REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

THE CITY OF MANILA, Represented herein by Hon. Francisco "Isko Moreno" Domagoso Petitioner,	**CTA CASE NO. 10654** Members: **RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
-versus-	Promulgated:
COMMISSIONER OF INTERNAL REVENUE, Respondent.	

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Petition for Review,[1] filed on October 28, 2021 by petitioner City of Manila against respondent Commissioner of Internal Revenue ("CIR"), praying that the Court declare as null and void the tax deficiency assessments, Formal Letter of Demand/Final Assessment Notice (FLD/FAN), and Final Decision on Disputed Assessment (FDDA) issued by respondent against herein petitioner for alleged deficiency Income Tax (IT), Withholding Tax on Compensation (WTC), Expanded Withholding Tax (EWT), Value-Added Tax (VAT), Final Withholding Value-Added Tax (FWVAT), and Withholding Tax on Purchase of Land for the 2008 taxable period in the total amount of One Billion Six Hundred Fifty Million Seven Hundred Seventy Two Thousand Eight Hundred Sixty-Five Pesos and Eighty Centavos (₱1,650,772,865.80), inclusive of surcharge and interest, for failing to state the facts, laws, rules and regulations, or jurisprudence upon which the assessments are based, for being based purely on assumptions, for violating petitioner's right to due process, and for being issued beyond the prescriptive periods prescribed by law.

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[1] Docket, Vol. I, pp. 7-52.

The Parties[2]

Petitioner City of Manila is a municipal corporation created by R*epublic Act No. 409, as amended*, with office address at Manila City Hall, Arroceros Street, Ermita, Manila. Hon. Francisco "Isko Moreno" Domagoso is the incumbent City Mayor and may be served with summons, notices, pleadings, and other processes at the Office of the City Legal Officer, 2nd Floor, Room 214, Manila City Hall, Ermita City.

Respondent CIR is the chief of the Bureau of Internal Revenue (BIR), the government agency vested with authority to administer and enforce national internal revenue taxes, including, among others, the power to credit or refund internal revenue taxes erroneously/excessively or illegally paid, assessed, or collected. She may be served with summons, notices, and other court processes at her office at the Bureau of Internal Revenue National Office, Diliman, Quezon City.

The Facts

On July 27, 2009, petitioner City of Manila received Letter of Authority[3] (LOA) No. 2008-00026191, dated July 16, 2009, with attached list of requested documents from the BIR, giving authority to Revenue Officers (RO) J. Bangcola, J. Jui, A. Hilal, A. Usman, G. Macaangga, E. Tan, and G. Eito to examine the books, accounts and other financial records of Petitioner for taxable year (TY) 2008.

In view of petitioner's failure to submit the requested documents pursuant to the LOA, respondent issued a Second Request for Presentation of Records[4] and a Final Notice.[5] Respondent subsequently received documents sufficient to proceed with the tax audit/investigation.

On June 8, 2016, petitioner received the Preliminary Assessment Notice[6] (PAN) with Details of Discrepancies signed by Assistant Commissioner James H. Roldan of the Enforcement and Advocacy Service of the BIR.

On August 2, 2016, petitioner submitted a Motion for Reassessment/Reinvestigation[7] pertaining to the PAN for Taxable Year 2008. In said pleading, petitioner conveyed its appreciation for the grant of an extension within which to respond to the PAN, specifically until August 3, 2016, then proceeded to express their position regarding said PAN.

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2 Docket, Vol. III, pp. 1249-1262.
3 BIR Records, pp. 1-3.
4 *Id*, p. 4.
5 *Id*, p. 5.
6 Docket, Vol. I, pp. 57-69.
7 *Id*, pp. 70-76.

On December 17, 2018, petitioner received the FLD[8] with attached FANs,[9] dated January 16, 2019, finding Petitioner liable for deficiency IT, WTC, EWT, VAT, FWVAT, and Withholding Tax on Purchase of Land.

Within 30 days from receipt of the FLD/FAN, petitioner filed a Protest[10] to the FAN through a letter dated January 16, 2019. The same was sent via registered mail and was received by the BIR on January 29, 2019.

Respondent thereafter issued FDDA,[11] dated July 5, 2021. The same was served on and received by petitioner on July 14, 2021, informing it that it was liable for the same amounts assessed in the FLD/FAN but with adjusted interests computed up to March 31, 2021, as follows:

Tax Type	Basic	Surcharge	Interest	Total
Income Tax	83,831,018.33	41,915,509.17	178,694,198.67	304,440,726.17
WTC	62,854,801.77	31,427,400.89	137,274,887.07	231,557,089.73
EWT	100,018,825.42	50,009,412.71	218,441,114.72	368,469,352.85
VAT	28,742,063.43	14,371,031.71	626,370,277.64	105,483,372.78
FWVAT	172,824,954.84	86,412,447.42	377,449,701.37	636,687,133.63
WH on Purchase of Land	1,122,473.03	561,236.51	2,451,481.10	4,135,190.64
Total	**449,394,136.82**	**224,697,068.41**	**976,681,660.57**	**1,650,772,865.80**

Meanwhile, the Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF-EID) placed the National Capital Region (NCR) under Enhanced Community Quarantine (ECQ) from August 6, 2021 to August 20, 2021.

Subsequently, on July 30, 2021, the Supreme Court issued *Administrative Circular No. 56-2021*, directing that all courts within the NCR remain physically closed from August 2, 2021 until August 20, 2021. The periods for the filing and service of pleadings and motions were thereby suspended, to resume seven calendar days after the first day of physical reopening of the concerned court.

Several additional Administrative Circulars were subsequently issued by the Supreme Court, in compliance with the mandate of the IATF-EID, further postponing the reopening of courts.

On October 18, 2021, the Supreme Court issued *Administrative Circular No. 83-2021*, notifying court users that all appellate collegiate courts within the NCR may resume in-court proceedings from October 20, 2021 to October 29, 2021. The Circular likewise lifted the suspension of the periods for filing and service of pleadings and motions. Accordingly, such periods

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8 BIR Records, pp. 375-389.

9 *Id*, pp. 369-374.

10 Docket, Vol. I, pp. 98-99.

11 BIR Records, pp. 407-413.

were to resume 7 calendar days from October 20, 2021, or on October 27, 2021.

When the period for filing and service of pleadings and motions was suspended, petitioner still had 12 days remaining within the original period to file an appeal. Accordingly, when the said period resumed on October 27, 2021, petitioner had until November 8, 2021 to file its Petition for Review before this Court.

On October 28, 2021, alleging that the said assessments were void for failure to state the factual and legal bases, for being founded merely on assumptions, for violating its right to due process, and for having been issued beyond the prescriptive period provided by law, petitioner filed a Petition for Review[12] with the CTA, praying that the Court declare null and void the tax deficiency assessments, FLD/FAN, and FDDA issued by the respondent against the Petitioner for alleged deficiencies in IT, WTC, EWT, VAT, FWVAT, and Withholding Tax on Purchase of Land for Taxable Year 2008, amounting to ₱1,650,772,865.80, inclusive of surcharge and interest.

On December 1, 2021, the Respondent received Summons together with the Petition for Review, giving him until December 31, 2021 to file his Answer. However, under *CTA Circular No. 02-2021*,[13] the filing of pleadings and other court submissions before the Court of Tax Appeals was suspended from December 21, 2021 to January 3, 2022, with the period extended for seven calendar days beginning January 4, 2022.

A month later, the Supreme Court issued *Administrative Circular No. 01-2022*,[14] issued January 10, 2022, which further extended the filing period for all pleadings and court submissions due in January 2022 until February 1, 2022.

Respondent then submitted through registered mail a Motion for Extension of Time to File Answer,[15] dated January 25, 2022, given that the Litigation Division of the BIR had yet to receive the BIR Records of the case, and to allow the same to diligently prepare the Answer to the Petition for Review. This was received by the Court on March 3, 2022.

Through a Resolution[16] issued on March 11, 2022, this Court granted the above mentioned Motion, giving Respondent an additional 30 days from February 2, 2022, or until March 3, 2022 within which to file his Answer.

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[12] *Supra* note 1.
[13] Extension for the Deadlines for the Filing of Any and All Pleadings and Other Submission With the Court of Tax Appeals in Light of Super Typhoon Odette, December 21, 2021.
[14] Extension for the Deadlines for the Filing of Any and All Pleadings and Other Submission Falling Due In the Month of January 2022 in All Courts, January 10, 2022.
[15] Docket, Vol. III, pp. 1101-1105.
[16] *Id*, p.1108.

On March 14, 2022, the Court received respondent's Answer,[17] dated March 3, 2022, where it was argued, among others, that respondent's right to assess and/or collect taxes from petitioner did not prescribe on the ground that the present case falls within the exception stated under *Section 222 of the National Internal Revenue Code of 1997, as amended* (*NIRC*), that the assessments were issued in accordance with prevailing laws and rules, and that petitioner's right to due process was not infringed. Thus, respondent prayed that the Court deny the subject Petition for Review for lack of merit, and that Petitioner be ordered to pay the assessed deficiency taxes amounting to PhP1,650,772,865.80, plus additional interest.

The parties were then ordered to personally appear or through authorized representative before the Philippine Mediation Center Unit – Court of Tax Appeals (PMCU-CTA) on May 24, 2022.[18]

After an unsuccessful attempt at mediation based on the "No Agreement to Mediate Report",[19] the parties and their respective counsels were ordered to be present at the Pre-Trial Conference set on September 8, 2022.[20]

Petitioner filed its Pre-Trial Brief[21] on September 5, 2022, and submitted a Supplemental Pre-Trial Brief[22] on September 6, 2022, while respondent submitted his on September 5, 2022.[23]

Pre-Trial then ensued on September 8, 2022,[24] with the parties filing their Joint Stipulation of Facts and Issues[25] on November 20, 2022 and the Court issuing a Pre-Trial Order[26] on November 10, 2022.

Petitioner presented witness, Jonathan R. Galorio on November 23, 2022,[27] then filed its Formal Offer of Evidence[28] on November 14, 2023. The Court admitted most of the offered exhibits but denied Exhibit "P-118" for not being found in the records and for failing to identify the said exhibit.[29]

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[17] *Id*, pp. 1114-1152.
[18] *Id*, pp. 1157-1158.
[19] *Id*, p. 1162.
[20] *Id*, pp. 1160-1161.
[21] *Id*, pp. 1166-1181.
[22] *Id*, pp. 1191-1195.
[23] *Id*, pp. 1182-1187.
[24] *Id*, pp. 1219-1220.
[25] *Id*, pp. 1227-1244.
[26] *Id*, pp. 1249-1262.
[27] *Id*, p. 1285.
[28] *Id*, pp. 1382-1548.
[29] *Id*, pp. 1553-1554.

On January 25, 2023, Respondent presented his lone witness, RO Ma. Emerita D. Tan[30] and filed his Formal Offer of Evidence[31] on April 8, 2024. The Court admitted all offered exhibits.[32]

Petitioner then filed its Memorandum[33] on October 28 2024, whereas respondent submitted theirs on the same day.[34] This case was thus submitted for decision on November 12, 2024.

Hence, this Decision.

The Issues[35]

1) Whether or not Petitioner is liable to pay Respondent for deficiency IT, WTC, EWT, VAT, and FWVAT, for the taxable year 2008 amounting to One Billion Six Hundred Fifty Million Seven Hundred Seventy-Two Thousand Eight Hundred Sixty-Five Pesos and 80/100 (Php1,650,772,865.80), inclusive of interests and surcharges based on the latter's Final Decision on Disputed Assessment dated July 5, 2021; and

2) Whether or not Respondent CIR's right to assess Petitioner City of Manila for the 2008 taxable year has prescribed.

Arguments of the Parties

In its Memorandum, Petitioner raises the following arguments:[36]

1) The FAN and FLD should be cancelled and declared void and of no legal effect because it was issued beyond the prescriptive periods imposed by law;

2) Considering that the FLD stated that another Formal Letter of Demand would still be issued and the due date stated in the FAN had already lapsed, the FAN and FLD are void for failing to state a specific date of demand and in violation of Petitioner's right to due process; ℘

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[30] *Id*, p. 1551.
[31] *Id*, pp. 1555-1563.
[32] *Id*, pp. 1590-1591.
[33] *Id*, pp. 1593-1630.
[34] *Id*, pp. 1632-1678.
[35] *Supra* at 26.
[36] *Supra* at 33.

3) Respondent failed to establish fraud with clear and convincing evidence. Thus, the 10-year prescriptive period should not apply;

4) Assuming that the 10-year prescriptive period applies, the FAN and FLD, insofar as they asses deficiency EWT, WTC, FWVAT, and VAT, should be declared void and of no legal effect for being issued beyond the ten-year period;

5) The FAN and FLD should be cancelled and declared void and of no legal effect for failing to state a categorical demand for payment of taxes. Thus, depriving Petition of tis right to due process;

6) The FAN, FLD, and FDDA should be cancelled and declared void and of no legal effect for being based merely on presumptions and for failure to state the facts, laws, rules and regulations as its legal basis;

7) Petitioner's income was obtained from essential government functions and are exempt from IT and VAT. All revenues, fees, and charges collected by the City of Manila are covered by the fiscal autonomy granted by the *1987 Philippine Constitution* to Local Government Units;

8) Petitioner properly withheld the withholding taxes for the 2008 taxable year; and

9) The City Mayor and City Treasurer should not be held liable for the interests/additions in the withholding taxes.

In his Memorandum, Respondent contends the following:[37]

1) The Court of Tax Appeals has no jurisdiction over the case;

2) Even assuming that the Court has jurisdiction, only the issue on prescription can be passed upon by the Court in Division;

3) Respondent's right to assess and/or collect taxes from petitioner did not prescribe on the ground that the present case falls within the exception stated under *Section 222 of the NIRC*;

4) CIR's right to collect has not prescribed;

5) There is no denial of Petitioner's right to due process;

[37] *Supra* at 34.

6) The wordings of the FLD and FDDA indicates that there is a demand for payment and definite amount of tax liability;

7) The FLD and FDDA contained a definite due date for payment;

8) The assessments were issued in accordance with prevailing laws and rules;

9) Petitioner is liable for deficiency taxes assessed against it;

10) Petitioner failed to submit documents to counter the assessments issued against it; and

11) Petitioner failed to withhold the proper amount of withholding taxes.

The Ruling of the Court

The Petition for Review must be granted. The assessment against the Petitioner is void for being issued beyond the prescriptive period allowed by law.

The Court in Division has jurisdiction over the instant case.

Respondent argues that the Court in Division has no jurisdiction over the case, claiming that the Court of Tax Appeals (CTA) is a court of special jurisdiction, and as such, it can only take cognizance of such matters that are clearly within its jurisdiction.

However, Respondent's argument is misplaced.

Section 3(a)(1) of the Revised Rules of the Court of Tax Appeals[38] dictates that:

> Sec. 3. *Cases within the jurisdiction of the Court in Divisions.* – The Court in Division shall exercise:
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> (a) Exclusive original over or appellate jurisdiction to review by appeal the following:
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> (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

[38] A.M. No. 05-11-07-CTA, November 22, 2005.

> matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;

Further *Section 228 of the NIRC* provides:

> 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.
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> 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.
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> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.
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> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

In the instant case, Petitioner received FLD/FAN on December 17, 2018 for the 2008 taxable period. Petitioner then filed a protest within the prescribed 30-day period, or on January 16, 2019, through registered mail. A FDDA, dated July 5, 2021, was thereafter received by Petitioner.

In view of the mandates prescribed by the IATF-EID, the Supreme Court suspended the periods for the filing and service of pleadings and motions, to resume seven calendar days after the first day of physical reopening of the concerned court.

Accordingly, when the said period for the filing and service of pleadings and motions resumed on October 27, 2021, petitioner had until November 8, 2021 to file its Petition for Review before this Court.

On October 28, 2021, Petitioner filed its Petition for Review. Hence, the Court in Division has jurisdiction over the instant case.

The 10-year assessment period provided under Section 222 of the NIRC of 1997 does not apply in this case.

Petitioner argues that respondent assessed petitioner late by issuing the FLD/FAN beyond the three-year period prescribed by *Section 203 of the NIRC*. Respondent disagrees, contending that as can be seen in the FLD/FAN and FDDA, the 50% surcharge for false or fraudulent return under *Section 248 of the NIRC* was implemented, thereby extending the period to 10-years as granted by *Section 222* of said law.

Petitioner is correct.

Section 203 of the NIRC grants respondent three years to assess a taxpayer, counted from either (a) the last day prescribed by law for the filing of a return; or (b) the day of the return's filing when the same is filed beyond the period prescribed by law:

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

However, as argued by Respondent, *Section 222 of the NIRC* establishes an exception to the general three-year prescriptive period for issuing a tax assessment. Specifically, Subsection (a) mandates that where the taxpayer either failed to file a tax return or filed a return that was demonstrably false or fraudulent with deliberate intent to evade the tax liability, the CIR is legally entitled to assess the taxpayer at any time within an extended period of 10 years, calculated from the date the falsity, fraud, or omission was officially discovered, to wit:

> SECTION 222. Exceptions as to Period of Limitation of Assessment and Collection of Taxes. —
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> (a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission: Provided, That in a fraud assessment which has become final and executory, the fact

> of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.
> (Emphasis supplied.)

The case of *CIR vs. Fitness by Design*[39] has previously ruled on the application of the exception found under *Section 222 of the NIRC*. In said case, the Supreme Court ruled that fraud is a matter of fact that cannot be presumed and should be duly proven, as can be seen from the discussion below:

> The prescriptive period in making an assessment depends upon whether a tax return was filed or whether the tax return filed was either false or fraudulent. When a tax return that is neither false nor fraudulent has been filed, the Bureau of Internal Revenue may assess within three (3) years, reckoned from the date of actual filing or from the last day prescribed by law for filing. However, in case of a false or fraudulent return with intent to evade tax, Section 222(a) provides:
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> . . . .
>
> This Court held that there is a difference between "false return" and a "fraudulent return." A false return simply involves a "deviation from the truth, whether intentional or not" while a fraudulent return "implies intentional or deceitful entry with intent to evade the taxes due."
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> *Fraud is a question of fact that should be alleged and duly proven. "The willful neglect to file the required tax return or the fraudulent intent to evade the payment of taxes, considering that the same is accompanied by legal consequences, cannot be presumed."* Fraud entails corresponding sanctions under the tax law. Therefore, it is indispensable for the Commissioner of Internal Revenue to include the basis for its allegations of fraud in the assessment notice.
> (Italics supplied.)

In another case, *CIR v. Philippine Daily Inquirer, Inc.*,[40] the Court ruled that tax fraud is never presumed; it must be actual and intentional, proven by deliberate deception done with the sole objective of evading tax liability, and cannot be established merely by suspicion or simple tax understatement, as negligence is not equivalent to fraudulent intent under the law, as explained by the Court:

> Under Section 203 of the NIRC, the prescriptive period to assess is set at three years. This rule is subject to the exceptions provided under Section 222 of the NIRC. The CIR invokes Section 222(a) which provides:
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> > SEC. 222. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* –
> >
> > (a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time

[39] G.R. No. 215957. November 9, 2016.
[40] G.R. No. 213943, March 22, 2017.

> within ten (10) years after the discovery of the falsity, fraud or omission: *Provided,* That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.

> In *Commissioner of Internal Revenue v. Javier,* this Court ruled that fraud is never imputed. The Court stated that it will not sustain findings of fraud upon circumstances which, at most, create only suspicion. The Court added that the mere understatement of a tax is not itself proof of fraud for the purpose of tax evasion. The Court explained:
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> > x x x. The fraud contemplated by law is actual and not constructive. It must be intentional fraud, consisting of deception willfully and deliberately done or resorted to in order to induce another to give up some legal right. Negligence, whether slight or gross, is not equivalent to fraud with intent to evade the tax contemplated by law. It must amount to intentional wrongdoing with the sole object of avoiding the tax. x x x.
>
> xxx
>
> Thus, while the filing of a fraudulent return necessarily implies that the act of the taxpayer was intentional and done with intent to evade the taxes due, the filing of a false return can be intentional or due to honest mistake. In *CIR* v. *B.F. Goodrich Phils., Inc.,* the Court stated that the entry of wrong information due to mistake, carelessness, or ignorance, without intent to evade tax, does not constitute a false return. In this case, we do not find enough evidence to prove fraud or intentional falsity on the part of PDI.

Similar rulings have thereafter been held by the Supreme Court, such as in the cases of *CIR v. Unioil Corporation*[41] and *CIR v. Sps. Magaan*,[42] both promulgated in 2021.

In the instant case, respondent failed to prove by clear and convincing evidence that the petitioner willfully or intentionally filed an alleged false or fraudulent return.

At the very most, respondent claims that while the petitioner presented the ordinances which authorizes it to generate revenue, said ordinances are not proof to show that the revenues it generated are exempt from taxes. As such, respondent claims that the revenue generated from those means should have been reported in its taxable revenues. In view thereof, respondent then applied the 50% surcharge pursuant to *Section 248 of the NIRC*, as can be seen from the PAN, FLD/FAN, and FDDA.

[41] G.R. No. 204405, August 4, 2021.
[42] G.R. No. 232663, May 3, 2021.

Indeed, in her Judicial Affidavit,[43] respondent's sole witness RO Tan does not mention any false or fraudulent return on the part of petitioner, further showing respondent's failure to prove such.

Hence, as the respondent failed to prove by clear and convincing evidence the willful or intentional filing of an alleged false or fraudulent return, the exception found under *Section 222 of the NIRC* does not apply in this case. Consequently, the 3-year prescriptive period under *Section 203* is applicable here.

Respondent CIR's right to assess Petitioner City of Manila for Taxable Year 2008 had prescribed at the time of issuance of the FLD/FAN.

As earlier discussed, and pursuant to *Section 203 of the NIRC*, the CIR is vested with a prescriptive period of three years within which to effectuate a tax assessment against a taxpayer with the reckoning period from either of the two dates: (a) the last date statutorily mandated from the filing of the tax return; and (b) the actual date of submission of the tax return when filed subsequent to the prescribed due date.

Based on the record on hand, petitioner properly established that the necessary forms for filing its returns for IT, WTC, EWT, VAT, FWVAT, and Withholding Tax on Purchase of Land for the 2008 taxable period were filed either before or on the date of the last day to file the return.[44] This gave respondent 3 years from the last day prescribed by law for the filing of a return assess petitioner for its taxes due for the given year.

In fact, petitioner presented in tabular form the last day to file return *vis-à-vis* the last day of respondent to assess based on prevailing laws and regulations, as presented below:

Tax Type	Return	Last Day to File Return	Last Day to Assess
Income Tax	Annual	April 15, 2009	April 15, 2012
VAT	1st Quarter	April 25, 2008	April 25, 2011
	2nd Quarter	July 25, 2008	July 25, 2011
	3rd Quarter	October 25, 2008	October 25, 2011
	4th Quarter	January 25, 2009	January 25, 2012
EWT, WTC, and WT on Purchase of Land	January	February 10, 2008	February 10, 2011
	February	March 10, 2008	March 10, 2011
	March	April 10, 2008	April 10, 2011
	April	May 10, 2008	May 10, 2011
	May	June 10, 2008	June 10, 2011
	June	July 10, 2008	July 10, 2011
	July	August 10, 2008	August 10, 2011
	August	September 10, 2008	September 10, 2011

[43] Docket, Vol. III, pp. 1205-1214.
[44] Docket, Vol. I, pp. 109-201.

	September	October 10, 2008	October 10, 2011
	October	November 10, 2008	November 10, 2011
	November	December 10, 2008	December 10, 2011
	December	January 15, 2009	January 15, 2012
FWVAT	January	February 10, 2008	February 10, 2011
	February	March 10, 2008	March 10, 2011
	March	April 10, 2008	April 10, 2011
	April	May 10, 2008	May 10, 2011
	May	June 10, 2008	June 10, 2011
	June	July 10, 2008	July 10, 2011
	July	August 10, 2008	August 10, 2011
	August	September 10, 2008	September 10, 2011
	September	October 10, 2008	October 10, 2011
	October	November 10, 2008	November 10, 2011
	November	December 10, 2008	December 10, 2011
	December	January 10, 2009	January 10, 2012

Nevertheless, the FLD/FAN was issued by the Respondent and served on the Petitioner only on December 17, 2018,[45] clearly beyond the 3-year prescriptive period provided under *Section 203 of the NIRC*.

Thus, with due regard to *Section 203 of the NIRC* and existing jurisprudence, respondent's right to assess petitioner for taxable year 2008 had already lapsed at the time the FLD/FAN were issued and served on Petitioner.

The FLD/FAN and FDDA are void for being issued beyond the prescriptive period allowed by law.

The Supreme Court has previously ruled that assessments are void for being issued beyond the prescriptive period, as conferred in the recent case of *CIR v. Arturo E. Villanueva, Jr.*,[46] where the court held that:

> Following the foregoing discussion, the CIR's right to assess and collect from respondent deficiency taxes for 2006 is subject to the ordinary three-year prescriptive period under Section 203 of the 1997 NIRC. The three-year period is reckoned from the last day prescribed by law for the filing of the return, or in a case where a return is filed beyond such period, from the day the return was actually filed.
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> Here, the CTA found that for taxable year 2006, the CIR had until June 12, 2010 within which to assess respondent for deficiency income taxes. For VAT, the CIR had the following dates within which to assess respondent for the same taxable year: (a) 1st Quarter — April 26, 2009; (b) 2nd Quarter — July 26, 2009; (c) 3rd Quarter — October 26, 2009; and (d) 4th Quarter — January 26, 2010. However, as the CIR admitted, the FAN/FLD assessing respondent of deficiency income tax and VAT for taxable year 2006 was only sent to respondent, via registered mail, on January 24, 2011, which is clearly beyond the allowable period for assessment and collection of taxes. Verily, the subject assessments are void for being barred by prescription.

45 *Supra* at 8 & 9.
46 G.R. No. 249540, February 28, 2024

Based on the foregoing, the FLD/FAN, dated December 17, 2018, is void for being issued beyond the prescriptive period allowed by law. Given that the FLD/FAN is void due to prescription, the legal consequence is twofold: (a) there is no valid assessment to serve as the substance of the dispute. The taxpayer's protest, therefore, challenges a legal nullity; and (b) being that the FDDA inherently depends upon the validity of the FLD/FAN, the FDDA is rendered entirely devoid of legal basis. It cannot resurrect or validate a tax liability that was extinguished by the lapse of the statutory period.

ACCORDINGLY, the Petition for Review, filed on October 28, 2021, is hereby **GRANTED**. The FLD/FAN, dated December 17, 2018, issued against petitioner for alleged deficiency Income Tax, Withholding Tax on Compensation, Expanded Withholding Tax, Value-Added Tax, Final Withholding Value-Added Tax, Withholding Tax on Purchase of Land for the 2008 taxable period and the FDDA dated July 5, 2021 is hereby **CANCELLED** and declared **NULL AND VOID**.

Accordingly, respondent is hereby **ENJOINED AND PROHIBITED** from collecting the amount sought by the void assessment.[47]

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

[47] This Court has the authority to enjoin and prohibit respondent and the Bureau of Internal Revenue from collecting taxes when such collection would jeopardize the interests of a taxpayer or the government, *e.g.*, when the taxes sought are based on a void assessment made in violation of a taxpayer's rights. *See Rule 10, Section 2 of the Revised Rules of the Court of Tax Appeals, as amended*; *see also Commissioner of Internal Revenue v. QL Developments, Inc.*, G.R. No. 258947, March 29, 2022.

ATTESTATION

I attest that the conclusion 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
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division 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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice