REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

NORMAL HOLDINGS DEVELOPMENT CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11957

Members:

BACORRO-VILLENA, *Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:

4:15 pm

x- -x

RESOLUTION

CUI-DAVID, J.:

For the Court's consideration are the following:

1. Petitioner's ***Motion to Suspend Collection of Taxes***, incorporated in its *Petition for Review* filed on May 28, 2025, together with respondent's *Comment/Opposition (Re: Petitioner's Motion to Suspend Collection of Taxes)*, filed on September 23, 2025; and

2. Petitioner's ***Formal Offer of Evidence (Re: Motion to Suspend Collection of Taxes)***, filed on October 6, 2025, together with respondent's *Comment/Opposition (Re: Petitioner's Formal Offer of Evidence)*, filed on October 15, 2025.

Petitioner's Formal Offer of Evidence (Re: Motion to Suspend Collection of Taxes)

Acting on petitioner's ***Formal Offer of Evidence***, and respondent's *Comment/Opposition* thereto, the Court **ADMITS Exhibits "P-1", "P-2", "P-3", "P-4", "P-5", "P-5-1", "P-8", "P-9", "P-10", "P-11", "P-12", "P-12-1", "P-13", "P-13-1", "P-13-2", "P-13-3", "P-13-4", "P-14", "P-15", "P-16"**, and **"P-16-1"**, subject to the Court's final evaluation and/or appreciation of their probative value to the issues involved in petitioner's *Motion to Suspend Collection of Taxes.*

However, the Court **DENIES** the admission of Exhibits "**P-6**" and "**P-7**" for failure to present the originals for comparison.

Also, the Court **NOTES** the discrepancies in the description per exhibit offered and marked for the following exhibits:

Exhibit No.	Exhibit Offered	Exhibit Marked
"P-5"	Final Assessment Notice (Part I and II) with attached Details of Discrepancies dated January 13, 2017	**Formal** Assessment Notice (Part I and II) with attached Details of Discrepancies dated January 13, 2017
"P-5-1"	Assessment Notices all dated January 13, 2017 covering alleged deficiency income tax, **EWT, DST, and IAET.**	Assessment Notices all dated January 13, 2017 covering alleged deficiency **income tax, EWT, and Compromise Penalty.**

With the admission of the above-mentioned evidence, petitioner is deemed to have rested its case with respect to its *Motion to Suspend Collection of Taxes.*

Petitioner's Motion to Suspend Collection of Taxes

In its *Motion*, petitioner alleges that resort to summary administrative remedies by respondent is premature, as the subject taxes have not yet become delinquent. Petitioner reiterates this argument in support of its prayer for the dispensation of the bond requirement.

In his *Comment/Opposition*, respondent argues that petitioner's Motion fails to state a cause of action, allegedly because petitioner "failed to state the particular acts committed by respondent which is sought to be suspended." He also argues that petitioner failed to establish the essential requirements for the issuance of a preliminary injunction or the suspension of tax collection. He likewise invokes the general rule that tax collection cannot be restrained.

The Court is not persuaded.

As a general rule, the collection of taxes cannot be restrained by injunction. Section 218 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, provides:

> Section 218. *Injunction not Available to Restrain Collection of Tax.* - No court shall have the authority to grant an injunction to restrain the collection of any national internal revenue tax, fee or charge imposed by this Code.

However, by way of exception, Section 11 of Republic Act (**RA**) No. 1125,[1] as amended by RA No. 9282,[2] empowers the Court of Tax Appeals (**CTA**) to suspend the collection of taxes when, in its opinion, such collection may jeopardize the interests of the Government and/or the taxpayer, to wit:

> Section 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* –
>
> . . . .
>
> No appeal taken to the CTA from the decision of the Commissioner of Internal Revenue or the Commissioner of Customs or the Regional Trial Court, provincial, city or municipal treasurer or the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture, as the case may be shall suspend the payment, levy, distraint, and/or sale of any property of the taxpayer for the satisfaction of his tax liability as provided by existing law: Provided, however, That **<u>when in the opinion of the Court the collection by the aforementioned government agencies may jeopardize the interest of the Government and/or the taxpayer</u>** the Court [at] any stage of the proceeding may suspend the said collection *and* require the taxpayer either to <u>deposit the amount claimed or to file a surety bond for not more than double the amount with the Court</u>. (Emphasis supplied)

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[1] AN ACT CREATING THE COURT OF TAX APPEALS.

[2] 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.

Corollary thereto, Rule 10, Sections 1 and 2 of the Revised Rules of the Court of Tax Appeals (**RRCTA**) state:

> *Section 1. No suspension of collection of tax, except as herein prescribed.* – No appeal taken to the Court shall suspend the payment, levy, distraint, or sale of any property of the taxpayer for the satisfaction of tax liability as provided under existing laws, except as hereinafter prescribed.
>
> *Section 2. Who may file.* — Where the collection of the amount of the taxpayer's liability, sought by means of a demand for payment, by levy, distraint or sale of any property of the taxpayer, or by whatever means, as provided under existing laws, **may jeopardize the interest of the Government or the taxpayer**, an interested party may file a motion for the suspension of the collection of the tax liability. (Emphasis supplied)

In essence, where the CTA finds that tax collection may jeopardize the interests of the Government or the taxpayer, it may: (1) suspend the collection of tax, and (2) require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount claimed.

To warrant the suspension of tax collection, the taxpayer bears the burden of proving that the continued collection of the assessed taxes would jeopardize its interests or those of the government. Absent such proof, the motion cannot be granted.

In support of its *Motion*, petitioner presented the latest Audited Financial Statements (AFS)[3] available at the time of filing. The AFS reflects a cash balance of only ₱2,799,453, current assets of ₱33,481,544, and current liabilities of ₱387,115,224. These figures plainly show that petitioner is already in a precarious financial position, with liabilities far exceeding its available assets.

Against this backdrop, respondent seeks to collect ₱216,533,432.67 pursuant to the Decision dated February 11, 2025[4]—an amount that is 77.3 times petitioner's cash balance and 6.5 times its total current assets.

These circumstances unmistakably demonstrate that enforcement of collection at this stage would severely impair petitioner's financial standing and, in all likelihood, render its judicial recourse inutile. Accordingly, the Court finds that

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3 Docket, p. 732, Exhibit "P-15".
4 *Id.* at 144-149, Exhibit "P-11".

petitioner has established sufficient basis to warrant the suspension of tax collection.

More importantly, the Court likewise finds merit in petitioner's contention that the subject taxes have not yet become delinquent, citing Sections 205 and 207 of the NIRC of 1997, as amended, and Revenue Regulations (**RR**) No. 4-2019 in support of its position.

In *Commissioner of Internal Revenue v. Stradcom Corporation (**Stradcom**),*[5] the Supreme Court emphasized that the BIR may resort to summary administrative remedies, such as distraint, levy, or garnishment **only when the taxes sought to be collected have become delinquent:**

> [T]he 1997 NIRC provides two types of remedies to enforce the collection of unpaid taxes: (a) *summary administrative remedies*, such as the distraint and/or levy of taxpayer's property; and/or (b) *judicial remedies* ... However, before the CIR can avail of the summary administrative collection remedies, it must first be established that the taxes sought to be collected have become **delinquent**. (Emphasis supplied, citation omitted)

The Supreme Court further explained that a delinquent account arises only from a legally demandable tax liability, thus:

> As to the concept of **delinquent account**, the Court, citing Revenue Regulations (RR) No. 17-86, has held that this refers to the amount of tax due from a taxpayer who failed to pay the same within the time prescribed for its payment, that arises from (1) a self-assessed tax, whether or not a tax return was filed, or (2) **a deficiency assessment issued by the BIR which has become <u>final and executory</u>**. [6] (Emphasis supplied, citations omitted)

Consistent with this principle, the Supreme Court likewise cited Revenue Regulations No. 4-2019 and reiterated that delinquency presupposes a final and demandable assessment. It explained that a **delinquent account** pertains to a tax liability arising from an assessment that has become final and executory, such as when the taxpayer fails to protest the assessment or fails to appeal an adverse decision within the prescribed periods:

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[5] *Commissioner of Internal Revenue v. Stradcom Corporation,* G.R. No. 255520, April 21, 2025 [Per J. Caguioa, Third Division].

[6] *Id.*

> Under RR No. 4-2019, a delinquent account is defined as a tax due from an assessment that has **become final and executory**. While this definition is framed within the context of Republic Act No. 11213, or the Tax Amnesty Act, it reflects long-standing and widely accepted principles of tax law, particularly the requirement that delinquency must be based on a final and demandable liability. RR No. 4-2019 provides that a tax becomes delinquent in the following instances:
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> > Section 2. *Definition of Terms*. — For purposes of these Regulations, the words used herein shall be defined as follows:
> >
> > A. **Delinquent Account — shall pertain to a tax due from a taxpayer arising from the audit of the Bureau of Internal Revenue (BIR) which had been issued Assessment Notices that have become final and executory due to the following instances:**
> >
> > 1. Failure to pay the tax due on the prescribed due date provided in the Final Assessment Notice (FAN)/Formal Letter of Demand (FLD) and for which no valid Protest, ... , has been filed within thirty (30) days from receipt thereof;
> >
> > 2. Failure to file an appeal to the Court of Tax Appeals (CTA) or an administrative appeal before the Commissioner of Internal Revenue (CIR) within thirty (30) days from receipt of the decision denying the request for reinvestigation or reconsideration; or
> >
> > 3. Failure to file an appeal to the CTA within thirty (30) days from receipt of the Decision of the CIR denying the taxpayer's administrative appeal to the Final Decision on Disputed Assessment (FDDA).
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> Based on the foregoing, without an assessment that has gone through any of the above stages and has become final and executory, a tax cannot be deemed delinquent. [7] (Emphasis supplied)

In *Stradcom*, the Supreme Court cautioned the BIR that summary collection remedies must not be exercised indiscriminately and may be invoked only when taxes sought to be collected have already become delinquent:

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[7] *Id.*

> [T]he administrative remedies for tax collection, such as distraint, levy, and garnishment, are not tools to be wielded at will. **They may be invoked only when the taxes sought to be collected have already become <u>delinquent</u>**, whether by the taxpayer's own admission or by virtue of a valid formal assessment.[8] (Emphasis supplied)

Guided by the foregoing pronouncements, and considering that the disputed assessments in the present case remain under judicial review, the Court finds sufficient basis to suspend the collection of the alleged tax liabilities pending the final disposition of this case.

With respect to the prayer for dispensation of bond, the law generally requires the taxpayer to deposit the amount claimed or file a surety bond as a condition for the suspension of tax collection. However, jurisprudence recognizes exceptions.

In *Spouses Pacquiao v. The Court of Tax Appeals – First Division (**Spouses Pacquiao**),*[9] the Supreme Court held that the CTA has ample authority to issue injunctive writs to restrain the collection of taxes and **even dispense with the deposit of the amount claimed or the filing of the required bond** when the method employed by the Commissioner of Internal Revenue in tax collection jeopardizes the interests of a taxpayer, for being **patently in violation of the law**.

The purpose of the rule is not only to prevent jeopardizing the interest of the taxpayer but, more importantly, to prevent the absurd situation wherein the Court would declare "that the collection by the summary methods of distraint and levy was violative of law, and then, in the same breath require petitioner to deposit or file a bond as a prerequisite for the issuance of a writ of injunction."[10]

Similarly, in *Privatization and Management Office v. Court of Tax Appeals (**Privatization and Management Office**),*[11] the Supreme Court emphatically ruled that the bond requirement applies only when collection processes are carried out in accordance with law—not when they are patently unlawful:

> [T]he requirement of the bond as a condition precedent to the issuance of the writ of injunction applies only in cases where the processes by which the collection sought to be made by

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8 *Id.*
9 G.R. No. 213394, April 6, 2016 [Per J. Mendoza, Second Division].
10 *Collector of Internal Revenue v. Reyes*, G.R. No. L-8685, January 31, 1957 [Per J. Felix, *En Banc*].
11 G.R. No. 211839, March 18, 2019 [Per J. Reyes, Jr., J., Second Division].

> means thereof are carried out in consonance with the law for such cases provided and **<u>not when said processes are obviously in violation of the law to the extreme that they have to be suspended for jeopardizing the interests of taxpayer</u>**. (Emphasis and underscoring supplied, citation omitted)

Accordingly, the Court must determine whether the collection sought to be made by respondent amounts to a "violation of the law to the extreme."

The issuance of a PAN is governed by Section 228 of the NIRC of 1997, as amended, and implemented by Section 3.1.1 of Revenue Regulations (**RR**) No. 12-99, as amended by RR No. 18-2013, which respectively provide:

> **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:
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> . . . .
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> 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. (Emphasis supplied)
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> **SEC. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —**
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> . . . .
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> **3.1.1 *Preliminary Assessment Notice (PAN).* —** If after review and evaluation by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer a Preliminary Assessment Notice (PAN) for the proposed assessment. ...
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> If the taxpayer fails to respond within fifteen (15) days from date of receipt of the PAN, he shall be considered in default, in which case, a Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be ***issued*** calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties. **If the taxpayer, within fifteen (15)**

> **days from date of receipt of the PAN, responds** that he/it disagrees with the findings of deficiency tax or taxes, **an FLD/FAN shall be *issued* within fifteen (15) days from filing/submission of the taxpayer's response**, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties. (Emphasis supplied)

The above provisions unequivocally grant the taxpayer a period of fifteen (15) days from receipt of the PAN to respond before the CIR may validly issue an FLD/FAN. Significantly, RR No. 12-99, as amended, uses the term **"issued"** rather than **"served"** to underscore that the FLD/FAN must **not** be issued until either the 15-day period has lapsed without a response or the taxpayer's reply has been received and considered.

The PAN is a part of due process and gives both the taxpayer and the CIR the opportunity to settle the case at the earliest possible time without the need to issue a FAN.[12] Due process demands that taxpayers receive the PAN *and* that they are given 15 days upon receipt to respond. [13] The said 15-day period should be strictly complied with.[14]

In *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*,[15] citing *Commissioner of Internal Revenue v. Yumex Philippines Corporation*, [16] the Supreme Court categorically affirmed that strict compliance with the 15-day period is mandatory. The Court stressed that the BIR may issue an FLD/FAN *only after* the taxpayer has either submitted a response or defaulted:

> In the very recent case of *Commissioner of Internal Revenue v. Yumex Philippines Corp.*, the Court had occasion to state that **the 15-day period provided under Revenue Regulations No. 12-99 for a taxpayer to reply to a PAN should also be strictly observed by the BIR.** The Court highlighted that **"[o]nly after receiving the taxpayer's response or in case of the taxpayer's default can respondent issue the FLD/FAN**."
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[12] *Commissioner of Internal Revenue v. Transitions Optical Philippines, Inc.*, G.R. No. 227544, November 22, 2017 [Per J. Leonen, Third Division], cited in *Mannasoft Technology Corporation v. Commissioner of Internal Revenue*, G.R. No. 244202, July 10, 2023 [Per J. Dimaampao, Third Division].

[13] *Commissioner of Internal Revenue v. Nippo Metal Tech Phils., Inc.*, G.R. No. 227616 (Notice, Second Division), June 19, 2019.

[14] *Mannasoft Technology Corporation v. Commissioner of Internal Revenue*, G.R. No. 244202, July 10, 2023 [Per J. Dimaampao, Third Division]; *Commissioner of Internal Revenue v. Yumex Philippines Corporation*, G.R. No. 222476, May 5, 2021 [Per C.J. Gesmundo, First Division]; *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398 *et al.*, October 3, 2018 [Per J. Leonen, Third Division].

[15] G.R. No. 249153, September 12, 2022 [Per J. Dimaampao, Third Division].

[16] G.R. No. 222476, May 5, 2021 [Per C.J. Gesmundo, First Division].

> As the Court also held in *Yumex*, "[t]hat [the taxpayer] was able to file a protest to the FLD/FAN is of no moment." **"Sec. 3.1.2 of RR No. 12-99 explicitly grants the taxpayer fifteen (15) days from receipt of the PAN to file a response**."
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> In the same vein, it is beside the point that petitioner was able to submit a "well-prepared protest letter." The fact remains that **respondent violated petitioner's right to due process by issuing a FAN without even awaiting its reply to the PAN.**
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> Well-settled is the rule that an assessment that fails to strictly comply with the due process requirements set forth in Section 228 of the Tax Code and Revenue Regulations No. 12-99 is void and produces no effect. (Emphasis supplied)

The CIR should have first ascertained the date of petitioner's receipt of the PAN before issuing the FLD/FAN. Such determination is essential to ensure that petitioner is afforded the full 15-day period to respond to the PAN, in accordance with the requirements of procedural due process. The premature issuance of the FLD/FAN, therefore, effectively deprives the taxpayer of a meaningful opportunity to respond to the PAN and constitutes a violation of the taxpayer's right to due process.

In the present case, the violation is patent.

While the PAN is dated December 28, 2016, it was received by petitioner only on **January 19, 2017**.[17] Consequently, petitioner had 15 days, or until **February 3, 2017** within which to respond. Notwithstanding this, respondent issued the FLD/FAN on **January 13, 2017**,[18] six days before petitioner could have even received the PAN.

This sequence of events effectively negated the very purpose of the PAN. Petitioner was completely deprived of the opportunity to be heard at the preliminary stage, rendering the assessment process fatally defective.

Notably, the dates of issuance of the assessment notices were duly established by evidence formally offered and admitted, and were likewise admitted by respondent in his *Answer*.[19] Moreover, petitioner's date of receipt of the PAN remains unrebutted.

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[17] Docket, p. 491, Exhibit "P-4".
[18] *Id.* at 498, Exhibit "P-5".
[19] Docket, p. 806, Answer, par. 7.

By issuing the FLD/FAN before the lapse of the 15-day period, respondent violated the due process requirements under Section 228 of the NIRC of 1997, as amended, and RR No. 12-99, as amended, rendering the FLD/FAN void and without legal effect.

Ultimately, this renders the entire assessment null and void. This not only warrants the dispensation of the bond requirement but likewise justifies the grant of the instant *Petition for Review.*[20]

WHEREFORE, premises considered, the *Petition for Review* filed by petitioner on May 28, 2025, is **GRANTED.**

Accordingly, the Final Assessment Notices and the Formal Letter of Demand dated January 13, 2017 issued against petitioner are **CANCELLED** and **SET ASIDE** for being null and void. Furthermore, the Final Decision on Disputed Assessment dated October 26, 2022 and the Decision February 11, 2025, assessing petitioner for alleged deficiency taxes are likewise **REVERSED** and **SET ASIDE.**

Respondent, his representatives, agents, and all persons acting on their behalf are **ENJOINED** from executing, enforcing, implementing, or otherwise giving effect to any Warrant of Distraint and/or Levy, Warrant of Garnishment, or any administrative collection action pertaining to petitioner's alleged deficiency taxes subject of this case.

In light of the foregoing disposition, and considering that the assessment has been declared void, petitioner's *Motion to Suspend Collection of Taxes* is rendered **MOOT AND ACADEMIC**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

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[20] Section 6, Rule 10 of the Revised Rules of the Court of Tax Appeals provides:
SECTION 6. Hearing of the Motion. — The movant shall, upon receipt of the apposition, set the motion for hearing at the next available motion day, and the Court shall give preference to the motion over all other cases, except criminal cases. At the hearing, both parties shall submit their respective evidence. If warranted, the Court may grant the motion if the movant shall deposit with the Court an amount in cash equal to the value of the property or goods under dispute or filing with the Court of an acceptable surety bond in an amount not more than double the disputed amount or value. However, for the sake of expediency, the Court, *motu proprio* or upon motion of the parties, may consolidate the hearing of the motion for the suspension of the collection of the tax with the hearing on the merits of the case

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice