22-000138-0034

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10817

WELLCARGO CUSTOMS BROKERAGE, INC. (represented by its President MARIA B. ZAPATA),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE (BIR),
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. RAMON B. LORENZO
ATTY. ROWELL B. VICENTE
ATTY. MYRNA R. SANTELICES
ATTY. KRISTINE ALMA T. CAYABYAB
Bureau of Internal Revenue
Legal Division, Revenue Region No.6
5/F, BIR Building I, Solana Street
Intramuros, Manila

ATTY. TORENIO C. CABACUNGAN JR.
Unit 1804-B, New York Mansions
Montreal & Annapolis Street
Cubao, Quezon City

GREETINGS:

You are hereby notified by these presents that on **October 2, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **October 3, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

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-versus-

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Respondent.

CTA CASE NO. 10817

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

OCT 02 2024; 9:30AM

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DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review*[1] filed on March 25, 2022 by petitioner Wellcargo Customs Brokerage, Inc. (represented by its President Maria B. Zapata) ("**Petitioner**"), against respondent Commissioner of Internal Revenue ("**CIR**" or "**Respondent**"), assailing respondent's Final Decision on Disputed Assessment ("**FDDA**") issued on February 18, 2022 relative to the alleged deficiency Income Tax ("**IT**") and Value-Added Tax ("**VAT**") in the aggregate amount of ₱76,059,228.33, inclusive of surcharges and interests for taxable year ("**TY**") 2012.

THE PARTIES

Petitioner is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with

[1] Petition for Review, pp. 6–29.

principal place of business at Suite 220-A, 2nd Floor, Regina Building, Escolta St., Binondo, Manila.[2]

Respondent CIR is vested with the authority under the National Internal Revenue Code ("**NIRC**") to exercise functions, duties, and responsibilities of said office, including inter alia, the power to decide disputed assessments.[3]

THE FACTS

Petitioner has timely filed its Annual Income Tax Return and Audited Financial Statements for TY 2012.[4]

On March 26, 2021, petitioner received a copy of the Final Assessment Notice No. 30-12-90196-2021-084(IT), Final Assessment Notice No. 30-12-90196-2021-084(VT), and Formal Letter of Demand with Details of Discrepancies, all dated March 11, 2021 (collectively referred to as "**FLD/FAN**")[5]

The FLD/FAN assessed petitioner for deficiencies in IT and VAT in the aggregate amounts of ₱41,522,838.81 [6] and ₱31,638,571.59,[7] respectively, as follows:

	Income Tax	**VAT**
Basic	₱ 14,638,511.18	₱ 10,984,152.25
Surcharge (50%)	7,319,255.59	5,492,076.13
Interest	19,565,072.04	15,162,343.21
Compromise	-	-
Total	₱ 41,522,838.81	₱ 31,638,571.59

On April 23, 2021, petitioner filed a Request for Investigation relative to the FLD/FAN with Details of Discrepancies with the Bureau of Internal Revenue ("**BIR"**), Revenue Region No. 6, Manila.[8]

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[2] *Ibid.*, par. 2.
[3] Ibid., par. 2.
[4] Page 2, Petitioner's Memorandum, Docket, pp. 229–241; Page 2, Respondent's Memorandum, Docket, pp. 211–228.
[5] Par. 1, Stipulation of Facts, Pre-Trial Order, Docket, pp. 144–149.
[6] Exhibit "P-2", Docket, p. 30.
[7] Exhibit "P-3", Docket, p. 31.
[8] Ibid., par. 4.

On February 24, 2022, petitioner received a copy of the FDDA dated February 18, 2022.[9]

In the said FDDA, petitioner was ordered to pay the alleged deficiency IT and VAT in the aggregate amount of ₱76,059,228.33, inclusive of surcharges and interests,[10] to wit:

	Income Tax	**VAT**
Basic	14,638,511.18	10,984,152.25
Surcharge (50%)	7,319,255.59	5,492,076.13
Interest	21,220,627.49	16,404,605.69
Compromise	-	-
Total	43,178,394.26	32,880,834.07

PROCEEDINGS BEFORE THE COURT

On March 25, 2022, petitioner filed a *Petition for Review.*[11]

On April 4, 2022, a summons was issued, which respondent received on April 6, 2022.[12]

On May 5, 2022, respondent filed his *Urgent Motion for Extension of Time to File Answer,*[13] which the Court granted in its *Order* dated May 10, 2022.[14] Accordingly, on June 3, 2022, within the extended period, respondent filed his *Answer.*[15]

On June 8, 2022, respondent forwarded to the Court the *BIR Records* consisting of 1 folder with 335 pages.[16]

On June 9, 2022, the Court issued a *Notice of Pre-Trial Conference.*[17] Respondent filed his *Pre-Trial Brief* on September 7, 2022,[18] while petitioner filed its *Pre-Trial Brief* on September 11, 2022.[19] The Pre-Trial Conference proceeded as scheduled on September 14, 2022,[20] and the *Pre-Trial Order* was promulgated on January 3, 2023.[21]

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9 Exhibit "P-7", Docket, pp. 39–40.
10 Ibid., par. 5–6.
11 *Supra* note 1.
12 Docket, p. 48.
13 *Id.* at 50–52.
14 *Id.* at 53.
15 *Id.* at 57–74.
16 Compliance, Docket, pp. 54–55.
17 Docket, pp. 104–105.
18 *Id.* at 119–123.
19 *Id.* at 110–114.
20 *Id.* at 130.
21 *Id.* at 144–149.

The trial proceeded.

On January 18, 2023, petitioner presented its lone witness, Ms. Maria B. Zapata ("**Zapata**").[22] On February 7, 2023, petitioner filed its *Formal Offer of Documentary Evidence*,[23] to which respondent filed his *Comment/Opposition [Re: Petitioner's Formal Offer of Documentary Evidence dated 27 January 2023]* on March 13, 2023.[24] Acting on petitioner's *Formal Offer of Documentary Evidence*, the Court promulgated a *Resolution* dated April 27, 2023, admitting petitioner's exhibits.[25]

On August 29, 2023, respondent presented two (2) witnesses, Revenue Officer ("**RO**") Ronan Martirez ("**Martirez**") and RO Joana Marie Reguyal ("**Reguyal**").[26] On September 6, 2023, respondent filed his *Formal Offer of Evidence*,[27] to which petitioner filed its *Comment to Respondent's Formal Offer of Documentary Evidence* on September 26, 2023.[28] The Court admitted respondent's exhibits in a *Resolution* dated November 9, 2023.[29]

Respondent filed his *Memorandum* on December 13, 2023,[30] while petitioner filed its *Memorandum* on December 21, 2023.[31]

On January 10, 2024, the instant case was submitted for decision.[32]

Hence, this *Decision*.

THE ISSUES

The parties stipulated the following issues for this Court's resolution, *viz.*:[33]

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22 *Id.* at 150–152.
23 *Id.* at 154–156.
24 *Id.* at 159–161.
25 *Id.* at 178–180.
26 *Id.* at 184–188.
27 *Id.* at 190–196.
28 *Id.* at 201–204.
29 *Id.* at 209–210.
30 *Id.* at 211–228.
31 *Id.* at 229–240.
32 *Id.* at unpaged.
33 Stipulation of Issue, Pre-Trial Order, Docket, p. 146.

1. Whether or not respondent's right to assess petitioner for the alleged deficiency Income Tax and Value-added Tax for the taxable year 2012 has already prescribed due to the lapse of three (3) years;

2. Whether or not petitioner has deficiency Income Tax and Value-added Tax for taxable year 2012 in the amount of ₱76,059,228.33 as of the date of assessment; and,

3. Whether the Honorable Court has jurisdiction over the instant petition.

PETITIONER'S ARGUMENTS

Petitioner claims that respondent's right to assess petitioner for the alleged deficiency income tax and VAT for TY 2012 has already prescribed as the FLD and FAN were issued only on March 11, 2021, which is beyond the three (3)-year assessment period provided under Section 203 of the NIRC of 1997, as amended. It states that respondent cannot apply the ten-year prescriptive period as the tax assessments are "void for lack of factual and legal basis."

Petitioner further claims that respondent violated its right to due process for failure to issue and serve the Notice of Informal Conference ("**NIC**") or Notice of Discrepancy ("**NoD**") and Preliminary Assessment Notice ("**PAN**") prior to the issuance of the FLD/FAN.

Lastly, petitioner argues that the FLD/FAN and the FDDA are void for failure to contain a definite amount to be paid.

RESPONDENT'S ARGUMENTS

Respondent maintains that his right to assess petitioner for deficiency income tax and value-added tax has not yet prescribed; that the ten-year prescriptive period applies; that the Letter Notice ("**LN**") No. 030-RLFTRS-12-00-00340 issued against petitioner showed a discrepancy of 92.99% and 93.86% on the amount of sales and purchases, respectively; that the 50% surcharge has been imposed.

Respondent argues that petitioner was not deprived of due process as the issuance of NIC was not required from November 28, 2013 to January 22, 2018. Further, respondent states that

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the PAN was received by a certain Karen N. Maglalang, purportedly the Documentation Officer of petitioner.

Anent the alleged invalidity of the FLD/FAN, respondent states that the FLD and FAN have fixed and definitely set the deficiency income tax and VAT liabilities of petitioner.

THE COURT'S RULING

The instant *Petition for Review* is impressed with merit.

The Court has jurisdiction over the present Petition.

Section 7(a)(1) and (2) of Republic Act ("**RA**") No. 1125,[34] as amended by RA No. 9282,[35] confers jurisdiction to this Court relative to decisions and inactions of respondent, to wit:

> "SEC. 7. *Jurisdiction*. – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
>
> (1) **Decisions of the [CIR] 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;
>
> (2) **Inaction by the [CIR] 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, ...; *[Emphasis supplied]*

Moreover, Section 11 of RA No. 1125, as amended by RA No. 9282, provides the period for filing an appeal before the CTA, *viz.*:

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[34] An Act Creating the Court of Tax Appeals, June 16, 1954.

[35] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes, March 30, 2004.

> "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* - **Any** **party adversely affected** **by a decision, ruling, or inaction of the [CIR]**...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.** ... *[Emphasis supplied]*

The above provisions are likewise provided under Section 3(a)(1)(2), Rule 4,[36] and Section 3(a), Rule 8[37] of the Revised Rules of the Court of Tax Appeals ("**RRCTA**").

Based on the foregoing, this Court has exclusive jurisdiction to review by appeal a decision, ruling, or inaction of respondent. The appeal must be filed by the taxpayer affected, or as worded by RA No. 9282, the party adversely affected, within thirty (30) days from receipt of such decision or ruling or after the expiration of the period fixed by law for action.

In the instant case, the FDDA issued on February 18, 2022, was received by petitioner on February 24, 2022.[38] Counting thirty (30) days from February 24, 2022, petitioner had until March 26, 2022, to file a *Petition for Review* before this Court. As petitioner timely filed the *Petition for Review* on March 25, 2022, this Court correctly assumed jurisdiction over the present case.

Having resolved the *third* issue, the Court now determines the *first* and *second* issues.

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36 *Section 3. Cases Within the Jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:
(a) Exclusive original or appellate jurisdiction to review by appeal the following:
(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 <u>other matters</u> arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
(2) Inaction by 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, where the National Internal Revenue Code or other applicable law provides a specific period for action: ...

37 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. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

38 Par. 6, Petition for Review, admitted by respondent on Par. 5, Answer.

The assessments lack factual and legal basis.

The period to assess petitioner of deficiency income tax and VAT for TY 2012 has already prescribed.

The BIR's power to assess and collect taxes provided under Section 2 of the NIRC of 1997, as amended,[39] is limited by Section 203,[40] which provides for *three (3) years*, counted from the last day prescribed by law for filing the return or from the day the return was filed, whichever is later. Hence, any assessment issued after the expiration of such period is no longer valid and effective.

As an exception, Section 222 of the NIRC of 1997, as amended, allows the extension of the assessment period beyond the original 3-year prescriptive period.[41] Section 222(a) provides for a 10-year prescriptive period for a *false or fraudulent return with intent to evade tax* or *failure to file a return,* while Section 222(b) authorizes the extension of 3 years upon executing a *valid waiver.*

Accordingly, the crux of the controversy here is whether the assessments against petitioner are covered by the ordinary 3-year prescriptive period or the extraordinary 10-year prescriptive period.

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[39] SEC. 2. Powers and Duties of the Bureau of Internal Revenue. - The Bureau of Internal Revenue shall be under the supervision and control of the Department of Finance, and its **powers and duties shall comprehend the assessment and collection of all national internal revenue taxes, fees, and charges**, and the enforcement of all forfeitures, penalties, and fines connected therewith, including the execution of judgments in all cases decided in its favor by the Court of Tax Appeals and the ordinary courts. ... [*Emphasis supplied*]

[40] SEC. 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. [*Emphasis supplied*]

[41] 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 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.
(b) If before the expiration of the time prescribed in Section 203 for the assessment of the tax, both the Commissioner and the taxpayer have agreed in writing to its assessment after such time, the tax may be assessed within the period agreed upon. ...

To resolve this issue, the Court finds the case of *McDonald's Philippines Realty Corp. v. Commissioner of Internal Revenue ("**McDonald's**")*[42] highly instructive, *viz.:*

> *F. Summary: **Conditions** for a Valid Extension of Assessment Period in Case of a False Return*
>
> *i. **Requisites** under Section 222 (a) of the 1997 Tax Code*
>
> - *General Rule — Proof of False or Fraudulent Return*
>
> Pursuant to Section 222 (a) of the 1997 Tax Code, the extraordinary 10-year assessment period may apply in case the taxpayer: (1) filed a false return, (2) filed a fraudulent return, or (3) failed to file a return.
>
> A fraudulent return "implies intentional or deceitful entry with intent to evade the taxes due," while a false return simply "implies deviation from the truth, whether intentional or not."
>
> It must be stressed, however, that a false return within the meaning of Section 222 (a) does not refer to false returns in general. To be sure, the extraordinary 10-year assessment period applies to a *false return* when:
>
> (1) the return contains an error or misstatement, and
> (2) **such error or misstatement was *deliberate or willful.***
>
> ... ...
>
> It shall be the CIR's burden to establish the existence of the above-enumerated statutory requisites with ***clear and convincing evidence.***
>
> - *Exception — Prima Facie Evidence of a False or Fraudulent Return (30% Threshold)*
>
> The **CIR may be relieved from the above-mentioned burden of proof when there is *prima facie evidence of falsity or fraud,*** as defined under Section 248 (B) of the 1997 Tax Code.

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[42] G.R. No. 247737, August 8, 2023 [Per J. Inting, *En Banc*].

> (1) The CIR ascertains that there is a *misstatement/misdeclaration* in the return, in particular,
>
> > (a) an *understatement/under declaration* of sales, receipts, or income or
> >
> > (b) an *overstatement/over declaration* of expenses or other deductions, and
>
> (2) the misstatement is *substantial*, such that exceeds the corresponding amount declared in the return by 30%.

30% threshold satisfied. There is *prima facie* evidence of falsity or fraud, and the burden of proof shifts to the taxpayer. If the taxpayer fails to overcome the presumption, the *prima facie* evidence shall be sufficient to justify the application of the 10-year period.

Taxpayer refutes presumption. If the taxpayer is successful in overturning the presumption (*e.g.*, demonstrating that the misstatement as ascertained by the CIR had been inadvertent or attributable to a mistake or was not deliberate or willful on the part of the taxpayer), the CIR cannot rely on the presumption in proving the taxpayer's *intent to evade*.

ii. ***<u>Due Process Requirements</u>***

> (1) First Due Process Requirement. The *assessment notice* issued to the taxpayer must clearly state the following:
>
> > (a) that extraordinary prescriptive period (not the basic three-year period) is being applied, and
> >
> > (b) the bases of allegations of falsity or fraud, *e.g.*, if the CIR seeks to rely on the *presumption of falsity or fraud* particularly, the formal notice to the taxpayer *must set out the computation by which it ascertained that the misdeclaration in the return surpassed the 30% threshold.*
>
> (2) Second Due Process Requirement. The tax authorities have not acted in a manner that is inconsistent with the invocation of the extraordinary prescriptive period or have otherwise misled the taxpayer that the basic period will be applied. [*Emphasis supplied*]

As established in the *McDonald's* case, the application of the 10 years is subject to the fulfillment of the ***requisites*** under Section 222 (a) of the NIRC of 1997, as amended, and compliance with the ***due process requirements.***

As regards the ***first*** due process requirement - that the assessment notice must state that the extraordinary 10-year prescriptive period is being applied, along with the basis for the allegations of falsity or fraud – the Court notes that the FLD/FAN and the FDDA provide that respondent is applying the 10-year prescriptive period[43] and that the 50% surcharge was imposed on Income Tax and VAT due to petitioner's alleged failure to report sales, receipts, or income in an amount exceeding 30% of that declared per return which is a *prima facie* evidence of a false or fraudulent return.[44] The Details of Discrepancies attached to the FLD/FAN and FDDA both state that:

> I. INCOME TAX
>
> **Undeclared Income, ₱48,795,037.25** - In the partial tally of the computerized matching conducted by this Bureau on the sales per **Summary List of Purchases (SLP) submitted by your customers** and **Alphalist submitted by your Withholding Agents** against the amount declared in your tax returns shows an understatement of sales in the amount of ₱70,426,668.87 ... **resulting to Undeclared Income subject to tax in the amount of ₱48,795,037.25**. ...
>
> II. VALUE-ADDED TAX
>
> **Undeclared Sales, ₱91,534,602.09** – As previously discussed under income tax, the undeclared income (Schedule 1) in the partial tally is also subject to VAT ... *[Emphasis supplied]*

The CIR asserts that he has the authority to conduct the examination of taxpayers through the so-called "no-contact-audit approach." This may involve cross-referencing and matching data from various information sources or returns submitted by taxpayers to the BIR. Without a detailed examination of the taxpayer's books and records, the

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43 PERIOD OF PRESCRIPTION

The running of the three-year statute of limitation as provided under Section 203 of the NIRC of 1997, as amended, is not applicable ... but rather to the ten (10) year prescriptive period pursuant to Section 222 (A) of the NIRC which states that: "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."

44 FLD, *supra* notes 6 and 7; FDDA, Exhibit "P-7", Docket, pp. 39–40.

computerized or manual matching of sales and purchases/expenses may reveal discrepancies. These discrepancies will be communicated to the concerned taxpayer through a Letter Notice.[45]

Respondent further asserts that:[46]

> In the present case, Letter Notice No. 030-RLFTRS-12-00-00340 was issued against petitioner, informing it that a **computerized matching** was conducted by the BIR based on the information provided by its withholding agents/payors and payees/income recipients against its declarations in tax returns and discrepancies were found. Petitioner was given an opportunity to refute the validity of the findings of the BIR but failed to reconcile the discrepancies.
>
> **Subsequently, confirmation letters were issued to petitioner's customers and withholding agents** to verify the accuracy and truthfulness of the data found in BIR's database. However, they failed to make a reply to confirm that the figures stated in the database are correct.
>
> Worthy to emphasize that Revenue Memorandum Order (RMO) No. 13-2012 provides the guidelines and procedures in handling Letter Notices, to wit: ...
>
> Based on the above-mentioned RMO, if the TPI source failed to response within five (5) days, if the confirmation request was **personally served**, or within ten (10) days, if the said request was served through **registered mail**, the RO may consider the data in the LN package to be true and correct. In the LN issued against petitioner, it appears that there was under-declaration of sales and purchases in the amount of ₱72,318,765.78 and ₱27,114,972.38, respectively, or a discrepancy of 92.99% and 93.86%, respectively, against tax returns filed. *[Emphasis supplied]*

Citing Section 248 of the NIRC of 1997, as amended, which provides that "a substantial under-declaration of taxable sales, receipts or income constitutes *prima facie evidence* of a false or fraudulent return," and that "failure to report sales, receipts or income exceeding thirty percent (30%) shall render the taxpayer liable for substantial under-declaration of sales, receipts or income," respondent concludes that Section 222(a), which provides for a 10-year prescriptive period in the case of a false

[45] Respondent's Memorandum, *supra* note 30, at 4.
[46] *Id.* at 4-5.

or fraudulent return or of failure to file a return, is the applicable provision.

In response to the FLD/FAN, petitioner submitted a protest letter to the BIR,[47] asserting that respondent's right to assess petitioner for TY 2012 has already prescribed. Petitioner argues that the FLD and FAN with Details of Discrepancies issued on March 11, 2021, were beyond the 3-year assessment period established under Section 203 of the NIRC of 1997, as amended.[48] In addition, petitioner contends that the tax assessments are baseless, unfounded, and arbitrary, lacking any factual foundation, as they were based on presumptions due to the BIR's failure to send confirmation requests to third-party sources to verify the accuracy and truthfulness of their declarations under RMO No. 13-2012 dated March 29, 2012.[49]

Petitioner further contends that:[50]

> Based on the FAN and FLDDD (sic), petitioner's alleged tax deficiencies were computed based on its alleged understatement of sales as a result of the partial tally of computerized matching allegedly conducted by the respondent. Other than this, respondent failed to secure the sworn statements of the alleged customers and withholding agents of the petitioner to attest the veracity, accuracy and truthfulness of the data declared.
>
> **Respondent's deficiency assessments are invalid as it failed to verify, validate or confirm the third-party information with externally-sourced data**. The alleged matching of the Summary List of Sales and the third parties' Summary List of Purchases were not actually verified by the respondent.
>
> Under RMO No. 46-04, respondent is required to verify the amounts it obtained from its computerized/third-party matching by securing confirmation or certification from the third-party information source, or from externally-sourced data. Without accomplishing the aforementioned, the data gathered from computerized/third party matching are left UNVERIFIED and the resulting assessment is VOID for lack of factual and legal basis. *[Emphasis supplied]*

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47 Petitioner's Letter to the BIR dated April 22, 2021, Exhibit "P-6", Docket, pp. 36–38.
48 Ibid.
49 Petitioner's Memorandum, *supra* note 31, at 4–7.
50 Ibid.

Petitioner maintains that respondent's failure to secure sworn statements from petitioner's alleged customers and withholding agents to attest to the veracity of the data declared in the Summary List of Purchases ("**SLP**") and Alphalist on which the tax assessments were based casts doubt on the reliability and accuracy of the said data. Consequently, the tax assessments against petitioner are void for lack of factual and legal basis, and the imputation of fraud is without basis. Therefore, the 10-year period to assess is inapplicable.[51]

The Court agrees with petitioner.

RMO No. 46-04 has established the guidelines to be followed for Third Party Information ("**TPI**") discrepancy to ascertain the veracity of the information, to wit:

> III. PROCEDURES
>
> ... ...
>
> **Action on Protested LNs due to TPI discrepancy**
>
> The **Revenue Officer** assigned to handle the Letter Notice **shall**:
>
> ... ...
>
> 2. **Require the taxpayer to execute a Sworn Statement** (Annex A) attesting to the veracity of the schedules and authenticity of the documents presented/submitted.
>
> 3. **Obtain Sworn Statements from TPI sources ... attesting to the veracity of the data provided.**
>
> 3.1 If the TPI source is registered in the RDO/LTDO/LTAID having jurisdiction over the subject taxpayer, the RO shall:
>
> 3.1.1 **Prepare "Confirmation Requests"** ... for purposes of verifying the accuracy of the figures appearing in the DTCS.[52]
>
> 3.1.2 If the TPI source agrees with the figures in the "Confirmation Requests" **(CR), secure a Sworn Statement from the TPI source** to allow the RO to build a case against the taxpayer.

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[51] Ibid.
[52] Details of Taxpayer's Customers/Suppliers' Records (DTCS)

3.2 If the TPI source is outside the jurisdiction of the RDO/LTDO/LTAID where the taxpayer is registered, the RO shall:

3.2.1 Coordinate with the RDO/LTDO/LTAID where the TPI source is registered, in order to:

a. **Prepare a CR to be transmitted and signed by the RDO/LTDO/LTAID having jurisdiction over TPI source** ...;

b. **Secure a sworn statement from the TPI source** thru the RDO/LTDO/LTAID having jurisdiction over the same; and,

c. **Assist the heads** of the concerned RDO/LTDO/LTAID **in the preparation of Monthly Status Report on Confirmation Requests** Transmitted (Annex "D") outside the RDO/LTDO/LTAID of the TPI source and submit the same to the SCG, for monitoring purposes.

Relatedly, RMO No. 13-2012 provides:

9. **Send a Confirmation Request** from TPI sources attesting to the veracity of the data included in the LN package .... .

If no response from the TPI source after the lapse of five (5) days from service of Confirmation Request, **the RO may consider the data in the LN package to be true and correct**. However, if there is/are TPI source/s located outside of the jurisdiction of the investigating office, the RO shall send the Confirmation Request to the taxpayer through registered mail with Registered Return Card and wait for the lapse of ten (10) days after mailing thereof before proceeding to the next step. ... *[Emphasis supplied]*

Based on the foregoing, if the assessment is based on third-party information, the RO assigned to handle the Letter Notice is required to prepare and send a confirmation request to the TPI source or coordinate with the Revenue District Office having jurisdiction over the TPI source in the preparation and issuance of the confirmation request. If the TPI source agrees with the figures in the confirmation request, the RO must then obtain a sworn statement from the TPI source attesting to the veracity of the data provided.

Notably, petitioner's deficiency IT and VAT assessments for TY 2012 resulted from respondent's data matching with third-party information.

While respondent claims that confirmation letters were issued to petitioner's customers and withholding agents,[53] and the BIR Records indicate that these confirmation letters were sent via registered mail, the Court notes that no confirmation letters, requests, or sworn statements were presented and offered as evidence by respondent.[54]

Moreover, respondent's own witness, RO Martirez, testified that no third-party information validation or confirmation was conducted; thus, no sworn statements were obtained from petitioner's customers and agents.[55]

A formal offer of evidence is necessary as courts must base their findings of fact and judgment solely on evidence formally offered at trial. Absent a formal offer, no evidentiary value can be given to the evidence.[56]

Thus, even if the confirmation letters were part of the BIR records, this Court would not accord them any weight or evidentiary value, and the third-party information would remain unverified.

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53 Respondent's Memorandum, *supra* note 30, at 5.

54 Respondent's Formal Offer of Evidence, *supra* note 27.

55 TSN, RO Ronan Martirez, August 29, 2023, pp. 29–30.

ATTY. CABACONGAN:
Q. Did you conduct validation or confirmation as to the veracity or truthfulness of the data of this third-party information or externally sourced data that were collected?

MR. MARTIREZ:
A. No more, Attorney.

ATTY. CABACONGAN:
Q. So, there was none?

MR. MARTIREZ:
A. None.

ATTY. CABACONGAN:
Q. Likewise, you did not get any sworn statements from the alleged customers of the petitioner and/or agents, is that correct?

MR. MARTIREZ:
A. None, Attorney.

ATTY. CABACONGAN:
None.

56 *Republic v. Alaminos Ice Plant and Cold Storage, Inc.*, G.R. No. 189723, July 11, 2018 [Per J. Martires, Third Division].

In *Commissioner of Internal Revenue v. MCC Transport Singapore PTE. LTD. (MCC Transport)*,[57] the Supreme Court held that unverified TPI cannot serve as a proper factual basis for an assessment, *viz.*:

> ... Even assuming that [RMO No. 13-2012] is applicable, the same likewise provides that the Confirmation Requests sent out to third parties by registered mail must be supported by registry return cards, which were not submitted as evidence in this case. Consequently, the CTA *EB* was correct in not relying on the third-party information since **unverified data cannot be considered as proper factual bases for the assessment** against respondent. **In order to be valid, an assessment must be based on actual facts supported by credible evidence**. Related thereto, the CTA *EB* was also correct in finding that petitioner failed to prove that respondent filed false or fraudulent returns. Necessarily, the extraordinary period under Section 222 (a) of Republic Act No. 8424 cannot apply in this case, and the prescriptive period must be counted three (3) years from the filing of the VAT returns. *[Emphasis supplied]*

Indeed, an assessment, to be valid, must be based on actual facts and substantiated by evidence. Without the necessary confirmation or verification from the TPI source, the data obtained from third-party matching remains unsubstantiated, rendering the resulting assessment void for lack of factual and legal basis.

Given the foregoing, the BIR's unverified and unconfirmed finding of *Taxable Sales per Customer's SLP* amounting to ₱77,767,880.03 cannot serve as a factual basis for the undeclared income of ₱48,795,037.25, undeclared sales of ₱91,534,602.09, and the resulting tax assessments. Consequently, petitioner's deficiency IT and VAT assessments totaling ₱76,059,228.33 are void for lack of factual and legal basis. As a result, respondent's allegation that petitioner filed a false, if not fraudulent, return for TY 2012 is likewise without basis.

As to the ***second*** due process requirement - that the tax authorities have not acted in a manner that is inconsistent with the invocation of the extraordinary prescriptive period or have otherwise misled the taxpayer that the basic period will be applied - the Supreme Court discussed in *McDonald's*:

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[57] G.R. No. 255382, June 28, 2021 [Per J. Lopez, Second Division].

> Second, they are likewise proscribed from adopting a position inconsistent with the invocation of the extended period or that which will mislead the taxpayer and prejudice its defense (Second Due Process Requirement).
>
> In the past, the Court regarded the following acts performed by the tax authorities as contradictory to the application of the 10-year prescriptive period: (a) **prior execution of waivers meant to extend the basic three-year period (Inquirer)**; (b) hasty issuance of an assessment notice in order to meet the basic three-year deadline (i.e., one day before the last day of the three-day prescriptive period, as in Unioil). [*Emphasis supplied; citations omitted*]

Records reveal that petitioner and respondent executed a *Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code* ("**Waiver**") dated January 7, 2016.[58] Similar to the confirmation letters, the *Waiver* was not presented as evidence. Nonetheless, in line with *McDonald's*, the execution of the *Waiver* is inconsistent with the invocation of the 10-year extraordinary prescriptive period as this "will mislead the taxpayer and prejudice its defense."

In sum, the Court finds that the 10-year prescriptive period is inapplicable, as respondent failed to meet the **conditions** for applying the extraordinary period to assess outlined in the *McDonald's* case.

The Court now determines whether the assessments were issued within the ordinary 3-year prescriptive period under Section 203 of the NIRC of 1997, as amended.

First, the records are bereft of any indication of the actual filing date of petitioner's Income Tax and VAT returns. Thus, the Court presumes that the returns have been filed on the deadline and considers the filing of petitioner's corporate income tax return on April 15, 2013,[59] and the VAT returns on the 25th day following the close of each taxable quarter.[60]

Second, under Section 203, the 3-year period for assessment is reckoned from the date of actual filing or the deadline, whichever is later.[61] Hence, the last day to assess is as follows:

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58 BIR Records, p. 210.
59 NIRC of 1997, as amended, sec. 77(B).
60 NIRC of 1997, as amended, sec. 114(A).
61 NIRC of 1997, as amended, sec. 203.

Return	Filing deadline (Reckoning of the three (3) years)	Last day to assess/Prescriptive period
Income tax	April 15, 2013	**April 15, 2016**
VAT, Q1	April 25, 2012	**April 25, 2015**
VAT, Q2	July 25, 2012	**July 25, 2015**
VAT, Q3	October 25, 2012	**October 25, 2015**
VAT, Q4	January 25, 2013	**January 25, 2016**

An assessment is deemed made only on the date the assessment notice was released, mailed, or sent to the taxpayer. [62] Furthermore, it is clear that the assessment contemplated in Sections 203 and 222 of the NIRC of 1997, as amended, refers to the service of the FAN upon the taxpayer.[63] Since the subject FLD and FAN were issued only on March 11, 2021, it was already beyond the 3-year prescriptive period.

Therefore, when petitioner received the FLD/FAN on March 26, 2021, respondent's right to assess petitioner for deficiency IT and VAT covering TY 2012 had already prescribed.

Respondent failed to issue a NIC or a NOD before issuing the PAN, thereby violating petitioner's right to due process.

Apart from lacking both factual and legal basis and being issued beyond the 3-year prescriptive period, the assessments were also made in violation of petitioner's right to due process.

RR No. 12-1999, as amended,[64] requires the BIR to issue a NIC and conduct an informal conference as a due process requirement in the issuance of a deficiency tax assessment.

However, the requirement to issue a NIC was *removed* in RR No. 18-2013, issued on **November 28, 2013**, by *deleting* Section 3.1.1 thereof.[65]

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62 *Commissioner of Internal Revenue v. Pascor Realty & Development Corp.*, G.R. No. 128315, June 29, 1999 [Per J. Panganiban, Third Division].

63 *Commissioner of Internal Revenue v. Transitions Optical Philippines, Inc.*, G.R. No. 227544, November 22, 2017 [Per J. Leonen, Third Division].

64 RR No. 12-99 was issued on 6 September 1999.

65 Section 2 of RR No. 18-2013 provides:
SECTION 2. Amendment. — Section 3 of RR 12-99 is hereby amended by deleting Section 3.1.1 thereof which provides for the preparation of a Notice of Informal Conference, thereby renumbering other provisions thereof, and prescribing other provisions for the assessment of tax liabilities. Section 3 of RR 12-99 shall now read as follows:
...

Nonetheless, the said requirement was *restored* in RR No. 7-2018, issued on **January 22, 2018**, by *adding* Section 3.1.1 thereof.[66] RR No. 7-2018 now requires the RO to issue the NIC and conduct the conference before the issuance of a PAN, if warranted, to afford the taxpayer an opportunity to present his side. The pertinent provisions of Section 3 reads as follows:

> **SECTION. 3. Due Process Requirement in the Issuance of a Deficiency Tax Assessment. –**
>
> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
>
> 3.1.1 **Notice for Informal Conference. -** The Revenue Officer who audited the taxpayer's records shall, among others, state in his report whether or not the taxpayer agrees with his findings that the taxpayer is liable for deficiency tax or taxes. **If the taxpayer is not amenable, ... the taxpayer shall be informed, in writing, ...** of the discrepancy or discrepancies in the taxpayer's payment of his internal revenue taxes, **for the purpose of "Informal Conference,"** in order **to afford the taxpayer with an opportunity to present his side of the case**.
>
> The Informal Conference shall in no case extend beyond thirty (30) days from receipt of the notice for informal conference. If it is found that the taxpayer is still liable for deficiency tax or taxes ... and the taxpayer is not amenable, the Revenue District Officer or the Chief of the Special Investigation Division of the Revenue Regional Office, or the Chief of Division in the National Office... **shall endorse the case ... to the Assessment Division** of the Revenue Regional Office or to the Commissioner or his duly authorized representative **for issuance of a deficiency tax assessment**... [*Emphasis supplied*]

However, on **September 15, 2020**, the BIR has issued RR No. 22-2020 to further amend Section 3 of RR No. 12-1999, as amended by RR No. 18-2013 and RR No. 7-2018. The amendment pertains to the preparation of a NOD instead of a NIC, as follows:

> **SECTION 2. Amendment**. — Section 3 of RR No. 12-1999, as amended by RR No. 18-2013 and RR No. 7-2018, is hereby amended by providing for the preparation of a **Notice of Discrepancy** instead of a Notice of Informal Conference. The

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[66] SECTION 2. Amendment. - Section 3 of RR 12-99, as amended by RR No. 13-18, is hereby amended by adding Section 3.1.1 providing for the preparation of a Notice of Informal Conference, thereby renumbering other provisions thereof, and prescribing other provisions for the assessment of tax liabilities. The pertinent provisions of Section 3 of RR 12-99 shall now read as follows.

pertinent provisions of Section 3 of RR No. 12-1999, as amended, shall now read as follows:

SECTION 3. Due Process Requirement in the Issuance of a Deficiency Tax Assessment. —

3.1 Mode of procedure in the issuance of a deficiency tax assessment:

3.1.1 Notice of Discrepancy.— If a taxpayer is found to be liable for deficiency tax or taxes in the course of an investigation conducted by a Revenue Officer, **the taxpayer shall be informed through a Notice of Discrepancy** (Annex A). <u>The Notice of Discrepancy aims to fully afford the taxpayer with an opportunity to present and explain his side on the discrepancies found.</u>

The Revenue officer who audited the taxpayer's records shall, among others, state in the initial report of investigation his findings of discrepancies.

Based on the said Officer's submitted initial report of investigation, **the taxpayer shall be informed, in writing, by the Revenue District Office or by the Assessment Division/Regional Investigation Division**, as the case may be (in the case of Revenue Regional Offices) or by the Chief of Division concerned (in the case of the BIR National Office) **of the discrepancy or discrepancies in the taxpayer's payment of his internal revenue taxes, for the purpose of the "Discussion of Discrepancy**."

The Discussion of Discrepancy shall in no case extend beyond thirty (30) days from receipt of the Notice of Discrepancy. **It is during the Discussion of Discrepancy that the taxpayer is given the opportunity to present his side of the case and explain the discrepancy found during the investigation of the Revenue Officer assigned and submit documents to support the explanation or arguments**.

... ...

If after being afforded the opportunity to present his side through the Discussion of Discrepancy, it is still found that the taxpayer is still liable for deficiency tax or taxes and the taxpayer does not address the discrepancy through payment of the deficiency taxes or the taxpayer does not agree with the findings, **the investigating office, shall endorse the case to the reviewing office and approving official in the National Office or the Revenue Regional Office, for issuance of a deficiency tax assessment in the form of a Preliminary Assessment Notice** within ten (10) days from the conclusion of the Discussion. *[Emphasis supplied]*

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Indeed, a NoD is issued when a taxpayer is found liable for deficiency taxes during an investigation conducted by a Revenue Officer. The purpose of the NoD is to allow the taxpayers to present and explain their position regarding the discrepancies found by the BIR.

In the instant case, petitioner claims that respondent violated its right to due process for failure to issue and serve a NIC or NoD. Respondent did not refute this allegation and his witness, RO Martirez, even confirmed that no NIC or NoD was served on petitioner.[67] However, respondent argues that the issuance of the NIC was not required from November 28, 2013 to January 22, 2018,[68] and during the time of the audit.[69]

The Court disagrees with respondent.

RR No. 7-2018, issued on *January 22, 2018,* requires an informal conference before issuing a deficiency tax assessment. Similarly, RR No. 22-2020, issued on *September 15, 2020,*

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[67] TSN, RO Ronan Martirez, August 29, 2023, pp. 30–31.

ATTY. CABACONGAN:
None
Q. **Mr. Witness, do you know if a Notice of Informal Conference or Notice of Discrepancy was ever served upon the petitioner in this case?**

MR. MARTIREZ:
A. **No informal notice.**

ATTY. CABACONGAN:
Q. There was none?

MR. MARTIREZ:
A. Yes.

[68] Respondent's Memorandum, *supra* note 30, at 12.

[69] TSN, RO Ronan Martirez, August 29, 2023, pp. 34–35.

ATTY. VICENTE:
Q. Mr. Martirez, during the cross-examination you were asked if there was a Notice of Informal Conference issued when you conducted the audit and you answered in a negative, is that correct?

MR. MARTIREZ:
A. Yes, Attorney.

ATTY. VICENTE:
Q. **Now, for the record, during the time that you're auditing Wellcargo Customs Brokerage, the petitioner in this case, is the issuance of a Notice of Informal Conference required?**

MR. MARTIREZ:
A. **During the time of our audit Notice of Informal Conference is not required under RR 18- 2013, I think.**

ATTY. VICENTE:
Q. So, it was not a requirement before the recommendation for the issuance of the?

MR. MARTIREZ:
A. It was not required for the investigation.

mandates that a *discussion of discrepancy* be conducted before issuing a deficiency tax assessment in the form of a PAN.

From the facts, on *September 9, 2016*, petitioner's tax docket was forwarded to the Assessment Division for issuance of PAN. Respondent issued the PAN only on *January 29, 2021.*

It is clear that the Assessment Division had not yet issued the PAN when RR No. 7-2018 (re the NIC) and RR No. 22-2020 (re the NoD) took effect on *February 16, 2018,*[70] and *October 2, 2020,*[71] respectively. Respondent should have served the NIC and conducted an informal conference between February 16, 2018 and October 1, 2020. Failing this, respondent should have served the NoD instead of a NIC and held a "discussion of discrepancy" to afford petitioner an opportunity to present its side on the discrepancies after the effectivity of RR No. 22-2020 on October 2, 2020, but prior to issuing the PAN on January 29, 2021. Strictly speaking, respondent had more than three (3) months to initiate a discussion of the discrepancies with petitioner through the NoD but failed to do so.

In *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corp. (Shell),* [72] the Supreme Court ruled, among others, that the taxpayer was deprived of due process when the Commissioner **failed to issue a NIC (now NoD)** as required by RR No. 12-1999 in relation to Section 228 of the Tax Code; hence, the assessment was void, *viz.*:

> And *finally*, the Court found in the *2007 Shell Case* that respondent Shell's right to due process was violated. **Petitioner did not issue a Notice of Informal Conference (NIC)** and Preliminary Assessment Notice (PAN) to respondent Shell, in violation of the formal assessment procedure required by Revenue Regulations No. (RR) 12-99. Petitioner merely relied on the DOF Center's findings supporting the cancellation of respondent Shell's TCCs. **Thus, the Court voided the assessment dated November 15, 1999, issued by the CIR against herein respondent Shell**. [*Emphasis supplied*]

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70 Fifteen (15) days after its publication in Manila Bulletin on 1 February 2018.
71 Fifteen (15) days after its publication on 17 September 2020.
72 G.R. Nos. 197945 & 204119-20, July 9, 2018 [Per J. Leonardo-De Castro, First Division].

In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[73] and *Avon Products Manufacturing, Inc. v. The Commissioner of Internal Revenue (Avon case),* [74] the Supreme Court enjoined strict observance by the BIR of the prescribed procedure for the issuance of the assessment notices with due regard for the taxpayers' constitutional rights, *viz.*:

> **Tax assessments issued in violation of the due process rights of a taxpayer are null and void**. While the government has an interest in the swift collection of taxes, the Bureau of Internal Revenue and its officers and agents cannot be overreaching in their efforts, but must perform their duties in accordance with law, with their own rules of procedure, **and always with regard to the basic tenets of due process**.
>
> ... ...
>
> **The Notice of Informal Conference and the Preliminary Assessment Notice are a part of due process**.[75] They give both the taxpayer and the Commissioner the opportunity to settle the case at the earliest possible time without the need for the issuance of a Final Assessment Notice. However, this purpose is not served in this case because of the Bureau of Internal Revenue's inaction or failure to consider Avon's explanations.
>
> ... ...
>
> In *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue,* this Court ruled, among others, **that the taxpayer was deprived of due process when the Commissioner failed to issue a notice of informal conference a**nd a Preliminary Assessment Notice as required by Revenue Regulations No. 12-99, in relation to Section 228 of the Tax Code. Hence, the assessment was void. [*Emphasis supplied*]

Accordingly, respondent's failure to issue the NIC or NoD violates the due process requirement under Section 3 of RR No. 12-1999, as amended by RR No. 18-2013, RR No. 7-2018, and RR No. 22-2020, and renders the resulting PAN and FLD/FAN issued against petitioner for TY 2012 void and without legal effect.

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73 G.R. Nos. 201398-99, October 3, 2018 [Per J. Leonen, Third Division].

74 G.R. Nos. 201418-19, October 3, 2018 [Per J. Leonen, Third Division].

75 *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, 652 Phil. 172, 186-187, 2010 [Per J. Mendoza, Second Division] cited in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 3, 2018 [Per J. Leonen, Third Division].

Given this, the Court need not belabor to address the other issues raised by the parties, as it is well established that "a void assessment bears no valid fruit.[76]

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED**.

Accordingly, the Formal Letter of Demand, Final Assessment Notice No. 30-12-90196-2021-084(IT), and Final Assessment Notice No. 30-12-90196-2021-084(VT), all issued on March 11, 2021, are **CANCELLED** and **SET ASIDE.** Furthermore, the Final Decision on Disputed Assessment issued on February 18, 2022, assessing petitioner for deficiency income tax, value-added tax, surcharges, and interests for the taxable year 2012 is **REVERSED** and **SET ASIDE**.

Respondent is **ENJOINED and PROHIBITED** from enforcing the collection of the subject deficiency taxes during the pendency of this case.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

We Concur:

ROMAN G.DEL ROSARIO
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[76] *Commissioner of Internal Revenue v. South Entertainment Gallery*, Inc., G.R. No. 223767, April 24, 2023 [Per C.J. Gesmundo, First Division]; *Commissioner of Internal Revenue v. Unioil Corporation.*, G.R. No. 204405, August 04, 2021 [Per J. Hernando, Second Division]; *Commissioner of Internal Revenue v. Oriental Assurance Corporation*, G.R. No. 251677 (Notice), July 28, 2021 [Per J. Rosario, Second Division].

CERTIFICATION

Pursuant to Section 13, Article VIII 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