CTA Form No. 8

22-000053-0078

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10761

UGONG TRADE & HOLDINGS INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St. Legazpi Village
Makati City

ATTY. OSCAR A. AGUILAR
ATTY. JUFFALI A. ABDULLAH
Legal Division, Revenue Region No. 7B (East NCR)
25th Floor, The Podium-West Tower
ADB Avenue, Ortigas Center
Mandaluyong City

LMA LAW OFFICES
6805 Ayala Avenue, Roofdeck, 12th Floor Unit D
Multinational Bancorporation Centre, Bel-Air
1209 City of Makati, Fourth District
National Capital Region

GREETINGS:

You are hereby notified by these presents that on **January 27, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **January 30, 2026.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

UGONG TRADE & HOLDINGS INC., Petitioner,	CTA Case No. **10761**
	Members:
- versus -	**BACORRO-VILLENA,** *Acting Chairperson and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JAN 27 2026; 4:30PM

x - x

DECISION

BACORRO-VILLENA, J.:

This resolves the Petition for Review[1] filed by petitioner Ugong Trade & Holdings Inc. (**petitioner**) on 04 January 2022, pursuant to Section 3(a),[2] Rule 8 in relation to Section 3(a)(1),[3] Rule 4 of the Revised

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[1] Division Docket, Volume I, pp. 6-71.

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

[3] **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto,

Rules of the Court of Tax Appeals (**RRCTA**). It assails respondent Commissioner of Internal Revenue's (**respondent**'s) Warrant of Distraint and/or Levy[4] (**WDL**) and Warrant of Garnishment[5] (**WG**), dated 05 October 2021 against petitioner to enforce payment of **₱13,790,345.90**. The amount allegedly represents petitioner's supposed deficiency income tax, value-added tax (**VAT**), expanded withholding tax (**EWT**), improperly accumulated earnings tax (**IAET**), documentary stamp tax (**DST**) for the calendar year (**CY**) ended 31 December 2017 (**2017**), broken down as follows:

Tax Type/Fee	Total
Income Tax	₱4,310,177.50
VAT	6,561,750.99
EWT	116,767.01
IAET	2,270,987.63
DST	530,662.77
Total	**₱13,790,345.90**

PARTIES OF THE CASE

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Philippines with office address at JMP Building, Jose Cruz St., Bo. Ugong, Pasig City. It is registered with the Bureau of Internal Revenue (**BIR**) under Taxpayer's Identification Number (**TIN**) 004-966-476.[6]

Respondent is the Commissioner of the BIR, duly appointed and empowered to perform the duties of his or her office, including, among others, the power to decide, cancel and abate tax liabilities pursuant to Section 204[7](B) of the National Internal Revenue Code (**NIRC**) of 1997, as amended, with office address at the BIR National Office Building, Diliman, Quezon City, where he or she may be served summons and other court processes.[8]

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or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

4 Exhibit "P-11", Division Docket, Volume II, p. 773.

5 Exhibit "P-12", id., p. 774.

6 See Paragraph 1, I. Facts Admitted, Joint Stipulation of Facts and Issue (JSFI), id., p. 633.

7 **SEC. 204.** *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*

8 See Par. 2, I. Facts Admitted, Joint Stipulation of Facts and Issue (JSFI), Division Docket, Volume II, p. 633.

FACTS OF THE CASE

On 19 July 2018, petitioner received Letter of Authority (**LOA**) No. LOA-043-2018-00000404/eLA201600002917,[9] dated 11 July 2018 issued by Marina C. De Guzman (**De Guzman**), Regional Director (**RD**) of BIR Revenue Region (**RevReg**) No. 7, Quezon City authorizing Revenue Officer (**RO**) Jaime Domingo Montales (**Montales**) and Group Supervisor (**GS**) Melecio Cantara (**Cantara**) to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for CY 2017, together with the "Checklist of Presentation of the Requirements for Audit"[10] (**Checklist**).

Subsequently, on 12 September 2018, petitioner, through its General Accountant, Jay R. Fijer (**Fijer**), received a First Notice[11] dated 30 July 2018. In response to the LOA, on 24 August 2018, petitioner submitted documents to BIR Revenue District Office (**RDO**) No. 043-Pasig.[12]

On 18 March 2019, petitioner received a Notice of Informal Conference[13] (**NIC**) dated 14 March 2019, requiring petitioner to appear for an informal conference at RDO No. 043-Pasig, within thirty (30) days from the receipt thereof.

Sometime in November 2021, UnionBank of the Philippines allegedly advised petitioner that its bank account had been frozen pursuant to a WG issued by respondent. On 25 November 2021, petitioner allegedly requested and received a copy of the assailed WDL and WG.[14] On 26 November 2021, petitioner went to respondent to request copies of the Final Assessment Notice (**FAN**)/Formal Letter of Demand (**FLD**) and other notices but to no avail.[15] On 03 December 2021, petitioner filed another Letter Request addressed to BIR RDO No. 043-Pasig, to follow up its request.[16] Sometime thereafter, petitioner managed to get a copy of the FLD/FAN.[17]

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9 Exhibit "R-1", id., p. 531.
10 Exhibit "R-2", id., p. 532.
11 Exhibit "R-3", id., p. 533.
12 Exhibit "R-4", id., p. 534.
13 Exhibit "R-6", id., p. 536.
14 Exhibits "P-11" and "P-12", supra at notes 4 and 5, respectively.
15 Exhibit "P-3", Division Docket, Volume II, p. 765.
16 Exhibit "P-4", id., p. 766.
17 See Par. 13, Petition for Review, supra at note 1, p. 11.

PROCEEDINGS BEFORE THE COURT

Aggrieved, petitioner elevated the matter to this Court by filing the instant Petition for Review[18] with "Application for the Suspension of Tax Collection, Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction" (**Prayer for Suspension**), asking this Court to cancel and set aside the WDL and WG.

In support of the petition, petitioner lamented the absence of proper service of the copies of the PAN and FLD/FAN, rendering thus the deficiency assessments void. As a result, no valid WDL and WG may then stem therefrom. Additionally, on the merit of the assessments, petitioner claimed that it is not liable for the alleged deficiency taxes as provided under the FLD/FAN.

Initially, the case was raffled to the Court's Second Division. On 14 February 2022, summons was issued to respondent, directing him or her to file an Answer within 30 days from the date of receipt thereof, *i.e.*, 18 February 2022.[19] On 24 February 2022, respondent was given five (5) days from the date of receipt thereof to file his or her comment or opposition to the Prayer for Suspension and the same was set for hearing on 14 March 2022.[20]

During the hearing of petitioner's Prayer for Suspension, petitioner presented Heidi R. Mendoza (**Mendoza**), petitioner's Corporate Secretary and Director, who testified *via* her Judicial Affidavit dated 22 December 2021.[21]

On the witness stand, Mendoza, declared that: (1) based on the FLD/FAN, the total amount of the deficiency assessments being challenged is ₱13,900,345.90;[22] (2) petitioner did not properly receive the FLD/FAN and she explained that petitioner's authorized representative, Fernando Navato (**Navato**), went to the BIR on 26 November 2021 to request a copy; (3) petitioner, through Zosimo De Guzman (**Zosimo**), petitioner's comptroller, received the LOA and Checklist; (4) after

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18 Supra at note 1.

19 Division Docket, Volume I, p. 216.

20 Id., p. 219.

21 See Order dated 14 March 2022, id., pp. 222-223.

22 Amount differs from the WDL and WG since the latter does not include the compromise penalty amounting to ₱110,000.00.

receipt of the LOA and Checklist, petitioner submitted several documents to BIR RDO No. 043, which RO Montales received; (**5**) petitioner was notified that its bank accounts were frozen, prompting petitioner's Executive Vice-President, Juan Carlos M. Pineda (**Pineda**), to go to the BIR on 25 November 2021 to secure assessment documents; (**6**) he was given copies of the WDL and WG; (**7**) if the BIR continued to collect the deficiency taxes, petitioner would suffer great losses and severe financial damage considering that in its 2017 Annual Income Tax Return (**AITR**), it reflected a net loss of ₱14,053,116.00; and (**8**) the collection of the taxes would cause irreparable damage.[23]

Considering respondent's absence despite due notice, respondent was deemed to have waived his or her right to cross-examine Mendoza.[24]

In an Order dated 14 March 2022,[25] the Court admitted all of petitioner's exhibits relative to its Prayer for Suspension and directed petitioner to file its memorandum.[26] In compliance therewith, petitioner filed its Memorandum[27] on 24 March 2022. Following that, petitioner filed a "Motion for Leave to Admit Attached Evidence"[28] (**Motion to Admit**) praying that the Court consider petitioner's copy of its 2017 AITR, which was inadvertently not attached to its Memorandum[29] (with respondent's "Manifestation" filed on 18 April 2022). Acting on these submissions, the Court set another Commissioner's Hearing for the reception of the 2017 AITR on 25 May 2022.[30]

Meanwhile, on 05 April 2022, respondent filed a "Manifestation with Motion for Reconsideration of the Order dated 14 March 2022"[31] (**Manifestation with MR**) with petitioner's "Comment (on the respondent's [Manifestation with MR])"[32] filed on 18 April 2022. In a subsequent Resolution dated 13 May 2022,[33] the Court denied respondent's plea, the records showing that respondent was duly

23 See Judicial Affidavit of Heidi R. Mendoza dated 22 December 2021, Exhibit "P-20", Division Docket, Volume I, pp. 123-136.
24 See Order dated 14 March 2022, supra at note 21.
25 Id.
26 Id.
27 Division Docket, Volume I, pp. 232-248.
28 Id., pp. 250-254.
29 See Resolution dated 07 April 2022, id., pp. 274-276.
30 See Resolution dated 13 May 2022, id., pp. 316-321.
31 Id., pp. 269-271.
32 Id., pp. 279-284.
33 Id., pp. 316-321.

notified of the 14 March 2022 hearing. In the same Resolution, the Court granted respondent five (5) days from receipt within which to submit a memorandum. Respondent, on 30 May 2022, filed a Memorandum[34] on petitioner's Prayer for Suspension.

On 03 June 2022, petitioner filed another "Manifestation with Motion to Admit Attached Evidence".[35] In a Resolution dated 28 July 2022,[36] the Court granted the motion, admitted the 2017 AITR and submitted petitioner's Prayer for Suspension for resolution.

In a Resolution dated 02 September 2022,[37] the Court found that petitioner had preliminarily shown due process violations and granted petitioner's Prayer for Suspension, thereby suspending respondent's collection efforts, subject to a bond requirement of ₱9,946,161.79.

On 23 September 2022, petitioner filed a "Motion for Partial Reconsideration (Re: Resolution promulgated on 02 September 2022) With Motion for Extension of Time to File Cash or Surety Bond and Motion for Reduction of or Dispensation with Posting of Bond)"[38] (**MPR on Suspension**). Petitioner argued that the bond requirement should be dispensed with because the case falls under the "absurdity" exception, the Court having preliminarily found that collection should not proceed due to respondent's non-compliance with due process requirements, particularly the alleged non-service of the PAN and the FLD/FAN. On 28 February 2023, the Court, in a Resolution,[39] granted petitioner's MPR on Suspension and dispensed with the bond requirement.

Reverting to the main case, respondent eventually filed an Answer on 19 April 2022.[40] In his or her Answer, respondent interposed the following special and affirmative defenses: (1) the Court has no jurisdiction over the case since the subject assessments had become final, executory and demandable following petitioner's failure to file a valid protest within the reglementary period; (2) petitioner is liable for

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[34] Id., pp. 325-335.
[35] Id., pp. 382-388.
[36] Id., pp. 428-430.
[37] Id., pp. 432-443.
[38] Id., Volume II, pp. 444-456.
[39] See Resolution dated 28 February 2023, id., pp. 487-492; Respondent did not file any Comment.
[40] Id., Volume I, pp. 290-300.

deficiency income tax, VAT, EWT, IAET and DST; and (3) petitioner failed to overturn the presumption of correctness and validity of the assessments.

The Pre-Trial Conference was initially set on 24 August 2023.[41]

In the Resolution dated 29 May 2023, the present case was transferred to the Court's First Division pursuant to Administrative Circular No. 01-2023 (Reorganizing the Divisions of the Court) dated 23 May 2023.[42]

Later, petitioner filed its Pre-Trial Brief[43] on 15 August 2023 and respondent filed his or her Pre-Trial Brief[44] on 17 August 2023. For lack of quorum, the Pre-Trial Conference was reset to 05 October 2023[45] and again reset to 09 November 2023[46] for the same reason.

During the Pre-Trial Conference, the parties were granted a period of twenty (20) days to file the Joint Stipulation of Facts and Issues (**JSFI**), or until 29 November 2023.[47] The parties timely filed their JSFI[48] on 29 November 2023, which the Court approved on 09 January 2024.[49] Thereafter, the Court issued the Pre-Trial Order[50] (**PTO**) on 01 March 2024, following the termination of the pre-trial proceedings.[51]

On 29 November 2023, petitioner filed a "Motion for Commissioning of Independent Certified Public Accountant [**ICPA**]"[52] (**Motion for Commissioning ICPA**), which was set for hearing on 29 February 2024, also the first trial date under the PTO.[53] On 29 February 2024, petitioner's first witness, Mendoza, failed to appear due to a medical condition.[54] Nevertheless, and without objection from

41 Notice of Pre-Trial Conference dated 03 March 2023, id., Volume II, pp. 493-494.
42 Id., p. 495.
43 Id., pp. 496-507.
44 Id., pp. 513-516.
45 See Notice of Resetting dated 23 August 2023, id., p. 572.
46 See Notice of Resetting dated 04 October 2023, id., p. 576.
47 See Order dated 09 November 2023, id., pp. 582-584.
48 Id., pp. 633-640.
49 See Resolution dated 09 January 2024, id., pp. 646-647.
50 Id., pp. 661-675.
51 Id.
52 Id., pp. 596-600.
53 See Resolution 09 January 2024, supra at note 49.
54 See Order dated 29 February 2024, id., pp. 650-652.

respondent, the Court granted petitioner's Motion for Commissioning ICPA.[55]

On petitioner's second trial date under the PTO, petitioner again presented Mendoza, who testified *via* her Supplemental Judicial Affidavit dated 22 December 2021 and ICPA Glenn M. Abanador (**ICPA Abanador**), who testified *via* his Supplemental Judicial Affidavit dated 15 May 2024.[56]

On the witness stand, Mendoza reiterated that: (1) the Board of Directors (**BODs**) learned of the assessment when one of petitioner's UnionBank accounts was frozen pursuant to the WG; (2) upon discovering the freezing of the account, petitioner consulted its tax counsel and was advised to secure copies of the assessment notices, and that Pineda went to the BIR but obtained only copies of the WDL and WG, both dated 05 October 2021; (3) petitioner was advised to obtain copies of the PAN and FLD/FAN; (4) despite Letter-Requests dated 25 November 2021[57] and 01 December 2021[58] (received by respondent on 26 November and 03 December 2021, respectively), petitioner never received the requested assessment notices; (5) petitioner received the LOA and Checklist through Zosimo; (6) the deficiency tax assessments are invalid for lack of due process because petitioner did not receive the PAN and FLD/FAN; and (7) the assessments are also prescribed, noting that the 2017 AITR was filed on 15 April 2018 and WDL and WG were secured only on 25 November 2021, which is beyond three (3) years.[59]

In her cross-examination, Mendoza mentioned that: (1) she had served as a member of the BODs and as Corporate Secretary of petitioner since 2012, performing no other corporate function beyond those roles and having no personal involvement in day to day financial management, except for matters presented during board meetings; (2) she was not involved in, nor personally aware of, the details of the audit and investigation for CY 2017 from its inception and was merely informed of the audit upon the issuance of the LOA and later discussions in board meetings; (3) the BODs, including herself, became fully aware of the assessment only when petitioner's bank accounts were

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55 Id.
56 See Order dated 21 May 2024, id., pp. 719-721.
57 Exhibit "P-3", id., p. 765.
58 Exhibit "P-4", id., p. 766.
59 See Supplemental Judicial Affidavit of Heidi R. Mendoza dated 22 December 2021, Exhibit "P-21", id., Volume I, pp. 176-193.

frozen following the issuance of the WDL and WG, and that the FLD/FAN were never personally received by her or properly served upon petitioner; (4) during the relevant period, Erick De Sagun (**Sagun**), who was no longer connected with petitioner, handled the accounting matters; (5) notices from the BIR were customarily received by petitioner's comptroller and elevated to the BODs for discussion; (6) she is not familiar with someone named 'Joanne Du'; and (7) while she opined that respondent's right to assess had prescribed within three (3) years from the relevant taxable period, she candidly admitted lack of awareness of revenue issuances suspending prescription periods during the pandemic.[60]

On redirect examination, Mendoza declared that: (1) while she previously testified on cross-examination that she could not specifically identify from the face of those documents where it was indicated that petitioner's books of accounts had been submitted, this was because she did not personally prepare or transmit the submissions; (2) she did not know who physically submitted the transmittal letters to respondent, but confirmed that they were received by RO Montales; (3) the authorized representative of petitioner for purposes of submitting the documents was Sagun; (4) she herself did not personally submit the documents to the BIR; and (5) notwithstanding the foregoing, she was made aware that the documents had been transmitted and respondent received them.[61]

Upon re-cross examination, Mendoza revealed that: (1) she became aware that petitioner's books of accounts were submitted a few weeks after receipt of the LOA in July, based on information relayed to her; (2) her awareness during the audit was limited to being informed of the LOA's and Checklist's receipt, and that the company personnel were preparing and submitting the documents to respondent without her direct participation in or supervision of the process; (3) the BODs was not apprised of every audit developments, and she could no longer recall whether the BODs convened specifically in relation to the CY 2017 audit and investigation; and (4) she could not remember whether a Special Power of Attorney (**SPA**) or a Secretary's Certificate had been issued authorizing the person who submitted the documents to respondent.[62]

60 TSN dated 21 May 2024, pp. 15-34.
61 Id., pp. 35-37.
62 Id., pp. 37-40.

After the completion of Mendoza's testimony, petitioner presented ICPA Abanador who recounted that: (1) the Court of Tax Appeals (**CTA**), on 29 February 2024, commissioned him as ICPA to examine the authenticity and veracity of petitioner's voluminous supporting documents and was directed to prepare and submit a corresponding report; (2) he personally examined the documents petitioner submitted; (3) as to income tax—undeclared sales on missing invoices—he found that petitioner could not provide the list of the ten (10) sales invoices that respondent assessed because petitioner had not received the specific sales invoice numbers identified by respondent; (4) respondent allegedly multiplied the total average sales by 10 and treated the resulting ₱319,676.00 as undeclared sales, making it necessary to examine the specific invoices; (5) as to disallowed costs/expenses due to non-withholding — he stated that the ₱8,561,443.21 expenses were not subject to withholding tax because petitioner was included in the BIR list of Top 20,000 private corporations only effective 18 October 2018, hence petitioner was not required to withhold in 2017; (6) as to disallowed tax credits/payments—he said that the allowed tax credits/payments for 2017 should be ₱1,863,362.00 based on the Amended 2016 AITR (not the Amended 2017 AITR), explaining that in view of the LOA dated 11 July 2018, the point of reference should be the Amended 2016 AITR filed on 02 May 2018; (7) upon recomputation, petitioner had tax credits/payments of ₱1,863,362.00 as against respondent's alleged disallowed credits of ₱2,008,576.00; (8) as to net operating loss carry-over (**NOLCO**) — he confirmed his finding that NOLCO should not have been added back in computing the 2017 deficiency income tax because, based on the 2017 AITR, the NOLCO was incurred in the same year and any tax benefit pertains to the next three (3) consecutive taxable years; (9) as to VAT — undeclared sales on missing invoices — he reiterated the same finding that petitioner could not provide the list of the 10 allegedly missing invoices; (10) as to sales not subjected to VAT — he stated that petitioner could not produce the list and copies of invoices because these had been transmitted to respondent, and that comparing sales *per* VAT returns (₱4,746,612.84) against sales *per* 2017 AITR (₱4,991,604.00) showed a discrepancy of ₱244,991.16 (not ₱623,947.60 as alleged by respondent), which does not automatically result in a deficiency tax due to differences in recognition for income tax *versus* VAT purposes; (11) as to transaction deemed sale — he confirmed the respondent's allegation that petitioner's supposed subscription and payment of Filipina Climate Solutions, Inc.'s (**FCSI**'s) additional shares *via* transfer of inventory worth ₱37,581,753.00 was treated (by respondent) as a transaction deemed sale subject to VAT; (**12**) he testified that he examined the Subscription Agreement dated 25 July 2017 and evaluated FCSI's GIS for 2016–2019, finding that the stockholders and shares subscribed/paid remained the same for those years, indicating that petitioner did not subscribe to additional shares and there was no evidence that the Subscription Agreement was implemented; (**13**) as to IAET — he opined that petitioner is not liable because he examined a Board Resolution appropriating ₱12 million of retained earnings for corporate expansion projects; and (**14**) as to DST — he confirmed respondent's allegation that petitioner's related-party transaction of ₱65 million shown in the 2017 AITR was assessed DST of ₱327,000.00, but testified that he concluded the transaction did not arise in CY 2017 because the ₱65 million was reflected in the 2016 financial statements (**FS**) and 2016 ITR and is beyond the scope of the present assessment.[63]

In his cross-examination, ICPA Abanador reiterated that respondent was looking for 10 specific sales invoices but he or she failed to provide the specific sales invoice numbers or any details related thereto.[64]

No redirect examination followed.[65]

Pursuant to the Court's Order dated 21 May 2024,[66] petitioner filed its Formal Offer of Evidence[67] (**FOE**) on 31 May 2024. In a Resolution dated 30 July 2024,[68] the Court, *sans* respondent's comment,[69] admitted all of petitioner's evidence, except Exhibit "P-28-A3.2",[70] for not being found in the records.

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63 See Supplemental Judicial Affidavit of Glenn M. Abanador dated 15 May 2024, Exhibit "P-30", Division Docket, Volume II, pp. 702-713.
64 TSN dated 21 May 2024, pp. 50-51.
65 Id., p. 51.
66 Division Docket, Volume II, pp. 719-721.
67 Id., pp. 734-749.
68 Id., pp. 874-875.
69 See Records Verification dated 26 June 2024, id., p. 868.
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Exhibit No.	Description
"P-28-A3.2"	Summary of Disallowed Expenses due to Non-Withholding referred to and pre-marked by the ICPA in his ICPA Report

On 13 August 2024, respondent offered the testimony of his or her lone witness: RO Montales, who testified *via* his Judicial Affidavit dated 14 August 2023.[71]

On the witness stand, RO Montales declared that: (1) he is respondent's RO tasked to conduct audit and investigation of petitioner's internal revenue taxes, including documentary stamp tax and other miscellaneous taxes for CY 2017, pursuant to the LOA dated 11 July 2018; (2) upon receipt thereof, he personally served the LOA and Checklist at petitioner's registered address, which petitioner's representative received; (3) a First Notice dated 30 July 2018 was issued requesting petitioner to submit required records/ documents and make available its books of accounts for examination; (4) on 27 September 2018, he conducted an audit/examination at petitioner's premises; (5) after the said audit, an NIC dated 14 March 2019 was issued to inform petitioner of initial findings on its tax liabilities for CY 2017 and to require it to appear for an informal conference, which was received through petitioner's representative, Zosimo, on 18 March 2019; (6) based on the audit, discrepancies were found such that petitioner was allegedly liable for deficiency Income Tax, VAT, IAET, DST and compromise penalty, and he recommended the issuance of PAN; (7) he served the PAN through registered mail and courier (after an initial attempt at personal service and after learning petitioner transferred its office from Pasig to San Juan without informing respondent); (8) thereafter, on 27 January 2021, an FLD/FAN was issued and served; (9) the same assessed petitioner for deficiency income tax (₱4,310,177.50), VAT (₱6,561,750.99), EWT (₱116,767.01), IAET (₱2,270,987.63), DST (₱530,662.77) and compromise penalty (₱110,000.00) for CY 2017; and (10) he served the FLD/FAN personally at petitioner's registered address and the same were allegedly received by a certain Joanne Macadaeg Du, petitioner's alleged chief accountant.[72]

During cross-examination, RO Montales clarified that: (1) while he testified that he personally served the LOA and Checklist on petitioner, the LOA was actually received by Sagun who represented himself as petitioner's chief accountant at that time; (2) when pressed on how he verified Sagun's authority to receive the LOA, he stated that he asked for the authorized personnel and Sagun received it; he,

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71 See Order dated 13 August 2024, Division Docket, Volume III, pp. 877-878.

72 See Judicial Affidavit of RO Jaime Domingo Montales dated 14 August 2023, Exhibit "R-18", id., Volume II, pp. 520-529.

however, did not recall that Sagun categorically confirmed that he was authorized to receive the LOA; (3) he likewise confirmed that he personally served the First Notice dated 30 July 2018, but it was actually served on 12 September 2018 and received by a certain Fijer; (4) he admitted there was no verification of Fijer's identity, position, or authority upon service of the First Notice; (5) as to the audit he conducted, he checked the company's sales invoices and official receipts, which became the bases of his initial findings; (6) he confirmed that Zosimo received the NIC, whom he identified as petitioner's comptroller; (7) as to his claim that he first attempted personal service of the PAN, he acknowledged he had no particular proof (*e.g.*, photo) of the attempt but believed his affidavit mentioned that he tried to serve it at the Pasig address and found the taxpayer had already moved to San Juan; (8) he testified that the PAN was served *via* registered mail and LBC courier; for the LBC service, he did not recall verifying receipt, but stated that the service providers would return the mail if undelivered; and (9) crucially, he admitted that for the registered-mail service there was no registry return card.[73]

In the course of his redirect examination, RO Montales explained that (1) Sagun asked him about the LOA and volunteered to receive the LOA and Checklist; and (2) he did not verify whether Sagun was authorized to receive the LOA.[74]

No re-cross examination was conducted.[75]

On 16 August 2024, respondent filed his or her FOE[76] consisting of Exhibits "R-1" to "R-18", inclusive of sub-markings. On 27 August 2024, petitioner filed "Comment/Opposition (to Respondent's [FOE])."[77]

In the Resolution dated 08 October 2024,[78] the Court admitted respondent's exhibits.

Petitioner filed its Memorandum on 11 November 2024 without submitting *via* e-mail the required soft copy/portable document format

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[73] TSN dated 13 August 2024, pp. 12-20.
[74] Id., pp. 20-24.
[75] Id., p. 24.
[76] Division Docket, Volume III, pp. 881-886.
[77] Id., pp. 929-932.
[78] Id., pp. 939-940.

(**PDF**) thereof.[79] Thus, in its Resolution dated 27 January 2025,[80] the Court noted petitioner's non-compliance with the directive to e-mail the required soft copy and, as a consequence, deemed petitioner's Memorandum as not filed. The Court accordingly treated the case as submitted for decision without the parties' memoranda, also noting that respondent likewise failed to file his or her memorandum.[81]

Thereafter, on 12 February 2025, petitioner filed a "Motion for Reconsideration (Resolution dated 27 January 2025)".[82] In a Resolution dated 11 March 2025,[83] the Court directed respondent to comment on the motion within five (5) days. In its Resolution dated 27 August 2025,[84] the Court, *sans* respondent's comment on the motion,[85] denied the motion for lack of merit.

ISSUE

As can be gleaned from the parties' JSFI,[86] the issue for this Court's resolution is –

> WHETHER PETITIONER UGONG TRADE & HOLDINGS INC. IS LIABLE FOR DEFICIENCY INCOME TAX, VALUE-ADDED TAX (VAT), EXPANDED WITHHOLDING TAX (EWT), IMPROPERLY ACCUMULATED EARNINGS TAX (IAET), DOCUMENTARY STAMP TAX (DST) AND COMPROMISE PENALTY FOR CALENDAR YEAR (CY) 2017.

ARGUMENTS

Petitioner argues that the deficiency tax assessments are void when the PAN and FLD/FAN were not duly served and any enforcement measures based thereon have no legal effect. Petitioner also invokes the statute of limitations to assert that the government's right to assess the alleged deficiency taxes has long prescribed. Anchoring its claim on

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79 See Records Verifications dated 13 November 2024 and 06 January 2025, id., pp. 978 and 985, respectively.
80 Id., p. 986.
81 See Records Verification dated 18 November 2024, id., p. 979.
82 Id., pp. 993-998.
83 Id., pp. 1037-1038.
84 Id., pp. 1052-1055.
85 See Records Verification dated 31 March 2025, id., p. 1046.
86 See supra at note 48.

Sections 203[87] and 222[88] of the NIRC of 1997, as amended, petitioner contends that respondent only had three (3) years from the filing of the relevant tax returns, *i.e.*, 2017 AITR was filed on 15 April 2018, yet petitioner only became aware of and secured copies of the WDL and WG upon its later efforts around 25 November 2021, which petitioner claims is beyond three (3) years from filing of the return. Substantively, petitioner asserts that it is not liable for its supposed deficiency taxes as provided for under the FLD/FAN.

Respondent counters that this Court has no jurisdiction over the petition since petitioner failed to file a valid protest within the reglementary period, causing the subject assessments to attain finality. Moreover, respondent maintains that petitioner is liable for deficiency income tax, VAT, EWT, IAET and DST (plus compromise penalty), as reflected in the FLD/FAN.

Lastly, respondent underscores that all presumptions are in favor of the correctness of tax assessments and failure on the part of petitioner to satisfactorily overcome the same would mean that the presumption still stands. Consequently, the Court would be bound to uphold the assessments.

RULING OF THE COURT

Before delving into the merits of the case, We find it propitious to first resolve whether this Court has jurisdiction over the instant petition.

THE COURT OF TAX APPEALS (CTA) HAS JURISDICTION OVER THE INSTANT PETITION FOR REVIEW.

At the outset, it should be emphasized that the CTA, being a court of special jurisdiction, can only take cognizance of matters which are

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87 **SEC. 203**. *Period of Limitation Upon Assessment and Collection.*

88 **SEC. 222**. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.*

clearly within its jurisdiction.[89] Section 7 of Republic Act (**RA**) No. 1125,[90] as amended by RA 9282,[91] provides:

> ...
>
> **Sec. 7.** *Jurisdiction.* — The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue[.][92]
>
> ...

It is well-settled that the perfection of an appeal in the manner and within the period pursuant to the relevant provisions of the law is not only mandatory but jurisdictional and non-compliance with these legal requirements is fatal to a party's cause.[93]

Based on the foregoing provision, this Court has jurisdiction over the decisions of respondent in cases, not only those "involving disputed assessments, and refunds of internal revenue taxes, fees or other charges, penalties in relation thereto" but also regarding "other matters arising under the [NIRC] or other laws administered by the [BIR]."

In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue,*[94] the Supreme Court held as follows, to wit:

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89 *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, 25 March 2019 citing *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, 22 October 2014.

90 AN ACT CREATING THE COURT OF TAX APPEALS.

91 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 OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

92 Emphasis supplied and italics in the original text.

93 *Team Pacific Corporation v. Josephine Daza in her capacity as Municipal Treasurer of Taguig*, G.R. No. 167732, 11 July 2012.

94 G.R. No. 162852, 16 December 2004; Citations omitted, emphasis supplied and italics in the original text.

> ...
>
> **The appellate jurisdiction of the CTA is not limited to cases which involve decisions of the Commissioner of Internal Revenue on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the Bureau of Internal Revenue. The wording of the provision is clear and simple.** It gives the CTA the jurisdiction to determine if the warrant of distraint and levy issued by the BIR is valid and to rule if the Waiver of Statute of Limitations was validly effected.
>
> This is not the first case where the CTA validly ruled on issues that did not relate directly to a disputed assessment or a claim for refund. In *Pantoja v. David*, we upheld the jurisdiction of the CTA to act on a petition to invalidate and annul the distraint orders of the Commissioner of Internal Revenue. Also, in *Commissioner of Internal Revenue v. Court of Appeals*, the decision of the CTA declaring several waivers executed by the taxpayer as null and void, thus invalidating the assessments issued by the BIR, was upheld by this Court.
>
> ...

The foregoing jurisprudential pronouncements confirm that this Court's appellate jurisdiction is not limited to cases involving respondent's decisions on matters relating to assessments or refunds. The law also provides the Court's appellate jurisdiction over any case that could arise from the NIRC of 1997, as amended, and other related laws that the BIR administers.

In the case at bar, the WDL's issuance is a matter that arose out of respondent's implementation of the provisions of the NIRC of 1997, as amended, particularly Section 205,[95] *inter alia*. Such being the case, this Court has jurisdiction to take cognizance of the present Petition. Relatedly, Section 11 of RA 1125, as amended, prescribes the period for filing an appeal before this Court, *viz*:

> ...
>
> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — **Any party adversely affected by a decision, ruling, or inaction of the Commissioner of Internal Revenue . . . may file an appeal with the CTA within thirty (30) days after the receipt** of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.[96]
>
> ...

[95] **SEC. 205.** *Remedies for the Collection of Delinquent Taxes.*

[96] Emphasis supplied and italics in the original text.

The afore-cited provisions are also provided in Section 3(a),[97] Rule 4 and Section 3(a),[98] Rule 8 of the RRCTA.

Based on the foregoing, the Court has exclusive jurisdiction to review a WDL by appeal, provided that the appeal is filed within 30 days from petitioner's receipt thereof.

In this case, petitioner had 30 days from receipt of respondent's WDL and WG within which to file a Petition for Review with this Court. Petitioner received the WDL and WG on 25 November 2021;[99] thus, the original deadline would have been **25 December 2021**. However, 25 December 2021 fell within the period when the filing of pleadings and other court submissions before this Court was suspended (21 December 2021 to 3 January 2022) pursuant to CTA Circular No. 02-2021,[100] issued in view of Super Typhoon Odette and in line with Supreme Court Administrative Circular No. 102-2021.[101] Accordingly, the running of the reglementary period was interrupted and the remaining period resumed after the suspension, *i.e.*, starting 04 January 2022, making the new deadline **11 January 2022**. Thus, the Petition filed on **04 January 2022** was timely.

We now proceed to the merits of the case.

RESPONDENT FAILED TO PROVE THAT PETITIONER RECEIVED THE PRELIMINARY ASSESSMENT NOTICE (PAN), FORMAL LETTER OF DEMAND AND FINAL ASSESSMENT NOTICE (FLD/FAN).

The Supreme Court in the case of *Alliance for the Family Foundation, Philippines, Inc. (ALFI), et al. v. Hon. Janette L. Garin, et al.*,[102] declared emphatically:

97 Supra at note 3.
98 Supra at note 2.
99 Supra at note 14.
100 Extension of the Deadlines for the Filing of Any and All Pleadings and Other Court Submissions with the Court of Tax Appeals in Light of Super Typhoon Odette.
101 Extension of the Deadlines for the Filing of Any and All Pleadings and Other Court Submissions with the Supreme Court in Light of Super Typhoon Odette.
102 G.R. Nos. 217872 & 221866, 24 August 2016; Citations omitted and emphasis supplied.

> ...
>
> Due process of law has two aspects: substantive and procedural due process. In order that a particular act may not be impugned as violative of the due process clause, **there must be compliance with both the substantive and the procedural requirements** thereof.
>
> Substantive due process refers to the intrinsic validity of a law that interferes with the rights of a person to his property. **Procedural due process**, on the other hand, **means compliance with the procedures or steps, even periods, prescribed by the statute**, in conformity with the standard of fair play and without arbitrariness on the part of those who are called upon to administer it.
>
> **Although administrative procedural rules are less stringent and often applied more liberally, administrative proceedings are not exempt from basic and fundamental procedural principles, such as the right to due process in investigations** and hearings.
>
> ...

Section 228 of the NIRC of 1997, as amended, lays down the due process requirements that must be met in the issuance of a deficiency tax assessment, to wit:

> ...
>
> **Sec. 228.** *Protesting of Assessment*. - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings...
>
> ...
>
> **The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.**
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.[103]
>
> ...

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[103] Emphasis supplied and italics in the original text.

To implement the procedural and substantive rules on the assessment of national internal revenue taxes, the BIR has issued Revenue Regulations (**RR**) No. 12-99,[104] which provides:

> ...
> SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —
>
> 3.1.4 *Formal Letter of Demand and Assessment Notice.* — The formal letter of demand and assessment notice shall be issued by the Commissioner or his duly authorized representative. The letter of demand calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based, otherwise, the formal letter of demand and assessment notice shall be void (see illustration in ANNEX B hereof). The same shall be sent to the taxpayer only by registered mail or by personal delivery. **If sent by personal delivery, the taxpayer or his duly authorized representative shall acknowledge receipt thereof in the duplicate copy of the letter of demand, showing the following: (a) His name; (b) signature; (c) designation and authority to act for and in behalf of the taxpayer, if acknowledged received by a person other than the taxpayer himself; and (d) date of receipt thereof.**[105]
> ...

Subsequently, the same Section was amended by RR No. 18-13,[106] to wit:

> ...
> SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —
> ...
> 3.1.3 *Formal Letter of Demand and Final Assessment Notice (FLD/FAN).* — The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued by the Commissioner or his duly authorized representative. The FLD/FAN calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based; otherwise, the assessment shall be void (see illustration in ANNEX "B" hereof).

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104 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.

105 Emphasis supplied and italics in the original text.

106 Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

3.1.4 *Disputed Assessment.* — The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN within thirty (30) days from date of receipt thereof. The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:

(i) *Request for reconsideration* — refers to a plea of re-evaluation of an assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both.

(ii) *Request for reinvestigation* — refers to a plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that a taxpayer intends to present in the reinvestigation. It may also involve a question of fact or of law or both.

The taxpayer **shall** state in his protest **(i) the nature of protest whether reconsideration or reinvestigation, specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based, otherwise, his protest shall be considered *void and without force and effect.***

...

3.1.6 *Modes of Service.* — The notice (PAN/FLD/FAN/FDDA) to the taxpayer herein required may be served by the Commissioner or his duly authorized representative through the following modes:

(i) **The notice shall be served through personal service by delivering personally a copy thereof to the party** at his registered or known address or wherever he may be found. A known address shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.
In case personal service is not practicable, the notice shall be served by substituted service or by mail.

(ii) Substituted service can be resorted to when the party is not present at the registered or known address under the following circumstances:

The notice may be left at the party's registered address, with his clerk or with a person having charge thereof.

If the known address is a place where business activities of the party are conducted, the notice may be left with his clerk or with a person having charge thereof.

If the known address is the place of residence, substituted service can be made by leaving the copy with a person of legal age residing therein.

If no person is found in the party's registered or known address, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses to the address so that they may personally observe and attest to such absence. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.

Should the party be found at his registered or known address or any other place but refuse to receive the notice, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses in the presence of the party so that they may personally observe and attest to such act of refusal. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.

"*Disinterested witnesses*" refers to persons of legal age other than employees of the Bureau of Internal Revenue.

(iii) Service by mail is done by sending a copy of the notice by registered mail to the registered or known address of the party with instruction to the Postmaster to return the mail to the sender after ten (10) days, if undelivered. **A copy of the notice may also be sent through reputable professional courier service.** If no registry or reputable professional courier service is available in the locality of the addressee, service may be done by ordinary mail.

The server shall accomplish the bottom portion of the notice. He shall also make a written report under oath before a Notary Public or any person authorized to administer oath under Section 14 of the NIRC, as amended, setting forth the manner, place and date of service, the name of the person/barangay official/ professional courier service company who received the same and such other relevant information. The registry receipt issued by the post office or the official receipt issued by the professional courier company containing sufficiently identifiable details of the transaction shall constitute sufficient proof of mailing and shall be attached to the case docket.

> Service to the tax agent/practitioner, who is appointed by the taxpayer under circumstances prescribed in the pertinent regulations on accreditation of tax agents, shall be deemed service to the taxpayer.[107]
>
> ...

While the amended provisions of RR No. 12-99 no longer mirror the earlier, more detailed qualifications for personal delivery, the foregoing, read in light of Section 228 of the NIRC of 1997, as amended and the basic rudiments of due process, still contemplates service upon the taxpayer itself or its duly authorized representative. This is in keeping with the wisdom of the law that the recipient of an assessment notice must possess a certain degree of authority or discretion, capable of grasping the gravity of the service of an assessment notice and the potential financial impact it would have to the taxpayer they purport to serve and represent.[108] This holds especially true for juridical entity taxpayers, such as petitioner, who can only act through its officers and employees, and who would otherwise be prejudiced by such recipient's simple ignorance.[109]

Here, respondent maintains that the PAN was validly served at petitioner's registered address through a reputable courier service (LBC), and that the FAN/FLD was thereafter personally served. Respondent further contends that petitioner failed to present evidence proving non-service.

We disagree.

The rule is that once a taxpayer denies receipt of the BIR's issuances, the burden of proof rests upon the latter to prove that these issuances have been actually received. In the case of *Barcelon, Roxas Securities Inc. (now known as UBP Securities, Inc.) v. Commissioner of Internal Revenue*[110] **(Barcelon)**, citing the case of *Gonzalo P. Nava v. Commissioner of Internal Revenue*,[111] the Supreme Court emphasized that it is imperative for the BIR to satisfactorily prove the release, mailing or sending of the assessment, *viz*:

107 Emphasis supplied and italics in the original text.

108 See *Mannasoft Technology Corporation v. Commissioner of Internal Revenue*, G.R No. 244202, 10 July 2023.

109 Id.

110 G.R No. 157064, 07 August 2006; Citations omitted and emphasis supplied.

111 G.R No. L-19470, 30 January 1965.

> ...
>
> Jurisprudence is replete with cases holding that if the **taxpayer denies ever having received an assessment from the BIR, it is incumbent upon the latter to prove by competent evidence that such notice was indeed received by the addressee.** The **onus probandi was shifted to respondent to prove by contrary evidence** that the Petitioner received the assessment in the due course of mail. The Supreme Court has consistently held that while a mailed letter is deemed received by the addressee in the course of mail, this is merely a disputable presumption subject to controversion and a direct denial thereof shifts the burden to the party favored by the presumption to prove that the mailed letter was indeed received by the addressee. ...
>
> ...
>
>> "While we have held that an assessment is made when sent within the prescribed period, even if received by the taxpayer after its expiration, this ruling makes it the more imperative **that the release, mailing or sending of the notice be clearly and satisfactorily proved.** Mere notations made without the taxpayer's intervention, notice or control, **without adequate supporting evidence cannot suffice**; otherwise, the taxpayer would be at the mercy of the revenue offices, without adequate protection or defense."
>
> ...

In the case of *Republic of the Philippines v. The Court of Appeals and Nielson & Company, Inc.*[112] and in *Barcelon*,[113] the Supreme Court also held that a party favored by the presumption has the burden of proving that the addressee received the mailed letter in cases when there is a direct denial of the receipt of the mail. Consistently, the Supreme Court has held that it is a due process requirement that the taxpayer actually receives the assessment, to wit:

> ...
> It must be noted, however, that the foregoing rule requires that the notice be sent <u>to the taxpayer</u>, and not merely to a disinterested party. Although there is no specific requirement that the taxpayer should receive the notice within the said period, due process requires at the very least that such notice actually be received. In *Commissioner of Internal Revenue v. Pascor Realty and Development Corporation*, we had occasion to say:

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112 G.R No. L-38540, 30 April 1987.
113 Supra at note 110.

> An assessment contains not only a computation of tax liabilities, but also a demand for payment within a prescribed period. It also signals the time when penalties and interests begin to accrue against the taxpayer. To enable the taxpayer to determine his remedies thereon, due process requires that it must be served on and received by the taxpayer.[114]

...

Unfortunately, in the case at bar, respondent failed to discharge his or her burden of proof. It is noted that, respondent's lone witness, RO Montales, claimed that the PAN was served through registered mail and courier after an initial attempt at personal service, and after allegedly learning that petitioner transferred its office from Pasig to San Juan. The same witness further claimed that the FLD/FAN was personally served on a certain "Joanne Macadaeg Du", whom respondent characterizes as petitioner's chief accountant.

With the foregoing, We can only rule that both services of PAN and FLD/FAN were improper.

Particularly as to the PAN, it bears noting that a "letter duly directed and mailed" is presumed received in the regular course of mail, but the presumption arises *only* after proof that: (**a**) it was properly addressed with postage prepaid and (**b**) it was mailed; and it may be overcome by evidence, including a direct denial of receipt.[115]

In *Barcelon*,[116] the Supreme Court stated that "independent evidence, such as the registry receipt of the assessment notice, or a certification from the Bureau of Posts," should have been presented to prove that the assessment notice was released, mailed and sent to the taxpayer.

Verily, in the case of *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*,[117] the Supreme Court has ruled that the

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114 *Estate of the Late Juliana Diez Vda. De Gabriel v. Commissioner of Internal Revenue*, G. R No. 155541, 27 January 2004; Citations omitted, italics and underscoring in the original text.

115 See *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*, G.R. No. 225809, 17 March 2021.

116 Supra at note 110.

117 Supra at note 115; Citations omitted and emphasis supplied.

requirements of Section 3(v)[118] of Rule 131 of the Rules of Court were adequately shown by taxpayer when:

> ...
> BIR Administrative Aide VI Ronnie SJ Ocampo testified that: (a) he was the one who actually placed the Formal Letter of Demand and Final Assessment Notice No. 021-R-0604112007 dated April 2, 2008 into the sealed envelope and actually delivered the said mail matter to the Post Office of San Fernando, Pampanga. **The Final Assessment Notice was sent through registered mail under Registry Receipt No. 853**, addressed to respondent at 3F SM City San Fernando Pampanga, on April 10, 2008; and (b) **that Registry Receipt No. 853 was received by Brian David on April 14, 2008, as shown in the Registry Return Card**. Hence, there was a valid and effective issuance or release of the Formal Letter of Demand and Final Assessment Notice on April 10, 2008, through registered mail.
> ...

However, in this case, respondent still failed to prove valid service of the PAN by competent, independent evidence.

Although RO Montales testified that he mailed the PAN (as also stated in the Affidavit of Service of Preliminary Assessment Notice dated 07 January 2021[119]), respondent presented only: (**a**) a Registry Receipt[120] showing that an unspecified mail matter was received by the Pasig Central Post Office without any clear indication that it pertained to the PAN or that it was addressed to petitioner's registered or known address and (**b**) an LBC official receipt (**OR**) that does not identify the document allegedly sent, the complete addressee details, the delivery date or the name and authority of the recipient.

Critically, respondent did not present the registry return card, the primary proof of actual delivery/receipt in registered-mail service, nor any certification from the Bureau of Posts or equivalent postal documentation executed with its intervention to account for the missing return card.

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118 **Sec. 3** *Disputable presumptions.* – The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:
...
v. That a letter duly directed and mailed was received in the regular course of the mail[.]

119 Exhibit "R-11", Division Docket, Volume II, p. 551.

120 Exhibit "R-9", id., p. 548.

RO Montales testified as follows during cross-examination:

...
PRESIDING JUSTICE ROMAN G. DEL ROSARIO:

But there was no Registry Return [Card]. Is that it?

REVENUE OFFICER JAIME DOMINGO R. MONTALES:

A. **Yes, Sir.**[121]

...

This omission is fatal, especially given the direct denial of receipt. Jurisprudence squarely requires respondent to prove actual receipt through such independent evidence and self-serving internal notations or incomplete mailing documents do not suffice.[122]

This dovetails with the Rules of Civil Procedure (**RCP**), as amended, on proof of service: for registered mail, the registry return card should be filed upon receipt, or, in lieu thereof, the unclaimed letter together with the certified/sworn copy of the postmaster's notice to the addressee.[123] Respondent's evidence falls short of these standards.

Likewise, the LBC OR deserves no evidentiary weight as proof of service. It contains no identifiable details of the transaction, merely noting "DOCUMENTS ONLY" without further specifics. Moreover, respondent's other pieces of evidence did not include any tracking printout with delivery confirmation, written report, certification, or any other document from LBC showing when, where and to whom the PAN was *actually* delivered. regarding the service of the subject PAN. Accordingly, respondent failed to establish that the PAN was duly released, mailed and actually received by petitioner.

As to the FLD/FAN, respondent claims that it was personally served on "Joanne Macadaeg Du", (**Du**) whom respondent describes as petitioner's chief accountant. This claim, however, does not establish

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121 TSN dated 13 August 2024, p. 19; Emphasis supplied.

122 See *Commissioner of Internal Revenue v. Arturo E. Villanueva, Jr.*, G.R. No. 249540, 28 February 2024.

123 Section 17, Rule 13 of the Rules of Civil Procedure, as amended.

valid service. RO Montales himself admitted that he did not verify Du's authority to receive the FAN/FLD on petitioner's behalf:

> ...
> ATTY. YALESLIE B. AMENE:
>
> Q. Mr. Witness, my last question. In your answer to Question 36, you mentioned that, as to the service of the Final Assessment Notice, you served them personally to the taxpayer. Correct?
>
> REVENUE OFFICER JAIME DOMINGO R. MONTALES:
>
> A. Yes.
>
> ATTY. YALESLIE B. AMENE:
>
> Q. And it was received by a certain Joan Macadaeg Du?
>
> REVENUE OFFICER JAIME DOMINGO R. MONTALES:
>
> A. Yes.
>
> ATTY. YALESLIE B. AMENE:
>
> **Q. Was there also any verification or confirmation as to the authority of Ms. Du to receive the Final Assessment Notice?**
>
> REVENUE OFFICER JAIME DOMINGO R. MONTALES:
>
> **A. There is no confirmation.**[124]
>
> ...

This admission is fatal.

In the recent case of *Commissioner of Internal Revenue v. Fort 1 Global City Center, Inc.*,[125] the Supreme Court invalidated the assessments for respondent's failure to ascertain whether the person who received the assessment notices had authority to do so, to wit:

> ...
> Here, it is undisputed that the PAN, FAN, and FDDA for the taxable year 2009 were personally delivered. However, the revenue

[124] TSN dated 13 August 2024, pp. 19-20; Emphasis supplied.
[125] G.R. No. 263811, 26 November 2024; Citations omitted and emphasis supplied.

officer who served the notices did not ascertain the authority of the persons who received the notices on behalf of FGCCI. A summary of the relevant tax documents is provided below:

...

During her cross-examination, Revenue Officer Gigette Ventura (Revenue Officer Ventura) cannot even recall the details of the service:

> [Atty. Martinez]
>
> Q: Do you know what is the position of the person who received the Preliminary Assessment Notice?
> A: No, your Honors.
>
> Q: For the Formal Notice of Assessment, Ms. Witness, for the year 2009, who received the specific document?
> ...
>
> A: It was received by a certain [Lauron Airen] at the lobby reception on July 31, 2012.
> ...
>
> Q: And, did you get the position of this person who received the document?
> A: It was specified here he was a receptionist.
>
> Q: He was a receptionist at the hotel or is he a receptionist of [FGCCI]?
> A: I cannot recall, your Honors, if I was the one who served this document that's why I cannot recall if he is at the reception of the hotel or the petition.

Undeniably, Revenue Officer Ventura miserably failed to comply with the requirements under RR No. 12-99.

As for the taxable year 2012, the Revenue Officer Abdulhalim Usman (Revenue Officer Usman) did not comply with the rules of proper service under RR No. 18-13, which amended RR No. 12-99, to wit:

...

Records show that the LOA was received by a certain "Ramirez James", while the PAN and FAN were received by "Arnel Santos." Their positions, however, were not indicated in the documents. Even in his testimony before the CTA, **Revenue Officer Usman is unsure whether these persons are FGCCI's authorized representatives.** He attempted to explain his failure to properly serve the notices because the security guard of the premises was uncooperative:

[Atty. Martinez]

Q: Could you identify from the received Notice of Assessments that you have the name and position of the person who received them?
A: I cannot recall anymore because it is five (5) years ago. But in this Letter of Authority, it was received by Ramirez James.

Q: Was the position of the said Ramirez James mentioned in that (paused)
A: It was not mentioned Sir but I always told (sic) to the guard that could you please see to it that you will give it to the authorized person because we are not allowed to go upstairs to talk to that.

Q: So basically, the guard told you that the authorized person is James Ramirez?
A: Exactly. In fact, the first Letter of Authority when I go there (sic), I waited for more or less one (1) hour, more than one (1) hour.

Q: And who received the Preliminary Assessment Notice?
...

A: It was Arnel Santos, Sir.

Q: And Mr. Arnel Santos, did Mr. Arnel Satnos identify his signature, his position in the Fort 1 Global City Center, Inc.?
A: No, Sir.

Q: How about the Final Assessment Notice, who received that?
A: Arnel Santos also, Sir.

Q: Mr. Witness, in all these notices and assessment you served to Fort 1 Global City Center, Inc., did you ask for an identification of these people who received them to be sure that they are indeed affiliated with the said corporation?
A: I always told the guard, Sir, in fact, his angry to (sic) me because I always keep on repeating my instructions. But I was assure (sic) him that I hope you give it to the authorized person.

Q: So, you relied on the information given by the guard?
A: Exactly, Sir[.]

We are unconvinced. Revenue Officer Usman cannot blame the security guard who allegedly refused to tell him who the authorized representatives of FGCCI are. RR No. 18-13 provides for the process to be done if no person can be found at the taxpayer's known address, *i.e.*, bring a barangay official and two disinterested witnesses so that they may personally observe and attest to such act of refusal. Despite this, he proceeded to merely rely on the representations of the security guard.

...

Accordingly, respondent's alleged personal service of the FAN/FLD on "Joanne Macadaeg Du", unsupported by any proof of the latter's authority to receive assessment notices for petitioner, cannot be considered valid service of the FLD/FAN. Owing to the improper service of the PAN and the FLD/FAN, the subject assessments must, therefore, be declared void for violation of due process.

Well-settled is the rule that an assessment that fails to strictly comply with the due process requirements outlined in Section 228 of the NIRC of 1997, as amended, and its implementing rules is void and produces no effect.[126] This is because while it is true that taxation is the lifeblood of the government, the power of the State to collect tax must be balanced with the taxpayer's right to substantial and procedural due process. The Supreme Court has consistently recognized that, between the power of the State to tax and an individual's right to due process, the scale favors the right of the taxpayer to due process.[127] While the government has an interest in the swift collection of taxes, the BIR and its officers and agents cannot be overreaching in their efforts, but must perform their duties in accordance with law, with their own rules of procedure, and always with regard to the basic tenets of due process.[128]

WHEREFORE, the foregoing premises considered, the present Petition for Review filed by petitioner Ugong Trade & Holdings Inc. on 04 January 2022 is hereby **GRANTED**. Accordingly, respondent Commissioner of Internal Revenue's notices and assessments are declared **VOID** and henceforth **CANCELLED**. Consequently, the Warrant of Distraint and/or Levy and Warrant of Garnishment dated 05 October 2021 covering the assessed deficiency tax liabilities against petitioner for the calendar year 2017, in the aggregate amount of ₱13,900,345.90, inclusive of surcharge, interest and compromise penalty, is also **CANCELLED** and **SET ASIDE**.

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

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126 *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*, G.R. No. 249153, 12 September 2022.

127 *Commissioner of Internal Revenue v. Fort 1 Global City Center, Inc.*, supra at note 125.

128 *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, 03 October 2018.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

ATTESTATION

I attest 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's Division.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 1st Division Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special 1st Division Acting Chairperson's Attestation, 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's Division.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice