Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

REPUBLIC OF THE PHILIPPINES,
Plaintiff,

-versus-

MR. ROEL A. MONILAR, doing business under the name "ROMAC MARKETING,"
Defendant.

CTA OC No. 014

Members:

DEL ROSARIO, *Chairperson*
UY, *and*
MINDARO-GRULLA, ***JJ.***

Promulgated:

JUN 06 2014 ; 4:10 p.m.

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DECISION

DEL ROSARIO, P.J.:

This is a complaint filed by the Republic of the Philippines for the collection of deficiency Income Tax (IT) and Value-Added Tax (VAT) for *taxable year 2003* in the respective amounts of *NINE MILLION THREE HUNDRED SEVENTY SIX THOUSAND FIVE HUNRED EIGHTY EIGHT PESOS AND 40/100* (₱9,376,588.40) and *THREE MILLION THIRTEEN THOUSAND NINE HUNDRED FORTY SIX PESOS AND 1/100* (₱3,013,946.01) plus 50% surcharge and 20% deficiency and delinquency interests per annum in accordance with Sections 248 and 249 of the National Internal Revenue Code (NIRC) of 1997, as amended,[1] based on an assessment that is allegedly final, executory, and demandable.[2]

[1] C.T.A. Docket, p. 11.
[2] C.T.A. Docket, p. 273.

THE FACTS

Plaintiff is the Republic of the Philippines, a political entity to whom all citizens and persons deriving income within its territory have the obligation to pay taxes. Plaintiff through the Bureau of Internal Revenue (BIR) exercises the power of taxation. The BIR is represented by the Commissioner of Internal Revenue (Commissioner). She is empowered to assess and collect all national internal revenue taxes, fees, and other charges, and to enforce all forfeitures, penalties, and fines connected therewith. The BIR is divided into internal revenue districts in accordance with law, one of which is Revenue District Office (RDO) No. 80-Madaue City of Revenue Region No. 13, Cebu City.[3]

Defendant is Mr. Roel Albaño Monilar, a registered taxpayer of RDO No. 80, with TIN No. 119-245-483-000. He is doing business under the name "ROMAC Marketing." He is engaged in the sale of general merchandise in his business located at Zone Bombil, H. Abellana St., Canduman, Madaue City 6014.[4]

On April 15, 2004, defendant filed his Income Tax Return (ITR) for *taxable year 2003* and declared an aggregate IT payable to the government amounting to ₱3,466.00.[5]

On January 20, 2005, the Commissioner sent *via* registered mail a Letter Notice (LN) numbered 080-R-03-00-P-00060, dated October 27, 2004,[6] advising defendant of a discrepancy between the summary list of sales of his suppliers and his domestic purchases as per return filed, to wit:

Per Summary List of Sales submitted by your suppliers	₱27,051,932.72
Domestic Purchases per Tax Return	₱122,205.00
Discrepancy in Domestic Purchases (under-declaration)	₱26,929,727.72
Percentage (%) of Discrepancy	99.55

On April 26, 2005, a Second Notice dated March 29, 2005 from Revenue District Officer Ramer D. Narvaez of RDO No. 80 was sent *via*

[3] C.T.A. Docket, pp. 273-274.
[4] C.T.A. Docket, p. 274.
[5] C.T.A. Docket, pp. 275 and 346.
[6] C.T.A. Docket, p. 332.

registered mail to defendant, reminding the latter of the BIR's previous findings stated in LN No. 080-R-03-00-P-00060.[7]

On May 3, 2005, a Post Reporting Notice was issued by RDO Narvaez against defendant,[8] informing the latter that the discrepancy cited in the Letter Notice resulted in a deficiency IT and VAT for *taxable year 2003* in the total amount of ₱11,032,930.62, inclusive of interest and 50% surcharge.

On August 4, 2005, a Memorandum[9] was issued by Revenue Officer Susan M. Cadavero (recommended for approval by Group Supervisor Debbie Angeles V. Garcia with the concurrence of Chief Francisca G. Lim of the Assessment Section) recommending the issuance of a Preliminary Assessment Notice (PAN).

On January 13, 2006, a PAN was issued by Regional Director Jaime B. Santiago,[10] informing defendant of his deficiency IT and VAT, inclusive of interest and 50% surcharge in the amount of ₱11,883,549.85.

On March 13, 2006, an Amended PAN was issued by RD Santiago[11] finding defendant's deficiency IT and VAT to be ₱12,243,927.26, inclusive of interest and 50% surcharge. As per its registry return receipt card, the Amended PAN was addressed to Mr. Roel A. Monilar (ROMAC MKTG.) and received by one Nilne Ann Joy Pagaran on March 20, 2006.[12]

On June 5, 2006, a Formal Letter of Demand[13] (FLOD) and Final Assessment Notices[14] (FAN) were issued by RD Santiago[15] requesting defendant to pay a total amount of ₱12,390,534.41, representing his deficiency IT and VAT, inclusive of interest and 50% surcharge. As per its registry return receipt card, the same was addressed to Mr. Roel Monilar and received by one Kathleen Caraos on June 28, 2006.[16] om

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[7] C.T.A. Docket, p. 333.
[8] C.T.A. Docket, p. 334.
[9] C.T.A. Docket, p. 336.
[10] C.T.A. Docket, pp. 337-338.
[11] C.T.A. Docket, pp. 339-341.
[12] C.T.A. Docket, p. 340.
[13] Exhibit "G", CTA Docket, pp. 251-252.
[14] Exhibits "G-2" and "G-3", CTA Docket, pp. 253-254.
[15] C.T.A. Docket, pp. 342-345.
[16] C.T.A. Docket, p. 343.

On January 26, 2011, plaintiff filed a *Complaint* before this Court praying that defendant be ordered to pay the amount of ₱9,376,588.40 and ₱3,013,946.01, representing deficiency IT and VAT plus 50% surcharge and 20% deficiency and delinquency interests in accordance with Sections 248 and 249 of the NIRC of 1997, as amended.

In his Answer, defendant counters that the complaint suffers from procedural and substantial defects, such as, administrative remedies were not first exhausted and formal and proper demands were not made, thus making the filing of the subject case pre-mature.[17] Further, defendant alleges that his business ceased operations after the year 2003 due to bankruptcy. He is deep in debt amounting to millions of pesos and is facing a criminal case for Estafa before a court in Cebu City due to bounced checks.[18]

After the pre-trial conference[19] on February 3, 2012, the parties filed their Joint Stipulation of Facts and Issues[20] on February 21, 2012 which was approved by the Court in its Resolution[21] dated March 2, 2012.

During trial, plaintiff presented testimonial and documentary evidence which were admitted by the Court in its Resolution[22] dated February 25, 2013 and Resolution[23] dated May 28, 2013, except for Exhibits "E-1", "F-1-a" and "G-1-a" which were not identified by plaintiff during trial.

On the other hand, in a Manifestation and Motion[24] with attached Formal Offer of Exhibits (For The Defendant)[25] filed on August 20, 2013, defendant manifested that he could no longer afford to attend the proceedings and moved that he be allowed to formally offer some of the documents presented by plaintiff's witness during their cross-examination by defendant, which documents were marked as defendant's own exhibits.

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[17] CTA Docket, p. 52.
[18] *Id.*
[19] CTA Docket, p. 134.
[20] CTA Docket, pp. 137-143.
[21] CTA Docket, pp. 145-146.
[22] CTA Docket, pp. 375-376.
[23] CTA Docket, pp. 405-406.
[24] CTA Docket, pp. 465-467.
[25] CTA Docket, pp. 468-469.

In a Resolution[26] dated December 11, 2013, the Court admitted Exhibits "1", "1-a", "1-B", "1-C", "2", "3", "4" and "5" as part of defendant's evidence.

On February 25, 2014, the case was submitted for decision[27] after noting the filing of the Memorandum (For the Defendant)[28] on February 7, 2014 and plaintiff's Memorandum[29] on August 22, 2013.

ISSUES

The parties jointly submitted the following stipulated issues for the Court's consideration :[30]

1. Whether or not Mr. Monilar is liable to deficiency IT and VAT in the respective amounts of ₱ 9,376,588.40 and ₱ 3,013,946.01 for *taxable year 2003*;

2. Whether or not Mr. Monilar was afforded due process and ample opportunity to contest the findings of plaintiff's officers;

3. Whether or not the assessment for deficiency IT and VAT in the aggregate amount of ₱ 12,390,534.41 for *taxable year 2003* against Mr. Monilar has become final, executory, and demandable; *and*,

4. Whether or not Mr. Monilar's business, ROMAC Marketing, has ceased business operations and is now bankrupt.

RULING OF THE COURT

Plaintiff asserts that the assessment in this case became final, executory, and demandable. Defendant received the FLOD and FAN dated June 5, 2006 on June 28, 2006.[31] Thus, in the absence of an appropriate protest therefrom, the assessment became final, executory, and demandable 30 days thereafter, or on July 28, 2006.

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[26] CTA Docket, pp. 483-484.
[27] Resolution dated February 25, 2014, CTA Docket, pp. 497-498.
[28] CTA Docket, pp. 485-494.
[29] CTA Docket, pp. 438-449.
[30] C.T.A. Docket, p. 276.
[31] C.T.A. Docket, p. 343.

Defendant, however, contends that the entire assessment process was fraught with irregularity so as to render the same in violation of his right to due process. He argues that no evidence was adduced by plaintiff to show that he received the following notices: the Letter Notice No. 080-R-03-00-O-00060 dated October 27, 2004 and Second Notice dated March 29, 2005, the Post Reporting Notice dated May 3, 2005, the PAN dated January 13, 2006, the Amended PAN dated March 13, 2006, and the FLOD and FAN dated June 5, 2006.

The Court deems it best to first settle the second issue which pertains to defendant's claim that he was not afforded due process and ample opportunity to contest plaintiff's findings.

There is no denying that a violation of the taxpayer's right to due process in the issuance of deficiency tax assessment would render nugatory the assessment made by tax authorities.[32] It is an elementary rule enshrined in the Philippine Constitution that "no person shall be deprived of property without due process of law."[33]

Section 228 of the NIRC of 1997, as amended, states:

> **"CHAPTER III - PROTESTING AN ASSESSMENT, REFUND, ETC.**
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> Section 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: *Provided*, however, That a preassessment notice shall not be required in the following cases:
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> xxx xxx xxx
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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.

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[32] Commissioner of Internal Revenue v. Metro Star Superama, Inc., G.R. No. 185371, December 8, 2010.
[33] Section 1, Article III, 1987 Constitution.

> 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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> xxx xxx xxx" *(Emphasis added)*

In tax assessment, due process requires that a taxpayer must actually receive the PAN and the FLOD and FAN. Thus, in **Commissioner of Internal Revenue vs. Metro Star Superama, Inc.**,[34] the Supreme Court declared that failure to strictly comply with the notice requirements prescribed under Section 228 of the NIRC of 1997 and RR No. 12-99 is tantamount to a denial of due process, to wit:

> "The Court agrees with the CTA that the CIR failed to discharge its duty and present any evidence to show that Metro Star indeed received the PAN dated January 16, 2002. It could have simply presented the registry receipt or the certification from the postmaster that it mailed the PAN, but failed. Neither did it offer any explanation on why it failed to comply with the requirement of service of the PAN. It merely accepted the letter of Metro Star's chairman dated April 29, 2002, that stated that he had received the FAN dated April 3, 2002, but not the PAN; that he was willing to pay the tax as computed by the CIR; and that he just wanted to clarify some matters with the hope of lessening its tax liability.
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> This now leads to the question: Is the failure to strictly comply with notice requirements prescribed under Section 228 of the National Internal Revenue Code of 1997 and Revenue Regulations (R.R.) No. 12-99 tantamount to a denial of due process? Specifically, are the requirements of due process satisfied if only the FAN stating the computation of tax liabilities and a demand to pay within the prescribed period was sent to the taxpayer?
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> The answer to these questions require an examination of Section 228 of the Tax Code which reads:
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> Indeed, Section 228 of the Tax Code clearly requires that the taxpayer must first be informed that he is liable for deficiency taxes through the sending of a PAN. He must be informed of the facts and the law upon which the assessment is made. The law imposes a substantive, not merely a formal, requirement. To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations — om

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

> that taxpayers should be able to present their case and adduce supporting evidence.
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> This is confirmed under the provisions R.R. No. 12-99 of the BIR which pertinently provide:
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> From the provision quoted above, it is clear that the sending of a PAN to taxpayer to inform him of the assessment made is but part of the 'due process requirement in the issuance of a deficiency tax assessment,' the absence of which renders nugatory any assessment made by the tax authorities. The use of the word 'shall' in subsection 3.1.2 describes the mandatory nature of the service of a PAN. The persuasiveness of the right to due process reaches both substantial and procedural rights and the failure of the CIR to strictly comply with the requirements laid down by law and its own rules is a denial of Metro Star's right to due process. Thus, for its failure to send the PAN stating the facts and the law on which the assessment was made as required by Section 228 of R.A. No. 8424, the assessment made by the CIR is void." *(Emphases added)*

Service of the assessment notice to the taxpayer may be by registered mail or by personal delivery. It is settled in our jurisprudence that if the assessment is served by registered mail, and the original was not returned to the BIR, the presumption is that the taxpayer received the said assessment in the regular course of mail pursuant to Section 3 (v) of Rule 131 of the Rules of Court. The facts to be established in order to raise this presumption are: **(a) that the letter was properly addressed with postage prepaid; and (b) that it was mailed**. Once these facts are proved, the presumption is that the letter was received by the addressee as soon as it could have been transmitted to him in the ordinary course of the mail.[35]

Barcelon Roxas Securities, Inc. (now known as UBP Securities, Inc.) vs. Commissioner of Internal Revenue,[36] however, clarified that the afore-stated presumption is merely a disputable presumption subject to controversion, and a direct denial of the receipt thereof shifts the burden upon the party favored by the presumption to prove that the mailed letter was indeed received by the addressee, *viz.*:

> "(A)n assessment is made within the prescriptive period if notice to this effect is released, mailed or sent by the CIR to the taxpayer within said period. Receipt thereof by the taxpayer within the

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[35] Protector's Services, Inc. vs. Court of Appeals, et al., G.R. No. 118176, April 12, 2000.
[36] G.R. No. 157064, August 7, 2006.

> prescriptive period is not necessary. At this point, it should be clarified that the rule does not dispense with the requirement that the taxpayer should actually receive, even beyond the prescriptive period, the assessment notice which was timely released, mailed and sent.
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> xxx xxx xxx
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> (W)hen a mailed matter is sent by registered mail, there exists a presumption, set forth under Section 3(v), Rule 131 of the Rules of Court, that it was received in the regular course of mail. The facts to be proved in order to raise the presumption are: (a) that the letter was properly addressed with postage prepaid; and (b) that it was mailed. **While a mailed letter is deemed received by the addressee in the ordinary course of mail, there is still merely a disputable presumption subject to controversion, and a direct denial of the receipt thereof shifts the burden upon the party favored by the presumption to prove that the mailed letter was indeed received by the addressee**." *(Emphasis added)*

In the present case, defendant denies his receipt of the Letter Notice No. 080-R-03-00-O-00060 dated October 27, 2004 and Second Notice dated March 29, 2005, the Post Reporting Notice dated May 3, 2005, the PAN dated January 13, 2006, the Amended PAN dated March 13, 2006, and the FLOD with attached FAN dated June 5, 2006. Hence, it is the duty of plaintiff to establish before this Court that afore-stated notices were indeed received by defendant.

On the matter of service of tax assessment, **Metro Star Superama, Inc.** elucidates:

> "The Court agrees with the CTA that the CIR failed to discharge its duty and present any evidence to show that Metro Star indeed received the PAN dated January 16, 2002. **It could have simply presented the registry receipt or the certification from the postmaster that it mailed the PAN, but failed.** Neither did it offer any explanation on why it failed to comply with the requirement of service of the PAN. It merely accepted the letter of Metro Star's chairman dated April 29, 2002, that stated that he had received the FAN dated April 3, 2002, but not the PAN; that he was willing to pay the tax as computed by the CIR; and that he just wanted to clarify some matters with the hope of lessening its tax liability." (*Emphasis added*)

To prove that defendant received aforementioned notices, plaintiff presented the registry receipts[37] of the Letter Notice[38] and Second Notice,[39]

[37] Exhibits "A-1" and "B-1", C.T.A. Docket, pp. 332 and 333.

numbered 1889 and 11605, respectively, as well as the registry return receipts[40] of the Amended PAN[41] and the FLOD with attached FAN.[42]

Plaintiff likewise presented Revenue District Officer Ramer D. Narvaez, who identified, among others, Exhibits "A" – Letter Notice No. 080-R-03-00-P-00060 dated October 27, 2004, "A-1" – Registry Receipt No. 1889, "B" – Second Notice, and "B-1" – Registry Receipt No. 11605. Revenue Officer Debbie Angeles V. Garcia, in turn, identified Exhibits "A" and "B" together with the above-mentioned sub-markings. She also testified that Exhibit "A" was sent to defendant by registered mail and personal service, simultaneously. According to her, when Exhibit "A" was sent to defendant by personal service, it was received by one Clemente Relampagos who is the accountant of the defendant.

In addition, plaintiff presented Revenue Officer Maria Pacita M. Cebedo who identified, among others, Exhibits "F" – Amended PAN, "F-1" – Registry Return Receipt, "G" – FLOD, and "G-1" – Registry Return Receipt. Lastly, Juliet A. Balbona identified, among others, Exhibit "G" together with the above-mentioned sub-marking. As Chief of the Tax Billing Section of RR No. 13-Cebu, she was the one who prepared the FLOD and had it sent thru registered mail.

Based on the foregoing, the registry receipts of the Letter Notice and Second Notice and the registry return receipts of the Amended PAN and the FLOD and FAN sufficiently show that defendant received the afore-said notices in due course of mail, thus, defendant could not reasonably claim denial of due process.

The Court will now discuss the third and first issues, which are intertwined, that is, whether the deficiency tax assessment against defendant for *taxable year* 2003 became final, executory, and demandable *and* whether defendant is liable for the deficiency tax assessment against him.

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[38] Exhibit "A", C.T.A. Docket, p. 332.
[39] Exhibit "B", C.T.A. Docket, p. 333.
[40] C.T.A. Docket, pp. 340 and 343.
[41] Exhibit "F", C.T.A. Docket, pp. 339-340.
[42] Exhibit "G", C.T.A. Docket, pp. 342-343.

Section 3.1.5 of Revenue Regulations (RR) No. 12-99 provides for the manner in which an assessment, which is otherwise presumed correct, should be assailed, *viz.*:

> "Section 3.1.5 Disputed Assessment. — The taxpayer or his duly authorized representative may protest administratively against the aforesaid formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof. If there are several issues involved in the formal letter of demand and assessment notice but the taxpayer only disputes or protests against the validity of some of the issues raised, the taxpayer shall be required to pay the deficiency tax or taxes attributable to the undisputed issues, in which case, a collection letter shall be issued to the taxpayer calling for payment of the said deficiency tax, inclusive of the applicable surcharge and/or interest. No action shall be taken on the taxpayer's disputed issues until the taxpayer has paid the deficiency tax or taxes attributable to the said undisputed issues. The prescriptive period for assessment or collection of the tax or taxes attributable to the disputed issues shall be suspended.
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> **The taxpayer shall state the facts, 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.** If there are several issues involved in the disputed assessment and the taxpayer fails to state the facts, the applicable law, rules and regulations, or jurisprudence in support of his protest against some of the several issues on which the assessment is based, the same shall be considered undisputed issue or issues, in which case, the taxpayer shall be required to pay the corresponding deficiency tax or taxes attributable thereto.
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> The taxpayer shall submit the required documents in support of his protest within sixty (60) days from date of filing of his letter of protest, otherwise, the assessment shall become final, executory and demandable. The phrase "submit the required documents" includes submission or presentation of the pertinent documents for scrutiny and evaluation by the Revenue Officer conducting the audit. The said Revenue Officer shall state this fact in his report of investigation.
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> **If the taxpayer fails to file a valid protest against the formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable.**" *(Emphases added)*

Based on evidence presented by the plaintiff, it is undisputable that no protest was filed within the 30-day period from the time defendant received the FLOD and FAN dated June 5, 2006 on June 28, 2006. Consequently, the

Court holds that the subject FAN has become **final, executory and demandable.**[43]

As a consequence of the FLOD and FAN becoming final, executory and demandable, defendant has the right to enforce the collection of the deficiency expanded withholding tax for taxable year 2003 against defendant. In **Ferdinand R. Marcos II vs. Court of Appeals,**[44] the Supreme Court clarified the consequence of a final and executory assessment:

> "Since the estate tax assessment had become final and unappealable by the petitioner's default as regards protesting the validity of the said assessment, there is now no reason why the BIR cannot continue with the collection of the said tax. Any objection against the assessment should have been pursued following the avenue paved in Section 229 (now 228) of the NIRC on protests on assessments of internal revenue taxes." *(Emphasis added)*

On the other hand, Section 222 of the 1997 NIRC, as amended, specifies the period within which an internal revenue tax, which has been timely assessed, shall be collected, *viz.*:

> "**SEC 222**. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* —
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> xxx xxx xxx
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> (c) Any internal revenue tax which has been assessed within the period of limitation as prescribed in paragraph (a) hereof may be collected by distraint or levy or by a proceeding in court within five (5) years following the assessment of the tax.
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> (d) Any internal revenue tax, which has been assessed within the period agreed upon as provided in paragraph (b) hereinabove, may be collected by distraint or levy or by a proceeding in court within the period agreed upon in writing before the expiration of the five (5)-year period. The period so agreed upon may be extended by subsequent written agreements made before the expiration of the period previously agreed upon.
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> xxx xxx xxx." *(Emphases added)*

Clearly, plaintiff has two available remedies in its pursuit to collect taxes: administrative and judicial. In this case, plaintiff opted to avail of

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[43] Protector's Services, Inc. vs. Court of Appeals, 330 SCRA 404.
[44] G.R. No. 120880, June 5, 1997, 273 SCRA 47.

judicial remedy when it filed a complaint for the collection pursuant to Section 222 (c) of the 1997 NIRC, as amended, in relation to Section 7(c)(1) of Republic Act (RA) No. 1125, as amended by RA 9282[45] and Section 3(c)(1) of Rule 4 of the Revised Rules of the CTA[46] in order to collect the sum of ₱12,390,534.41, representing defendant's alleged deficiency IT and VAT for *taxable year 2003*, inclusive of interest and surcharge.

Notably, the subject FLOD and FAN dated June 5, 2006 were received by defendant on June 28, 2006. Under Section 222(c) of the 1997 NIRC, as amended, plaintiff has five (5) years within which to collect the deficiency IT and VAT as contained in the subject FLOD and FAN. Plaintiff filed the present Complaint before this Court on January 26, 2011, which is well within the five-year prescriptive period to collect, reckoned from defendant's receipt of the FLOD and FAN on June 28, 2006.[47] In view thereof, plaintiff's collection of the subject deficiency IT and VAT had been made within the period prescribed by law.

As to the fourth issue, while the Court commiserates with the plight of defendant, the Court cannot grant him solace even if he proved the closure of his business and his bankruptcy. As a matter of fact, claims for unpaid internal revenue taxes gives rise to a tax lien upon all the properties and

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[45] Sec. 7. Jurisdiction. - The CTA shall exercise:

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c. Jurisdiction over tax collection cases as herein provided:

1. Exclusive original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties: Provided, however, That collection cases where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (P1,000,000.00) shall be tried by the proper Municipal Trial Court, Metropolitan Trial Court and Regional Trial Court.

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[46] SEC. 3. Cases within the jurisdiction of the Court in Divisions. – The Court in Divisions shall exercise:

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(c) Exclusive jurisdiction over tax collections cases, to wit:

(1) Original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more; and

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[47] See *Bank of the Philippine Islands vs. Commissioner of Internal Revenue*, G.R. No. 139736, October 17, 2005, where the Supreme Court held that when there is no showing as to when the assessment notice was released, mailed or sent by the BIR, it can be granted that the latest date the BIR could have released, mailed or sent the assessment notice to the taxpayer was on the same date it was received by the latter.

assets, movable and immovable, of an insolvent as taxpayer. Under Articles 2241 (1), 2242 (1), and 2246-2249 of the Civil Code, this tax claim must be given preference over any other claim of any other creditor, in respect of any and all properties of the insolvent.[48]

WHEREFORE, premises considered, the Court hereby finds for the plaintiff Republic of the Philippines. Accordingly, the defendant Mr. Roel A. Monilar is hereby **ORDERED** to **PAY** plaintiff Republic of the Philippines, as represented by the Commissioner of Internal Revenue, the deficiency Income Tax and Value-Added Tax for taxable year 2003 in the total amount **₱9,654,617.22**, inclusive of 50% surcharge, computed as follows:

Type of Tax	Basic	50% Surcharge	Total
Income Tax	₱ 4,897,811.70	₱ 2,448,905.85	₱ 7,346,717.55
Value-Added Tax	1,538,599.78	769,299.89	2,307,899.67
Total	**₱** 6,436,411.48	**₱** 3,218,205.74	**₱ 9,654,617.22**

In addition, petitioner is liable to pay (a) deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency Income Tax of ₱4,897,811.70 and basic deficiency Value-Added Tax of ₱1,538,599.78, computed from April 15, 2004 and January 25, 2004, respectively, until full payment thereof pursuant to Section 249(B) of the 1997 NIRC, as amended; and (b) delinquency interest at the rate of twenty percent (20%) per annum on the total amount of ₱9,654,617.22, and on the 20% deficiency interest which have accrued as afore-stated in (a), computed from July 5, 2006 until full payment thereof pursuant to Section 249 (C) of the 1997 NIRC.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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[48] Republic of the Philippines v. Honorable E.L. Peralta, et al., G.R. No. L-56568, May 20, 1987.

WE CONCUR:

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice