REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

TRAVELLERS INTERNATIONAL HOTEL GROUP, INC.,
Respondent.

CTA EB No. 3007
(CTA Case No. 10445)

Present:

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
JUN 11 2026 4:12 p.m.

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Commissioner of Internal Revenue (**petitioner/CIR**) pursuant to Section 3(b),[2] Rule 8 of the Revised Rules of the Court of Tax Appeals (**RRCTA**). It seeks to

---

[1] Filed on 30 October 2024, *rollo*, pp. 9-24.

[2] **SEC. 3.** *Who may appeal; period to file petition.* —

...

(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.

reverse and set aside the Decision dated 18 April 2024[3] (**assailed Decision**) and the Resolution dated 18 September 2024[4] (**assailed Resolution**) of this Court's Special Third Division in CTA Case No. 10445, entitled *Travellers International Hotel Group, Inc. v. Commissioner of Internal Revenue* and the rendition instead of a new judgment denying respondent Travellers International Hotel Group, Inc.'s (**respondent**'s) Petition for Review before the Special Third Division. Both assailed Decision and Resolution granted respondent's prior "Petition for Review"[5] (**prior petition**) before the Special Third Division and cancelled the Formal Letter of Demand (**FLD**) with Details of Discrepancies (**DOD**) and the Audit Result/Assessment Notices (**ANs**) attached thereto, all dated 13 December 2017,[6] and the Final Decision on Disputed Assessment (**FDDA**) dated 23 October 2020,[7] including the attached ANs.

PARTIES OF THE CASE

Petitioner is the duly appointed CIR with authority, among others, to collect all national internal revenue taxes and to decide disputed assessments and refunds of internal revenue taxes, fees, or other charges in relation thereto, as provided by law.[8] He or she may be served with all notices, pleadings, resolutions, orders, decisions, and other legal processes of this Court at the 7th floor, Room 703, Bureau of Internal Revenue (**BIR**) National Office Building, Agham Road, Diliman, Quezon City.[9]

Respondent, on the other hand, is a domestic corporation duly organized and existing under Philippine laws, with principal office at the 10/F Newport Entertainment & Commercial Centre, Newport Boulevard, Newport Cybertourism Economic Zone, Pasay City, Philippines.[10] It may be served with all notices, pleadings, resolutions,

---

[3] Division Docket, Volume II, pp. 926-938. Penned by Associate Justice Corazon G. Ferrer-Flores with the concurrence of Associate Justice (now Presiding Justice) Ma. Belen M. Ringpis-Liban and Associate Justice Maria Rowena Modesto-San Pedro.

[4] Id., pp. 970-977.

[5] Id., Volume I, pp. 6-266 (with annexes), filed on 07 January 2021.

[6] Exhibit "R-11", BIR Records, pp. 696-703; Exhibit "P-12", Division Docket Volume II, pp. 690-697.

[7] Exhibit "R-13", id., pp. 806-813; Exhibit "P-14", id., Volume I, pp. 271-278.

[8] See Section 4, National Internal Revenue Code of 1997, as amended.

[9] Par. 2, Stipulated Facts, Joint Stipulation of Facts and Issues (**JSFI**), Division Docket, Volume I, pp. 403-404.

[10] Par. 1, id., p. 403.

orders, decisions, and other legal processes of this Court through its counsel with address at Unit 1706-1711, 17th Floor, Tower One & Exchange Plaza, Ayala Triangle, Ayala Avenue, Makati City.[11]

FACTS OF THE CASE

On 09 September 2014, Officer-in-Charge (**OIC**) Assistant Commissioner (**ACIR**) Nestor S. Valeroso (**Valeroso**) of the Large Taxpayers Service (**LTS**) issued Letter of Authority (**LOA**) No. LOA-125-2014-00000067/eLA201100086718[12] authorizing Revenue Officer (**RO**) Kent Salvador (**Salvador**) and Group Supervisor (**GS**) Adora Alberto (**Alberto**) to examine respondent's books of accounts and other accounting records for all internal revenue taxes including Documentary Stamp Tax (**DST**) for the period of 01 January 2013 to 31 December 2013. On 03 October 2014,[13] respondent received the said LOA, together with a Checklist of Requirements[14] requested from it.

After a supposed non-compliance from petitioner's end, Mitchell L. Yu (**Yu**), Chief of the Regular Large Taxpayers Audit Division II, issued a First Notice for the Presentation of Books of Accounts and Other Accounting Records dated 04 November 2014[15] reiterating the BIR's request for documents. Respondent again failed to submit the requested documents, thus, a Second and Final Notice for the Presentation of Books of Accounts and Other Accounting Records was issued on 04 August 2015.[16]

Respondent then requested for more time to submit the requested documents and signed a series of waivers of the statute of limitations on 21 December 2015,[17] 15 June 2016,[18] and 03 February 2017,[19] ultimately extending the period of limitations prescribed in Sections 203 and 222 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, to 31 December 2017.

---

11 See Manifestation (Notice of Counsel's Change of Address) filed on 12 August 2024, id., Volume II, pp. 965-966.
12 Exhibit "R-1", BIR Records, p. 452.
13 Id.
14 Exhibit "R-2" and "R-2-a", id., pp. 450-451.
15 Exhibit "R-3", id., p. 449.
16 Exhibit "R-4", id., p. 448.
17 Exhibit "R-5", id., p. 453.
18 Exhibit "R-6", id., p. 454.
19 Exhibit "R-7", id., p. 455.

Thereafter, on 05 September 2017, RO Salvador and GS Alberto recommended the issuance of a Preliminary Assessment Notice (**PAN**) to respondent through a Memorandum Report for OIC-ACIR Teresita M. Angeles (**Angeles**) of the LTS.[20]

On 24 October 2017, petitioner issued a PAN[21] with Details of Discrepancies finding respondent liable for deficiency income tax, value-added tax (**VAT**), withholding tax on compensation (**WTC**), expanded withholding tax (**EWT**), final withholding tax (**FWT**), and documentary stamp tax (**DST**) for taxable year (**TY**) 2013 amounting to ₱3,089,517,731.77, inclusive of interests, computed as follows:

Tax Type	Basic Tax	Interest[22]	Total
Income Tax	₱ 1,738,913,081.27	₱ 1,215,809,913.26	₱ 2,954,722,994.53
VAT	8,708,635.09	6,518,353.72	15,226,988.81
WTC	2,645,804.06	1,980,366.22	4,626,170.28
EWT	57,639,751.07	43,142,958.88	100,782,709.95
FWT	2,871,005.01	2,144,208.13	5,015,213.14
DST	5,213,111.68	3,930,543.38	9,143,655.06
Total	**₱ 1,815,991,388.18**	**₱ 1,273,526,343.59**	**₱ 3,089,517,731.77**

Respondent agreed with petitioner's findings of deficiency VAT, WTC, EWT, FWT, and DST, and paid the same on 30 October 2017.[23] However, respondent protested petitioner's finding of deficiency income tax in its Reply to the PAN dated 03 November 2017,[24] which was filed on 08 November 2017.[25]

On 04 December 2017, RO Salvador and GS Fe F. Caling (**Caling**) recommended the issuance of a Final Assessment Notice with Formal Letter of Demand and Details of Discrepancies (**FLD/FAN**) through a Memorandum for OIC-ACIR Angeles of the BIR LTS dated 04 December 2017.[26] Thereafter, the FLD, with attached DOD and ANs, was issued on 13 December 2017.[27] In the said FLD, petitioner cancelled the

---

20 Exhibit "R-8", id., pp. 568-580.

21 Exhibit "P-4", Division Docket, Volume II, pp. 596-605; Exhibit "R-9", BIR Records, pp. 586-595.

22 Computed up to 13 October 2017.

23 See Payment Forms (BIR Form No. 0605) and Payment Confirmations, Exhibits "P-5", "P-5-a", "P-6", "P-6-a", "P-7", "P-7-a", "P-8", "P-8-a", "P-9", "P-9-a", "P-10", and "P-10-a", Division Docket, Volume II, pp. 606-622.

24 Exhibit "P-11", id., pp. 623-630.

25 See Case Profile and Antecedents, Memorandum dated 04 December 2017, Exhibit "R-10", BIR Records, p. 693.

26 Exhibit "R-10", id., pp. 687-693.

27 Supra at note 6.

assessments for VAT, WTC, EWT, FWT, and DST, in view of respondent's payment thereof. However, petitioner retained the finding of deficiency income tax with a recalculation of interests and an addition of compromise penalty, as follows:

Tax Type	Basic Tax	Interest[28]	Total
Income Tax	₱ 1,738,913,081.27	₱ 1,306,116,936.60	₱ 3,045,030,017.87
Compromise Penalty	50,000.00	-	50,000.00
Total	**₱1,738,963,081.27**	**₱1,306,116,936.60**	**₱3,045,080,017.87**

On 08 January 2018, maintaining its disagreement with petitioner's position, respondent filed its Reply to the FLD.[29]

Acting on respondent's Reply to the FLD, on 12 January 2018, Chief Edralin M. Silario (**Silario**) of the Large Taxpayers Regular Audit Division 2 referred respondent's case back to RO Salvador and GS Caling.[30] Thereafter, RO Salvador and GS Mariesol G. Girang (**Girang**) issued a Memorandum for CIR Caesar R. Dulay dated 07 February 2019[31] recommending the issuance of the FDDA.

On 09 December 2020,[32] respondent received the FDDA dated 23 October 2020[33] with a modified finding of deficiency income tax and compromise penalty for TY 2013, as follows:

Tax Type	Basic Tax	Interest[34]	Total
Income Tax	₱ 1,732,007,188.59	₱ 1,561,558,700.33	₱3,293,565,888.92
Compromise Penalty	50,000.00	-	50,000.00
Total	**₱ 1,732,057,188.59**	**₱ 1,561,558,700.33**	**₱3,293,615,888.92**

PROCEEDINGS BEFORE THE COURT IN DIVISION

Unsatisfied with petitioner's findings in the FDDA, respondent filed a "Petition for Review"[35] with this Court on 07 January 2021. The

[28] Computed up to 28 December 2017.
[29] Exhibit "P-13", Division Docket, Volume II, pp. 698-707.
[30] See Memorandum of Assignment dated 12 January 2018, BIR Records, p. 755.
[31] Exhibit "R-12", id., pp. 797-800.
[32] Supra at note 7.
[33] Id.
[34] Computed up to 30 April 2019.
[35] Supra at note 5.

case was docketed as CTA Case No. 10445 and was raffled to the Third Division.

In its petition before the Third Division, respondent argued that: (1) as a Philippine Amusement and Gaming Corporation (**PAGCOR**) licensee, its revenues from gaming operations is exempt from income tax; (2) the FLD petitioner issued failed to properly state the legal basis for the deficiency income tax assessment against it because (**a**) petitioner relied merely on Revenue Memorandum Circular (**RMC**) No. 8-2012[36] and RMC No. 33-2013[37] and (**b**) the FLD failed to make a clear and categorical demand for payment of income tax liability; (3) the alleged tax liability was erroneously and improperly computed; and (4) it is not liable to pay the compromise penalty on the alleged deficiency income tax.

The Third Division issued "Summons"[38] dated 28 May 2021 ordering petitioner to file an Answer to the Petition for Review. Following petitioner's receipt of the Summons on 15 June 2021, he or she filed a "Motion for Extension of Time to File Answer"[39] (**Motion for Extension**) on 14 July 2021. In a Resolution dated 28 July 2021,[40] the Third Division granted petitioner's Motion for Extension and gave petitioner a non-extendible period of thirty (30) days from 15 July 2021, or until 14 August 2021, to file his or her Answer. Petitioner was likewise ordered to certify and elevate to the Court, within ten (10) days from filing his or her Answer, the BIR Records of the present case.[41]

On 27 October 2021, petitioner filed his or her Answer[42] essentially interposing the following defenses: (1) respondent is not exempt from income tax on revenues from gaming operations; (2) the assessments

---

36 Circularization of the relevant excerpts from the *En Banc* Supreme Court Decision in the case of *Philippine Amusement and Gaming Corporation (PAGCOR) vs. The Bureau of Internal Revenue, represented herein by Hon. Jose Mario Buñag, in his official capacity as Commissioner of Internal Revenue, public respondent, JOHN DOE and JANE DOE, who are persons acting for, in behalf, or under the authority of Respondent, public and private respondents*, G.R. No. 172087 dated March 15, 2011, on excluding PAGCOR from exemption from corporate Income Tax and the declaration of nullity of the pertinent provisions of Revenue Regulations No. 16-2005 relative to the imposition of 10% VAT on PAGCOR; and subsequently, the *En Banc* Court Resolution dated May 31, 2011 *denying with finality* the relevant motions for partial reconsideration thereto.

37 Income Tax and Franchise Tax Due from the Philippine Amusement and Gaming Corporation (PAGCOR), its Contractees and Licensees.

38 Division Docket, Volume I, p. 281.

39 Id., pp. 283-285.

40 Id., p. 288.

41 Id.

42 Id., pp. 289-300.

against respondent for deficiency income tax for TY 2013 has bases both in fact and in law; (3) respondent was never denied due process as it was accorded every opportunity allowed by law and the rules; and (4) respondent has the duty to prove the alleged impropriety of the assessment since tax assessments are presumed correct.

In compliance with the Third Division's previous directive, petitioner forwarded the entire BIR Records for TY 2013 consisting of one (1) folder with 841 pages on 08 November 2021.[43]

The Pre-Trial Conference was then held on 22 March 2022[44] following the parties' submission of their respective Pre-Trial Briefs on 17 March 2022.[45]

At the Pre-Trial Conference, the Third Division granted the parties a 30-day period, or until 21 April 2022, to file their Joint Stipulation of Facts and Issues (**JSFI**).[46] The parties then filed their JSFI[47] on 20 April 2022 which the Third Division admitted and approved in a Resolution dated 28 April 2022,[48] effectively terminating the pre-trial. A Pre-Trial Order[49] was subsequently issued on 07 July 2022.

In the trial that ensued subsequently, respondent presented its first witness, Atty. Walter L. Mactal (**Mactal**), who testified *via* his Judicial Affidavit.[50] In his testimony, Mactal stated that he has been respondent's Chief Legal Officer since 01 January 2019.[51] He also declared that PAGCOR authorized respondent to establish and operate casinos, thus, it is exempt from income tax pursuant to Presidential Decree (**PD**) No. 1869.[52] Mactal likewise testified that respondent remitted license fees, inclusive of franchise tax, for TY 2013, and that the same shall be in lieu of all taxes with respect to the income component

---

43 See Compliance filed by petitioner on 08 November 2021, id., pp. 302-303.
44 See Order dated 22 March 2022, id., pp. 400-402.
45 Respondent's Pre-Trial Brief., id., pp. 308-320; Petitioner's Pre-Trial Brief, id., pp. 321-325.
46 See Order dated 22 March 2022, supra at note 44.
47 Division Docket, Volume I, pp. 403-415.
48 Id., p. 417.
49 Id., pp. 435-443.
50 Sworn Statement of Atty. Walter L. Mactal to Questions Propounded by Atty. Anna Maria Cindy D. Perez dated 05 January 2021, Exhibit "P-18", id., pp. 39-46.
51 Id.
52 Id.

of respondent's gross gaming revenues.[53] Mactal also identified the documents in support of his statements.[54]

No cross-examination was conducted.[55]

Respondent also presented Dexter R. Moya (**Moya**) who testified that he has been respondent's Assistant Director for Financial Accounting since September 2013.[56] He stated that respondent is registered with BIR RDO No. 126 – LTS. Moya also narrated the events that transpired from respondent's issuance of the PAN up to the issuance of the FDDA, particularly, respondent's payment of the deficiency VAT, WTC, EWT, FWT, and DST after its receipt of the PAN and respondent's filing of a Protest to the PAN and the FLD/FAN maintaining its objection to the income tax assessment on its revenues from gaming operations.[57] He likewise identified the documents in support of his statements, including the PAN dated 24 October 2017,[58] respondent's Protest to the PAN dated 03 November 2017,[59] the FLD/FAN dated 13 December 2017,[60] and respondent's Protest to the FLD/FAN dated 08 January 2018,[61] among others.[62]

During cross-examination, Moya clarified that he was one of the researchers who prepared respondent's protest letter against the FLD.[63] No redirect examination followed.[64]

On 31 August 2022, respondent filed its "Formal Offer of Evidence"[65] (**FOE**) consisting of Exhibits "P-1" to "P-19-a",[66] with

53 Id.
54 Id.
55 TSN dated 16 August 2022, p. 4.
56 Sworn Statement of Mr. Dexter R. Moya to Questions Propounded by Atty. Anna Maria Cindy D. Perez dated 05 January 2021, Exhibit "P-19", Division Docket, Volume I, pp. 47-56.
57 Id.
58 Supra at note 21.
59 Supra at note 24.
60 Supra at note 6.
61 Supra at note 29.
62 Supra at note 56.
63 TSN dated 16 August 2022, p. 6.
64 Id.
65 Division Docket, Volume I, pp. 448-456.
66

Exhibit	Description
"P-1"	[Respondent's] Amended Articles of Incorporation with SEC Certificate of Filing dated March 12, 2014
"P-2"	BIR Certificate of Registration (BIR Form No. 2303) dated October 11, 2019

sub-markings. On 02 September 2022, petitioner filed his or her Comment on respondent's FOE,[67] thus, the same was submitted for resolution on 06 September 2022.[68] In the Resolution dated 15 September 2022,[69] the Third Division admitted all of respondent's offered exhibits.

On 17 November 2022, petitioner presented its lone witness, RO Salvador, who testified *via* his Judicial Affidavit.[70] RO Salvador stated that he was tasked to conduct the audit and investigation of respondent's books of accounts for TY 2013 by virtue of a LOA dated 09 September 2014.[71] He also narrated the events that transpired during

---

"P-3"	Provisional License dated June 2, 2008 between [Respondent] and PAGCOR
"P-4"	[Respondent's] copy of the Preliminary Assessment Notice (PAN), with attached Details of Discrepancies, for total deficiency tax liability of Php3,089,817,731.77 for the calendar year (CY) 2013
"P-5"	Payment Form (BIR Form No. 0605) for payment of value-added tax (VAT) with Filing Reference No. 291700022138692 in the amount of Php15,226,988.81
"P-5-a"	eFPS Payment Confirmation for payment of VAT
"P-6"	Payment Form (BIR Form No. 0605) for payment of withholding tax on compensation (WTC) with Filing Reference No. 291700022138853 in the amount of Php4,626,170.28
"P-6-a"	eFPS Payment Confirmation for payment of WTC
"P-7"	Payment Form (BIR Form No. 0605) for payment of expanded withholding tax (EWT) with Filing Reference No. 291700022186753 in the amount of Php100,782,709.95
"P-7-a"	eFPS Payment Confirmation for payment of EWT
"P-8"	Payment Form (BIR Form No. 0605) for payment of final withholding tax (FWT) with Filing Reference No. 291700022138909 in the amount of Php5,015,213.14
"P-8-a"	eFPS Payment Confirmation for payment of FWT
"P-9"	Payment Form (BIR Form No. 0605) for payment of documentary stamp tax (DST) with Filing Reference No. 291700022139041 in the amount of Php9,143,665.06
"P-9-a"	eFPS Payment Confirmation for payment of DST
"P-10"	Payment Form (BIR Form No. 0605) for payment of compromise penalty with Filing Reference No. 291700022139218 in the amount of Php250,000.00
"P-10-a"	eFPS Payment Confirmation for payment of compromise penalty
"P-11"	Reply to PAN dated November 8, 2017
"P-12"	[Respondent's] copy of the Formal Letter of Demand (FLD) dated December 13, 2017, with attached Details of Discrepancies
"P-13"	[Respondent's] Protest Letter to the FLD filed with the BIR-LTS on January 10, 2018
"P-14"	[Respondent's] copy of the Final Decision on Disputed Assessment (FDDA) dated October 23, 2020 with attached Details of Discrepancies which was received by [respondent's] on December 9, 2020
"P-15"	PAGCOR Certification relative to the License Fees remitted by [respondent] to PAGCOR during CY 2013
"P-16"	[Respondent's] Annual Income Tax Return (BIR Form No. 1702-MX) Mixed Income for CY 2013 stamped received by BIR-LTS on March 19, 2014
"P-17"	[Respondent's] Audited Financial Statements (AFS) for CY 2013
"P-18"	Sworn Statement of Atty. Walter L. Mactal to Questions propounded by Atty. Anna Maria Cindy D. Perez dated January 5, 2021
"P-18-a"	Signature of Atty. Walter L. Mactal
"P-19"	Sworn Statement of Mr. Dexter R. Moya to Questions propounded by Atty. Anna Maria Cindy D. Perez
"P-19-a"	Signature of Mr. Dexter R. Moya

67 Division Docket, Volume II, pp. 853-855.
68 See Notice dated 06 September 2022, id., p. 858.
69 Id., p. 860.
70 Judicial Affidavit of Revenue Officer Kent G. Salvador dated 16 March 2022, Exhibit "R-15", id., Volume I, pp. 331-338.
71 Id.

the assessment of respondent's books of accounts, from the issuance of the LOA up to petitioner's issuance of the FDDA, and identified the pieces of evidence in support thereof.[72] RO Salvador particularly recounted his request for relevant documents from respondent, respondent's execution of three (3) Waivers of the Defense of Prescription Under the Statute of Limitation of the NIRC of 1997, as amended, his recommendation for the issuance of a PAN against respondent as a result of his examination and the subsequent issuance thereof, respondent's filing of a Protest to the PAN, his recommendation for the issuance of a FLD/FAN and the subsequent issuance thereof, respondent's filing of a Protest to the FLD/FAN, and the issuance of the FDDA on respondent's case.

During cross-examination, RO Salvador confirmed that the three (3) waivers of prescription that respondent executed pertain to internal revenue tax liabilities with no specified tax types.[73] Petitioner did not conduct any redirect examination.[74]

On 02 December 2022, petitioner filed his or her FOE[75] consisting of Exhibits "R-1" to "R-15-a",[76] with sub-markings, to which respondent filed its "Comment/Opposition (Re: [Petitioner's FOE] dated December

72 Id.
73 TSN dated 17 November 2022, pp. 3-5.
74 Id., p. 6.
75 Division Docket, Volume II, pp. 867-873.
76

Exhibit	Description
"R-1"	Entitled Letter of Authority No. LOA-125-2014-00000067 / SN: eLA201100086718 dated 9 September 2014
"R-2 and R-2-a"	Checklist of Requirements
"R-3"	First Notice for Presentation of Book of Accounts and Other Accounting Records dated 4 November 2014
"R-4"	Second and Final Notice for Presentation of Book of Accounts and Other Accounting Records dated 4 August 2015
"R-5"	Waivers of the Defense of Prescription under the Statute of Limitation of the National Internal Revenue Code dated 21 December 2015
"R-6"	Waivers of the Defense of Prescription under the Statute of Limitation of the National Internal Revenue Code dated 15 June 2016
"R-7"	Waivers of the Defense of Prescription under the Statute of Limitation of the National Internal Revenue Code dated 3 February 2017
"R-8"	Memorandum dated 5 September 2017
"R-9"	Preliminary Assessment Notice with Details of Discrepancies dated 24 October 2017
"R-10"	Memorandum dated 4 December 2017
"R-11"	Formal Letter of Demand with Details of Discrepancies and assessment notices dated 13 December 2017
"R-12"	Memorandum dated 7 February 2019
"R-13"	Final Decision on Disputed Assessment dated 23 October 2020
"R-14"	BIR Investigation Records consisting of one (1) folder
"R-15 and R-15-a"	Judicial Affidavit of Revenue Officer (RO) Kent G. Salvador / Signature of RO Kent G. Salvador

2, 2022)"[77] on 15 December 2022. In the Resolution dated 02 February 2023,[78] the Third Division admitted petitioner's offered exhibits.

Both parties were then directed to file their respective Memoranda within 30 days from their receipt of the Third Division's Resolution on petitioner's FOE.[79] Prior to this, petitioner manifested that he or she will adopt the arguments stated in the Answer filed on 27 October 2021 as his or her Memorandum.[80] Respondent, on the other hand, filed its Memorandum[81] on 06 March 2023. The case was subsequently submitted for decision on 18 April 2023.[82]

In the now assailed Decision of 18 April 2024,[83] the Special Third Division[84] granted respondent's Petition for Review. The dispositive portion thereof reads:

> ...
>
> **WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED**. Accordingly, the FLD and *Audit Result/Assessment Notices* attached thereto, all dated December 13, 2017, are hereby **CANCELLED and SET ASIDE**.
>
> Furthermore, the FDDA dated October 23, 2020, including the *Audit Result/Assessment Notices* attached thereto, assessing [respondent] for deficiency income tax, inclusive of interests, in the amount of ₱3,293,565,888.92 and compromise penalty in the amount of ₱50,000.00, for taxable year 2013, are hereby **REVERSED and SET ASIDE**.
>
> **SO ORDERED.**[85]
>
> ...

---

[77] Division Docket, Volume II, pp. 876-880.
[78] Id., p. 890.
[79] Id.
[80] See Manifestation dated 20 January 2023, id., pp. 884-886.
[81] Id., pp. 891-921.
[82] See Minute Resolution dated 18 April 2023, id., p. 923.
[83] Supra at note 3.
[84] Pursuant to Administrative Circular No. 01-2022 dated 21 June 2022 issued following the retirement of Associate Justice Juanito C. Castañeda, Jr., and Administrative Circular No. 01-2023 dated 23 May 2023 issued following the retirement of Associate Justice Erlinda P. Uy, the Court underwent reorganizations. The instant case stayed with the Special Third Division, which was composed of the same members of the prior Third Division with the addition of Associate Justice Corazon G. Ferrer-Flores.
[85] Emphasis and italics in the original text.

The Special Third Division, citing *Commissioner of Internal Revenue v. Fitness by Design, Inc.*[86] (**Fitness by Design**), held that the indefiniteness of respondent's income tax liability and the absence of due dates on the subject FLD, and the ANs attached thereto, rendered the subject tax assessment void. In addition, the Special Third Division declared that respondent cannot be held liable for compromise penalty without its consent.

On 10 May 2024, petitioner filed its "Motion for Reconsideration (Re: Decision dated 18 April 2024)"[87] (**MR**) arguing that: (1) the doctrine laid down in *Fitness by Design* must be revisited since it misapplied the ruling in *Commissioner of Internal Revenue v. Dominador Menguito*[88] (**Menguito**), which involved a very dissimilar issue; (2) the FLD has fixed and definitely set the deficiency tax liabilities of respondent since the interest was set until 28 December 2017; and (3) the Court cannot rule on an issue not raised by the parties in the administrative level.

On 05 June 2024, respondent filed its Comment,[89] arguing that (1) petitioner's motion is a mere reiteration of the arguments raised in his or her Answer which the Court already passed upon; and (2) the Court has the authority to rule on matters relevant to the case even if the same have not been directly raised at the administrative level.

Thereafter, on 18 September 2024,[90] the Special Third Division denied petitioner's MR, to wit:

> ...
>
> In view of the foregoing disquisitions, the Court finds no compelling reason to reverse or modify the Decision promulgated on April 18, 2024.
>
> **WHEREFORE**, premises considered, [petitioner's] **Motion for Reconsideration (Re: Decision dated 18 April 2024)** is **DENIED** for lack of merit.
>
> **SO ORDERED.**
>
> ...

---

86 G.R. No. 215957, 09 November 2016.
87 Division Docket, Volume II, pp. 939-951.
88 G.R. No. 167560, 17 September 2008.
89 Division Docket, Volume II, pp. 954-963.
90 Supra at note 4.

PROCEEDINGS BEFORE THE COURT *EN BANC*

Undeterred, petitioner filed the present Petition for Review[91] before the Court *En Banc* on 30 October 2024, following a 15-day extension granted to it through the Resolution dated 21 October 2024.[92]

On 03 March 2025, the Court *En Banc* directed respondent to file its comment within 10 days from its receipt of notice thereof.[93] Accordingly, respondent filed its Comment on 17 March 2025.[94] In a Resolution dated 10 April 2025,[95] the Court *En Banc* referred the instant case to the Philippine Mediation Center – Court of Tax Appeals (**PMC-CTA**) for mediation pursuant to Section II of the *Interim Guidelines for Implementing Mediation in the Court of Tax Appeals.* However, the parties decided not to have their case mediated before the PMC-CTA.[96] Hence, the present petition was submitted for decision on 13 June 2025.[97]

ISSUE

Petitioner raised only one issue for the Court *En Banc*'s resolution:[98]

> WHETHER THE SPECIAL THIRD DIVISION ERRED IN RULING THAT THE ASSESSMENT NOTICES AGAINST RESPONDENT TRAVELLERS INTERNATIONAL HOTEL GROUP, INC. IS A NULLITY FOR ALLEGEDLY NOT INDICATING A DEFINITE DUE DATE FOR THE PAYMENT OF THE TAX LIABILITIES AND PENALTIES.

ARGUMENTS

Before the Court *En Banc*, petitioner contends that the ruling in *Menguito* was misapplied in the Supreme Court's decision in *Fitness by Design*, thus, the doctrine laid down in *Fitness by Design* should be

---

91 Supra at note 1.
92 *Rollo*, p. 8.
93 See *En Banc* Resolution dated 03 March 2025, id., p. 85.
94 Id., pp. 86-98.
95 Id., p. 100.
96 See PMC-CTA Form 6 - No Agreement to Mediate dated 13 May 2025, id., p. 101.
97 See *En Banc* Resolution dated 13 June 2025, id., p. 102.
98 See Assignment of Error, Petition for Review, supra at note 1, p. 12.

revisited. According to petitioner, *Menguito* pertains to post reporting notice and PAN while *Fitness by Design* pertains to an FAN.

Moreover, petitioner argues that respondent's tax liabilities were stated categorically and fixed definitely in the FLD, and the ANs attached thereto, since the basic tax deficiency, the surcharge, and interest set until 28 December 2017, were all indicated therein.

Finally, petitioner asserts that the issue of the absence of a definite due date on the FLD and the ANs is an undisputed issue as it was not raised at the administrative level. Thus, it cannot be raised for the first time on appeal before this Court.

Respondent counters that a careful reading of *Fitness by Design* reveals that *Menguito* was applied to establish the importance of issuing an FAN and to reiterate that an assessment must not only include a computation of tax liabilities but must also provide a demand for payment within the period prescribed.

Respondent also claims that the FLD that petitioner issued merely requested the payment of the assessed income tax, thus, it does not constitute a categorical and unconditional demand for payment within a definite period.

Lastly, respondent argues that the Special Third Division ruled validly on the issue of the absence of a definite due date on the FLD and the attached ANs even though it was not raised directly in the administrative level because the said issue is directly and inextricably tied with the issue of the validity of the subject assessment and the resolution of such issue may be resolved by an examination of the records without requiring the presentation of additional proof.

RULING OF THE COURT *EN BANC*

Before going into the merits of the case, the Court *En Banc* shall first determine whether the instant Petition for Review was timely filed.

THE INSTANT PETITION FOR REVIEW WAS TIMELY FILED.

Section 18 of Republic Act (**RA**) No. 1125,[99] as amended by RA 9282,[100] provides that a party adversely affected by a resolution of a Division of the CTA on motion for reconsideration or new trial, may file a Petition for Review with the CTA *En Banc*.

Section 3(b),[101] Rule 8 of the RRCTA states that the party affected should file the Petition for Review within fifteen (15) days from receipt of a copy of the questioned decision or resolution. This is without prejudice to the authority of the Court to grant an additional 15-day period from the expiration of the original period, within which to file the Petition for Review.

In the present case, petitioner received the assailed Resolution on 30 September 2024.[102] Counting 15 days therefrom, petitioner had until 15 October 2024 to file the present Petition for Review before the Court *En Banc*. On 15 October 2024, petitioner filed a "Motion for Extension of Time to File Petition for Review"[103] which the Court *En Banc* granted on 21 October 2024.[104] Petitioner was given a non-extendible period of 15 days from 15 October 2024, or until 30 October 2024, to file his or her Petition for Review.[105]

On 30 October 2024,[106] petitioner filed the instant Petition for Review, within the extended 15-day reglementary period. Therefore, the Court *En Banc* acquired jurisdiction over the instant case.

We now, therefore, proceed to discuss petitioner's arguments in support of this instant petition.

---

99 AN ACT CREATING THE COURT OF TAX APPEALS.

100 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.

101 Supra at note 2.

102 See BIR Litigation Division's "Received" Stamp on Notice dated 20 September 2024, Division Docket, Volume II, p. 969.

103 *Rollo*, pp. 1-4.

104 Supra at note 92.

105 Id.

106 Supra at note 1.

THE COURT OF TAX APPEALS SPECIAL THIRD DIVISION HAS JURISDICTION TO RULE ON AN ISSUE RAISED FOR THE FIRST TIME BEFORE THE COURT AND NOT RAISED IN THE ADMINISTRATIVE LEVEL.

Petitioner maintains that the Special Third Division's jurisdiction over his or her decision on disputed assessment is by nature exclusive and appellate. As such, it has no jurisdiction to rule on the issue of whether the FLD and the ANs issued to respondent are null and void for petitioner's failure to indicate a definite due date thereon since respondent failed to raise such issue in the administrative level.

We disagree.

The Supreme Court, in the case of *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*,[107] clarified that the CTA may rule on issues raised for the first time before it, even though the same issue had not been raised in the proceedings in the administrative level, provided that (1) the arguments are related to the principal issue to be resolved by the court and is necessary to achieve an orderly disposition of the case; and (2) the resolution of these new arguments would not require the presentation of additional evidence, *viz*:

> ...
> For tax cases before the CTA, the Court pronounced in *Commissioner of Internal Revenue v. Eastern Telecommunications Phils., Inc.* that "[t]he appellate court may, in the interest of justice, properly take into consideration in deciding the case **matters of record** having some bearing on the issue submitted which the parties failed to raise or the lower court ignored, although they have not been specifically raised as issues by the pleadings. This is in consonance with the liberal spirit that pervades the Rules of Court, and the modern trend of procedure which accord the courts broad discretionary power, consistent with the orderly administration of justice, in the decision of cases brought before them."
>
> Conspicuously, it is this same spirit of liberality which impelled the Court to recognize that the CTA may even consider issues not specifically raised by the parties at all in the disposition of tax cases so

107 G.R. No. 249153, 12 September 2022; Citations omitted, italics and emphasis in the original text and supplied.

> long as the same is related to the principal issue for its resolution and is necessary to achieve an orderly disposition of the matter at hand.
>
> From the foregoing, the Court so holds that **the CTA *En Banc*, or even a Division thereof, may consider arguments raised for the first time on appeal or on motion for reconsideration, respectively, only if two conditions concur: *one*, these arguments are related to the principal issue to be resolved by the court and is necessary to achieve an orderly disposition of the case; and *two*, the resolution of these new arguments would not require the presentation of additional evidence, and must rely solely on factual bases that are already matters of record in the case.**
>
> ...

One of the principal issues that the Special Third Division was tasked to resolve is whether respondent is liable to pay the amount of ₱3,293,565,888.92 representing the alleged deficiency income tax and compromise penalty, inclusive of increments.[108] Certainly, the validity of the FLD and the ANs attached thereto is crucial in determining whether respondent is liable to pay the alleged deficiency income tax, compromise penalty, and its increments, in view of the well-settled doctrine that a void assessment bears no valid fruit.[109]

Moreover, no additional evidence is necessary for the resolution of the aforementioned issue as it may be resolved by a mere scrutiny of the subject FLD and the ANs attached thereto, which were already formally offered by the parties[110] and form part of the records of the case.

Guided by the foregoing, We find that the Special Third Division ruled correctly on the issue of whether the ANs issued against respondent are valid.

---

108 See II. Statement of Facts and Issues, Pre-Trial Order dated 07 July 2022, Division Docket, Volume I, pp. 437-438.

109 *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*, G.R. No. 223767, 24 April 2023; *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. Nos. 197945 & 204119-20, 09 July 2018; *Commissioner of Internal Revenue v. Liquigaz Philippines Corporation*, G.R. Nos. 215534 & 215557, 18 April 2016; *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, G.R. No. 185371, 08 December 2010.

110 See Exhibit "R-11" and Exhibit "P-12", supra at note 6.

THE FORMAL LETTER OF DEMAND (FLD) ISSUED TO RESPONDENT AND THE ASSESSMENT NOTICES (ANs) ATTACHED THERETO ARE VOID AS THEY DO NOT CONTAIN A DEFINITE AND UNEQUIVOCAL DEMAND FOR PAYMENT.

In the assailed Decision and Resolution, the Special Third Division cited the Supreme Court's pronouncement in *Fitness by Design* in holding that the FLD and ANs attached thereto issued to respondent are void as these did not bear a specific due date.

In his or her bid to have the Special Third Division's Decision reversed, petitioner insists that the doctrine laid down in *Fitness by Design* should be revisited since the Supreme Court allegedly misapplied *Menguito* in *Fitness by Design*'s ratio. According to petitioner, the portion lifted by *Fitness by Design* from *Menguito* involved the resolution of a very dissimilar issue pertaining to a post-reporting notice and PAN (and not to FAN). In addition, respondent's tax liabilities were made clear and definite in the FLD and the ANs since the basic tax deficiency, the surcharge, and interest set until 28 December 2017 were all shown therein.

Petitioner's contentions fail to convince.

At the outset, We disagree with petitioner's argument that *Menguito* was misapplied in *Fitness by Design*. In resolving the issue of whether the lack of post-reporting notice and PAN is prejudicial to the taxpayer, the Supreme Court in *Menguito* compared the said notices to a formal assessment notice (**FAN**) as to their purpose and importance. Thus, it was necessary for the High Court to define a FAN and discuss its function and contents, which includes a demand for payment within a prescribed period.

While *Menguito* did not involve the resolution of whether a FAN with no definite due date is void (unlike *Fitness by Design)*, the Supreme Court's discussion of the purpose and contents of a formal assessment notice therein is instructive in stressing the importance of a demand for payment within a specific period in the FAN and in subsequently arriving at the conclusion that the absence of due dates in the FAN renders the same void. Consequently, We do not see any misapplication of *Menguito*'s discussion of a FAN's purpose and contents in *Fitness by Design*.

Besides, even granting that *Menguito* was indeed misapplied in *Fitness by Design*, unless and until the Supreme Court *En Banc*[111] modifies the doctrine laid down therein, We are constrained to apply the same once We ascertain that the facts in *Fitness by Design* are substantially the same with that of the present case. This is in accordance with the principle of *stare decisis et non quieta movere*, as elucidated in *Rep. Reynaldo V. Umali v. The Judicial and Bar Council,*[112] *viz*:

> ...
> As stated in the beginning of this *ponencia*, *stare decisis et non quieta movere* is a doctrine which means to adhere to precedents and **not to unsettle things which are established**. This is embodied in Article 8 of the Civil Code of the Philippines which provides, thus:
>
> > ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.
>
> **The doctrine enjoins adherence to judicial precedents and requires courts in a country to follow the rule established in a decision of the Supreme Court thereof.** That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. The doctrine is based on the principle that **once a question of law has been examined and decided, it should be deemed settled and closed to further argument.** The same is grounded on the necessity for securing certainty and stability of judicial decisions, thus, time and again, **the court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same.** It simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like

---

111 Section 4(3), Article VIII of the 1987 Constitution provides that no doctrine or principle of law laid down by the court in a decision rendered *en banc* or in division may be modified or reversed except by the court sitting *en banc*.

112 G.R. No. 228628, 25 July 2017; Citation omitted, italics in the original and emphasis in the original text and supplied, and underscoring supplied.

> cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue. The doctrine has assumed such value in our judicial system that the Court has ruled that "[a]bandonment thereof must be based only on strong and compelling reasons, otherwise, the becoming virtue of predictability which is expected from this Court would be immeasurably affected and the public's confidence in the stability of the solemn pronouncements diminished." **Verily, only upon showing that circumstances attendant in a particular case override the great benefits derived by our judicial system from the doctrine of *stare decisis*, can the courts be justified in setting aside the same.**
>
> ...

Pertinently, *Fitness by Design* is still a binding judicial pronouncement that has been cited and reiterated in recent Supreme Court decisions.

In *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*,[113] the Supreme Court, citing *Fitness by Design*, held that even granting that service of the PAN and the FAN was proper, the assessment remains void if the FAN and the ANs attached to it fail to demand payment within a specific period, reiterating that a final assessment must be both a notice of tax due and a demand for payment within a definite timeframe.

Further, in *Republic of the Philippines v. First Gas Power Corporation*,[114] the Supreme Court, echoing *Fitness by* Design, expressly agreed with Our ruling that the subject FAN and FLD are not valid as it failed to indicate a definite due date for payment by the taxpayer.

More recently, in *Commissioner of Internal Revenue v. Telstar Manufacturing Corporation*[115] (**Telstar**) the High Court, finding basis on *Fitness by Design*, invalidated a FLD/FAN that does not contain a categorical demand for payment of assessed tax despite a subsequent demand for payment contained in the FDDA.

---

113 G.R. No. 240729, 24 August 2020.
114 G.R. No. 214933, 15 February 2022.
115 G.R. Nos. 249239 and 250286 & 249241-41, 10 February 2025.

With the foregoing in mind, We now determine whether the doctrine laid down in *Fitness by Design* – that an assessment with no demand for payment within a period prescribed is void, finds application in the case at bar.

A scrutiny of the subject FLD[116] and the ANs attached thereto reveals that they do not only lack due dates but also a categorical demand for payment:

> ...
>
> Pursuant to the provision of Section 228 of the aforesaid Code and its implementing revenue regulations, you are hereby given the opportunity to present in writing your side of the case within thirty (30) days from receipt hereof. However, **if you are amenable, you may pay the above assessment using the BIR Payment Form (BIR Form 0605) through eFPS.** Afterwards, submit proof of payment thereof to the Office of the Assistant Commissioner located at 3rd Floor, BIR National Office Building, BIR Road, Diliman, Quezon City for updating of the records and cancellation of the herein FLD, if warranted.[117]
>
> ...

Conspicuously, the above FLD is similarly worded with the FLD/FAN invalidated by the Supreme Court in *Telstar*[118] for its lack of a categorical demand for payment, *viz*:

> ...
>
> In the case at bench, a plain reading of the Formal Letter of Demand/Final Assessment Notice readily reveals that no demand for payment of the assessed taxes was made:
>
> > Pursuant to the provision of **Section 228** of the aforesaid Code and its Implementing revenue regulations, you are hereby given the opportunity to present in writing your side of the case within fifteen (15) days from receipt hereof. However, if you are amenable, **you may pay the above assessment through the Electronic Filing and Payment Section (EFPS). Afterwards, submit proof of payment thereof to the Regular Large Taxpayers Audit Division 1 located at Rm 216, National Office**

---

116 Supra at note 6.

117 Emphasis supplied.

118 Supra at note 115; Citation omitted, emphasis in the original text and supplied.

> **Building, Diliman, Quezon City** for updating of your records.
>
> If we fail to hear from you within the said period, you shall be considered in default, in which case, a formal letter of demand and assessment notice shall be issued by this Office calling for payment of your aforesaid deficiency taxes, inclusive of civil penalty and interest.

To recapitulate, the Formal Letter of Demand/Final Assessment Notice must contain a categorical demand for payment of assessed tax with factual and legal bases. This is because an obligation to pay the tax is being imposed upon the taxpayer. Such obligation must be stated in a clear and plain language to properly apprise the taxpayer. Moreover, based on the document title itself, the Formal Letter of Demand/Final Assessment Notice is a demand for payment of taxes. Perceptibly, it must contain a demand for payment of assessed taxes. Absent such demand, it is rendered defective.

...

Clearly, the FLD, and the ANs attached thereto, issued to respondent does not appear to be a demand for payment of tax due within a specified period, which a final assessment notice should supposedly be.

Petitioner's subsequent issuance of the FDDA[119] which contains an express demand for payment within a definite due date will not cure the invalidity of the FLD and ANs issued to respondent, as enunciated in *Telstar*:[120]

...
A subsequent demand contained in the Final Decision on Disputed Assessment does not cure the defective Formal Letter of Demand/Final Assessment Notice. The law, rules and regulations require the demand for payment of assessed tax to be made in the Formal Letter of Demand/Final Assessment Notice and not in the Final Decision on Disputed Assessment. The Formal Letter of Demand/Final Assessment Notice and Final Decision on Disputed Assessment have divergent functions. The first one calls for the payment of the taxpayer's deficiency tax while the second one informs the taxpayer of respondent's final decision on any protest filed. Surely, a subsequent demand contained in the Final Decision on Disputed

---

119 Supra at note 7.
120 Supra at note 115.

> Assessment does not cure the lack of any demand in the Formal Letter of Demand/Final Assessment Notice.
>
> ...

All told, pursuant to the Supreme Court's pronouncement in *Fitness by Design* and *Telstar,* the subject FLD and ANs in the case at bar could only be rendered void and without any legal effect.

WHEREFORE, premises considered, the instant Petition for Review filed by petitioner Commissioner of Internal Revenue on 30 October 2024 is **DENIED** for lack of merit. Accordingly, the assailed Decision dated 18 April 2024 and the assailed Resolution dated 18 September 2024 of the Court's Special Third Division in CTA Case No. 10445, entitled *Travellers International Hotel Group, Inc. v. Commissioner of Internal Revenue* are hereby **AFFIRMED**.

Petitioner Commissioner of Internal Revenue or any person duly acting on his or her behalf is hereby **ENJOINED** from pursuing any action against respondent relative to the above-mentioned void assessments.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

Ma. Belen M. R-L

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

x - x

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
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
MA. BELEN M. RINGPIS-LIBAN
Presiding Justice