REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2978** (CTA Case No. 10265)
	Present:
-versus-	**RINGPIS-LIBAN,** *P.J.,* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
MA. ERLINDA T. ONG, Doing Business Under the Name and Style "Maranatha Sales Distributor, Duly represented herein by her Attorney-in-fact, Ms. Ria A. Sablon *Respondent.*	Promulgated: JAN 08 2026 2:20pm

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Petition for Review filed on September 12, 2024,[1] assailing the Decision, dated May 3, 2024 (Assailed Decision), and Resolution, dated August 9, 2024 (Assailed Resolution), both rendered by this Court's First Division (Court in Division), which granted herein respondent's Petition for Review, dated March 2, 2020,[2] before the Court in Division.

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[1] EB Docket. pp.7-35.
[2] Division Docket. pp. 6-172. with annexes.

The Parties

Petitioner Commissioner of Internal Revenue (CIR) is vested by law with the power to enforce and implement the provisions of the *National Internal Revenue Code of 1997, as amended* (*NIRC*), related statutes, and implementing rules and regulations. He holds office at the Bureau of Internal Revenue (BIR) National Office, BIR Road, Diliman, Quezon City.[3]

Respondent, meanwhile, is the owner of Maranatha Sales Distributor, a sole proprietorship business duly organized and existing under Philippine laws with business address at Sol's Subdivision, Bitano, Legaspi City, Province of Albay.[4]

The Facts

On February 13, 2014, the Bureau of Internal Revenue (BIR) issued Letter of Authority (LOA) -067-2014-00000014 with Serial Number eLA201000022553[5] through Regional Director (RD) Esmeralda M. Tabula of Revenue Region 10 – Legaspi City. The LOA authorized Revenue Officer (RO) Maria Cristina Solano and Group Supervisor (GS) Domingo Aguinaldo to examine the books of accounts and other accounting records of respondent and her spouse, Pik Sun, for the period from January 1, 2011 to December 31, 2011.

On January 22, 2015, a Preliminary Assessment Notice (PAN)[6] with Details of Discrepancies[7] was issued by the BIR against petitioner and her spouse. Subsequently, or on March 2, 2015, the BIR issued a Formal Letter of Demand and Final Assessment Notice (FLD/FAN)[8] assessing respondent and her spouse for a total of PhP4,653,251.72 in Income Tax (IT) discrepancies, Value-Added Tax (VAT), Percentage Tax (PT), and Expanded Withholding Tax (EWT).

Respondent received the FAN/FLD on March 18, 2015. To avoid its finality, respondent filed a protest on March 27, 2015.[9] The protest was acknowledged through a letter issued by RD Tabula on May 27, 2015.[10]

[3] *Supra* note 1.
[4] *Id.*
[5] Division Docket, p. 277.
[6] BIR Records, pp. 246-248.
[7] *Id*, pp. 244-245.
[8] *Id*, pp. 269-274.
[9] Division Docket, pp. 520-527.
[10] *Id*, p. 417.

The Chief of the Collection Division of Revenue Region - 10 then issued a Preliminary Collection Letter (PCL)[11] against petitioner and her spouse on April 17, 2018. Aggrieved therefrom, respondent filed an Appeal[12] with the BIR's Appellate Division to contest the PCL.

On January 2, 2020 herein petitioner, CIR, issued a decision[13] modifying the PCL dated April 17, 2018.[14] In said decision, the CIR ruled that the deficiency VAT and EWT are cancelled on the ground of prescription, while affirming the demand for deficiency IT and PT.

In view of the CIR's decision, a Warrant of Distraint and/or Levy (WDL)[15] was issued against respondent on March 2, 2020.

Aggrieved further, respondent filed a Petition for Review[16] with the Court in division on March 5, 2020, seeking to set aside the decision of the CIR, dated January 2, 2020, and praying that another be rendered declaring as invalid the portion of the decision demanding for the payment of the alleged deficiency IT and PT.

Subsequent thereto, a Notice of Tax Lien[17] and a Notice of Levy on Real Property[18] were filed with the Registry of Deeds of Legaspi City on March 9, 2020 and March 10, 2020 respectively. Warrants of Garnishment[19] were also issued to various banks on March 9, 2020.

On June 18, 2020, petitioner filed a *Motion for Additional Time to File Answer*,[20] seeking for an additional thirty (30) days to file an Answer to the March 5, 2020 Petition for Review. This was granted by the Court through an Order[21] dated June 19, 2020.

Thereafter, on August 27, 2020 and September 9, 2020, respectively, the Court received petitioner's *Motion for Additional Time to File an Answer*[22] and *Urgent Motion for Additional Time to File Answer*, which the Court granted, accordingly giving petitioner a non-extendible period of 15-days, or until September 16, 2020 to file an Answer.

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[11] BIR Records, p. 299.
[12] Division Docket, pp. 419-434.
[13] *Id.* p. 435-444.
[14] BIR Records, pp. 477-486.
[15] *Id.* p. 504.
[16] Division Docket, pp. 6-31.
[17] *Id.* p. 507.
[18] *Id.* p. 539.
[19] *Id.* pp. 540-568.
[20] *Id.* pp. 175-178.
[21] *Id.* p. 179.
[22] *Id.* pp. 181-183.

On September 18, 2020, the Court received respondent's Answer[23] filed through registered mail on September 14, 2020.

After a full-blown trial, the Court in Division granted the Petition for Review via the Assailed Decision on May 3, 2024. The dispositive portion of which reads:

> **WHEREFORE,** the *Petition for Review is* **GRANTED.** Accordingly, the Formal Letter of Demand dated March 2, 2015, the Warrant of Distraint and/or Levy dated March 2, 2020, and the Warrants of Garnishment dated March 9, 2020, assessing petitioner of deficiency income tax, percentage tax, and compromise penalty for taxable year 2011, inclusive of interests and surcharges, are **CANCELLED** and **SET ASIDE.**
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> Further, respondent is **ENJOINED** from proceeding with the collection of taxes in this case.
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> **SO ORDERED.**

In the Assailed Decision, the Court granted the Petition for Review primarily in view of the non-service of the PAN and the improper service of the FLD/FAN, which, according to the Court in Division, violated petitioner's right to due process. In addition, it was later on revealed that the right to collect the percentage tax had already prescribed at the time the BIR initiated collection proceedings.

Petitioner sought to challenge the Assailed Decision through a Motion for Reconsideration, filed on May 20, 2024.[24] On August 9, 2024, the Court in Division issued the Assailed Resolution denying petitioner's Motion for Reconsideration on the same grounds.

The Court stated through the Assailed Resolution that the issues raised in the Motion for Reconsideration had already been passed upon by the Court in Division where it was discussed that proper and actual service of the PAN is a mandatory component of a taxpayer's due process rights in a deficiency tax assessment and that strict adherence thereto must be observed by the BIR. Its failure to comply with these procedural due process safeguards renders the resulting tax assessment void and without force or effect.

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[23] *Id*, pp. 191-197.
[24] *Id*, pp. 620-641.

On August 13, 2024, petitioner received the Assailed Resolution. In response, they filed a *Motion for Extension of Time to File Petition for Review*, dated August 22, 2024,[25] where petitioner prayed for an additional period of fifteen (15) days from August 28, 2024, or until September 12, 2024 within which to file a Petition for Review.

On September 12, 2024, petitioner filed a Petition for Review,[26] praying for the Court *En Banc* to set aside and cancel both the Assailed Decision and the Assailed Resolution, and another be rendered denying respondent's Petition for Review dated March 5, 2020, for lack of merit.

Respondent thereafter filed a Comment to the Petition,[27] arguing, among others, that petitioner has raised no new compelling arguments worthy of consideration. Hence, all issues have been covered by the Court in Division.

Hence, this Decision.

The Assigned Errors

Petitioner assigns the following errors to the assailed issuances of the Court in Division:[28]

(a) The Court in division erred in ruling that it has jurisdiction over the instant case;

(b) Without admitting the Court's jurisdiction, the Court in Division erred when it ruled that respondent's right to due process was violated;

(c) Without again admitting the Court's jurisdiction, the Court in Division erred in ruling that petitioner's right to collect petitioner's deficiency tax liability has already prescribed; and

(d) With all due respect, this Court in Division erred in enjoining petitioner from collecting the assessed deficiency taxes.

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[25] EB Docket, pp. 1-4.
[26] *Supra* note 1.
[27] EB Docket, pp. 71-79.
[28] EB Docket, p. 13.

The Arguments

Petitioner raises the following arguments:[29]

(a) The assessments for deficiency taxes against respondent are already final, executory and demandable since the Petition for Review filed before this Court was filed beyond the period provided by law;

(b) The service of the PAN to respondent via registered mail is a valid mode of service of notices;

(c) It is undisputed that respondent was duly served with the FLD and the FAN; and

(d) *Section 222 of the NIRC* provides for the exceptions from the three-year period to collect.

Respondent opposes the above with the following contentions:[30]

(a) Petitioner's appeal to the Honorable Court *En Banc* must be dismissed for being utterly without merit;

(b) The subject matter of these proceedings have already been passed upon by the Court in Division and petitioner has raised no new compelling arguments worthy of consideration;

(c) Respondent correctly made use of the available administrative remedies as a taxpayer by timely protesting the FAN/FLD;

(d) Respondent waited more than three years for Revenue Region 10 to appropriately act upon the Protest of the FAN/FLD;

(e) The Court in Division correctly found that petitioner breached respondent's right to due process; and

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[29] *Supra* note 1.
[30] EB Docket, p. 71-79.

(f) Petitioner's right to collect the supposed deficiency income tax and percentage tax had already prescribed, following the evidence on record and the undisputed documents.

The Ruling of the Court

The Court En Banc has jurisdiction over the instant case

Under *Rule 8, Section 4(b) of the Revised Rules of the Court of Tax Appeals, as amended* (*RRCTA*), the procedure for appealing a ruling of the Court in Division before the Court *En Banc* follows that laid down by *Rule 43 of the Rules of Court*:

> SEC. 4. *Where to appeal; mode of appeal* —
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> . . . .
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> (b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal. *(n)*
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> . . . .

Worthy of noting here is *Rule 43, Section 4 of the Rules of Court*, which governs the period for filing applicable appeals:

> SEC. 4. Period of appeal. — *The appeal shall be taken within fifteen (15) days from notice of* the judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of *the denial of petitioner's motion for new trial or reconsideration* duly filed in accordance with the governing law of the court or agency a quo. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of docket fee before the expiration of the reglementary period, *the Court of Appeals [or Court of Tax Appeals En Banc] may grant an additional period of* ***fifteen (15) days only*** *within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.* (Emphasis and italics supplied)

From the above, and in the context of a properly filed but denied Motion for Reconsideration, the latest that a party can normally file a Petition for Review before the Court *En Banc* is *30 days after its receipt of the Court in Division's Resolution.* A party automatically has 15 days within which to file such a petition. However, the Court may grant an *additional period, i.e.* added to the original period, of 15 days. From the use of the word "additional" in the provision, the two periods must be *contiguous*. The second 15-day period cannot commence, say, 30 days after the expiration of the first 15-day period, effectively giving a party 60 days to file its petition. As such, and to repeat, the period for filing a Petition for Review before the Court *En Banc* in the relevant context is limited to only 30 days from receipt of the Court in Division's Resolution. Any further extension must be based on "the most compelling reason."

A perusal of the records reveals that the Assailed Resolution was rendered on August 9, 2024, and was received by petitioner four days later, or on August 13, 2024. Thus, petitioner initially had until August 28, 2024 to timely file a Petition for Review.

Prior to its expiration, petitioner filed a Motion for Extension of Time to File Petition for Review on August 22, 2024, requesting an additional fifteen-day period, commencing from August 29, 2024, and running until September 12, 2024.

On September 12, 2024, petitioner filed the Petition for Review, seeking the appellate jurisdiction of the Court *En Banc* in challenging the Assailed Decision and Assailed Resolution on the final day of the requested extension.

Accordingly, the matter is properly lodged before the Court *En Banc*, establishing jurisdiction over the instant case.

The Court in Division correctly assumed jurisdiction over the March 5, 2020 Petition for Review

Petitioner insists that the Court in Division wrongfully exercised jurisdiction over the case due to the March 5, 2020 Petition for Review being filed only after the period provided by law to appeal a decision of the CIR to this Court had already lapsed.

According to petitioner, the assessments for deficiency taxes against respondent was already final, executory and demandable because respondent's right to appeal expired when she failed to appeal within the 30-day period from her receipt of the PCL on April 20, 2018.

We cannot allow petitioner's contentions to prevail.

Records reveal that the Court in Division ruled in favor of respondent based on the jurisdiction of the Court of Tax Appeals (CTA), as provided by *Section 7(a)(1) and (2) of Republic Act (RA) No. 1125,*[31] *as amended by RA No. 9262,*[32] which provides that the CTA is vested with exclusive appellate jurisdiction to adjudicate, by way of appeal, the decisions rendered by the CIR.

The exclusive appellate jurisdiction granted to the CTA encompasses all proceedings concerning disputed assessments, claims for refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the *NIRC*, including all other statutes enforced by the BIR. This authority extends to judicial review, by way of appeal, of both the affirmative decisions and the inactions of the CIR in the exercise of its quasi-judicial functions.

In citing *Revenue Regulations (RR) No. 12-99,*[33] *as amended by RR No. 18-2013,*[34] which implements *Section 228 of the NIRC*, the Court in Division found that respondent merely made use of the laws available to her by, firstly, protesting the Formal Letter of Demand/Final Assessment Notice (FLD/FAN) issued by Revenue Region No. 10 – Legaspi City of the BIR, and secondly, by waiting for the final decision of the CIR or his/her authorized representative on the disputed assessment. This was properly displayed in the Assailed Decision, to wit:

> From the foregoing, if the protest is not acted upon by the Commissioner's duly authorized representative within 180-days counted from the date of filing of the protest in case of a request for reconsideration, the taxpayer may either:
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> (i) Appeal to the CTA within thirty (30) days after the expiration of the one hundred eighty (180) day period; or

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[31] An Act Creating the Court of Tax Appeals, June 16, 1954.

[32] An Act Expanding the Jurisdiction of the Court of Tax Appeals, Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose of Certain Sections of Republic Act No. 1125, otherwise known as the Law Creating the Court of Tax Appeals, and for other purposes, March 30, 2004.

[33] Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty, September 6, 1999.

[34] Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, November 28, 2013.

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> (ii) Await the final decision of the Commissioner's duly authorized representative on the disputed assessment.
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> In this case, petitioner timely filed her protest to the FLD/FAN with the Regional Director of RR No. 10, Legaspi City on March 27, 2015. The Regional Director did not act on the protest within the 180-day period, which expired on September 23, 2015. Neither petitioner filed an appeal to this court within 30 days from September 23, 2015.
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> . . . .
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> Moreover, petitioner's witness, Ms. Sablon, testified that petitioner waited more than three (3) years since she filed her protest to the FLD/FAN, but no Final Decision on Disputed Assessment (FDDA) was rendered.
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> Under the circumstances, the Court finds that petitioner chose to "await the final decision" of the CIR's duly authorized representative on her protest. Hence, when petitioner received the PCL on April 20, 2018, she treated it as a denial of her protest to the FLD/FAN since no FDDA was issued. She then elevated her protest through a request for reconsideration to the CIR and the Chief of the BIR's Appellate Division on May 17, 2018, within 30 days from receipt of the PCL. In response, the CIR issued the Assailed Decision dated January 2, 2020, finding petitioner's request for reconsideration "partially impressed with merit" and stating that it "constitutes the **FINAL DECISION** of [the CIR] on the matter.
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> Given the foregoing, the Court finds that the Assailed Decision dated January 2, 2020, is the CIR's "final decision" on the disputed assessments that is appealable to the CTA. Thus, the filing of the instant Petition for Review on March 5, 2020, within 30 days from petitioner's receipt of the Assailed Decision on February 12, 2020, is on time.

In view of the above, this Court firmly stands on the conclusion that the case fell squarely within the jurisdiction of the Court in Division.

The failure to serve the PAN and the improper service of the FLD/FAN amounts to a denial of respondent's right to due process which renders the assessments void and without any effect.

Petitioner claims that on January 22, 2015, a PAN was issued and was subsequently sent to respondent through registered mail on January 30, 2015. Petitioner further submits that respondent was given all opportunities to refute the assessment, and that the service of the PAN to respondent via registered mail is a valid mode of service of notices pursuant to Section 3.1.6 of RR No. 18-2013.

On the other hand, in respondent's protest to the FLD/FAN[35] and Appeal to the CIR,[36] she claims that no PAN was received on her end. Instead, she received a FLD/FAN which was sent *via* JRS Express Courier.

The records on hand reveal that despite the absence of a PAN, respondent filed a protest to the FLD/FAN and waited for over three years for Revenue Region 10 to act on the protest. Additionally, instead of receiving a FDDA, respondent instead received a PCL which respondent considered as a denial of her protest.

In response to the PCL, respondent sought for reconsideration from the CIR. The CIR thereafter issued a Decision[37] dated January 2, 2020, which modified the PCL, cancelling respondent's deficiency VAT and EWT on the ground of prescription, and affirming the deficiency IT and PT.

Within 30 days from receipt of the CIR Decision, specifically on March 5, 2020, respondent appealed to the Court in Division.

During trial, notwithstanding respondent's denial of service of the PAN, petitioner formally submitted the subject PAN, dated January 22, 2015, as documentary evidence. However, petitioner failed to adduce the official registry receipt and a contemporaneous certification from the Postmaster, to definitively substantiate both the fact of mailing and the receipt by respondent.

Pursuant to the ruling established in *Barcelon, Roxas Securities, Inc. v. CIR*,[38] the Supreme Court reiterated the rule that should a taxpayer refute the service of a notice of assessment issued by the BIR, the *onus probandi* for establishing delivery to the taxpayer or their duly authorized representative shall shift and rest squarely upon the BIR. Consequently, the BIR is mandated to provide contrary and sufficient documentary evidence to conclusively demonstrate the fact of the taxpayer's actual receipt of the subject assessment notice.

In the instant case, while petitioner was able to present as witness CRO Rebustillo, who admitted to having prepared the PAN on respondent, petitioner failed to offer the testimony of the person who allegedly served the PAN on respondent. Hence, this Court agrees with the findings of the Court in Division in holding that petitioner failed to prove that the PAN was duly served upon respondent.

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[35] Division Docket, pp. 409-416.
[36] Division Docket, pp. 419-434.
[37] *Supra* note 13.
[38] GR No. 157064, August 7, 2006.

Pursuant to *Section 228 of the NIRC*, which provides that upon a determination by the CIR, or any official acting pursuant to their delegated authority, that a deficiency in tax liability warrants an assessment, the taxpayer shall be duly apprised of said findings through issuance of a formal notice. Notwithstanding this general prerequisite, a Pre-Assessment Notice shall be strictly exempted from necessity in the specific circumstances enumerated within the purview of this statutory provision.

Thus, it is an indispensable requisite that the taxpayer be duly notified in writing, specifying with particularity the legal and factual bases supporting the subject assessment. In its absence, the assessment shall be deemed null, void, and without legal effect, unless it falls within the enumeration provided under *Section 228 of the NIRC*, where a PAN shall not be required.

Based on the conclusive judgment of the Supreme Court in the case of *CIR v. Metro Star Superama, Inc*,[39] the tax assessment issued by the CIR against Metro Star Superama, Inc., was determined to be devoid of legal effect and invalid from its inception. This determination was grounded upon petitioner's failure to satisfy the burden of proof regarding the proper conveyance and receipt of the PAN. Such non-compliance with the procedural and statutory requirements governing the issuance of a deficiency assessment constituted an infringement of the taxpayer's constitutional entitlement to due process, as the lack of a served PAN deprived respondent of the necessary and fundamental opportunity to object to the proposed findings and submit countervailing evidence before the perfection of the tax lien and the commencement of enforced collection.

The procedural error—specifically, the failure to follow the required law and regulations before issuing the tax assessment—created a jurisdictional defect. This defect has been ruled to be a violation of the taxpayer's constitutional right to due process because the absence of service of the PAN denied the taxpayer the necessary chance to challenge the initial tax findings and provide counter-evidence before the government could finalize the tax claim and begin collection action.

Secondly, as regards the service of the FLD/FAN, *Section 3.1.6 of RR No. 18-2013* unequivocally mandates that service must be effectuated via personal delivery. The Regulation permits recourse to substituted service or service by mail only upon a showing that personal service is demonstrably impracticable.

In the current case, the FLD/FAN was sent by regular mail. Notwithstanding, petitioner did not present proof showing that they could not have delivered the notice personally. Furthermore, petitioner offered no

[39] G.R. No. 185371, December 8, 2010.

reason for why they chose to use mail instead of the legally required personal service.

Therefore, it is clear that petitioner not only made a procedural error by failing to properly serve the PAN but also used the wrong method to serve the FLD/FAN to respondent. This failure makes the service invalid under the law.

Thus, as concluded by the Court in Division, in the absence of a PAN duly served, and in view of the improper service of the FLD/FAN, this Court finds that the succeeding assessments issued on respondent are void and without any force and effect for violating respondent's right to due process.

The government's right to collect the outstanding deficiency income tax and percentage tax is now barred by prescription.

The statutory period for enforcing collection has already lapsed, and the government is legally prevented from pursuing the same.

Even if the PAN and the FLD/FAN had been officially and correctly delivered to respondent, this case would still be dismissed in part because the government's legal right to collect the back taxes has already expired due to prescription.

Pursuant to *Section 203 of the NIRC*,[40] and as stated in the case of *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc.*,[41] the general period of limitation for the assessment of internal revenue taxes is three years from the last day statutorily prescribed for the filing of the return, or from the date the return was filed. Following a valid assessment, collection of the tax must be commenced within three years from the date the FAN was released, mailed, or transmitted to the taxpayer.

In this case, given that: (i) the FLD/FAN did not contain any averment that respondent failed to file the percentage tax returns for TY 2011; (ii) the penalty imposed was not the 50% surcharge under Section 248(b) of the

[40] SEC. 203. *Period of Limitation Upon Assessment and Collection.* - Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: Provided. That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

[41] G.R. No. 258947, March 29, 2022.

NIRC,[42] which is imposed for willful neglect to file or the willful making of a false or fraudulent return; and (iii) petitioner's failure to adduce competent evidence to substantiate the allegation of respondent's non-filing of the percentage tax returns, the applicable prescriptive period for the Percentage Tax Assessment is the ordinary three-year period under *Section 203 of the NIRC*, and not the extraordinary 10-year period provided for under *Section 222(a) of the NIRC*,[43] which applies in cases of failure to file or filing a false/fraudulent return.

Even assuming that the assessment of both the Income Tax and Percentage Tax were timely effected within the three-year ordinary prescriptive period, the government would be afforded an additional three years from the mailing of the FLD/FAN on March 2, 2015, to initiate and enforce collection. This collection period thus expired on March 2, 2018.

Clearly, the issuance of the PCL on April 17, 2018, occurred subsequent to the expiration of the statutory period, thereby confirming that the government's right to collect the assessed deficiency income tax and percentage tax has already prescribed.

All told, this Court holds that petitioner has raised no novel or sufficiently compelling arguments worthy of consideration. Given that all issues have been ruled upon by the Court in Division, We see no cogent reason to cancel and set aside the Assailed Decision or the Assailed Resolution.

ACCORDINGLY, petitioner's Petition for Review, filed on September 12, 2024, is hereby **DENIED** for lack of merit. The Decision, dated May 3, 2024, and the Resolution, dated August 9, 2024, both rendered by the Court in Division in CTA Case No. 10265, are hereby **AFFIRMED.**

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42 SEC. 248. *Civil Penalties*. – xxx
(B) In case of willful neglect to file the return within the period prescribed by this Code or by rules and regulations, or in case a false or fraudulent return is willfully made, the penalty to be imposed shall be fifty percent (50%) of the tax or of the deficiency tax, in case, any payment has been made on the basis of such return before the discovery of the falsity or fraud: Provided, That a substantial under-declaration of taxable sales, receipts or income, or a substantial overstatement of deductions, as determined by the Commissioner pursuant to the rules and regulations to be promulgated by the Secretary of Finance, shall constitute prima facie evidence of a false or fraudulent return: Provided, further, That failure to report sales, receipts or income in an amount exceeding thirty percent (30%) of that declared per return, and a claim of deductions in an amount exceeding (30%) of actual deductions, shall render the taxpayer liable for substantial under-declaration of sales, receipts or income or for overstatement of deductions, as mentioned herein.

43 SEC. 222. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes*.-
(a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission: Provided, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.
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SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

I reiterate my Separate Concurring Opinion in the assailed Decision of the First Division.
JEAN MARIE A. BACORRO-VILLENA
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 M. RINGPIS-LIBAN
Presiding Justice