REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

HERBERT P. LIPANA, Petitioner,	**CTA CASE NO. 11199**
-versus-	Members: **RINGPIS-LIBAN,** *Chairperson, PJ,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAY 04 2026

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DECISION

1:42 p.m.

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a *Petition for Review*, filed on June 21, 2023, seeking to void the deficiency tax assessment against Petition for Taxable Year ("TY") 2011 and to quash, cancel, and/or lift Warrant of Distraint and/or Levy ("WDL") No. AMRD-WDL-2023-003, dated May 15, 2023.

The Parties[1]

Petitioner is a Filipino of legal age.

Respondent is the duly appointed Commissioner of Internal Revenue ("CIR") who is tasked to assess and collect all national internal revenue taxes, fees and charges, and enforce all forfeitures, penalties, and fines connected therewith.

The Facts

On January 8, 2016, petitioner received a Preliminary Assessment Notice, dated November 25, 2015.[2]

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[1] Pre-Trial Order, dated March 20, 2024, *Rollo*, p. 158.

[2] Petition for Review, p. 4., *id.* at 9.

Then, on September 2, 2019, petitioner received a Formal Letter of Demand ("FLD"), dated August 20, 2019. Petitioner filed a protest against this on September 11, 2019.[3]

On October 7, 2022, petitioner received a Final Decision on Disputed Assessment ("FDDA"), dated October 3, 2022. Petitioner protested this via a Motion for Reconsideration ("MR") on November 3, 2022.[4]

Respondent later issued the assailed WDL, without acting on the MR, on May 15, 2023.[5] The same was served to petitioner on May 22, 2023.[6]

Aggrieved, petitioner filed the instant Petition on June 21, 2023. Respondent filed his Answer[7] thereto on September 11, 2023.

Trial ensued, with petitioner presenting witness Jose Filomar R. Bas[8] and respondent presenting witness Atty. Ronna S. Dimaano-Marasigan.[9] The Court admitted all evidence offered by the parties.[10]

Neither party submitted a Memorandum: petitioner simply failed to do so[11] while respondent adopted the arguments raised in his Answer in lieu of a Memorandum.[12] The Court consequently submitted this case for decision on June 18, 2025.[13]

Hence, this Decision.

The Issues

The sole issue for this Court's resolution is whether petitioner is liable to pay the assessed deficiency income tax for TY 2011.[14]

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3 *Id.* Note that despite claiming, in the Petition for Review, to have filed its protest on September 2, 2019, the attached copy of the protest is dated September 9, 2019, and is stamped as having been received by the Bureau of Internal Revenue on September 11, 2019. *See* Letter, dated September 9, 2019, Exhibit "P-4", BIR Records, pp. 197-198.

4 Petition for Review, p. 4, *Rollo*, p. 9. Note that while petitioner claims that the FDDA is dated October 13, 2019, the FDDA is actually dated October 3, 2019. The confusion seemingly stems from smudged ink that made the "0" in "03" look like a "1".

5 Petition for Review, p. 4, *Rollo*, p. 9.

6 Warrant of Distraint and/or Levy, dated May 15, 2023, *id.* at 17-18.

7 *Id.* at 67-86.

8 Minutes of the Hearing, held on July 2, 2024, *id.* at 175.

9 Minutes of the Hearing, held on October 29, 2024, *id.* at 191.

10 Resolution, dated October 11, 2024, p. 1, *id.* at 189; Resolution, dated April 10, 2025, p. 1, *id.* at 212.

11 Records Verification, dated June 10, 2025, *id.* at 214.

12 Manifestation, *id.* at 216.

13 Minute Resolution, dated June 18, 2025, *id.*, unpaginated.

14 Pre-Trial Order, p. 2, *id.* at 159.

Arguments of the Parties

Petitioner's Arguments

Petitioner argues that the assessment is void as (1) he never received a Letter of Authority ("LOA") authorizing the examination of his records;[15] and (2) the tenor of the FLD makes it a request, rather than a demand, for payment.[16]

Respondent's Arguments

Respondent counters the above by claiming that:

(1) As petitioner's MR to the FDDA contains no actual plea for reconsideration, no valid protest was filed against the assessment, and this Court lacks jurisdiction over this case;[17]

(2) Petitioner himself acknowledged receipt of the LOA[18] and never raised any alleged absence of the same at the administrative level;[19]

(3) The FLD's tenor is irrelevant to its nature as a demand;[20] and

(4) Petition is liable for income tax.[21]

The Ruling of the Court

The Petition must be partially dismissed for lack of jurisdiction and partially denied for lack of merit.

The Court has jurisdiction over the WDL but not over the assessment.

In filing his Petition for Review, petitioner assails both the assessment and the collection efforts against him. He filed his appeal after receiving the WDL, treating it as respondent's decision on his MR to the FDDA and as respondent's "decision" on an "other matter" arising from the *National*

[15] Petition for Review, pp. 5-6, *id.* at 10-11.
[16] Petition for Review, pp. 6-8, *id.* at 11-13.
[17] Answer, pp. 2-6, *id.* at 68-72.
[18] Answer, pp. 6-9, *id.* at 72-75.
[19] Answer, pp. 9-13, *id* at 75-79.
[20] Answer, pp. 13-16, *id.* at 79-82.
[21] Answer, pp. 16-18, *id.* at 82-84.

Internal Revenue Code of 1997, as amended ("*NIRC*"), *i.e.*, respondent's collection efforts.

Petitioner is only half correct.

Under *Section 7(a)(1) of Republic Act* ("*RA*") *No. 1125, as amended*, this Court has jurisdiction over decisions of the CIR in cases involving disputed assessments and in cases involving "other matters" arising from the *NIRC*, among other controversies:

> SEC. 7. Jurisdiction. — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
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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 matters arising under the National Internal Revenue Code* or other laws administered by the Bureau of Internal Revenue;
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> . . . .

(Italics supplied.)

Note that "disputed assessments" and "other matters" are listed *separately*, implying that these are two different and distinct kinds of case.

In the past, such as in *Commissioner of Internal Revenue v. Isabela Cultural Corporation*[22] ("*Isabela*"), the Supreme Court has endorsed treating issuances pertaining to collection efforts as the CIR's final decision on pending protests to assessments. In that case, a Final Notice Before Seizure ("FNBS") was considered a denial of the taxpayer's administrative protest, allowing the taxpayer to judicially assail the assessment through said FNBS. Under this jurisprudence, then, petitioner would be allowed to challenge the assessment through the WDL, treating the latter as respondent's decision on petitioner's MR.

However, in *Light Rail Transit Authority v. Commissioner of Internal Revenue*[23] ("*LRTA*") the Supreme Court reasoned that *Isabela* was promulgated in an outdated legal milieu, before inactions of the CIR on administrative protests became appealable to this Court and before the promulgation of *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*[24] and *Lascona Land Co., Inc. v. Commissioner of Internal*

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[22] G.R. No. 135210, July 11, 2001.
[23] G.R. No. 231238, June 20, 2022.
[24] G.R. No. 168498, April 24, 2007.

Revenue,[25] which clarified that taxpayers could await the decision of the CIR if the same was not issued within the 180-day period for such.

Isabela, then, allowed taxpayers to treat an issuance related to a collection effort as a decision on a disputed assessment because taxpayers at the time lacked crucial options to judicially assail assessments if the CIR failed to act on an administrative protest within the period to do so. Now that taxpayers have two options in such circumstances, *Isabela*'s procedural lifeline is no longer necessary.

In short, issuances related to collection efforts, such as FNBSs or WDLs, can no longer be treated as the CIR's final decision on a pending protest to an assessment.

Here, the assailed WDL *cannot* be considered respondent's decision on petitioner's MR to the FDDA. The administrative protest was still pending before the respondent when petitioner filed his Petition. His assailing of the assessment before this Court is thus premature, and We lack the requisite authority to act on the same.

That said, this Court *does* have jurisdiction over the WDL itself. The case of *Commissioner of Internal Revenue v. Court of Tax Appeals, Second Division*[26] is instructive here:

> Based on the foregoing provision, the exclusive appellate jurisdiction of the CTA Division is not limited to cases involving decisions of the CIR or matters relating to assessments or refunds. *In CIR v. Hambrecht & Quist Philippines, Inc., the Court held that the issue of prescription of the CIR's right to collect taxes is covered by the term "other matters" over which the CTA has appellate jurisdiction*:
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> . . . .
>
> To be sure, the fact that an assessment has become final for failure of the taxpayer to file a protest within the time allowed only means that the validity or correctness of the assessment may no longer be questioned on appeal. *However, the validity of the assessment itself is a separate and distinct issue from the issue of whether the right of the CIR to collect the validly assessed tax has prescribed.* This issue of prescription, being a matter provided for by the NIRC, is well within the jurisdiction of the CTA to decide.

As stated, the issue of an assessment's validity is distinct from the issue of the concomitant collection's validity.[27] Thus, the validity of an assessment that has become final and executory does not foreclose the possibility of

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[25] G.R. No. 171251, March 5, 2012.
[26] G.R. No. 258947, March 29, 2022.
[27] As an aside, this is another reason to bar petitioner from assailing the assessment by protesting the WDL.

assailing the validity of the related collection effort, allowing Us to act on the assailed WDL.

Furthermore, the instant Petition, treated as judicial remedy against the WDL, was filed on time. Petitioner received the WDL on May 22, 2023, to recall. Under *Rule 8, Section 3(a) of the Revised Rules of the Court of Tax Appeals, as amended,* this gave petitioner until June 21, 2023 within which to file a Petition against the WDL. He filed the instant Petition on that exact date, June 21, 2023, meaning he timely filed the instant Petition.

In sum, while this Court cannot act on petitioner's prayer to void the assessment against him, We can act on his prayer to quash, cancel, and/or lift the WDL.

The WDL is void as collection must be based on the existence of delinquent taxes.

Under *Sec 205(a) of the NIRC*, respondent can resort to distraint to collect *delinquent* taxes. The status of delinquency is important, as emphasized in *Mannasoft Technology Corp. v. Commissioner of Internal Revenue*:[28]

> It should also be emphasized that *availing of the summary collection remedies under the Tax Code, such as the issuance of a WDL, are premised first and foremost on the existence of "delinquent taxes."* This premise is lacking when the matter of the taxpayer's civil liability is subject of a valid request for reinvestigation which is still pending resolution by the respondent and its authorized agents, as in the case at bench. (Citations omitted; italics supplied.)

In that case, the Supreme Court observed that when a valid protest against an assessment is still pending before the CIR, the subject taxes are not yet delinquent. No "delinquent" taxes exist. However, the summary collection remedies under the *NIRC*, such as resort to distraint, are premised on the existence of such delinquent taxes. It follows, then, that the CIR cannot validly resort to distraint when the subject taxes are not yet delinquent, such as when a valid administrative protest is still pending.

This conclusion is directly supported by *LRTA*, in which the WDL and other issuances related to collection were declared void for not being based on the existence of delinquent taxes, given the pendency of therein taxpayer's administrative protest.

[28] G.R. No. 244202, July 10, 2023.

> Neither can the 30-day period for filing a petition for review be reckoned from petitioner's receipt of any of the following issuances: the Preliminary Collection Letter, the Final Notice Before Seizure, the Warrant of Distraint and/or Levy, the April 4, 2013 Letter reconsidering the issuance of the Warrant of Distraint and/or Levy, and the June 9, 2014 Letter dropping the request for reconsideration of the Warrant of Distraint and/or Levy. Like the Final Decision on Disputed Assessment, *all of these were not final decisions on the appeal by the Commissioner of Internal Revenue. They remained tentative given the pendency of the petitioner's appeal with the Office of the Commissioner. More importantly, all of these were issued on the premise that "delinquent taxes" exist, an incorrect premise.* To repeat, the assessment was still pending appeal with the Office of the Commissioner when these issuances were made. The Preliminary Collection Letter, the Final Notice Before Seizure, the Warrant of Distraint and/or Levy, the April 4, 2013 Letter reconsidering the issuance of the Warrant of Distraint and/or Levy, and the June 9, 2014 denying the request for reconsideration all emanated from a non-demandable assessment. As such, all were void and should be of no force and effect.
> (Citations omitted; italics supplied.)

The WDL in that case, to recall, was not treated as the CIR's final decision on the assessment. Instead, the Supreme Court declared the WDL void as it was issued while a protest to the assessment was still pending, *i.e.*, without the existence of delinquent taxes.

The facts in the case at bar are similar. Respondent issued the assailed WDL while petitioner's protest to the FDDA was still pending. He thus issued the WDL *without the existence of delinquent taxes*. The WDL is thus void, having no final and executory assessment as basis.

To reiterate and emphasize, this ruling on the WDL does not touch on the validity of the assessment, which is technically still pending before respondent and over which We have no jurisdiction. However, We do not need jurisdiction over the assessment to declare the WDL void as We have jurisdiction over the WDL itself under Our "other matters" jurisdiction.

ACCORDINGLY, the instant *Petition for Review*, filed on June 21, 2023, is hereby **PARTIALLY DISMISSED** for lack of jurisdiction, insofar as it prays for the voiding of the assessment against petitioner for Taxable Year 2011.

However, the Petition is **PARTIALLY GRANTED**, insofar as it prays for the quashal, cancellation, and/or lifting of Warrant of Distraint and/or Levy No. AMRD-WDL-2023-003, dated May 15, 2023. Said Warrant of Distraint and/or Levy is declared **NULL** and **VOID**. Respondent and his agents are **ENJOINED** and **PROHIBITED** from enforcing said Warrant of Distraint and/or Levy.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CORAZON G. FERRER-FLORES
Associate Justice

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
Presiding Justice