CTA Form No. 8

23-000587-0046

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 11347

MARK LOUIE L. TIGUE,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

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

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. MCLAIR D. GARCIA
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

GALIAS & RIVERA LAW OFFICES
3/F, Prestige Tower, F. Ortigas Jr. Road
Ortigas Center, Pasig City 1605

GREETINGS:

You are hereby notified by these presents that on **June 23, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **June 25, 2026.**

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

MARK LOUIE L. TIGUE,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11347

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:
JUN 23 2026 ; 9:40AM

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Mark Louie L. Tigue (**petitioner**), pursuant to Section 3(a),[2] Rule 8 in relation to Section 3(a)(1),[3] Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**).[4]

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1 Filed on 28 November 2023, Division Docket, pp. 6-14.

2 **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.

3 **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* — The Court in Division shall exercise:
(a) Exclusive original over 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 other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

4 A.M. No. 05-11-07-CTA.

Petitioner essentially prays for the cancellation of his alleged deficiency tax liabilities for taxable year (**TY**) 2019 amounting to ₱1,486,030.87, inclusive of surcharges, interests, and compromise penalty.[5]

PARTIES TO THE CASE

Petitioner Mark Louie L. Tigue is of legal age, Filipino, and a resident of Bldg. 2, Maganda Street, San Antonio (Pob.), Nabua, Camarines Sur.[6] A franchisee of Generika Pharmacy, he is registered with the Revenue District Office (**RDO**) No. 66, Iriga City, under Tax Identification No. (**TIN**) 426-168-235-000.[7]

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**) vested with the authority to carry out the functions, duties, and responsibilities of the said office including, *inter alia*, the power to decide disputed assessments, refunds of internal revenue taxes, fees, other charges, and penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code (**NIRC**) of 1997, as amended, or other laws or portions thereof administered by the BIR.

FACTS OF THE CASE

On 17 June 2021, respondent issued Letter of Authority No. LOA-066-2021-00000013 / eLA201600012521 (**First LOA**) which authorized Revenue Officer (**RO**) Florelie Villamer (**Villamer**) and Group Supervisor (**GS**) Randy Socito (**Socito**) to examine petitioner's books of accounts and other accounting records for the period covering 01 January 2019 to 31 December 2019.[8]

On the same day, respondent issued a First Request for the Presentation of Records (**First Request**) wherein he or she requested

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5 Prayer, Petition for Review, supra at note 1, p. 11.
6 The Parties, Petition for Review, supra at note 1, p. 6.
7 Memorandum dated 21 June 2021, BIR Records, Folder I, p. 1013.
8 Received by petitioner on 23 June 2021, Exhibit "R-1", id., p. 985.

petitioner to submit the documents listed in the attached Checklist of Requirements.[9]

When petitioner did not comply with the First Request, respondent issued a Second and Final Request for Presentation of Records (**Second and Final Request**) warning petitioner that failure to produce the requested documents on time will result in the issuance of a Subpoena *Duces Tecum* (**SDT**).[10]

On 21 December 2021, respondent issued a Notice of Discrepancy (**NOD**) with Details of Discrepancy.[11] In the NOD, respondent invited petitioner to discuss the alleged discrepancies resulting in deficiency Income Tax (**IT**), Value-Added Tax (**VAT**), and Compromise Penalty for TY 2019 in the aggregate amount of ₱1,610,227.94, to wit:

Tax Type	Basic Tax	Surcharge	Interest	Compromise	Total
IT	₱745,892.54	₱372,946.27	₱135,854.62	₱-	₱1,254,693.43
VAT	171,443.57	42,860,.89	39,230.05	15,000.00	268,534.51
Compromise Penalty				87,000.00	87,000.00
Total					**₱1,610,227.94**

On 08 April 2022, respondent replaced the First LOA with LOA No. LOA-066-2022-00000004 / eLA201600012646 (**Second LOA**) authorizing RO Villamer and GS Cesar Sarmiento (**Sarmiento**) to continue petitioner's audit for TY 2019.[12] The Second LOA was served on Maria Marilyn S. Porcalla (**Porcalla**), petitioner's bookkeeper, on 11 April 2022.[13] The latter presented a Special of Attorney (**SPA**) also dated 11 April 2022, wherein petitioner designated her as his Attorney-in-Fact authorized to, among others, transact official business on his behalf with the BIR.[14]

On 26 April 2022, petitioner executed a Waiver of the Defense of Prescription Under the Statute of Limitation of the [NIRC] (**Waiver**)

9 Received by petitioner on 23 June 2021, Exhibit "R-2", id., p. 987. See also Checklist attached to the First Request, id., p. 986.

10 Issued on 21 July 2021 and received by Lyn Antonette Oñebo (**Oñebo**), petitioner's employee, on 23 July 2021, Exhibit "R-3", id., p. 988-989.

11 Received by Oñebo on 05 January 2022, Exhibit "R-4", id., pp. 1029-1031.

12 Exhibit "R-5", id., p. 1034.

13 Id.

14 Exhibit "R-8", id., p. 1033.

requesting to extend the period to assess for TY 2019 until 31 December 2023.[15] Respondent accepted the request two (2) days later.[16]

Upon the recommendation of RO Villamer, respondent issued Preliminary Assessment Notice (**PAN**), Parts I and II, with details of Discrepancies dated 16 November 2022.[17] In the PAN, petitioner was found liable for deficiency taxes for TY 2019 amounting to ₱1,590,030.87, computed as follows:

Tax Type	Basic Tax	Surcharge	Interest	Compromise	Total
IT	₱745,892.54	₱372,946.27	₱135,854.62	₱-	₱1,254,693.43
VAT	143,954.73	35,988.68	32,940.00	-	212,883.41
EWT[18]	12,000.00	3,000.00	3,454.03	-	18,454.03
Compromise				104,000.00	104,000.00
Total					**₱1,590,030.87**

On 20 December 2022, with no response from petitioner, respondent issued a Formal Letter of Demand (**FLD**) and Final Assessment Notices (**FANs**) reiterating the assessments in the PAN for ₱1,590,030.87.[19]

On 14 February 2023, respondent received petitioner's Request for Reinvestigation (**Protest**) of the FLD/FAN.[20] First, petitioner manifested that respondent served his or her notices, including the PAN and the Waiver, on his bookkeeper. He also noted that his bookkeeper signed the Waiver and not him. Afterwards, he undertook to submit, within sixty (60) days, "relevant documents for the purpose of reducing the disallowances of expenses, creditable withholding taxes and claims for input taxes" and "provide evidence to disprove the non-remittance of withholding taxes and documentary stamp tax."

Indeed, three (3) days later, petitioner submitted 108 copies of Purchase Invoices, thirty (30) copies of Official Receipts (**ORs**), 363 copies of Sales Invoices, twenty-eight (28) copies for expense

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15 Exhibit "R-6", id., p. 1090.
16 Id.
17 Received by Porcalla on 29 November 2022. Exhibit "R-9", id., pp. 1154-1160.
18 Expanded Withholding Tax.
19 Received by petitioner on 17 January 2023. Exhibit "R-10", BIR Records, Folder I, pp. 1181-1191.
20 Id., p. 1197.

substantiation, seventy-eight (78) pages from his Sales Journal, and ninety-four (94) pages from his Purchase Journal.[21]

Further, on 10 March 2023, petitioner submitted 402 copies of Purchase Invoices, twenty-one (21) copies of ORs, and twenty-three (23) copies for expense substantiation.[22]

Respondent, however, denied petitioner's Protest (**Denial Letter**).[23] According to respondent, petitioner failed to indicate the date of the assessment notice and specify the applicable law, rules, and regulation, or jurisprudence on which the Protest was based. Respondent then concluded that pursuant to Section 3.1.4[24] of Revenue Regulations (**RR**) No. 18-2013,[25] the Protest was void and without force and effect.

In a letter dated 24 March 2023 (**Request for Reconsideration**), petitioner sought for reconsideration of respondent's Denial Letter, raising the following grounds: (**a**) petitioner did not receive any Notice of Informal Conference (**NIC**); (**b**) Porcalla had no specific authority to receive respondent's notices, including the PAN; (**c**) petitioner received the PAN and the FAN on the same day on 17 January 2023; and (**d**) petitioner's signature on the Waiver was forged.[26]

On 13 June 2023, respondent posted his or her letter dated 30 May 2023, informing petitioner of the denial of the Request for Reconsideration.[27] According to respondent: (**a**) the NOD that petitioner received served as the NIC; (**b**) the SPA authorizes Porcalla to

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21 Transmittal Letter dated 16 February 2023, id., p. 1200.

22 Transmittal Letter dated 10 March 2023, id., p. 1205.

23 Letter dated 03 March 2023 received by petitioner on 13 March 2023, id., p. 1203.

24 3.1.4 Disputed Assessment. — The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN within thirty (30) days from date of receipt thereof. The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:

...

The taxpayer shall state in his protest (i) the nature of protest whether reconsideration or reinvestigation, specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based, otherwise, his protest shall be considered void and without force and effect.

25 Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

26 BIR Records, Folder I, pp. 1216-1250.

27 Id., pp. 1272-1274. See also Postal Office Registry Receipt No. RE 583 610 173 ZZ, id., p. 1281.

transact with the BIR on his behalf; (**c**) Porcalla's date of actual transmittal to petitioner is immaterial; and (**d**) forgery is not presumed and must be proven by clear and convincing evidence.[28]

Thereafter, the docket was indorsed to respondent's Collection Division for collection. Respondent then issued a Warrant of Distraint and/or Levy (**WDL**) dated 11 August 2023.[29] Respondent also issued Warrants of Garnishment (**WOG**) No. WG-RR10-AMS-2023-072 addressed to several banks on 05 September 2023.[30] Petitioner received a copy of the WOG that was served on BDO Unibank, Inc. (**WOG-BDO**) on 28 October 2023.[31]

PROCEEDINGS BEFORE THE COURT

Upon his receipt of the WOG-BDO, petitioner filed the instant Petition for Review on 28 November 2023.[32] The case was docketed as CTA Case No. 11347 and raffled to the Court's First Division.[33]

In his petition, petitioner argued that the FLD/FAN is void because it was issued prior to the lapse of the fifteen (15)-day period to reply to the PAN. Moreover, the WOG-BDO indicates TY 2018 instead of TY 2019. Petitioner, thus, sought the nullification of the FLD/FAN and the WOG-BDO.

Summons was issued on 21 December 2023 and received by respondent on 27 December 2023.[34]

With a granted extension, respondent timely filed his or her Answer on 26 February 2024.[35] In the Answer, respondent argued that: (**a**) with an invalid Protest, the assessment had become final, executory, and demandable ousting the Court of its jurisdiction over the case;

28 Id.
29 Received by Oñebo on 17 August 2023, id., p. 1287.
30 Id., pp. 1290-1299.
31 Exhibit "P-1", Division Docket, p. 16. See also BIR Records, Folder I, Exhibit "R-11", p. 1294.
32 Petition for Review, supra at note 1.
33 Id.
34 Division Docket, p. 41.
35 See (1) Motion for Extension of Time to File Answer filed on 26 January 2024, id., pp. 44-47; (2) Notice of Resolution dated 08 February 2024 granting respondent an additional thirty (30) days or until 25 February 2024 to file the Answer, id., p. 49; and (3) Answer, id., pp. 52-67.

(**b**) petitioner failed to file his petition within 30 days from the lapse of the 180-day period for the CIR to decide on the Protest; (**c**) Porcalla was authorized to receive respondent's notices, including the PAN; (**d**) the PAN was served through Porcalla on 29 November 2022 while the FLD/FAN was served on petitioner on 17 January 2023; (**e**) the indication of TY 2018 in the WOG was a mere typographical error and was corrected in a letter dated 14 June 2024; and (**f**) the deficiency tax assessments are correct.[36]

The Court referred the parties to mediation before the Philippine Mediation Center – Court of Tax Appeals (**PMC-CTA**) but the parties decided not to have their case mediated.[37]

In the meantime, respondent elevated the BIR records.[38]

Thereafter, the Court set the Pre-Trial Conference on 25 July 2024.[39] After the parties filed their Pre-Trial Briefs,[40] pre-trial proceeded during the rescheduled date on 02 October 2024.[41] With the filing of the parties' Joint Stipulation of Facts and Issues (**JSFI**) and the issuance of the Pre-Trial Order on 14 November 2024, the pre-trial was deemed terminated.[42]

In the trial that ensued, petitioner himself took the witness stand,[43] and by way of his Judicial Affidavit, he testified that: (**a**) on 11 April 2022, he received the LOA for TY 2019; (**b**) he then received the PAN and FLD/FAN on 17 January 2023; (**c**) he filed the Protest to the FLD/FAN on 14 February 2023 and submitted the supporting documents on 17 February 2023 and 10 March 2023; (**d**) he received WOG-BDO on 28 October 2023; (**e**) he then caused the filing of the instant Petition.[44]

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36 See Answer, id.

37 Notice of Resolution dated 19 March 2024, id., pp. 74-75. See also No Agreement to Mediate filed on 29 April 2024, id., p. 82.

38 Compliance filed on 15 April 2024, id., pp. 78-80.

39 Notice of Pre-Trial Conference dated 15 May 2024, id., pp. 85-87.

40 Petitioner's Pre-Trial brief filed on 22 July 2024, id., pp. 89-96. See also respondent's Pre-Trial Brief filed on 22 July 2024, id., pp. 111-115.

41 Notice of Resolution dated 30 July 2024 resetting the Pre-Trial Conference to 02 October 2024, id., pp. 122-123. See also Order dated 02 October 2024, id., pp. 156-158.

42 See (1) Joint Stipulation of Facts and Issues filed on 22 October 2024, id., pp. 170-176; (2) Resolution dated 07 November 2024 approving the JSFI, id., p. 183; and (3) Pre-Trial Order dated 14 November 2024, id., pp. 186-196.

43 See Order dated 14 November 2024, id., pp. 198-199.

44 Judicial Affidavit (Witness Mark Louie L. Tigue), Exhibit "P-8", id., pp. 34-39.

During cross-examination, petitioner confirmed that he received both the PAN and FLD/FAN from RO Villamer on 17 January 2023.[45] He also admitted that his Protest did not refer to the assessment notice and did not discuss any laws, rules, regulations, or jurisprudence.[46]

On redirect examination, petitioner testified that his Protest was denied despite the submission of supporting documents.[47] He requested for reconsideration but the same was again denied.[48] He also averred that he did not receive any FDDA from respondent.[49]

There were no re-cross examination questions.[50]

Upon further clarificatory question from the Court, petitioner explained that while his bookkeeper received the PAN on 29 November 2022 at the BIR office, he was informed of the PAN's existence only on 17 January 2023. He was also adamant that he did not give any authorization to his bookkeeper to receive respondent's correspondence or notices, including the Second LOA and the PAN. According to him, the SPA was only for the purpose of executing returns and related transactions.[51]

After petitioner's testimony was concluded, he proceeded to file his Formal Offer of Evidence (**FOE**), offering Exhibits "P-1" to "P-8", inclusive of sub-markings.[52] Respondent did not interpose specific objections to the FOE.[53] In a Resolution dated 27 January 2025, the Court admitted all the offered documents.[54]

During respondent's turn to present evidence on 14 May 2025, RO Villamer took the witness stand as the lone witness. In her Judicial Affidavit (which was adopted as her direct testimony), she stated that: (**a**) petitioner was informed of the audit for TY 2019 through the service of the LOA and First Request; (**b**) she did not submit any document,

45 TSN dated 14 November 2024, pp. 7-8.
46 Id., pp. 8-10.
47 Id., p. 11.
48 Id.
49 Id., p. 12.
50 Id.
51 Id., pp. 12-29.
52 Petitioner's FOE filed on 19 November 2024, Division Docket, pp. 203-210.
53 Comment (on Petitioner's Formal Offer of Evidence) filed on 25 November 2024, id., pp. 214-216.
54 Id., pp. 227-228.

hence, respondent proceeded to issue the Second Request; (**c**) based on documents submitted, respondent examined petitioner's books of accounts and other accounting records and found that petitioner had deficiency internal revenue deficiency taxes, leading to the issuance of the NOD; (**d**) a reshuffling of respondent's group supervisors caused the Second LOA's issuance; (**e**) thereafter, petitioner executed the Waiver; (**f**) she recommended the PAN's issuance which respondent approved; (**g**) Porcalla, petitioner's bookkeeper and authorized representative, received the PAN; (**h**) Porcalla presented an SPA authorizing her to represent and transact business on petitioner's behalf; and lastly, (**i**) petitioner did not file a reply to the PAN, thus, respondent proceeded to issue the FLD/FAN.[55]

On cross-examination, RO Villamer confirmed that Porcalla went to the BIR office for the sole purpose of receiving the Second LOA[56] and the PAN.[57] She also admitted that the SPA did not specifically authorize Porcalla to receive respondent's notices.[58] Further, she maintained that Porcalla received the PAN on 29 November 2022.[59]

No redirect examination was conducted.[60]

Later, prompted by the Court's query, RO Villamer clarified that while the Acknowledgement of Receipt[61] attached to the FLD erroneously referred to the PAN, the Acknowledgement of Receipts[62] at the bottom of the FAN's nevertheless showed that petitioner received the FANs on 17 January 2023.

Afterwards, respondent orally offered Exhibits "R-1" to "R-11".[63] Petitioner did not interpose objection on the admissibility of the offered exhibits, only as to their probative value with regards to the purposes to which they were offered.[64] The Court noted petitioner's objections and

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55 Judicial Affidavit of Revenue Officer Florelie P. Villamer, Exhibit "R-12", id., pp. 142-149.
56 TSN dated 14 May 2025, id., pp. 11-13.
57 Id., p. 13.
58 Id., pp. 13-14.
59 Id., pp. 14-21.
60 Id., p. 16.
61 BIR Records, Folder I, p. 1185.
62 Id., pp. 1181-1184.
63 TSN dated 14 May 2025, id., pp. 30-31.
64 Id., pp. 31-33.

admitted respondent's offered exhibits subject to its final evaluation and appreciation of their probative value.[65]

Finally, the parties filed their respective Memorandum on 13 June 2025.[66] The Court then submitted the case for decision on 30 June 2025.[67]

ISSUE

The lone issue forwarded for the Court's resolution is —

WHETHER PETITIONER MARK LOUIE L. TIGUE IS LIABLE TO PAY THE DEFICIENCY INCOME TAX, VALUE-ADDED TAX (VAT), AND EXPANDED WITHHOLDING TAX (EWT) IN THE AGGREGATE AMOUNT OF ₱1,486,030.87 FOR THE TAXABLE YEAR (TY) 2019.[68]

ARGUMENTS

Petitioner advanced the grounds essayed below in support of the petition.

First, petitioner assails the validity of the service of the Second LOA. According to him, respondent served the Second LOA on Porcalla, a mere bookkeeper who was not authorized to receive respondent's notices.[69] Moreover, the Second LOA was served on Porcalla at the BIR office without any proof that personal service is not possible.[70] Furthermore, even if respondent could resort to substituted service, the latter nonetheless failed to establish (**a**) that there was no clerk or any person having charge at petitioner's registered or known address at the time of service; and (**b**) the presence of a barangay official and two (2) disinterested witnesses.[71]

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65 Id., p. 33. See also Order dated 14 May 2025, Division Docket, pp. 236-238.

66 Petitioner's Memorandum, Division Docket, pp. 239-250. See also respondent's Memorandum, Division Docket, pp. 252-269.

67 Notice of Resolution dated 30 June 2025, id., p. 271.

68 Pre-Trial Order dated 14 November 2024, supra at note 41.

69 Petitioner's Memorandum, supra at note 66, at p. 241.

70 Id., p. 243.

71 Id.

Second, petitioner argues that the FLD/FAN is void for having been issued before the lapse of his 15-day period to file a reply to the PAN.[72]

Lastly, petitioner claims that the WOG is void because (**a**) it was issued pursuant to a void LOA and FLD/FAN; (**b**) it referred to TY 2018 and not to TY 2019; and (**c**) it was prematurely issued given the pendency of his Request for Reconsideration before respondent.[73]

On the other hand, respondent assails the Court's jurisdiction over the instant petition stating that the Protest filed by petitioner was defective as it failed to state the date of the assessment notices and the applicable law, rules, and regulations, or jurisprudence on which such Protest was based. As there was no valid protest filed, the FLD/FAN had thus become undisputed effectively. With this, the Court's jurisdiction over the CIR's decision did not materialize.[74]

To reinforce the Court's alleged lack of jurisdiction, respondent adds that petitioner failed to file the petition within 30 days from the lapse of the 180-day period from the filing of the Protest without the CIR acting on it.[75]

Respondent also denies petitioner's claim that the PAN and the FLD/FAN were both served on 17 January 2023. On the contrary, the PAN was served on petitioner earlier on 29 November 2022, through Porcalla, who brought an SPA to prove her authority to act on petitioner's behalf.[76]

To debunk petitioner's action, respondent also maintains the validity of the Second LOA, FLD/FAN, and WOG. Particularly as regards the WOG, respondent explains that the indication of TY 2018 instead of TY 2019 is a typographical error which respondent had already corrected in his or her letter dated 14 January 2024.[77]

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[72] Id., pp. 243-245.
[73] Id., pp. 245-247.
[74] Respondent's Memorandum, supra at note 65, pp. 253-257.
[75] Id., pp. 257-258.
[76] Id., pp. 259-260.
[77] Id., pp. 260-261.

Lastly, respondent maintains the propriety of the assessments for deficiency IT, VAT, EWT, including the imposition of surcharges, interests, and compromise penalty against petitioner.[78]

RULING OF THE COURT

In respondent's bid for this Court to frustrate petitioner's case, he or she insists on **(a)** the absence of a CIR decision on disputed assessment that could be appealable to Us, and **(b)** petitioner's failure to file an appeal within 30 days from the lapse of the 180-day period from the filing of the Protest (without the CIR acting on it).

This Court is unconvinced.

THE COURT HAS JURISDICTION OVER
THE INSTANT PETITION.

The Court of Tax Appeals (**CTA**), being a court of special jurisdiction, can only take cognizance of matters which are clearly within its jurisdiction.[79] Section 7(a)(1) of Republic Act (**RA**) No. 1125,[80] as amended by RA 9282,[81] provides:

> ...
> SEC. 7. *Jurisdiction.* — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (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**

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[78] Id., pp. 261-265.

[79] *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, 25 March 2019, citing *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, 22 October 2014.

[80] AN ACT CREATING THE COURT OF TAX APPEALS.

[81] 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.

> **arising under the National Internal Revenue Code** or other laws administered by the Bureau of Internal Revenue[.][82]
>
> ...

Based on the foregoing, this Court has jurisdiction over the decisions of the CIR, not only on "disputed assessments, and refunds of internal revenue taxes, fees or other charges, penalties in relation thereto" but also on "other matters arising under the [NIRC]."

The Supreme Court, in *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*,[83] enunciated clearly —

> ...
> The first assigned error relates to the jurisdiction of the CTA over the issues in this case. The Court of Appeals ruled that only decisions of the BIR denying a request for reconsideration or reinvestigation may be appealed to the CTA. Since the petitioner did not file a request for reinvestigation or reconsideration within thirty (30) days, the assessment notices became final and unappealable. The petitioner now argue that the case was brought to the CTA because the warrant of distraint or levy was illegally issued and that no assessment was issued because it was based on an invalid waiver of the statutes of limitations.
>
> We agree with petitioner. Section 7(1) of Republic Act No. 1125, the Act Creating the Court of Tax Appeals, provides for the jurisdiction of that special court:
>
>> SEC. 7. Jurisdiction. — The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided —
>>
>>> (1) Decisions of the Commissioner 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 laws or part of law administered by the Bureau of Internal Revenue;**

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[82] Emphasis supplied and italics in the original text.

[83] G.R. No. 162852, 16 December 2004; Citations omitted, italics and emphasis in the original text and supplied.

> **The 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 the provision 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.
>
> This is not the first case where the CTA validly ruled on issues that did not relate directly to a disputed assessment or a claim for refund. In *Pantoja v. David*, **we upheld the jurisdiction of the CTA to act on a petition to invalidate and annul the distraint orders of the Commissioner of Internal Revenue.** Also, in *Commissioner of Internal Revenue v. Court of Appeals*, the decision of the CTA declaring several waivers executed by the taxpayer as null and void, thus invalidating the assessments issued by the BIR, was upheld by this Court.
>
> ...

Indubitably, the CTA's appellate jurisdiction is not limited to cases involving petitioner's decisions on matters relating to assessments or refunds. It also exercises jurisdiction over any case that could arise from the NIRC of 1997, as amended, or from other related laws that the BIR administers.

In the case at bar, respondent issued the WOG pursuant to the provisions of the NIRC of 1997, as amended, particularly Section 208[84] thereof.[85] The WOG also states that failure to honor the same shall make the bank criminally liable under Section 277[86] of the NIRC of 1997, as

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84 SEC. 208. *Procedure for Distraint and Garnishment.* -

...

Bank accounts shall be garnished by serving a warrant of garnishment upon the taxpayer and upon the president, manager, treasurer or other responsible officer of the bank. Upon receipt of the warrant of garnishment, the bank shall turn over to the Commissioner so much of the bank accounts as may be sufficient to satisfy the claim of the Government.

85 Supra at notes 30 and 31.

86 SEC. 277. *Failure to Surrender Property Placed under Distraint and Levy.* – Any person having in his possession or under his control any property or rights to property, upon which a warrant of constructive distraint, or actual distraint and levy has been issued shall, upon demand by the Commissioner or any of his deputies executing such warrant, surrender such property or right to property to the Commissioner or any of his deputies, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. Any person who fails or refuses to surrender any of such property or right shall be liable in his own person and estate to the Government in a sum equal to the value of the property or rights not so surrendered but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such

amended. Since the WOG's issuance is a matter that arose from respondent's implementation of the provisions of the NIRC of 1997, as amended, then the CTA has jurisdiction to take cognizance of petitioner's instant petition which, on the main, prays for the quashal of the WOG:

> ...
>
> **WHEREFORE**, it is most respectfully prayed for of this Honorable Court:
>
> 1. To declare VOID the FLD dated 20 December 2022 issued against Petitioner; and
>
> 2. **To QUASH, CANCEL, and/or LIFT the WDL No. WO-RR10-AMS-2023-072 dated 05 September 2023.**
>
> Other reliefs, just and equitable under the circumstances, are likewise prayed for.[87]
>
> ...

As to the petition's timeliness, petitioner had 30 days from his receipt of the WOG-BDO within which to appeal it.[88] Since he received the WOG-BDO on 28 October 2023, he had until 27 November 2023 to file a Petition for Review before the CTA. With 27 November 2023 falling on a holiday,[89] the instant petition[90] filed on 28 November 2023 was, thus, filed on time.

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warrant had been issued, together with cost and interest if any, from the date of such warrant. In addition, such person shall, upon conviction for each act or omission, be punished by a fine of not less than Five thousand pesos (P5,000), or suffer imprisonment of not less than six (6) months and one (1) day but not more than two (2) years, or both.

87 See Prayer, Petition for Review, supra at note 5; Emphasis in the original text and supplied.

88 Pursuant to Section 11 of the Republic Act (RA) No. 1125, as amended by RA 9282, which provides that:

> 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.

89 See Office of the President's Proclamation No. 90 dated 09 November 2022, entitled *Amending Proclamation No. 42, S. 2022, Declaring the Regular and Special (Non-Working) Days for the Year 2023* which declared 27 November 2023 as a Regular Holiday (Bonifacio Day).

90 Supra at note 1.

THE SECOND LETTER OF AUTHORITY (LOA) AND PRELIMINARY ASSESSMENT NOTICE (PAN) WERE VALIDLY SERVED ON PETITIONER, THROUGH PORCALLA.

To recap, petitioner claims that respondent violated his right to due process, due to the improper service of the Second LOA and PAN. Particularly, respondent served the Second LOA and PAN on Porcalla, a mere bookkeeper who was not authorized to receive respondent's notices.[91] However, respondent avers that Porcalla brought an SPA to prove her authority to receive the Second LOA and the PAN on petitioner's behalf. Petitioner argues that he did not give any specific authorization to Porcalla and the SPA was only for the purpose of executing returns and related transactions.

The crucial SPA,[92] duly signed and acknowledged before a notary public, reads:

> ...
>
> SPECIAL POWER OF ATTORNEY
>
> *KNOW ALL MEN BY THESE PRESENTS:*
>
> I, **MARK LOUIE L. TIGUE**, of legal age, Filipino, single, and a resident of Bato, Camarines Sur do hereby name, constitute and appoint **MARIA MARILYN S. PORCALLA**, of legal age, Filipino, and a resident of Zone 4, San Nicholas, Iriga City, to be my lawful attorney-in-fact for me and **in my name, place and stead to do and perform** the following acts and things:
>
> 1. **To represent and transact official business on my behalf with the Bureau of Internal Revenue (BIR);**
>
> 2. To sign, execute, submit, and deliver documents, agreements and/or or other writings of whatever nature or kind pertaining to the above-mentioned authority;
>
> 3. **To do such any other act or thing that may be required necessary or incidental to carry out effectively any and all of the purposes for which this authority is hereby given.**

91 Supra at note 69.
92 Supra at note 14. Emphasis supplied.

HEREBY GIVING AND GRANTING unto my attorney-in-fact **full power and authority to do and perform all acts and things as may be necessary and requisite of all the foregoing, as to all intents and purposes as I might or may lawfully do if personally present** and hereby confirming and ratifying all that he may do by virtue hereof.

IN WITNESS WHEREOF, I hereunto set my hand this 11th day of April 2022 at Iriga City, Philippines.

[Signed]
MARK LOUIE L. TIGUE
Principal

[Signed]
MARIA MARILYN S. PORCALLA
Attorney-in-fact
...

The SPA shows that the authority granted was broad and did not specify any condition or limitation. It did not limit Porcalla's authority to the mere filing of tax returns. It also did not prohibit Porcalla from receiving notices from the BIR. The part therein that says – "do such any other act or thing that may be required necessary or incidental to carry out effectively any and all of the purposes" is clear enough to encompass other acts, including the receiving of notices. Had the intention been otherwise, the SPA would not have been crafted in this manner.

The Court, therefore, does not find fault in respondent's act of serving the Second LOA and PAN on Porcalla. As the SPA states, for "all intents and purposes", thus, this operates to deem petitioner to have personally received the notices himself (through Porcalla).

As to the service of the notices at the BIR office instead of the taxpayer's registered address, the pertinent rules on the manner by which respondent can serve its notices to taxpayers is set forth in Section 3.1.6 of RR No. 12-99,[93] as amended by RR No. 18-2013.[94] The provision states:

[93] Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

[94] Supra at note 25.

...

SEC. 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:

...

3.1.6 *Modes of Service.* — The notice (PAN/FLD/FAN/FDDA) to the taxpayer herein required may be served by the Commissioner or his duly authorized representative through the following modes:

...

(i) The notice shall be served through personal service by delivering personally a copy thereof to the party at his registered or known address or wherever he may be found. A *known address* shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.

In case personal service is not practicable, the notice shall be served by substituted service or by mail.

(ii) Substituted service can be resorted to when the party is not present at the registered or known address under the following circumstances:

The notice may be left at the party's registered address, with his clerk or with a person having charge thereof.

If the known address is a place where business activities of the party are conducted, the notice may be left with his clerk or with a person having charge thereof.

If the known address is the place of residence, substituted service can be made by leaving the copy with a person of legal age residing therein.

If no person is found in the party's registered or known address, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses to the address so that they may personally observe and attest to such absence. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.

Should the party be found at his registered or known address or any other place but refuse to receive the notice, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses in the presence of the party so that they may personally observe and attest to such act of refusal. The notice shall then be given

> to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.
>
> "*Disinterested witnesses*" refers to persons of legal age other than employees of the Bureau of Internal Revenue.
>
> (iii) Service by mail is done by sending a copy of the notice by registered mail to the registered or known address of the party with instruction to the Postmaster to return the mail to the sender after ten (10) days, if undelivered. A copy of the notice may also be sent through reputable professional courier service. If no registry or reputable professional courier service is available in the locality of the addressee, service may be done by ordinary mail.
>
> The server shall accomplish the bottom portion of the notice. He shall also make a written report under oath before a Notary Public or any person authorized to administer oath under Section 14 of the NIRC, as amended, setting forth the manner, place and date of service, the name of the person/barangay official/professional courier service company who received the same and such other relevant information. The registry receipt issued by the post office or the official receipt issued by the professional courier company containing sufficiently identifiable details of the transaction shall constitute sufficient proof of mailing and shall be attached to the case docket.[95]
>
> ...

As previously discussed, given the tenor of the SPA, the service on Porcalla is tantamount to personal service. This is not a case of service through a clerk or with a person having charge of the taxpayer's registered or known address (*i.e.*, substituted service). In this regard, Section 3.1.6 above allows personal service by delivering personally a copy thereof to the party wherever he may be found. Thus, while unusual, the service made on Porcalla at the BIR offices is not prohibited.

In sum, the service of the Second LOA and the PAN on Porcalla at the BIR office is *valid* and *effective*.

[95] Emphasis supplied and italics in the original text.

PETITIONER WAS AFFORDED THE REQUIRED 15-DAY PERIOD TO RESPOND TO THE PRELIMINARY ASSESSMENT NOTICE (PAN) PRIOR TO THE ISSUANCE OF THE FORMAL LETTER OF DEMAND/FINAL ASSESSMENT NOTICE (FLD/FAN).

Petitioner argues that the FLD/FAN is void for having been issued before the lapse of his 15-day period to file a reply to the PAN.[96] According to petitioner, the PAN and the FLD/FAN were simultaneously served on 17 January 2023. Respondent, however, claims that the PAN was served earlier on 29 November 2022.[97]

The parties' factual allegations are both correct. Indeed, the records bear that the PAN was served on Porcalla on 29 November 2022 at the BIR office.[98] Forty-nine days later, on 17 January 2023, respondent served the FLD/FAN on petitioner himself at his registered address.[99] However, on the same day, respondent asked petitioner to sign an Acknowledgement Receipt to the PAN.[100]

Respondent explained that while the Acknowledgment Receipt indicates that it pertains to the PAN, the document actually served was the FLD/FAN. In fact, the same Acknowledgement Receipt was attached to respondent's copy of the FLD/FAN.[101] Petitioner, however, was adamant that he came to know of the PAN's existence only when RO Villamer served it upon him on 17 January 2023.[102]

We rule for respondent.

Even if the Court were to accept petitioner's version that the FLD/FAN was served with the PAN on 17 January 2023, such fact cannot obscure the effect of the PAN's initial service upon Porcalla on 29 November 2022. As discussed extensively, the said service of the PAN

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96 Supra at note 72.
97 Supra at note 76.
98 See respondent's copy of the PAN, Exhibit "R-9", supra at note 17.
99 See respondent's copy of the FLD/FAN, Exhibit "R-10", supra at note 19.
100 See Acknowledgment Receipt attached to petitioner's copy of the PAN, Exhibit "P-3", Division Docket, at p. 22.
101 See Acknowledgment Receipt attached to the FLD/FAN, supra at note 19, at p. 1185.
102 TSN dated 14 November 2024, at pp. 22-23.

on Porcalla at the BIR office is binding upon petitioner. That Porcalla did not inform him of her receipt of the PAN is a consequence of his choice of attorney-in-fact and respondent could not be faulted for relying on the SPA (issued in Porcalla's favor).

In conclusion, the Court finds that there is no violation of petitioner's right to be afforded a 15-day period to respond to the PAN prior to the issuance of the FLD/FAN.

PETITIONER'S PROTEST TO THE FORMAL LETTER OF DEMAND (FLD) IS NOT VALID.

In the case of *Commissioner of Internal Revenue v. Court of Tax Appeals-Third Division, et al.*[103] **(CIR v. CTA)**, the Supreme Court highlighted the importance of a valid protest, to wit:

> ...
> Section 3.1.14 of Revenue Regulations No. 18-2013, amending Revenue Regulations No. 12-99, states what constitutes a valid protest:
>
> > 3.1.4. *Disputed Assessment.* — The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN within thirty (30) days from date of receipt thereof. The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:
> >
> > > (i) Request for reconsideration — refers to a plea of reevaluation of an assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both.
> > >
> > > (ii) Request for reinvestigation — refers to a plea of reevaluation of an assessment on the basis of newly discovered or additional evidence that a taxpayer intends to present in the reinvestigation. It may also involve a question of fact or of law or both.
> >
> > ***The taxpayer shall state in his protest (i) the nature of the protest whether reconsideration or reinvestigation, specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or***

103 G.R. No. 239464, 10 May 2021; Citation omitted, emphasis supplied and italics in the original text.

> ***jurisprudence on which his protest is based, otherwise, his protest shall be considered void and without force and effect.***
>
> ...
>
> For requests for reinvestigation, the taxpayer shall submit all relevant supporting documents in support of his protest within sixty (60) days from date of filing of his letter of protest, otherwise, the assessment shall become final. The term "relevant supporting documents" refer to those documents necessary to support the legal and factual bases in disputing a tax assessment as determined by the taxpayer. The sixty (60)-day period for the submission of all relevant supporting documents shall not apply to requests for reconsideration. Furthermore, the term "the assessment shall become final" shall mean the taxpayer is barred from disputing the correctness of the issued assessment by introduction of newly discovered or additional evidence, and the FDDA shall consequently be denied.
>
> If the taxpayer failed to file a valid protest against the FLD/FAN within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable. No request for reconsideration or reinvestigation shall be granted on tax assessments that have already become final, executory and demandable.

Nowhere in respondent's April 29, 2015 letter did it state the assessment notice's date and the applicable law, rules and regulations, or jurisprudence on which its protest was based. Attaching copies of the audit results/assessment notices is not stating the date of the assessment notice, any more than attaching copies of assailed judgments to a petition without stating them in the petition itself complies with the rule on statements of material dates.

While respondent's declaration that it was "in the process of compiling the necessary documentation to support [its] protest to said assessments" could imply that it was requesting a reinvestigation, its failure to explicitly state this means that petitioner had no way of knowing whether it should monitor the 60-day period stated in Revenue Regulations No. 18-2013.

Section 228 of the National Internal Revenue Code is clear. **The administrative protest must be filed not only within the stated period, but also "in such form and manner as may be prescribed by implementing rules and regulations." Respondent's April 29, 2015 letter did not comply with the three requirements of Revenue Regulations No. 18-2013.**

...

The *CIR v. CTA* case thus clearly provides the requirements for a valid protest to the FLD —

(i) the nature of the protest whether reconsideration or reinvestigation, specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation;

(ii) date of the assessment notice; and,

(iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based, otherwise, his protest shall be considered void and without force and effect.

Applying the foregoing in herein case, the Court notes that petitioner's one-page Protest[104] reads —

...

Mark Louie L. Tigue
TIN 426-168-235-00000

2023 February 11

Hon Commissioner
Bureau of Internal Revenue

Attention: The Regional Director, RR 10-Legaspi City

Subject: Request for Reinvestigation

Dear Sir,

I hope this letter finds you well. I am writing to request a reinvestigation of my 2019 tax obligations due to a failure to inform the Bureau of Internal Revenue (BIR) who are going to receive all the communications coming from the bureau. As a result, all the BIR's communications were receive by Ms. [B]ookkeeper, including this my Preliminary Assessment Notice and the waiver that I did not sign.

I understand that the FLD was issued on the information available to the BIR at the time, but I would like to bring to your

---

104 Supra at note 20.

attention new and valuable information that may help in the final determination of my tax obligations.

Within 60 days from receipt of this letter, I will be sending replicas of relevant documents for the purpose of reducing the disallowances of expenses, creditable withholding taxes and claims for input taxes. I will also provide evidence to disprove the non-remittance of withholding taxes and documentary stamp tax. This will help to accurately reflect the tax obligations and reduce the amount owed to the Bureau of Internal Revenue.

I would be grateful if you could grant me this opportunity before February 17. I am confident that this information will help to resolve any discrepancies and ensure that my tax obligations are accurately determined.

Thank you for your time and consideration. I look forward to your response.

Sincerely,

[signed]
MARK LOUIE L. TIGUE

cc: Regional Assessment Division and Collection Divisions
...

As it is, petitioner's Protest did **not** indicate: (**a**) the date of receipt of the FLD/FAN; (**b**) the findings to which the taxpayer agrees or does not agree with; and (**c**) a statement of the facts, applicable law, rules and regulations or jurisprudence in support of the protest.

The Court is not unaware that after filing the Protest, petitioner submitted numerous ORs, invoices, and books of accounts.[105] However, petitioner did not offer any explanation on how these documents relate to the assessments in the FLD/FAN. Thus, owing to petitioner's omission (or silence), respondent did not consider the foregoing as a valid protest. The Denial Letter[106] states —

105 On 17 February 2023, petitioner submitted 108 copies of Purchase Invoices, 30 copies of Official Receipts, 363 copies of Sales Invoices, 28 copies for expense substantiation, 78 pages from his Sales Journal, and 94 pages from his Purchase Journal. Further, on 10 March 2023, petitioner submitted 402 copies of Purchase Invoices, 21 copies of Official Receipts, and 23 copies for expense substantiation. Supra at notes 21 and 22.

106 Supra at note 23.

...

MR. MARK LOUIE LANDAGAN TIGUE
Bldg. 2 Maganda St., San Antonio (Pob.), Nabua, Camarines Sur
TIN: 426-168-235-000

Sir:

We acknowledge the receipt of your letter of protest dated February 11, 2023, which we received on February 14, 2023. Your letter contains a request for reinvestigation relative to your deficiency Internal Revenue Taxes and Compromise Penalties amounting to P1,486,030.87 and P104,000.00, respectively, for taxable year 2019.

In reply, please be informed that after careful evaluation of the facts of the case and the laws applicable thereto, we regret to inform you that your request for reinvestigation is hereby **DENIED** <u>for failure to indicate the date of the assessment notice and specify the applicable law, rules, and regulation, or jurisprudence on which the protest is based.</u> Hence, said protest is considered void and without force or effect pursuant to Section 3.1.4 of Revenue Regulations (RR) No. 18-2013.

In view thereof, it is requested that your aforesaid deficiency tax liabilities and compromise penalties amounting to **₱1,486,030.87** and **₱104,000.00**, respectively, be paid immediately upon receipt hereof, inclusive of penalties incident to delinquency. Otherwise, our said deficiency tax assessment shall become final, executory, and demandable and the entire docket of your case shall be forwarded to the Collection Division, this Region, for collection enforcement.

Please give this matter your preferential attention.

Very truly yours,
Commissioner of Internal Revenue

By:

[Signed]
V.C. CADANGEN
OIC – Regional Director[107]

...

Consequently, the assessments in the FLD/FAN have attained finality due to petitioner's failure to file a valid protest thereto. With the

[107] Emphasis in the original text and underscoring supplied.

finality of the assessments in the FLD/FAN, respondent's issuance of the WOG to effect the collection thereof is necessarily in order.

Petitioner's claim that the WOG is void because it refers to TY 2018 instead of TY 2019 is tenuous at best. While the WOG indeed indicates TY 2018, all the other details (*i.e.*, Assessment Notice No., Date Issued, Kind of Tax, and Amounts) indicated therein matched with the details indicated in the FLD/FAN for TY 2019.[108] The Court, thus, gives credence to respondent's explanation that the discrepancy is simply a typographical error that neither affected the validity of the WOG nor the assessment.

PETITIONER IS NOT LIABLE FOR COMPROMISE PENALTY.

Respondent assessed petitioner of compromise fees amounting to ₱104,000.00 for the following violations:

Violation	Amount
Failure to pay the deficiency VAT	₱15,000.00
Failure to file EWT Returns	12,000.00
Failure to file BIR Form 1604E and Alphalist of Payees	2,000.00
Failure to supply correct and accurate information in the Income Tax Returns	25,000.00
Failure to submit Summary List of Sales and Purchases	25,000.00
Failure to submit eSales Report	25,000.00
Total	₱104,000.00

We do not agree.

The nature of a compromise penalty is explained in the case of *Commissioner of Internal Revenue v. Armando L. Abad, et al.*:[109]

> ...
> [A] compromise implies **agreement**. One party cannot impose it upon the other. If an offer of compromise is rejected by the taxpayer, as in this case, the Commissioner of Internal Revenue should file a criminal action if he believes that the taxpayer is criminally liable for violation

108 Supra at note 30.
109 G.R. No. L-19627, 27 June 1968; Citation omitted and emphasis supplied.

> of the tax law as the only way to enforce a penalty. As penalty can be imposed only on a finding of criminal liability.
>
> ...

Clearly, there can be no compromise if there is no agreement between the parties. A compromise penalty *cannot* be imposed or collected without the agreement or conformity of the taxpayer.[110] A compromise, after all, by its nature, is *mutual* in essence.[111] It cannot be imposed in the absence of a preceding agreement. Thus, the fact that the taxpayer protested the assessment only signifies that there was no agreement to speak of.[112]

WHEREFORE, premises considered, the Petition for Review filed by petitioner Mark Louie L. Tigue is **PARTIALLY GRANTED**. As a result, the assessment for Compromise Penalty is **CANCELLED AND WITHDRAWN**. Meanwhile, the assessments for deficiency Income Tax (IT), Value-Added Tax (VAT), and Expanded Withholding Tax (EWT) are **UPHELD**.

Accordingly, petitioner is **ORDERED TO PAY** respondent Commissioner of Internal Revenue the amount of **₱1,486,030.87**, representing the deficiency basic IT, VAT, and EWT, inclusive of the 25%/50% surcharge, and 20% deficiency interest, as shown in the final and executory FLD/FAN.[113]

In addition, petitioner is **ORDERED TO PAY** delinquency interest on ₱1,486,030.87 at the rate of 12%, computed from 19 January 2023[114] until full payment thereof, pursuant to Section 249(C)[115] of the NIRC of 1997, as amended by the TRAIN Law.

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110 *Wonder Mechanical Engineering Corporation v. The Hon. Court of Tax Appeals, et al.*, G.R. Nos. L-22805 & L-27858, 30 June 1975.

111 *Dr. Felisa L. Vda. De San Agustin v. Commissioner of Internal Revenue*, G.R. No. 138485, 10 September 2001.

112 *Manila Bankers' Life Insurance Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 199729-30 & 199732-33, 27 February 2019.

113 See FLD/FAN, supra at note 19.

114 The due date indicated in the FLD/FAN, supra at note 19.

115 SEC. 249. *Interest.* —

...

(C) *Delinquency Interest.* — In case of failure to pay:

(1) The amount of the tax due on any return required to be filed, or

(2) The amount of the tax due for which no return is required, or

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

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

JEAN MARIE A. BACORRO-VILLENA
Acting Presiding Justice

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(3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner, there shall be assessed and collected on the unpaid amount, interest at the rate prescribed in Subsection (A) hereof until the amount is fully paid, which interest shall form part of the tax.