REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2905** (CTA Case No. 10018)
	Present:
- versus -	**RINGPIS-LIBAN,** ***P.J.,*** **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** ***JJ.***
JOWELLE'S AUTO PARTS INC., Respondent.	Promulgated: APR 29 2026 2:14

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is Commissioner of Internal Revenue's (**CIR**'s) "Motion for Reconsideration (Re: Decision dated 15 December 2025)"[1] (**MR**) filed on 09 January 2026,[2] *sans* respondent Jowelle's Auto Parts Inc.'s (**respondent**'s) comment thereto.[3]

The MR assails the Court *En Banc*'s Decision[4] promulgated on 12 December 2025 (**assailed Decision**), the dispositive portion of which reads:

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1 *Rollo*, pp. 174-198.
2 With email filing on 12 January 2026.
3 See Records Verification dated 11 March 2026, *Rollo*, p. 202.
4 Id., pp. 138-173.

> ...
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> **WHEREFORE**, with the foregoing considered, the instant Petition for Review filed by petitioner Commissioner of Internal Revenue on 03 May 2024 is **DENIED** for lack of merit. Accordingly, the assailed Decision dated 05 October 2023 and assailed Resolution dated 02 April 2024, of the Special First Division in CTA Case No. 10018, entitled *Jowelle's Auto Parts, Inc. v. Bureau of Internal Revenue*, are hereby **AFFIRMED.**
>
> **SO ORDERED.**
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> ...

We resolve.

Upon an examination of the MR, the Court *En Banc* notes that the CIR did not raise any new arguments, but mere reiterations of the two arguments that he or she already raised in his or her "Petition for Review"[5] filed before the Court *En Banc* on 03 May 2024 (**EB Petition**), and accordingly weighed, considered, and sufficiently ruled upon by the Court *En Banc*, as shown in the assailed Decision.

This notwithstanding, and for purposes of putting these issues to rest, the CIR's arguments shall still be discussed briefly to reinforce the ruling in the assailed Decision.

THE ORIGINAL PETITION OF RESPONDENT JOWELLE'S AUTO PARTS INC. BEFORE THE FIRST DIVISION WAS TIMELY FILED

The CIR re-asserts in his or her MR that respondent failed to file its "Petition for Review with Motion to Suspend Collection of Taxes" before the First Division (**Original Petition**) within the period prescribed under the Revised Rules of the Court of Tax Appeals (**RRCTA**), Section 3, Rule 8 of which provides –

> ...
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> SEC. 3. *Who may appeal; period to file petition.* —

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[5] Id., pp. 7-97, with annexes.

> (a) **A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments** or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction **may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling**, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.[6]
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> ...

According to the CIR, respondent (petitioner in the case before the First Division) should have filed the Original Petition within thirty (30) days from receipt of the Preliminary Collection Letter (**PCL**) on 11 July 2018, or until 10 August 2018. Considering that the respondent filed the Original Petition on 01 February 2019, the same, according to the CIR, was already time-barred.

It is true that in the case of *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*[7] (***SEGI***), the Supreme Court declared that the PCL had a tenor of finality, and that in the absence of a timely protest from the taxpayer, it was reasonable for the CIR to presume that the Formal Letter of Demand and Final Assessment Notice (**FLD/FAN**) had become final, executory, and demandable.

Interestingly, despite recognizing the tenor of finality contained in the PCL, **the Supreme Court *still* ruled that it is <u>not the PCL, but the Warrant of Distraint and Levy</u>, which constitutes the constructive denial of the taxpayer's claim, and thus, appealable to the Court of Tax Appeals (CTA):**

> ...
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> **The Warrant of Distraint and Levy on June 22, 2010 constitutes a constructive denial or rejection of respondent's claim** in its June 19, 2008 letter. **It is petitioner's final decision on respondent's belated protest that is appealable to the Court of**

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6 Emphasis supplied.
7 G.R. No. 225809, 17 March 2021.

> **Tax Appeals.** Respondent should have filed its appeal to the Court of Tax Appeals within 30 days from June 22, 2010, or on July 22, 2010, but it failed to do so. Instead, respondent filed a request for withdrawal and cancellation of the Warrant of Distraint and Levy on September 29, 2010, or 99 days from receipt of the Warrant.[8]
>
> ...

The Supreme Court went on to state that:

> ...
>
> At any rate, in instances when the Commissioner, **without categorically deciding the taxpayer's protest or request for reconsideration or reinvestigation, proceeds with distraint and levy** or institutes an action for collection in the ordinary courts, this Court has considered this as an implied denial. **The taxpayer's remedy then was to appeal to the Court of Tax Appeals within 30 days from the date that it was notified of the warrant** or collection suit.[9]
>
> ...

Here, the CIR did not categorically deny the respondent's request for reinvestigation because, as admitted by the CIR's witnesses themselves, there was no Final Decision on Disputed Assessment (**FDDA**) issued in this case. Instead, the respondent received a PCL, followed by a Final Notice Before Seizure (**FNBS**), and then by a Warrant of Distraint and/or Levy (**WDL**). If we follow the discussion in ***SEGI***, the conclusion would be the same – the thirty (30)-day period to appeal to the CTA should be counted from the date of receipt of the WDL, not the PCL.

The CIR, in insisting that it is the date of receipt of the PCL which should be the reckoning date of the thirty (30)-day period to appeal to the CTA, supports this by asserting that the PCL received by the respondent allegedly contains an unequivocal denial of its prayer for the reversal or reconsideration of the disputed assessment.

This Court is not convinced.

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8 Emphasis supplied.

9 Emphasis supplied.

If We are to indulge the CIR's prayer for this Court to deem the PCL as its final decision which should have been appealed to the Court in Division, it is only appropriate to measure the PCL against the standard of a validly-issued FDDA. Section 3.1.5 of Revenue Regulations (**RR**) No. 18-2013, petitioner's own rules regarding assessments, provides for the requirements of a valid FDDA, to wit:

> ...
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> 3.1.5 ***Final Decision on a Disputed Assessment (FDDA).*** - The decision of the Commissioner or his duly authorized representative shall state the (i) **facts, the applicable law, rules and regulations, or jurisprudence on which such decision is based**, otherwise, the decision shall be void (see illustration in ANNEX "C" hereof), and (ii) **that the same is his final decision.**[10]
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> ...

As already discussed in the assailed Decision, the subject PCL did not provide the facts, law, rules, and regulation on which the decision is based. Neither did it expressly indicate that it is the CIR's final decision on the disputed assessments. In fact, it failed to even mention the respondent's pending request for reinvestigation, which the CIR should have considered in the drafting of the PCL, if such was indeed the CIR's final decision.

The Supreme Court, in *Surigao Electric Co., Inc. v. The Honorable Court of Tax Appeals and Commissioner of Internal Revenue,*[11] (***Surigao Electric***) and reiterated in *Commissioner of Internal Revenue v. Union Shipping Corporation and The Court of Tax Appeals,*[12] both of which were cited in *SEGI,* could not have been any clearer in stating that the CIR should always indicate to the taxpayer in clear and unequivocal language what constitutes his or her final determination of the disputed assessment in order for the taxpayer to know when its right to appeal accrues:

> ...
>
> [W]e 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

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10 Emphasis supplied; citations omitted.
11 G.R. No. L-25289, 28 June 1974.
12 G.R. No. 66160, 21 May 1990.

> disputed assessment, as contemplated by sections 7 and 11 of Republic Act 1125, as amended. On the basis of this indicium 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.**[13]
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> ...

Consistent with the disquisition of the Court *En Banc* in the assailed Decision, the Supreme Court, in *Surigao Electric*, further discussed that for the CIR to do otherwise would undermine the rules of fair play:

> ...
>
> This 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.[14]
>
> ...

Considering the inadequacies of the instant PCL as the CIR's "final decision," it would be unfair to penalize respondent for not construing the PCL as the "final decision" and instead of waiting for the resolution of its request for reinvestigation. Having been left by the CIR in the dark to determine when its appeal period to the CTA begins, the respondent was constrained, and rightfully so, to rely upon the ruling in *SEGI* that it is the WDL (not the PCL) which constitutes the constructive and final denial of the protest. Resultantly, the thirty (30)-day period to appeal to the CTA should be reckoned therefrom.

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[13] Emphasis supplied.
[14] Emphasis supplied.

Given that the respondent received the WDL on 31 January 2019, the filing of the Original Petition on the next day, *i.e.*, 01 February 2019, was clearly on time.

THE EXTRAORDINARY PRESCRIPTIVE PERIOD OF TEN (10) YEARS IS INAPPLICABLE TO THE INSTANT CASE

In its MR, the CIR avers once more that the extraordinary prescriptive period of ten (10) years for the assessment of deficiency taxes applies in this case due to respondent's filing of a false value-added tax (**VAT**) return.

The CIR anchored its claims in the case of *Jose B. Aznar v. Court of Tax Appeals and Collector of Internal Revenue*,[15] (***Aznar***) which applied the extraordinary ten (10)-year prescriptive period to false returns in general, regardless of whether the deviation is intentional or not. However, We reiterate that the rule in *Aznar* has already been abandoned in the 2023 case of *McDonald's Philippines Realty Corporation v. Commissioner of Internal Revenue*[16] (***McDonald's***). Also, the CIR's reliance on the Concurring and Dissenting Opinion of Justice Japar B. Dimaampao in the *McDonald's* case is misplaced, as it is the decision of the majority which forms part of the law of the land and thus, constitutes binding precedent.

In *McDonald's*, the Supreme Court ruled that the extraordinary ten (10)-year assessment period applies to a false return when: (1) the return contains an error or misstatement, and (2) **such error or misstatement was deliberate or willful,** and that it is the CIR's burden to establish the existence of said requisites with clear and convincing evidence.

To properly invoke the application of the extraordinary prescriptive period, the CIR should comply with the following due process requirements:

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15 G.R. No. L-20569, 23 August 1974.
16 G.R. No. 247737, 08 August 2023.

...

ii. Due Process Requirements

(1) **First Due Process Requirement. The assessment notice issued to the taxpayer must clearly state** the following:

(a) **that extraordinary prescriptive period (not the basic three-year period) is being applied, and**

(b) **the bases of allegations of falsity or fraud,** e.g., if the CIR seeks to rely on the presumption of falsity or fraud particularly, the formal notice to the taxpayer must set out the computation by which it ascertained that the misdeclaration in the return surpassed the 30% threshold.

(2) **Second Due Process Requirement.** The tax authorities have not acted in a manner that is inconsistent with the invocation of the extraordinary prescriptive period or have otherwise misled the taxpayer that the basic period will be applied.[17]

...

As discussed in the assailed Decision, the CIR failed to comply with the due process requirements for the proper invocation of the extraordinary prescriptive period of ten (10) years.

On the first due process requirement, the FLDs/FANs in this case never mentioned that the CIR is invoking the extraordinary period. They only imposed a 50% surcharge, which applies when there is willful neglect to file the return or in case of false or fraudulent return willfully made, followed by a general reference to the provisions in the National Internal Revenue Code (**NIRC**) of 1997, as amended, on civil penalties, i.e., Sections 248(A) and (B), and Section 249(A). Glaringly, there was no specific allegation of: (***i***) the CIR's intention to apply the extraordinary prescriptive period of ten (10) years, (***ii***) the bases for the allegations of falsity, nor (***iii***) proof that such falsity was willful and deliberate so as to necessitate the application of the extraordinary prescriptive period.

On the second due process requirement, the CIR's own acts have clearly misled the respondent into believing that the ordinary prescriptive period of three (3) years is being applied, instead of the

17 Emphasis supplied.

extraordinary period. As explained in the assailed Decision: (*i*) **the revenue officers requested for execution of waivers extending the assessment period, (*ii*) the revenue officers hastily issued the PCL, and (*iii*) the CIR never made any allegation of falsity or fraud, not just in the FLDs/FANs, but even in the Answer filed by the CIR before the First Division.**

Clearly, the CIR's belated invocation of the extraordinary prescriptive period, without an ounce of compliance with the due process requirements, is untenable. Consequently, the ordinary prescriptive period of three (3) years for assessment, as provided in Section 203 of the NIRC, applies in this case.

WHEREFORE, in view of the foregoing, the Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision dated 15 December 2025)," filed on 09 January 2026, is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice