REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

EVERWING PROFEM CORPORATION Petitioner,	**CTA CASE NO. 11082** Members:
-versus-	**RINGPIS-LIBAN,** *PJ,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: FEB 10 2026 4:05 p.m.

x -- x

DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Petition for Review,[1] filed on February 3, 2023 by petitioner Everwing Profem Corporation against respondent Commissioner of Internal Revenue ("CIR"), praying that the Court declare as void the tax assessments for the 2019 taxable period in the amount of Seventy Six Million Two Hundred Forty Nine Thousand and Three Hundred Sixty Eight & 38/100 Pesos (₱76,249,368.83), plus interest and compromise penalty in the aggregate amount of Ninety Eight Million Five Hundred Thirty Four Thousand Two Hundred Thirty & 62/100 Pesos (₱98,534,230.62) issued against petitioner.

The Parties[2]

Petitioner Everwing Profem Corporation is a corporation duly organized and existing under Philippine laws with principal place of business at 24 Mangga Road, Cubao, Quezon City, and is engaged in the importation, wholesale, and distribution of consumer products to department stores,

[1] Docket, Vol. I, pp. 1-162.
[2] Docket, Vol. II, pp. 390-391.

supermarkets and groceries nationwide. Petitioner is a registered taxpayer of the Bureau of Internal Revenue, Revenue District Office No. 40 – Cubao, Quezon City, with Taxpayer Identification Number 009-694-528.

Respondent is the duly appointed Commissioner of Internal Revenue, officially responsible for the assessment and collection of all national internal revenue taxes, fees and charges, and the enforcement of all forfeitures, penalties and fines connected with such taxes. He is represented by the Legal Division of Revenue Region No. 7A – Quezon City which holds office at 5th Floor (Roof Deck) Room 516 Fisher Mall, Quezon Avenue, Quezon City, where he may be served with summons and other legal processes.

The Facts

On December 4, 2020, respondent served to petitioner Letter of Authority (LOA) No. SN: eLA201700076757/LOA-040-2020-00000859, dated November 26, 2020,[3] through BIR Revenue Region No. 7A – Quezon City, Revenue District No. 40 – Cubao. The LOA gave authority to Revenue Officer (RO) – Charmaine Follante and Group Supervisor (GS) – Josefina Lopez to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for the period from January 1, 2019 to December 31, 2019.

A First Notice, dated January 15, 2021,[4] was thereafter sent to petitioner requesting for the presentation of the documents listed in order to ascertain the correct internal revenue tax liabilities that may be due. The same was received by petitioner on January 19, 2021.

A Second and Final Notice, dated February 8, 2024,[5] was then received by petitioner on February 9, 2021.

On June 16, 2021, respondent personally served to petitioner a Notice of Discrepancy (NOD) with Details of Discrepancies (DOD), dated June 9, 2021,[6] finding the following:

Salaries, Wages, and benefits not subjected to WC	₱830,279.04
Undeclared sales	₱10,027,539.94
Unsupported expenses	₱168,592,377.21
Unsupported creditable withholding tax	₱347,789.53
Undeclared sales not subject to VAT	₱10,027,539.94
Disallowed input tax	₱21,784,378.19
EWT basic tax due	₱720,639.06

r

[3] BIR Records, p.36.
[4] *Id*, pp. 37-38.
[5] *Id*, pp. 39-40.
[6] *Id*, pp. 124-126.

Petitioner then filed its reply[7] to the NOD with DOD on July 30, 2021 arguing that respondent incorrectly used the "Basic SMW per year column" in the amount of ₱2,298,948 as Gross Compensation instead of the amount of ₱3,129,227 in the alphalist; that respondent should have used the alphalist submitted by petitioner's customers to validate the alleged unsupported creditable withholding tax; and that petitioner is not a Top Withholding Agent (TWA).

On August 11, 2022, respondent sent to petitioner a Preliminary Assessment Notice (PAN)[8] with DOD via registered mail finding petitioner liable for basic deficiency taxes of Income Tax, Value-Added Tax (VAT), and Expanded Withholding Tax (EWT) in the amount of Seventy Six Million Two Hundred Forty Nine Thousand Three Hundred Sixty Eight & 83/100 Pesos (₱76,249,368.83) plus interest and compromise penalty amounting in the aggregate amount of Ninety Seven Million Five Hundred Thirty One Thousand Four Hundred Ninety Nine & 20/100 Pesos (₱97,531,499.20).

Petitioner received the subject PAN on September 6, 2022, giving them 15 days, or until September 21, 2022, to file a reply.

On September 21, 2022, petitioner filed its reply[9] to the PAN, denominated as Request for Immediate Resolution (PAN-Protest), arguing that respondent's right to assess VAT and EWT had already prescribed.

A Formal Letter of Demand (FLD) with DOD[10] and Final Assessment Notice (FAN),[11] all dated September 5, 2022 was later received by petitioner on September 30, 2022. These documents disclosed that petitioner was liable for the same basic tax deficiencies of Income Tax, VAT, and EWT as stated in the PAN, plus additional interest and compromise penalty totaling to Ninety Eight Million Five Hundred Thirty Four Thousand Two Hundred Thirty & 62/100 Pesos (₱98,534,230.62).

Given that the FLD/FAN, dated September 5, 2022, was received by petitioner on September 30, 2022, petitioner had 30 days, or until October 31, 2022, within which to file its protest.

Petitioner filed a total of three protests within the time allowed by law, or from October 1, 2022 until October 31, 2022. Petitioner filed its protest denominated as Request for Reconsideration (FLD-Protest), dated October 21, 2022[12] on even date. Three days later, or on October 24, 2022, petitioner

---

7 Docket, Vol. I, p. 39.
8 BIR Records, pp. 256-257.
9 Docket, Vol. I, pp. 75-81.
10 BIR Records, pp. 270.
11 *Id*, pp. 271-274.
12 Docket, Vol. I, pp. 129-133.

filed a supplemental protest denominated as FLD-Protest No. 2.[13] After another three days, or on October 27, 2022, petitioner filed another supplemental protest denominated as FLD-Protest No. 3 dated October 26, 2022.[14]

On January 4, 2023, respondent issued Warrant of Distraint and Levy (WDL) No. RR7A-12-09-2022-2569[15] without first issuing a Final Decision on Disputed Assessment (FDDA).

Aggrieved, petitioner filed the instant Petition for Review[16] on February 3, 2023, arguing, among others, that the assessments made by respondent are void for violating petitioner's right to due process, that the assessment on petitioner's first and second quarters of EWT have already prescribed, and that petitioner is not a TWA.

On March 24, 2023, respondent filed a Motion for Extension of Time to File Answer to Petition for Review[17] in view of a delay in the transfer of records within the BIR and their counsel. Respondent thus requested an additional 30 days from March 24, 2023, or until April 23, 2023, to file its answer.

Respondent filed its Answer[18] to the Petition for Review on April 24, 2023. In its answer, respondent insists that this Court has no jurisdiction over the subject matter of the case, and that petitioner prematurely filed the Petition for Review as no decision to the protest has been made at the time of filing.

On the same day, respondent filed with this Court its Pre-Trial Brief,[19] while petitioner filed theirs later that day.[20]

Pre-Trial Conference then ensued on August 29, 2023.[21] Atty. Franchesca Angeline S. Dayrit appeared for the petitioner, while Atty. Neri Danessa B. Labayog appeared as lead counsel for respondent. Both parties agreed to confer and file a Joint Stipulation of Facts and Issues.

On September 21, 2023, this Court issued a Resolution ordering both parties to immediately proceed and appear personally, or through their authorized representatives, at the Philippine Mediation Center Unit – Court of Tax Appeals (PMCU-CTA) on September 25, 2023, with or without the

---

13 *Id*, pp. 134-138.
14 *Id*, pp. 134-139-145.
15 BIR Records, p. 299.
16 *Supra* at 1.
17 Docket, Vol. I, pp. 166-168.
18 *Id*, pp. 170-181.
19 *Id*, pp. 190-197.
20 *Id*, pp. 324-335.
21 *Id*, pp. 338-340.

presence of their counsel for mediation proceedings.[22] However, the attempt at mediation was futile as a No Agreement to Mediate Report[23] was issued on the same day.

On September 28, 2023, the parties filed with this Court their Joint Stipulation of Facts and Issues[24] where it was stated that petitioner would present its witness, Ms. Shara Fae Tangan, on December 5, 2023, while respondent was to present their witnesses, Ms. Charmaine M. Follante and Ms. Czharina V. Tarun, on May 2, 2024. Both parties also agreed that the issue of the instant case is whether or not petitioner is liable for deficiency income tax, VAT, and EWT in the amount of ₱76,249,368.83, and additional interest and compromise penalty in the aggregate amount of Ninety Eight Million Five Hundred Thirty-Four Thousand Two Hundred Thirty & 62/100 Pesos (₱98,534,230.62).[25]

The parties' Joint Stipulation of Facts and Issues was later on admitted and approved through a Resolution dated October 13, 2023.[26] Then, on November 10, 2023, this Court issued a Pre-Trial Order[27] which deemed Pre-Trial terminated.

Petitioner presented ICPA, Mr. Franklin R. Casedo, on January 23, 2024,[28] then its witness, Ms. Shara Fae Tangan, on March 7, 2024.[29] After which, petitioner filed its Formal Offer of Evidence[30] on March 25, 2024.

The Court admitted most of petitioner's offered exhibits but denied Exhibits "P-19" and "P-21" for failure to have the submitted copies compared with their originals.[31]

On July 23, 2024, respondent presented witnesses Ms. Charmaine M. Follante and Ms. Czharina V. Tarun[32] who testified on direct examination by way of their respective judicial affidavits. Respondent thereafter filed his Formal Offer of Evidence[33] on August 22, 2024.

Through a Resolution dated November 29, 2024, [34] the Court admitted all exhibits offered by respondent, except Exhibit "R-15-A", which the Court

---

22 *Id,* p.343.
23 *Id,* p. 358.
24 *Id,* pp. 344-353.
25 *Id.*
26 *Id,* p. 369.
27 *Id,* pp. 390-398.
28 Docket, Vol. II, p. 556.
29 *Id,* p. 565.
30 *Id,* pp. 568-576.
31 *Id,* pp. 765-766.
32 *Id,* p. 767.
33 *Id,* pp. 770-779.
34 *Id,* pp. 791-792.

subjected to its final evaluation and/or appreciation of its probative value as to the issues involved in the instant case.

Petitioner then filed its Memorandum[35] on January 20, 2025, whereas respondent submitted theirs on February 3, 2025.[36]

The case was thus submitted for decision on February 10, 2025.[37]

Hence, this Decision.

The Issue[38]

The lone issue to be resolved in the instant case, as agreed to by the parties is whether or not petitioner is liable for alleged deficiency income tax, VAT, and EWT in the amount of ₱76,249,368.83, plus additional interest and compromise penalty in the aggregate amount of Ninety Eight Million Five Hundred Thirty-Four Thousand Two Hundred Thirty & 62/100 Pesos (₱98,534,230.62).

Arguments of the Parties

In its Memorandum, Petitioner raises the following arguments:[39]

1) Respondent's assessments are void for being in violation of petitioner's right to due process as the FLD was issued on September 5, 2022, prior to petitioner's receipt of the PAN on September 6, 2022;

2) Respondent violated petitioner's right to due process as respondent did not take time to consider petitioner's defenses in its replies to the NOD and PAN; and

3) Petitioner's right to due process was violated by the mere fact that the PAN and FLD contained the same findings, except for the amount of interest and compromise penalty, despite petitioner raising defenses in its replies to the NOD and PAN.

In his Memorandum, Respondent contends the following:[40]

r

35 *Id*, pp. 794-810.
36 *Id*, pp. 813-825.
37 *Id, See* Minute Resolution dated February 10, 2025.
38 *Supra* at 27.
39 *Supra* at 35.
40 *Supra* at 36.

1) The right to assess petitioner's taxes for Taxable Year (TY) 2019 has not prescribed. Hence, petitioner is liable for the deficiency tax assessments for income tax, VAT, and EWT;

2) Petitioner was duly informed of the assessments and was not deprived of due process; and

3) The Court of Tax Appeals in Division has no jurisdiction over the case since the Petition for Review was prematurely filed.

The Ruling of the Court

The Petition for Review must be granted. The assessment against the petitioner is void for being violative of petitioner's right to due process.

The Court in Division has partial *jurisdiction over the instant Petition for Review.*

Respondent insists that the Court in Division has no jurisdiction over the case, claiming that petitioner prematurely filed the instant Petition for Review on its receipt of the WDL issued by respondent, citing *Section 228 of the Tax Code*, which provides that:

> SEC. 228. *Protesting of Assessment.* - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: Provided, however, that a pre-assessment notice shall not be required in the following cases:
>
> (a) When the finding for any deficiency tax is the result of mathematical error in the computation of the tax as appearing on the face of the return; or
>
> (b) When a discrepancy has been determined between the tax withheld and the amount actually remitted by the withholding agent; or
>
> (c) When a taxpayer who opted to claim a refund or tax credit of excess creditable withholding tax for a taxable period was determined to have carried over and automatically applied the same amount claimed against the estimated tax liabilities for the taxable quarter or quarters of the succeeding taxable year; or
>
> (d) When the excise tax due on excisable articles has not been paid; or
>
> (e) When the article locally purchased or imported by an exempt person, such as, but not limited to, vehicles, capital equipment, machineries and spare parts, has been sold, traded or transferred to non-exempt persons.

> The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
>
> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.
>
> 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 one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

Using *Section 228 of the Tax Code* as basis, respondent contends that there is no final decision yet on the assessment issued, and that a WDL is not a final decision by the CIR that is appealable before the CTA through a Petition for Review.[41]

While respondent correctly asserts that there is yet to be issued a final decision on the assessment and that a WDL is not a final decision by the CIR appealable before the CTA sitting in Division, respondent's claim that this Court lacks jurisdiction to take cognizance of the Petition for Review is partly misplaced.

In the case of *Light Rail Transit Authority v. Bureau of Internal Revenue*,[42] (*"LRTA case"*) the Court laid down the rule that issuances relating to BIR's collection efforts lack the legal character of a final decision on its assessment. As such, it does not trigger the finality of a disputed assessment, nor does it represent the Commissioner's conclusive ruling on the taxpayer's liability.

Thus, following the precedent laid down by the *LRTA case*, the WDL cannot be treated as the CIR's final ruling on petitioner's protest. In view of the administrative process still pending, there can be no final and appealable decision for judicial review. Without such decision, the court has no authority to take cognizance of the assessment, in particular.

Collection by the BIR, however, is a separate matter. ſ

---

41 *Supra* at 36.
42 G.R. No. 231238, June 20, 2022.

The validity of a WDL falls within the jurisdiction of this Court. *Section 7(a)(1) of Republic Act (RA) No. 1125, as amended by RA No. 9282*, provides for the jurisdiction of the CTA as a court of special jurisdiction:

> 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;

The doctrine established in *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*[43] *("Philippine Journalists case")* clarifies that the appellate jurisdiction of the CTA is far more expansive than a reading of the law might suggest. While it is often argued that the CTA can only hear cases involving final decision of tax assessments or claims for refunds, the Supreme Court has ruled that the CTA's authority extends to "other matters" arising under the *Tax Code*. This means the CTA is also empowered to oversee the legality of the administrative actions taken by the CIR in the course of enforcing tax laws.

Specifically, this "other matters" jurisdiction allows the CTA to adjudicate the validity of a WDL. The *Philippine Journalists case* emphasizes that the wording of the law is clear and simple, designed to provide taxpayers with a judicial remedy against potentially unauthorized collection efforts. Therefore, if a taxpayer challenges a WDL on the ground that the BIR's right to collect is not yet ripe, the CTA has the clear and undisputed jurisdiction to rule on these specific procedural issues, ensuring that the government's power to collect is exercised within the bounds of what the law provides.

The same is reiterated in the case of *Commissioner of Internal Revenue v. Manila Medical Services,*[44] where the Supreme Court ruled that *Section 7(a)(1) of RA No. 1125, as amended by RA No. 9282*, confers upon the CTA the jurisdiction to decide "other matters" arising under the *Tax Code*, to wit:

> The CIR assails the jurisdiction of the CTA to hear the present case. The CIR argues that the reliance on the WDL as basis for the MMS' Petition for Review was misplaced since the FDDA should be the basis for the action in the CTA.

---

43 G.R. No. 162852, Dec. 16, 2004.

44 *Commissioner of Internal Revenue v. Manila Medical Services, Inc.*, G.R. No. 255473, Feb. 13, 2023.

> Contrary, however, to the CIR's argument, Section 7(a)(1) of Republic Act (RA) No. 1125, as amended by RA No. 9282, which confers upon the CTA the jurisdiction to decide not only cases on disputed assessments and refunds of internal revenue taxes, but also "other matters" arising under the NIRC:
>
> . . .
>
> As explained by the Court in *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division,* the exclusive appellate jurisdiction of the CTA Division is not limited to cases involving decisions of the CIR or matters relating to assessment refunds. The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the BIR. The wording of the provision is clear and simple. It gives the CTA the jurisdiction to determine the validity of the warrant of distraint and levy.

In the instant case, respondent issued WDL No. RR7A-12-09-2022-2589 without having first issued a FDDA addressing petitioner's protest. To further the administrative proceedings, petitioner filed a Petition for Review questioning the validity of the WDL and praying that the assessments made by respondent be declared void for being violative of the right to due process.

Consequently, while this Court cannot assume jurisdiction over the matter of the BIR's assessment and its pending administrative process, We may consider the instant petition as assailing the validity of the WDL in view of the "other matters" clause provided under *Section 7(a)(1) of RA No. 1125, as amended by RA No. 9282.*

The WDL is void given the pendency of petitioner's protest filed with the CIR

Under established legal precedents, the BIR cannot validly issue a WDL unless there is an existing state of tax delinquency. Thus, without the presence of a verified delinquency, the BIR lacks the necessary legal foundation to initiate collection proceedings against a taxpayer.[45]

For such a delinquency to legally exist, there must first be a final determination of the taxpayer's actual liability. Consequently, if the BIR issues a WDL while a protest is still pending, said warrant is considered premature and legally infirm, as the state cannot enforce collection until the debt is certain and no longer subject to dispute.[46]

---

45 *Commissioner of Internal Revenue v. Pacific Hub Corp.*, G.R. No. 252944, Nov. 27, 2024.
46 *Id.*

In applying the ruling under the *LRTA case*, the issuance of the instant WDL was premature and legally infirm considering the pendency of petitioner's protest with the CIR. On such matter, the Court held 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 op 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 3, 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.

Here, given the absence of a FDDA, it is undisputed that the CIR has not yet rendered a decision on petitioner's protest. Thus, the underlying assessment is not yet demandable. Under the doctrine established in the *LRTA case*, a WDL issued against a non-demandable assessment is void *ab initio* and carries no legal force and effect.

In the absence of a final and demandable assessment, the BIR is legally barred from employing summary collection remedies as initiating collection before a tax delinquency is established is not only premature, but it also constitutes a direct violation of the due process safeguards mandated by *Section 228 of the NIRC* and its implementing regulations.

In sum, while the Court lacks the requisite jurisdiction to act on the assessment, We have such jurisdiction over the WDL, which We have found to be null and void.

ACCORDINGLY, the instant Petition for Review, filed on February 3, 2023, is hereby **PARTIALLY GRANTED**. The assailed Warrant of Distraint and/or Levy, dated January 4, 2023, with reference number RR7A-12-09-2022-2569, enforcing the collection of alleged delinquent taxes amounting to P98,534,230.62 is **CANCELLED** and **SET ASIDE**.

Respondent is **ENJOINED AND PROHIBITED** from enforcing collection through such Warrant.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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