REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

CITIAIRE INDUSTRIAL SERVICES CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9713

Members:

CASTAÑEDA, JR., *Chairperson,*
MINDARO-GRULLA, *and*
BACORRO-VILLENA, *JJ.*

Promulgated:
JAN 2 3 2020
1:15 p.m.

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DECISION

BACORRO-VILLENA, J.:

Claiming that respondent Commissioner of Internal Revenue (**CIR/respondent**) issued Warrants of Garnishment (**WGs**)[1] without any prior tax assessment against it, petitioner Citiaire Industrial Services Corporation (**CISC/petitioner**) filed the instant Petition for Review, pursuant to Sections 11[2] and 7[3] of Republic Act No. 1125 (**RA 1125**).

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[1] Exhibits "P-4-A" to "P-4-C", "P-4-D" to "P-4-F" and "P-4-G".

[2] **Sec. 11.** ***Who may appeal; effect of appeal.*** – Any person association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.

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TIMELINESS OF THE FILING OF THE PETITION

Following respondent's receipt of the denial of petitioner's Request for Reconsideration on the former's issuance of the WG on 09 October 2017, petitioner had thirty (30) days from receipt of the adverse decision or until 08 November 2017, to file its Petition for Review. It filed the present petition on the said date, 08 November 2017; hence, it has been timely filed.

PARTIES OF THE CASE

Petitioner is a domestic corporation, duly-registered with the Securities and Exchange Commission (**SEC**), engaged in subcontracting for works allied with the construction industry. It is also registered with the Bureau of Internal Revenue (**BIR**) with Tax Identification No. 007-165-614-000.

Respondent, on the other hand, is the duly appointed CIR, with the powers and duties to decide disputed assessments, refunds of internal revenue taxes, fees and other charges, penalties in relation

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No appeal taken by the Court of Appeals from the decision of the Collector of Internal Revenue or the Collector of Customs 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 when in the opinion of the Court the collection by the Bureau of Internal Revenue or the Commissioner of Customs may jeopardize the interest of the Government and/or the taxpayer the Court at any stage of the proceeding may suspend the said collection and require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount with the Court.

[3] **Sec. 7. *Jurisdiction.*** – The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided.

> (1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;
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> (2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs; and[,]
>
> (3) Decisions of provincial or city Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto.

thereto, or other matters arising under the National Internal Revenue Code (**NIRC**) of 1997, as amended.

FACTUAL ANTECEDENTS

In September 2017, petitioner received respondent's WG dated 29 June 2017[4] and the same was sent to the Union Bank of the Philippines. Surprised of respondent's action, petitioner wrote a letter to respondent requesting a reinvestigation.[5] The letter was coursed through the BIR Regional Director, Revenue Region No. 7 of Quezon City. On 09 October 2017, petitioner learned of respondent's denial of its request. It then filed the instant petition.

In support of the petition, petitioner claimed that it investigated the supposed improper issuance of WG against it and found out that there were deficiency tax assessments for taxable year (**TY**) 2012, which assessment it did not receive. According to it, the assessment was allegedly contained in a Formal Letter of Demand (**FLD**) with Details of Discrepancies[6], and (Final) Assessment Notices (**FAN**).[7] The breakdown of the deficiency tax assessment was found to be, as follows:

Demand No. 39-B058-12					
Tax Type	**Basic Tax**	**Surcharge**	**Interest**	**Total**	**Annex Reference**
Income Tax	25,745,645.91	0	16,491,320.5	42,236,966.50	I
VAT	12,057,455.65	0	8,251,924.44	20,309,380.09	J
Fringe Benefit	367,350.81	91,837.70	179,951.57	639,140.08	K
Doc Stamps	10,000.00	2,500.00	6,953.42	19,453.42	L
EWT	177,545.07	0	122,481.78	300,026.85	M
Compromise	65,000.00	0	0	65,000.00	N
TOTAL	**38,422,997.44**	94,337.7	**25,052,631.8**	**63,569,966.94**	

Petitioner further claimed that, since respondent believed that the assessment became final and executory, there were other WGs served on other banks (Asia United Bank, BPI-Family Bank, Bank of

4 Exhibit "P-4-A".
5 Exhibit "P-5".
6 Exhibit "P-10".
7 Exhibits "P-7-A" to "P-7-F", admitted as secondary evidence.

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the Philippine Islands, Banco de Oro, Philippine Bank of Communications and Metropolitan Bank and Trust Company).

Upon further inquiry, petitioner also found out that the FLD and/or FAN were sent to its former address at 5th Floor Ben-Lor Building, No. 1184 Quezon Avenue, Quezon City and not to its new address at No. 25, Road 4, Project 6, Quezon City. According to it, it had to move its business address because its lease contract expired. However, its business contact numbers remained the same. Moreover, BIR's revenue officers were aware of its transfer to another location because it applied (with it) a change of business address.

Petitioner thus contended that, with the absence of proper service of the FLD and/or FAN, it was not informed of the laws and facts upon which the tax deficiency assessment was based, violating its right to due process under the NIRC of 1997, as amended. Petitioner henceforth prayed for this Court to cancel the WG arising from the invalid deficiency tax assessment. Petitioner's case was raffled to the Second Division.

PROCEEDINGS BEFORE THE SECOND DIVISION

Upon receipt of petitioner's Petition for Review, respondent, in his Answer, countered that petitioner failed to update its business address through BIR Form No. 1905. It also failed to comply with other documentary requirements such as the amended SEC certificate bearing its new address, mayor's business permit or duly received application, board resolution approving the change of address and lease contract. According to him, any change in registration update, without following the proper procedure, could not bind the BIR. Moreover, it is always presumed that the tax assessment is correct.

Later, the parties submitted their Joint Stipulation of Facts and Issues (**JSFI**) where they agreed that: (1) the FLD was sent to petitioner through registered mail; (2) the *Subpoena Duces Tecum* dated 29 September 2016 and the FLD and FAN, with details of discrepancy dated 30 June 2016, are genuine and duly executed; (3) the seven (7) WGs issued to several banks are genuine and duly executed; and, (4) the Electronic Letter of Authority (**eLOA**), Preliminary Collection

Letter (PCL) dated 23 November 2016, Final Notice Before Seizure (**FNBS**) dated 08 October 2016 and the checklist of requirements are all genuine and duly executed.[8]

At the trial that ensued thereafter, petitioner presented Kathrina Rose D. Cambe (**Kathrina**), Antonio M. Cambe (**Antonio**) and Rosalinda D. Cambe (**Rosalinda**) as witnesses. On the other hand, respondent did not present testimonial or documentary evidence and opted to just file his Memorandum.

On the witness stand, Kathrina testified that she is petitioner's Human Resource and Administrative Officer. She declared that, she could "fairly recall" BIR's revenue officers personally delivering the eLOA, *subpoena duces tecum*, Preliminary Assessment Notice (**PAN**), FAN and other forms of communications at their new business address at No. 25, Road 4, Project 6, Quezon City. She added that it is Rosalinda, the Head of the Finance Department, who is authorized to receive communications for petitioner. However, she claimed that she was forced to receive BIR's *subpoena duces tecum* when Revenue Officer Victoria T. Ondaro (**RO Ondaro**) arrived at their office. As for the letter of authority, request for presentation of records and assessment notices, she was also allegedly intimidated (to receive them) when the BIR examiner shouted and could not wait for Rosalinda. She was then constrained to receive the documents. Asked when petitioner transferred to its new location, she replied that it was around May 2015.[9]

Antonio, petitioner's President and Chief Executive Officer (**CEO**), also assumed the witness stand where he declared that petitioner is engaged in construction work. He also stated that, in September 2017, his banks informed him that the BIR had issued WGs against petitioner's accounts. This arose from the assessment of deficiency taxes which, he claimed, did not ever reach petitioner. He was shocked and deeply troubled since he did not receive any assessment notice and FLD. When he got hold of the FLD, it did not also have any date of issue. When he checked their records, he found out that the FLD and FAN were sent by registered mail to their old address at 5/F Ben-Lor Building, No. 1184 Quezon Avenue, Quezon

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[8] Division Docket, pp. 221-222.

[9] Judicial Affidavit, Exhibit "P-14"; see also Order dated 08 August 2018, id., p. 238.

City.[10] He then wrote the Regional Director of BIR Revenue Region No. 7 and requested for a reinvestigation[11] but it was denied.[12]

On their transfer of business address, Antonio claimed that they remained in communication with the BIR through Revenue District Office (**RDO**) No. 39, Region 7. The BIR had even sent a *subpoena duces tecum* to their new address on 10 October 2016. The fact that BIR was able to send the *subpoena duces tecum* should mean that it should have also sent the PAN, FAN and FLD to the same address. He declared that he is clueless as to why he did not come to know of the assessment made against petitioner.

As for Rosalinda, petitioner's Treasurer and Finance Officer, she corroborated Antonio's declaration that petitioner never received any assessment notice prior to the issuance of the WGs. When she investigated, the assessment notices were sent through registered mail to their old business address although the BIR had already been informed of petitioner's current address. As a result, she claimed that they did not have any original copy of the PAN, FAN and FLD. When they got hold of the FLD, she noticed that it did not have the date of issue; neither did it contain the date within which to pay the supposed deficiency taxes.

After petitioner rested its case, respondent manifested that he will no longer present any countervailing evidence; instead, he will submit his case memorandum.

ISSUES

As the parties jointly agreed on during the pre-trial, the issues for resolution are as follows:

I.

WHETHER THE WARRANTS OF GARNISHMENT AND ASSESSMENT NOTICES ISSUED BY RESPONDENT SHOULD BE REVOKED AND DECLARED NULL AND VOID.

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10 Exhibit "P-8".
11 Exhibit "P-5", supra.
12 Reply Letter, Exhibit "P-6".

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II.

WHETHER THE ASSAILED FORMAL LETTER OF DEMAND AND/OR FINAL ASSESSMENT NOTICE (FLD/FAN) ISSUED BY RESPONDENT ARE VOID FOR BEING INSUFFICIENT IN FORM.

III.

WHETHER RESPONDENT'S RIGHT TO ASSESS AND COLLECT ALLEGED TAX DEFICIENCIES AGAINST PETITIONER IS BARRED BY PRESCRIPTION AND/OR STATUTE OF LIMITATIONS.

IV.

WHETHER THE ASSESSMENT OF DEFICIENCY INCOME TAX, VALUE ADDED TAX (VAT), WITHHOLDING COMPENSATION, IMPROPERLY ACCUMULATED EARNING TAX, DOCUMENTARY STAMP TAX AND COMPROMISE PENALTY IN THE AMOUNT OF ₱63.569 MILLION ARE WITH FACTUAL AND LEGAL BASES.

V.

WHETHER PETITIONER IS LIABLE FOR THE AFOREMENTIONED TAXES.

ARGUMENTS IN SUPPORT OF THE ISSUES

In its present bid to void the assessment and the WGs later on issued against it, petitioner maintains essentially that the BIR did not observe due process when it sent the PAN, FLD and FAN *via* registered mail to a wrong address. Although they were all sent back to the BIR, it proceeded to collect its supposed deficiency taxes and issued the WGs. Moreover, respondent could not also feign to not know its new address since the records show that it was able to serve a *subpoena duces tecum* to it. Thus, the BIR had prior knowledge of its new address and should have sent the PAN, FLD and FAN there. For failing to do so, petitioner claims that it was deprived of due process and the assessment must be struck down as invalid and illegal.

Expectedly, respondent thinks otherwise and insists that the assessment was valid. While he did not squarely address petitioner's contention that the PAN, FLD and FAN were all sent to the wrong address, he calls the Court's attention to the supposed improper and belated filing of petitioner's case. According to him, petitioner filed the present petition beyond the prescriptive period to do so hence, it must be dismissed. Moreover, tax assessments are presumed correct and regular. In the absence of contrary proof from petitioner, its petition must fail.

RULING OF THE COURT

From among the issues that the parties forward for resolution, the Court deems it proper to subsume all issues in one - *is BIR's assessment of petitioner's deficiency taxes valid*?

After a careful review of the records of the case, the Court is constrained to respond to the issue in the negative. Before it proceeds to essay the legal anchors of its conclusion, it deems propitious to note at this point that -

THE PETITION FOR REVIEW WAS TIMELY FILED.

In Section 11 of RA 1125, as amended by Section 9 of RA 9282, and Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals (**RRCTA**).

...

Section 9 of RA 9282 provides:

> 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, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **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.
>
> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as

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> herein provided, from the expiration of the period fixed by law to act thereon...[13]
>
> ...

On the other hand, Section 3(a), Rule 8 of the RRCTA states:

> **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...[14]
>
> ...

In the case of *Allied Banking Corporation v. Commissioner of Internal Revenue*[15], the word "decisions" in the above quoted provision of RA No. 9282, as amended, has been interpreted to mean the decisions of the CIR on the *protest* of the taxpayer against the assessments. Corollary thereto, Section 228 of the NIRC, as amended provides for the procedure for protesting an assessment. It states:

> ...
>
> 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: Provided, however, that a preassessment notice shall not be required in the following cases:
>
> ...
>
> 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

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13 Emphasis supplied.
14 Emphasis supplied.
15 G.R. No. 175097, 05 February 2010, 611 SCRA 692.

x - x

> authorized representative shall issue an assessment based on his findings.
>
> 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.
>
> 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 the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.
>
> ...

The rule is that for this Court to acquire jurisdiction, an assessment must first be disputed by the taxpayer and ruled upon by the CIR to warrant a decision from which a petition for review may be taken to it. Where the CIR renders an adverse ruling on a disputed assessment or a claim for refund or credit, the taxpayer may appeal the same within thirty (30) days after receipt thereof.[16]

As the records bear, however, petitioner failed to protest the assessment. Nevertheless, this Court could assume jurisdiction over its petition. Section 7(1) of RA 1125 provides:

> ...
>
> **Sec. 7. *Jurisdiction.*** - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided.
>
> (1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, **or other matters arising under the National Internal Revenue Code**

16 *Oceanic Wireless Network, Inc. v. CIR, et al.*, G.R. No. 148380, 09 December 2005, 477 SCRA 205.

x - x

> **or other law or part of law administered by the Bureau of Internal Revenue.**[17]
>
> ...

In one case[18], the Supreme Court ruled that-

> ...
>
> ... [T]he 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 [Section 7(1)] 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.
>
> ...

From the foregoing, as stated, the Court could only deem that it has jurisdiction over the present petition that seeks to nullify respondent's WGs. In the instant case, it is noted that, while petitioner did not protest, it nevertheless filed a Request for Reinvestigation when it learned the issuance of the WGs. It received letter-denial of its Request for Reinvestigation on 09 October 2017. Counting thirty (30) days from receipt of respondent's letter-denial, petitioner had until 08 November 2017 within which to file its appeal to the Court. Hence, the petitioner's Petition for Review filed on 08 November 2017 is well within the 30-day period to file it.

PETITIONER FAILED TO NOTIFY THE RESPONDENT OF ITS NEW ADDRESS

Petitioner obviously missed the opportunity to protest the assessment or even to request a reinvestigation. In Antonio's testimony[19] as petitioner's President and CEO, he stated:

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17 Emphasis supplied.
18 *Philippine Journalists, Inc. v. CIR*, G.R. No. 162852, 16 December 2004, 447 SCRA 214.
19 Exhibit "P-12", id., p. 314.

x - x

> ...
> Question 11: What was the reason why you wrote this letter request for reinvestigation?
>
> Answer: CITIAIRE including myself in my official capacity as President <u>did not receive this assessment notice and formal letter of demand</u> for the taxable year 2012.[20]
> ...

In this jurisdiction, the well-entrenched rule is that - if the taxpayer denies having received an assessment from the BIR, it then becomes incumbent upon the latter to prove, by competent evidence, that such notice was indeed received by the addressee.[21] Based on the records, respondent skipped the presentation of his countervailing evidence hence he did not present proof on this respect. Nevertheless, *per* the parties' JSFI, the FLD and/or FAN were mailed to petitioner. Under Rule 131, Section 3(g) of the Rules of Court, a letter duly directed and mailed is presumed received in a regular course of mail.

In the case of *Barcelon, Roxas Securities, Inc. (now known as UBP Securities, Inc.) v. Commissioner of Internal Revenue*[22], the Supreme Court held:

> ...
> 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 .... Thus as held by the Supreme Court in *Gonzalo P. Nava vs. Commissioner of Internal Revenue*, 13 SCRA 104, January 30, 1965:

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20 Underscoring supplied.

21 *CIR v. GJM Philippines Manufacturing, Inc.*, G.R. No. 202695, 29 February 2016; *Barcelon, Roxas Securities, Inc. v. CIR*, G.R. No. 157064, 07 August 2006; *CIR v. Metro Star Superama, Inc.*, G.R. No. 185371, 08 December 2010.

22 G.R. No. 157064, 07 August 2006.

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> "The facts to be proved 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. But if one of the said facts fails to appear, the presumption does not lie. (VI, Moran, Comments on the Rules of Court, 1963 ed., 56-57 citing *Enriquez vs. Sunlife Assurance of Canada*, 41 Phil. 269)."

...

As to where the FLD and/or FAN should have been sent, Section 11 of RR No. 12-85 provides for the following:

> ...
>
> Sec. 11. *Change of Address.* — In case of change of address, the **taxpayer must give written notice** thereof to the Revenue District Officer or the district having jurisdiction over his former legal residence and/or place of business, copy furnished the Revenue District Officer having jurisdiction over his new legal residence or place of business, the Revenue Computer Center and the Receivable Accounts Division, BIR, National Office, Quezon City, and **in case of failure to do so, any communication referred to in these regulations previously sent to his former legal residence or business address as appear[ing] in [h]is tax return for the period involved shall be considered valid and binding for purposes of the period within which to reply.**[23]
>
> ...

From the foregoing, a taxpayer intending to change his or her address must give a <u>written notice</u> to the RDO that has jurisdiction over the former legal residence and/or place of business; otherwise, any communication previously sent to the said former legal residence or place of business shall be considered valid and binding for purposes of the period within which to reply.

The records yield that respondent was not actually notified of the change in petitioner's business address. Petitioner's insistence that the former was made aware (as shown in the personal service of the *subpoena duces tecum*[24] dated 29 September 2016) is devoid of merit.

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[23] Emphasis supplied.
[24] Exhibit "P-9", id., p. 300.

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A closer examination of the records show that petitioner received the said *subpoena*[25] on 10 October 2016 when the FLD and/or FANs[26] were already issued and served upon petitioner. Other than the *subpoena,* petitioner also proffered no other evidence that it notified respondent of its change of address.

In its memorandum, petitioner also insists that respondent knew of the current address from the time it transferred to its new office through its submission of its tax returns including audit investigations conducted by respondent through its revenue officers. However, the tax returns for TY 2012 such as BIR Form No. 1604-E[27], 1604-CF[28] and 1702[29], among others, indicate therein petitioner's old address. In fact, even the audited financial statements[30] for TY 2012 show that petitioner is still conducting its business at their old address.

The Court deems that, although petitioner only admitted in the JSFI that the FLD and/or FAN were sent to it but maintained that it did not receive them, the presumption that the communications were duly received stands. Obviously, following its failure to comply with RR 12-85, respondent could not have been expected to mail them at the new address. To put it differently, the non-receipt could only be the result of petitioner's lapses in not giving notice of change of address to respondent. Technically speaking, petitioner was still a duly registered taxpayer under its old address at the time the subject FLD and/or FAN were sent to it.

***Notwithstanding* the foregoing disquisitions, the Court, however, is constrained to strike down respondent's assessment of petitioner. A simple cursory of the FLD and the FAN (that preceded the issuance of the WGs) will show that there was no due date for the payment of the supposed deficiency tax.**

In *Commissioner of Internal Revenue v. Fitness by Design, Inc.* [31] (**Fitness by Design, Inc.**), the Supreme Court held:

25 Id.
26 Exhibits "P-10", "P-7-A" to "P-7-F", supra.
27 BIR Records, p. 228.
28 BIR Records, p. 226.
29 BIR Records, pp. 93-95.
30 BIR Records, pp. 83-92.
31 G.R. No. 215957, 09 November 2016.

> ...
> ...[T]he **Final Assessment Notice is not valid if it does not contain a definite due date for payment by the taxpayer.**
>
> ...
> **The issuance of a valid formal assessment is a substantive prerequisite for collection of taxes.** Neither the [NIRC] nor the revenue regulations provide for a 'specific definition or form of an assessment.' However, the National Internal Revenue Code defines its explicit functions and effects. **An assessment does not only include a computation of tax liabilities; it also includes a demand for payment within a period prescribed. Its main purpose is to determine the amount that a taxpayer is liable to pay.**
>
> ...
> A final assessment is a notice 'to the effect that the amount therein stated is due as tax and a demand for payment thereof.' This demand for payment signals the time 'when penalties and interests begin to accrue against the taxpayer and enabling the latter to determine his remedies[.]' Thus, it must be 'sent to and received by the taxpayer, and **must demand payment of the taxes described therein within a specific period**'.[32]
> ...

In the said immediately-cited case, the Supreme Court disallowed the assessment on the taxpayer on the basis of the FAN that did not contain any amount of the tax liability and the due date to settle the tax liability. It ruled, thusly:

> ...
> The disputed Final Assessment Notice is not a valid assessment.
>
> First, it lacks the definite amount of tax liability for which respondent is accountable. It does not purport to be a demand for payment of tax due, which a final assessment notice should supposedly be. An assessment, in the context of the National Internal Revenue Code, is a 'written notice and demand made by the [Bureau of Internal Revenue] on the taxpayer for the settlement of a due tax liability that is there definitely set and fixed.' Although the disputed notice provides for the computations of respondent's tax liability, the amount remains indefinite. It only provides that the tax due is still subject to modification, depending on the date of payment.

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[32] Id.; emphasis supplied.

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> ...
> Second, there are no due dates in the Final Assessment Notice. This negates petitioner's demand for payment... The last paragraph of the Final Assessment Notice states that the due dates for payment were supposedly reflected in the attached assessment:
>
> > In view thereof, you are *requested to pay* your aforesaid deficiency internal revenue tax liabilities through the duly authorized agent bank in which you are enrolled *within the time shown in the enclosed assessment notice.*
>
> ...
> ... The total amount depended upon when respondent decides to pay. The notice, therefore, did not contain a definite and actual demand to pay.
>
> Compliance with Section 228 of the National Internal Revenue Code is a substantive requirement. It is not a mere formality. Providing the taxpayer with the factual and legal bases for the assessment is crucial before proceeding with tax collection. Tax collection should be premised on a valid assessment, which would allow the taxpayer to present his or her case and produce evidence for substantiation.[33]
> ...

In the case at bar, the notices of assessment sent to petitioner similarly and uniformly read-

> ...
> PLEASE PRESENT THIS NOTICE TO THE NEAREST REVENUE DISTRICT OFFICE OR OTHER DULY AUTHORIZED ISSUING OFFICE FOR ISSUANCE OF PAYMENT FORM (BIR FORM NO. 0605) AND PAY THE TOTAL AMOUNT PAYABLE ON OR BEFORE ______________ TO ANY ACCREDITED BANK WHERE YOU ARE ENROLLED OR TO THE CHIEF, ASSESSMENT DIVISION, 5^{TH} FLOOR, RR # 7, QUEZON CITY.
> ...

Regrettably, like in *Fitness by Design, Inc.*, there was no time or DUE date indicated on the FLD or on the notice of assessment. Correspondingly, with BIR's substantial and procedural lapses, the inevitable conclusion is that the subject tax deficiency assessment

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33 Id.

against the petitioner for the taxable year 2012 is void and bears no valid fruit.[34]

WHEREFORE, with the foregoing, this Petition for Review filed by petitioner Citiaire Industrial Services Corporation is hereby **GRANTED**. Accordingly, the Formal Letter of Demand with the Notice of Assessment and the Warrants of Garnishment issued against petitioner by respondent Commissioner of Internal Revenue are **CANCELLED** and **SET ASIDE**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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[34] *See Commissioner of Internal Revenue v. Reyes,* G.R. No. 159694, 27 January 2006.

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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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
2nd Division Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice