REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA *EB* NO. 1766** (CTA Case No. 8862)
	Present:
-versus-	**RINGPIS-LIBAN,** *APJ.,* **MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
NORKIS TRADING COMPANY, INC., Respondent.	Promulgated: NOV 24 2025 2:05 p.m.

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RESOLUTION

MODESTO-SAN PEDRO, J.:

Before the Court is petitioner's *Motion for Reconsideration [re: Decision dated 13 June 2025]*, filed on July 2, 2025, with respondent's *Opposition to the Motion for Reconsideration [Re: Decision dated 13 June 2025] dated July 2, 2025*, filed on August 18, 2025.

Petitioner assails this Court *En Banc*'s Decision, dated June 13, 2025, by arguing that (1) as respondent failed to overturn petitioner's *prima facie* evidence of the falsity of respondent's tax return, the extended 10-year period for assessments is applicable here; and (2) the Court should consider the Indemnity Agreement as it was included in the Bureau of Internal Revenue ("BIR") Records, which had been elevated to the Court during proceedings before the Court in Division.

Respondent counters the above by contending that (1) the Motion is a rehash of petitioner's previous arguments; (2) petitioner failed to actually prove that respondent substantially underdeclared its income; (3) assuming *arguendo* that the

Indemnity Agreement is admissible in evidence, the same does not prove that petitioner earned income; and (4) the regular three-year prescriptive period applies here, so petitioner's assessment had prescribed when he issued it.

We find no merit in the Motion.

Petitioner's insistence that the Indemnity Agreement is admissible in evidence is based on jurisprudence which found that documents in the BIR Records are admissible as evidence, even when these are not individually offered as such. However, this is an exception to the rule, justified when such consideration is done for "the ascertainment of truth", as in *BPI-Family Savings Bank v. Court of Appeals*,[1] or "substantial justice", as in *Hua v. Commissioner of Internal Revenue*.[2]

However, as discussed in the assailed Decision, the Indemnity Agreement does not actually prove that respondent earned income. Petitioner does not argue against this in his Motion. He does not show that the amount respondent received surpassed the loss or damage it incurred. Even assuming *arguendo* that this Court *En Banc* considered the Indemnity Agreement, then, it would still be unconvincing as *prima facie* proof of a substantial underdeclaration on respondent's part.

Having failed to show how or why ignoring the Indemnity Agreement would prevent the ascertainment of truth or substantial justice, petitioner failed to show that the Indemnity Agreement should not be considered forgotten evidence, as an exception to the rule, and that the Court in Division erred in refusing to countenance said document.

Considering that (1) the Indemnity Agreement is not admissible; and (2) even if it were admissible, it fails to prove petitioner's contentions, petitioner's argument in support of the applicability of the 10-year prescriptive period remains unconvincing. Without the Indemnity Agreement, petitioner's evidence is insufficient to prove respondent's alleged substantial underdeclaration. With the Indemnity Agreement, petitioner's evidence is still insufficient, as the document does not, by itself, show that respondent actually earned taxable income. Either way, petitioner failed to prove substantial underdeclaration on respondent's part and consequently has no *prima facie* evidence of the falsity or fraudulence of respondent's return.

Without any evidence of such falsity or fraud, not even *prima facie* evidence, petitioner is unjustified in using the 10-year prescriptive period. The three-year prescriptive period thus applies, and the assessment prescribed by the time petitioner issued it.

In sum, the ruling in the assailed Decision still stands.

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[1] G.R. No. 122480, April 12, 2000.

[2] CTA Case No. 9912, December 7, 2021.

ACCORDINGLY, petitioner's *Motion for Reconsideration [re: Decision dated 13 June 2025]*, filed on July 2, 2025, is hereby **DENIED** for lack of merit. The assailed Decision, dated June 13, 2025, is **AFFIRMED.**

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

INHIBITED

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice