[80] in view of the reorganization of the divisions of the Court of Tax Appeals (**CTA**).

In a Resolution dated 23 June 2023,[81] the Second Division admitted all of petitioner's offered exhibits. Further, it directed the parties to file their respective memoranda. Accordingly, petitioner filed his or her Memorandum[82] on 31 July 2023 while respondent filed its Memorandum[83] on 07 August 2023. Subsequently, the case was submitted for decision.[84]

On 15 July 2024, the Second Division promulgated its assailed Decision[85] cancelling and setting aside petitioner's deficiency VAT assessment against respondent. The dispositive portion reads:

> ...
>
> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**. Accordingly, the FLD dated November 10, 2017 and the FDDA dated June 29, 2020 issued against [respondent] for deficiency VAT assessment in the aggregate amount of **₱120,332,694.77**, inclusive of interest, for taxable year 2015 are **CANCELLED** and **SET ASIDE.**
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> **SO ORDERED.**
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> ...

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77 See Resolution dated 14 April 2023, id., pp. 944-945.
78 Id., pp. 954-960.
79 See Notice dated 13 June 2023, id., p. 961.
80 Then composed of Associate Justice (now Presiding Justice) Ma. Belen M. Ringpis-Liban as Chairperson, Associate Justice Maria Rowena Modesto-San Pedro and Associate Justice Corazon G. Ferrer-Flores, as Members.
81 Division Docket, Volume III, pp. 963-965.
82 Id., pp. 966-978.
83 Id., pp. 980-1014.
84 See Minute Resolution dated 15 August 2023, id., p. 1016.
85 Supra at note 6.

In resolving respondent's prior petition, the Second Division found that respondent's right to due process was not violated. It declared that an examination of the FLD reveals that petitioner considered respondent's defenses and pieces of evidence (submitted in its Reply to the PAN), thereby reducing the VAT deficiency assessment from ₱723,391,887.40 to ₱512,966,981.42.

Further, an examination of the FDDA also showed that petitioner removed most of the line-item assessments (such as the sales/receipts not subjected to VAT, undeclared sales, non-deferment of input tax, and overclaimed input tax, among others) thus decreasing the total VAT deficiency amount to ₱120,332,694.77.

The Second Division also pointed out that there was a demand to pay a definite liability. Referring to both the FLD and the FDDA, it explained that there is a computation of a definite and fixed VAT liability which respondent is required to pay. The Second Division also emphasized that while the wordings of the notices appear to be respectful (particularly referring to the word "requested"), this does not affect respondent's obligation to pay the VAT deficiency assessment.

Notwithstanding the foregoing, the Second Division nevertheless determined that respondent's VAT liability must be withdrawn and cancelled, applying RA 7227,[86] as amended by RA 9400,[87] which states that no national and local taxes shall be imposed within the Subic Special Economic Zone. Citing *Secretary of Finance Cesar B. Purisima, et al. v. Representative Carmelo F. Lazatin, et al.*,[88] it also held that the Supreme Court declared that Freeport Zones enjoy tax and duty-free incentives on its importations. In respondent's case, it was able to present the Certificate of Registration and Tax Exemption No. 2009-0019 dated 30 May 2015[89] and Certificate of Tax Exemption No. 2009-0004 dated 30 May 2014[90] to prove that Ford Subic is a duly registered

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86 AN ACT ACCELERATING THE CONVERSION OF MILITARY REVERVATIONS INTO OTHER PRODUCTIVE USES. CREATING THE BASES CONVERSION AND DEVELOPMENT AUTHORITY FOR THIS PURPOSE. PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES.

87 AN ACT AMENDING REPUBLIC ACT NO. 7227. AS AMENDED. OTHERWISE KNOWN AS THE BASES CONVERSION AND DEVELOPMENT ACT OF 1992. AND FOR OTHER PURPOSES.

88 G.R. No. 210588, 29 November 2016.

89 Supra at note 53.

90 Supra at note 54.

enterprise within the SBMA, thus sales made to the said entity are not subject to 12% VAT.

The Second Division also declared that the limitation imposed under RMC No. 50-2007 on the exclusive use of the vehicle within Freeport Zone is not a requirement under RA 7227 and RA 9400. Hence, the supplemental requirement which appears to override the law will not be countenanced. It also ruled that there is no basis for the unidentified zero-rated sales of ₱76,442.62. According to it, there is no discrepancy as between the amount of the zero-rated sales declared *per* VAT returns and those reported in the Summary List of Sales (**SLS**).

Additionally, the Second Division observed that petitioner provided no justification for the deduction of ₱356,700,166.09, representing the excess input tax carried forward to the succeeding quarters from respondent's available input tax for TY 2015. Thus, being non-compliant with Section 228[91] of the NIRC of 1997, as amended, the same was set aside.

Expectedly, petitioner filed his or her Motion for Reconsideration[92] (**MR**) on 02 August 2024, stating that the Second Division erred in ruling that respondent's sale of automobiles to Ford Subic qualifies for VAT zero-rating. Petitioner reiterated that respondent did not present evidence to prove that the vehicles were exclusively used within SBMA pursuant to RMC No. 50-2007.

Unfortunately for petitioner, the Second Division still did not find merit in the arguments forwarded for it to set aside its findings in the assailed Decision.[93]

On 19 December 2024, petitioner filed a "Motion for Extension to File Petition for Review"[94] (**Motion for Extension**) before the Court *En Banc* and sought for an additional fifteen (15) days from 26 December 2024, or until 10 January 2024, to file the petition. In a

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[91] **SEC. 228.** *Protesting of Assessment.*
[92] Division Docket, Volume III, pp. 1052-1062.
[93] Supra at note 6.
[94] *Rollo*, pp. 1-4.

Minute Resolution dated 02 January 2025,[95] the Court *En Banc* granted the Motion for Extension.

On 09 January 2025, petitioner filed the instant Petition for Review.[96] After respondent filed its Comment and Opposition[97] on 07 March 2025, the case was referred to the Philippine Mediation Center – Court of Tax Appeals (**PMC-CTA**) for mediation.[98] However, the parties decided not to have the case mediated.[99] Subsequently, the instant petition was submitted for decision.[100]

ISSUE

Before Us, the main issue for resolution is —

> WHETHER THE SECOND DIVISION ERRED IN RULING THAT RESPONDENT FORD GROUP PHILIPPINES, INC. IS NOT LIABLE FOR DEFICIENCY VALUE-ADDED TAX (VAT) IN THE TOTAL AMOUNT OF ₱120,332,694.77, INCLUSIVE OF SURCHARGES AND PENALTIES, FOR TAXABLE YEAR (TY) 2015.

In support of the above issue, petitioner maintains that the sales of vehicles made to Ford Subic are subject to 12% VAT. Still anchoring his or her main argument on RMC No. 50-2007, petitioner insists that VAT zero-rating shall only apply to sale of ordinary cars and vehicles on the condition that these are exclusively used within the Freeport Zones.

Petitioner adds that such limitation is consistent with the "Cross-Border Doctrine" which the Supreme Court explained in the cases of *Commissioner of Internal Revenue v. Seagate Technology (Philippines)*[101] (**Seagate**) and *Commissioner of Internal Revenue v. Toshiba Information Equipment (Phils.), Inc.*[102] (**Toshiba**). There, the Supreme

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95 Id., p. 8.
96 Supra at note 1.
97 See "Comment and Opposition (to the Petition for Review dated 09 January 2025)", *rollo*, pp. 75-79. Emailed on 07 March 2025, id., p. 82.
98 See Minute Resolution dated 02 April 2025, id., p. 83.
99 See PMC-CTA Form 6 – No Agreement to Mediate dated 23 April 2025, id., p. 84.
100 See Minute Resolution dated 21 May 2025, id., p. 85.
101 G.R. No. 153866, 11 February 2005.
102 G.R. No. 150154, 09 August 2005.

Court discussed that under the "Cross-Border" principle of the VAT system, no VAT shall be imposed to form part of the cost of goods destined for consumption *outside of the territorial border of the Philippine taxing authority*. However, when the goods are destined for use or consumption and services are to be rendered within the Philippines, these shall be subject to 12% VAT.

Petitioner also avers that respondent failed to dispute the following line-item assessments: (1) it did not explain why the sales or receipts of ₱260,680,999.54 were not subjected to VAT; (2) it did not counter the disallowance of input tax of ₱8,900,000.66 due to violation in the invoicing requirement; and (3) its liability to delinquency and deficiency interests.

Respondent, on the other hand, counters that the Second Division did not err in declaring that the sales made to Ford Subic qualify for VAT zero-rating. Applying RA 7227 as amended by RA 9400, Subic Bay Freeport Zone (**SBFZ**) is deemed a foreign territory. Hence, any sales made to enterprises duly registered within SBFZ are considered as constructive exports, thus may not be imposed with the 12% VAT.

RULING OF THE COURT *EN BANC*

Before going into the merits of the case, We deem it propitious to first determine whether the Court *En Banc* has jurisdiction over the present petition.

THE COURT *EN BANC* HAS JURISDICTION OVER THE PRESENT PETITION.

The Second Division issued the assailed Resolution[103] denying petitioner's MR on 29 November 2024. Petitioner, through the Office of the Solicitor General (**OSG**), received the said assailed Resolution on 06 January 2025.[104]

[103] Supra at note 7.

[104] See Notice of Resolution dated 29 November 2024, Division Docket, Volume III, p. 1076.

Under Section 2(a)(1),[105] Rule 4 in relation to Section 3(b),[106] Rule 8 of the RRCTA, petitioner had 15 days from 06 January 2025, or until **21 January 2025**, within which to file an appeal before this Court. On **09 January 2025**, petitioner filed the instant Petition for Review.[107] Accordingly, the Court *En Banc* acquires jurisdiction over the case.

We now proceed to the merits of the case.

As earlier stated, petitioner's main assignment of error is the Second Division's declaration that sales made to Ford Subic, an entity registered within SBMA, qualify for VAT zero-rating despite its failure to prove that the sold vehicles were exclusively used within the SBFZ pursuant to RMC No. 50-2007.

RESPONDENT'S SALES OF CAR AND VEHICLES TO FORD SUBIC, AN ENTITY DULY REGISTERED WITHIN A FREEPORT ZONE, IS SUBJECT TO ZERO PERCENT (0%) VALUE-ADDED TAX (VAT).

Pursuant to Section 106(A)(2)(a)(5), in relation to Section 108(B)(3), of the NIRC of 1997, as amended, sales of goods or services to persons or entities enjoying tax exemptions under special laws or international agreements shall effectively subject such transactions to a 0% VAT, to wit –

> ...
>
> **SEC. 106**. *Value-Added Tax on Sale of Goods or Properties*. –
>
> (A) *Rate and Base of Tax*. - There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to ten percent (10%) of the gross selling

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105 **SEC. 2**. *Cases within the jurisdiction of the Court en banc*. — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over:
(1) Cases arising from administrative agencies — **Bureau of Internal Revenue**, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture[.] (Emphasis supplied)

106 Supra at note 4.

107 Supra at note 1.

price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferor: Provided, That the President, upon the recommendation of the Secretary of Finance, shall, effective January 1, 2006, raise the rate of value-added tax to twelve percent (12%)[.]

...

(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

(a) *Export Sales*. - The term '**export sales**' means:

...

(5) Those considered export sales under Executive Order No. 226, otherwise known as the "Omnibus Investments Code of 1987," and other special laws[.]

...

SEC. 108. *Value-Added Tax on Sale of Services and Use or Lease of Properties*. -

...

(B) *Transactions Subject to Zero Percent (0%) Rate*. - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

...

(3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjected the supply of such services to zero percent (0%) rate[.]

...

Relative thereto, Section 12 of RA 7227,[108] as amended by RA 9400,[109] otherwise known as the *Bases Conversion and Development Act of 1992* (**BCDA**), reads as follows:

...

SEC. 12. *Subic Special Economic Zone*. — ...

...

108 Supra at note 86.

109 Supra at note 87.

> (b) **The Subic Special Economic Zone shall be operated and managed as a separate customs territory** ensuring free flow or movement of goods and capital within, into and exported out of the Subic Special Economic Zone, as well as provide incentives such as tax and duty-free importations of raw materials, capital and equipment. However, exportation or removal of goods from the territory of the Subic Special Economic Zone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Tariff and Customs Code of the Philippines, as amended, the National Internal Revenue Code of 1997, as amended, and other relevant tax laws of the Philippines;
>
> (c) The provision of existing laws, rules and regulations to the contrary notwithstanding, **no national and local taxes shall be imposed within the Subic Special Economic Zone**. In lieu of said taxes, a five percent (5%) tax on gross income earned shall be paid by all business enterprises within the Subic Special Economic Zone and shall be remitted as follows: three percent (3%) to the National Government, and two percent (2%) to the Subic Bay Metropolitan Authority (SBMA) for distribution to the local government units affected by the declaration of and contiguous to the zone, namely: the City of Olongapo and the municipalities of Subic, San Antonio, San Marcelino and Castillejos of the Province of Zambales; and the municipalities of Morong, Hermosa and Dinalupihan of the Province of Bataan, on the basis of population (50%), land area (25%), and equal sharing (25%).[110]

...

Corollary, the implementing rules and regulation (**IRR**)[111] of RA 7227 provides:

...

SECTION 3. *Definitions.* — For purposes of these Rules, these terms shall be understood to have the following meanings:

...

> g. [Subic Bay Freeport] *SBF Enterprise* — refers to **any business entity or concern within the SBF duly registered with and/or licensed by the SBMA** to operate any lawful economic activity within the SBF.

---

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

111 Rules and Regulations Implementing the Provisions Relative to the Subic Special Economic and Freeport Zone (SSEFZ) and the Subic Bay Metropolitan Authority (SBMA) Under Republic Act No. 7227, otherwise known as the "Bases Conversion and Development Act of 1992."

h. *Certificate of Registration* — **refers to the certificate issued by the SBMA representing the registration of the business entity as an SBF Enterprise.**

...

SECTION 21. *Effect of Issuance of Certificates.* — **Issuance of the Certificate of Registration or Residency to an SBF Enterprise or Resident, respectively, shall entitle and subject the business enterprise or resident to all the benefits and obligations under the Act and these Rules**, and other regulations that may be promulgated by the SBMA, subject to the provisions of Section 5 and 13 hereof.[112]

...

From the foregoing, since SBFZ is viewed as a separate customs territory by legal fiction, sales of goods and services made by a VAT-registered person in the Philippine customs territory to an entity registered and operating within the SBFZ are considered exports to a foreign country subject to 0% VAT. By analogy, in the case of *Toshiba,*[113] the Supreme Court elucidated thusly —

...

This Court agrees, however, **that PEZA-registered enterprises, which would necessarily be located within ECOZONES, are VAT-exempt entities**, not because of Section 24 of Rep. Act No. 7916, as amended, which imposes the five percent (5%) preferential tax rate on gross income of PEZA-registered enterprises, in lieu of all taxes; but, rather, **because of Section 8 of the same statute which establishes the fiction that ECOZONES are foreign territory**.

... An ECOZONE or a Special Economic Zone has been described as —

> ... [S]elected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist, recreational, commercial, banking, investment and financial centers whose metes and bounds are fixed or delimited by Presidential Proclamations. An ECOZONE may contain any or all of the following: industrial estates (IEs), export processing zones (EPZs), free trade zones and tourist/recreational centers.

---

112 Italics in the original text, emphasis and underscoring supplied.
113 Supra at note 102; Citations omitted and emphasis supplied.

> The national territory of the Philippines outside of the proclaimed borders of the ECOZONE shall be referred to as the Customs Territory.
>
> Section 8 of Rep. Act No. 7916, as amended, mandates that the PEZA shall manage and operate the ECOZONES as a separate customs territory; thus, creating the fiction that the ECOZONE is a foreign territory. As a result, sales made by a supplier in the Customs Territory to a purchaser in the ECOZONE shall be treated as an exportation from the Customs Territory. Conversely, sales made by a supplier from the ECOZONE to a purchaser in the Customs Territory shall be considered as an importation into the Customs Territory.
>
> Given the preceding discussion, what would be the VAT implication of sales made by a supplier from the Customs Territory to an ECOZONE enterprise?
>
> **The Philippine VAT system adheres to the Cross[-]Border Doctrine, according to which, no VAT shall be imposed to form part of the cost of goods destined for consumption outside of the territorial border of the taxing authority. Hence, actual export of goods and services from the Philippines to a foreign country must be free of VAT**; while, those destined for use or consumption within the Philippines shall be imposed with ten percent (10%) [12%] VAT.[114]
>
> ...

Indeed, as petitioner aptly pointed out, the "Cross-Border Doctrine" mandates "that no VAT shall be imposed to form part of the cost of goods destined for consumption outside the territorial border of the taxing authority".[115] On the other hand, the "Destination Principle" requires that "goods and services are taxed only in the country where these are consumed."[116]

Based on the foregoing, in order for a sale of goods and services to SBMA-registered entities within the SBFZ to qualify for VAT zero-rating under Sections 106(A)(2)(a)(5)[117] and 108(B)(3)[118] of the NIRC of 1997, as amended, the following essential elements must be present —

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114 Id., citations omitted and emphasis supplied.
115 *Commissioner of Internal Revenue v. Filminera Resources Corporation*, G.R. No. 236325, 16 September 2020; Citations omitted.
116 Id.
117 See pp. 15-16.
118 See p. 16.

1. The sale was made by a VAT-registered person;

2. The sale of goods must be to an SBMA-registered entity; and

3. It must be shown that the goods were consumed, or the services were rendered in the SBFZ.

As regards the *first* element, it is undisputed that respondent is a VAT-registered entity as evidenced with the Certificate of Registration No. 8RC0000356759.[119]

Relative to the *second* essential element, the sales under consideration are the sales to Ford Subic. To prove that Ford Subic is duly registered with SBMA, respondent presented Ford Subic's Certificate of Registration and Tax Exemption No. 2009-0019 dated 30 May 2015[120] and Certificate of Tax Exemption No. 2009-0004 dated 30 May 2014,[121] covering the period 30 May 2014 until 30 May 2017 (which includes the period subject [*i.e.*, TY 2015] of the present case).

Anent the *third* essential element, the Supreme Court, in *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue*[122] (**2016 Coral Bay**), denied Coral Bay's appeal upon finding that the *locus* of the subject purchases of goods and services was **within the economic zone (ECOZONE)** and that such purchases were destined for consumption therein. Consequently, the transactions should have been zero-rated, and Coral Bay was not entitled to claim a refund for purchases already falling within the ambit of 0% VAT, to wit:

> ...
>
> The petitioner's principal office was located in Barangay Rio Tuba, Bataraza, Palawan. Its plant site was specifically located inside the Rio Tuba Export Processing Zone — a special economic zone (ECOZONE) created by Proclamation No. 304, Series of 2002, in relation to Republic Act No. 7916. As such, the purchases of goods and services by the petitioner that were destined for consumption within the ECOZONE should be free of VAT; hence, no input VAT

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119 Exhibit "P-3", supra at note 15.
120 Exhibit "P-10", supra at note 53.
121 Exhibit "P-10-A", supra at note 54.
122 G.R. No. 190506, 13 June 2016; Citations omitted.

> should then be paid on such purchases, rendering the petitioner not entitled to claim a tax refund or credit. Verily, if the petitioner had paid the input VAT, the CTA was correct in holding that the petitioner's proper recourse was not against the Government but against the seller who had shifted to it the output VAT following RMC No. 42-03, which provides[.]
>
> ...

Apropos is the recent case of *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue*[123] (**2025 Coral Bay**), the Supreme Court sustained Coral Bay's appeal, holding this time that Coral Bay had sufficiently established that the goods in question were consumed, and the services rendered, **outside the ECOZONE**, viz:

> ...
>
> **VAT is a tax on consumption**. As such, the [C]ross-[B]order [D]octrine and the "[D]destination [P]rinciple" apply. Indeed, the situs of VAT is determined by **where goods are consumed or where services are rendered**.
>
> ...
>
> Applied to the present case, the CTA *En Banc* erred in treating Coral Bay as an absolutely VAT-exempt entity and declaring that its purchase of services outside of the ecozone should likewise be subject to zero-rating.
>
> **Having been consumed outside of the ecozone, the [C]ross-[B]order [D]octrine finds no application**. The same could not have been deemed "exported" to Coral Bay. Having been rendered within the Philippines' customs territory, it is naturally subject to national internal revenue laws such as VAT.
>
> ...

By parity of reasoning, sales to SBMA-registered enterprises are *not* automatically zero-rated. It is still incumbent upon the taxpayer to establish the *locus* of the transaction, *i.e.*, the place of consumption of goods or the rendering of services, is within the SBFZ, which is recognized as a separate customs territory *akin* to an ECOZONE.

---

123 G.R. Nos. 251333-34, 05 March 2025; Citations omitted and emphasis supplied.

In the case at bar, respondent has satisfactorily discharged this burden. The sales invoices[124] issued to Ford Subic explicitly state: (1) the description of the vehicles or parts sold; (2) the dates and destinations of delivery; and (3) the acknowledgment of receipt by Ford Subic personnel within the SBFZ. Unmistakably, the details show that the *locus* of the subject transactions was within the SBFZ. Accordingly, the Court *En Banc* holds that the *third* essential element of zero-rating under the "Cross-Border Doctrine" has been duly satisfied.

PETITIONER CANNOT RELY ON THE ADDITIONAL REQUIREMENT OF "EXCLUSIVITY USE" IMPOSED BY REVENUE MEMORANDUM CIRCULAR (RMC) NO. 50-2007.

We also cannot agree with petitioner that the relevant sales should be imposed with 12% VAT since respondent failed to prove that the sold vehicles were used exclusively within the SBFZ pursuant to RMC No. 50-2007. The relevant part thereof reads –

> ...
> SECTION 3. *Clarificatory Questions and Answers.* —
> ...
>
> Q5: *What is the coverage of VAT zero-rating?*
>
> A5: The zero-rating will cover sale, barter, exchange or lease of all goods, properties and/or services by a VAT-registered seller/contractor from the Customs Territory to a Freeport Zone-registered enterprise and shall include, among others, the following:
>
> a. The sale/supply of ordinary cars, vehicles, automobiles, specialized vehicles or other transportation equipment, **provided that these are used exclusively within the subject special Freeport Zones**[.][125]
>
> ...

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124 See Exhibits "P-22-a" to "P-22-qd", "P-23-a" to "P-23-qq, "P-24-a" to "P-24-b", "P-25-a" to "P-25-c" and "P-26-a" to "P-26-bz", USB (Exhibit "P-36").

125 Italics in the original text and emphasis supplied.

However, as discussed above, such requirement is not availing under Section 106(A)(2)(a)(5), in relation to Section 108(B)(3), of the NIRC of 1997, as amended; Section 12 of RA 7227 as amended by RA 9400; and its IRR, in order for the sales made to entities registered within SBMA to be subject to 0% rate.

Basic is the rule that where the law does not distinguish, the courts should not distinguish. *Ubi lex non distinguit, nec nos distinguere debemus*. No distinction should be made in the application of the law where none has been indicated. Courts are tasked only with interpreting the law; it cannot read into the law what is not written therein.[126]

Further, in *MCC Industrial Sales Corporation v. Ssangyong Corporation*,[127] the Supreme Court ruled that an IRR of a statute cannot extend or expand its coverage, *viz* –

> ...
> After all, the power of administrative officials to promulgate rules in the implementation of a statute is necessarily limited to what is found in the legislative enactment itself. **The implementing rules and regulations of a law cannot extend the law or expand its coverage, as the power to amend or repeal a statute is vested in the Legislature. Thus, if a discrepancy occurs between the basic law and an implementing rule or regulation, it is the former that prevails, because the law cannot be broadened by a mere administrative issuance – an administrative agency certainly cannot amend an act of Congress.**
> ...

Here, the subject RMC is an administrative ruling issued by the CIR to clarify the tax treatment of sale, barter or exchange of goods or properties, or sale or exchange of services made by suppliers from the Philippine customs territory to registered Freeport Zones such as SBFZ. While it is widely accepted that an interpretation by executive officers, whose duty is to enforce the law, is entitled to great respect from the courts; such interpretation is, however, not conclusive and will be disregarded if found to be incorrect.[128] Verily, courts are not

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126 *Raul F. Macalino v. Commission on Audit*, G.R. No. 253199, 14 November 2023.

127 G.R. No. 170633, 17 October 2007; Citations omitted and emphasis supplied.

128 *Mitsubishi Corporation-Manila Branch v. Commissioner of Internal Revenue*, G.R. No. 175772, 05 June 2017.

expected to countenance administrative issuances that override or inconsistent with the law they seek to implement,[129] such as in this case. Thus, absent the "exclusivity use" in the relevant provisions of the NIRC of 1997, as amended, and the BCDA, the Court cannot sustain the alleged additional requirement under RMC No. 50-2007 before respondent's sales to Ford Subic can be treated as zero-rated sales.

THE OTHER LINE-ITEM ASSESSMENTS ARE VOID FOR LACK OF FACTUAL AND LEGAL BASES.

Lastly, petitioner's allegations that respondent is still liable for the disallowed input tax of ₱8,900,000.66, and the delinquency and deficiency interests of ₱48,976,063.64, are baseless and unfounded.

An examination of the records reveals that respondent had already paid the disallowed input tax of ₱8,900,000.66 and the incremental penalties of ₱6,158,570.31 on 30 June 2020.[130] Moreso, in view of the above disquisitions, there is no basic VAT deficiency assessment to which the penalty interests may be imposed on. Tersely, being a void assessment, the same bears no fruit.[131]

WHEREFORE, premises considered, petitioner Commissioner of Internal Revenue's Petition for Review filed on 09 January 2025 is **DENIED** for lack of merit. Accordingly, the assailed Decision dated 15 July 2024 and assailed Resolution dated 29 November 2024, of the Second Division in CTA Case No. 10316, entitled "*Ford Group Philippines, Inc. v. Commissioner of Internal Revenue*", are hereby **AFFIRMED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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129 Id.

130 Supra at notes 55 and 56.

131 *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue*, G.R. No. 241848, 14 May 2021.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ON OFFICIAL BUSINESS

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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