REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

IMAGINET INTERNATIONAL, INC., *Petitioner,*	**CTA *EB* NO. 2374** (CTA Case No. 9777)
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO,** *and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	
	Promulgated: MAR 16 2022 4:30p.m.

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DECISION

MANAHAN, J.:

This resolves the *Petition for Review*[1] filed by petitioner Imaginet International, Inc. (III) posted on October 28, 2020 and received by this Court on November 9, 2020, pursuant to Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended[2], which prays for the reversal and setting aside of the *Decision* dated February 21, 2020[3] (Assailed Decision) and the *Resolution* dated July 13, 2020[4] (Assailed Resolution) promulgated by the Second Division of the Court of Tax Appeals (CTA) in CTA Case No. 9777 entitled

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[1] *Rollo*, CTA EB No. 2374, Vol. 1, pp. 1-42.

[2] Rules of the Court of Tax Appeals – approved by the Supreme Court on November 22, 2005 (A.M. No. 05-11-07-CTA); Amendments to the 2005 Rules of Court of the Court of Tax Appeals – approved by the Supreme Court on September 16, 2008 (A.M. No. 05-11-07-CTA; and Additional Amendments to the 2005 Revised Rules of the Court of Tax Appeals – approved by the Supreme Court on February 10, 2009 (A.M. No. 05-11-07-CTA).

[3] *Rollo*, Annex "C", pp. 66-82.

[4] *Id.*, Annex "A", pp. 45-47. om

"*Imaginet International, Inc. vs. Commissioner of Internal Revenue*".

The Facts

Petitioner III is a corporation duly organized and existing under the laws of the Philippines. It is engaged in the Information Technology business with principal office located at #101 Zodiac St., Palm Village, Makati City, Philippines.[5]

Respondent Commissioner of Internal Revenue (CIR) is the head of the Bureau of Internal Revenue (BIR), vested under the appropriate laws with the authority to carry out the functions, duties and responsibilities of said office including, inter alia, the power to decide disputed assessments and to cancel and abate tax liabilities, pursuant to the pertinent provisions of the National Internal Revenue Code of 1997, as amended (1997 NIRC) and other tax laws, rules and regulations. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.[6]

On December 7, 2010, petitioner received, through Ms. Maricar Jabidando, a Letter of Authority (LOA) No. LOA-049-2010-00000471 dated November 26, 2010 covering all internal revenue taxes for taxable period 2009.[7]

On October 21, 2011, a Memorandum of Assignment (MOA) was issued transferring the case to Revenue Officer Leonilo Lopez (RO Lopez) under the supervision of Group Supervisor Eduardo P. Carcellar (GS Carcellar). Petitioner was informed of such MOA through one of its employees, Ms. Cherry Tuasy.[8]

On August 14, 2012, petitioner received the Notice of Informal Conference from the BIR.[9]

On December 12, 2012, the Preliminary Assessment Notice (PAN) was issued.[10]

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[5] *Rollo*, Decision dated February 21, 2020, p. 67.
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] *Id.*

On December 19, 2012, petitioner executed a Waiver of Defense of Prescription under the Statute of Limitations of the NIRC (Waiver), where the defense of prescription for assessment and/or collection of all its internal revenue taxes for the year 2009 was waived by the petitioner until December 31, 2013. Such Waiver was accepted by the BIR on December 21, 2012.[11]

On December 21, 2012, petitioner filed its Reply to the PAN.[12]

On May 29, 2013, the Formal Assessment Notice (FAN) with Assessment Nos. IT-ELA37066-09-13-0253, VT-ELA37066-09-13-0253, and WE-ELA37066-09-13-0253 was issued by the BIR for the supposed tax deficiency of P42,849,632.02 representing deficiency income tax, value-added tax (VAT) and expanded withholding tax (EWT) for the taxable year 2009.[13]

On June 3, 2013, petitioner, through Ms. Arlene Camara, received the FAN.[14]

On July 4, 2013, petitioner filed its protest to the FAN.[15]

On December 23, 2014, the Final Decision on Disputed Assessment (FDDA) was issued by BIR Revenue Region No. 8-Makati City.[16]

On January 27, 2015, petitioner filed its request for reconsideration of the FDDA with the Office of the Commissioner.[17]

On January 23, 2018, respondent issued a Decision.[18]

On March 2, 2018, a Petition for Review was filed before the Court in Division.[19]

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[11] *Rollo*, Decision dated February 21, 2020, p. 68.
[12] *Id.*
[13] *Id.*
[14] *Id.* at 69.
[15] *Id.*
[16] *Id.* at 70
[17] *Id.*
[18] *Id.*
[19] *Id.*

After trial the Court in Division rendered the Assailed Decision, dismissing the petition for review for lack of jurisdiction.

Petitioner then moved for the reconsideration of the Assailed Decision but was denied anew under the Assailed Resolution.

Hence, the instant Petition for Review was posted by petitioner on October 28, 2020 through registered mail which was received by this Court on November 9, 2020.

On December 11, 2020, petitioner was ordered to file a compliant Amended Verification and Certification and proof of the date of petitioner's receipt of the assailed Resolution.[20]

On January 8, 2021, petitioner filed a *Compliance and Manifestation (to CTA En Banc Resolution promulgated on December 11, 2020)*[21] submitting the above-mentioned requirements. Thus, on January 25, 2021, respondent is ordered[22] to file his comment on said petition.

On February 19, 2021, respondent posted his *Comment (Against Petition for Review)*[23] which was received by this Court on March 2, 2021.

Hence, the case was submitted for decision on March 16, 2021.[24]

The Issue

Whether the Court in Division erred in dismissing the instant case.

Arguments of Petitioner[25]

Petitioner argues that the Petition for Review is within the jurisdiction of this Court.

[20] *Rollo*, Resolution dated December 11, 2020, pp.
[21] *Id.*, pp. 1172-1174.
[22] *Id.*, Resolution dated January 25, 2021, pp. 1185-1186.
[23] *Id.*, pp. 1187-1194.
[24] Rollo, Resolution dated March 16, 2021, pp.
[25] *Supra*, Note 1.

Petitioner insists that the LOA No. LOA-049-2010-00000471 dated November 26, 2010 issued to RO Magdalena Ventura and GS Miriam Lateo which was transferred to RO Lopez and GS Carcellar through a MOA and not through a valid LOA was void.

Petitioner also argues that the Court in Division erred in not setting aside the FDDA as to the deficiency assessments for value-added tax (VAT) covering the 1st to 3rd quarter of taxable year (TY) 2009 and expanded withholding tax (EWT) for the months of January to November TY 2009 on the ground of prescription.

Petitioner further argues that the Court in Division erred in not setting aside the FDDA which is based only on Best Evidence Obtainable notwithstanding its numerous submissions of supporting documents of its income and expenses.

Arguments of Respondent[26]

Respondent, on the other hand, argues that the Court in Division was correct in dismissing the case due to lack of jurisdiction for petitioner's failure to file its protest to the FAN on time.

Ruling of the Court *En Banc*

This Court shall determine first whether the instant petition is filed on time. Sections 1 and 3(b), Rule 8 of the RRCTA provide that:

> SECTION 1. *Review of cases in the Court en banc.*- In cases falling under the exclusive appellate jurisdiction of the Court *en banc,* the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division.
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> xxx xxx xxx
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> SEC. 3. *Who may appeal; period to file petition.*- (a) xxx xxx xxx
>
> (b) **A party adversely affected by a decision or resolution of a Division of the Court on a motion for**

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[26] *Supra,* Note 23.

> **reconsideration** or new trial **may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution**. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (*Emphasis supplied*)

The records of the case reveal that the instant petition was preceded by a Motion for Reconsideration which is the subject of the assailed *Resolution* dated July 13, 2020 and petitioner received a copy of said resolution on October 13, 2020.

Applying the above-cited provision, petition had fifteen (15) days from October 13, 2020 or until October 28, 2020. Thus, the instant Petition for Review on October 28, 2020 was filed on time.

Now, the Court will address the crux of the case.

In the Assailed Decision, the Court in Division dismissed the original petition because petitioner's protest to the Final Assessment Notice (FAN) was filed beyond the prescriptive period.

As borne by the case records, petitioner received the FAN on June 3, 2013. Section 3.1.4 of Revenue Regulations No. 12-99,[27] as amended, provides that the taxpayer or its authorized representative may protest administratively against the aforesaid FAN within thirty (30) days from date of receipt thereof.

Applying said provision, petitioner had thirty (30) days from June 3, 2013 or until July 3, 2013 to file its protest. Thus, petitioner's filing of protest against said FAN on July 4,

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[27] **SECTION 3.** ***Due Process Requirement in the Issuance of a Deficiency Tax Assessment.*** —

xxx xxx xxx

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...

2013 is one day late which renders the FAN final and executory.

Section 7(a)(1) of Republic Act (RA) No. 1125, as amended by RA No. 9282 and implemented by Section 3(a)(1), Rule 4 of the RRCTA, provides the following:

> "SECTION 7. *Jurisdiction.* – The CTA shall exercise:
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> (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 arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue; *(Emphases and underscoring ours)*
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> xxx xxx xxx
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> SEC. 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 other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;" *(Emphasis supplied)*

Applying the aforequoted provision to the case at hand, the Court lacks jurisdiction over the petition for review. When petitioner failed to file a timely protest against the FAN, the tax assessment did not ripen into a disputed assessment, thus, depriving the Court of any jurisdiction over the subject matter of the case. As held in *Commissioner of Internal Revenue v. Bank of the Philippine Islands*[28], an assessment becomes final and **unappealable** if within 30 days from receipt of the assessment, the taxpayer fails to file his or her protest requesting for reconsideration or reinvestigation as provided in Section 229 (now, Section 228) of the 1997 National Internal Revenue Code (NIRC), as amended.

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[28] G.R. No. 224327, June 11, 2018.

In *Ferdinand R. Marcos II v. Court of Appeals, et al.*[29], the Supreme Court ruled that the taxpayer's failure to file a timely protest on respondent's assessment is fatal to the former's case as such assessment attains its finality, to wit:

> "If there is any issue as to the validity of the BIR's decision to assess the estate taxes, this should have been pursued through the proper administrative and judicial avenues provided for by law.
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> Section 229 of the NIRC tells us how:
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> > "Sec. 229. *Protesting of assessment.*-When the Commissioner of Internal Revenue or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings. Within a period to be prescribed by implementing regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner shall issue an assessment based on his findings.
> >
> > **Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation in such form and manner as may be prescribed by implementing regulations within (30) days from receipt of the assessment; otherwise, the assessment shall become final and unappealable**.
> >
> > If the protest is denied in whole or in part, the individual, association or corporation adversely affected by the decision on the protest may appeal to the Court of Tax Appeals within thirty (30) days from receipt of said decision; otherwise, the decision shall become final, executory and demandable. (As inserted by P.D. 1773)"
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> Apart from failing to file the required estate tax return within the time required for the filing of the same, petitioner, and the other heirs never questioned the assessments served upon them, allowing the same to lapse into finality, and prompting the BIR to collect the said taxes by levying upon the properties left by President Marcos.
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> xxx xxx xxx
>
> The omission to file an estate tax return, and the subsequent failure to contest or appeal the assessment made by the BIR is fatal to the petitioner's cause, as under the above-cited provision, in case of failure to file a return, the tax may be assessed at any time within ten years after the omission, and any tax so assessed may be collected by levy upon real property within three years following the assessment of the tax. Since the estate tax assessment had

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[29] G.R. No. 120880, June 05, 1997.

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

Moreover, in *Protector's Services, Inc. v. Court of Appeals and Commissioner of Internal Revenue*[30], the Supreme Court further ruled that such failure to protest the assessment on time shall bar the taxpayer to dispute the correctness of the assessments, to wit:

> "We note that indeed on December 10, 1987, petitioner received the BIR's assessment notices. On January 12, 1988, petitioner protested the 1983 and 1984 assessments and requested for a reinvestigation. From December 10, 1987 to January 12, 1988, thirty-three days had lapsed. **Thereafter petitioner may no longer dispute the correctness of the assessments**. Hence, in our view, the CTA correctly dismissed the appeal for lack of jurisdiction." (*Emphasis supplied*)

Considering that the Court has no jurisdiction on the instant petition, further discussion on other issues raised by the parties is no longer necessary.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED**. Accordingly, the *Decision* dated February 21, 2020 and *Resolution* dated July 13, 2020 are hereby **AFFIRMED.**

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(With due respect, see Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

[30] G.R. No. 118176, April 12, 2000.

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

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(with due respect, I join the D.O. of PJ Del Rosario)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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.

ROMAN G. DEL ROSARIO
Presiding Justice

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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

IMAGINET INTERNATIONAL, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2374
(CTA Case No. 9777)

PRESENT:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, and
CUI-DAVID, JJ.

PROMULGATED:

MAR 16 2022 4:30 p.m.

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DISSENTING OPINION

DEL ROSARIO, P.J.:

With due respect, I am constrained to withhold my assent on the *ponencia*.

Records disclose that petitioner received the Final Decision on Disputed Assessment dated December 23, 2014 on January 5, 2015. On January 27, 2015 or within the thirty (30)-day period, petitioner filed a Motion for Reconsideration before the office of respondent Commissioner of Internal Revenue. On January 31, 2018, petitioner received respondent's Final Decision dated January 23, 2018 which denied petitioner's request for reconsideration. Petitioner had thirty (30) days from January 31, 2018 or until March 2, 2018 within which to file a Petition for Review before the Court of Tax Appeals (CTA) Division. Petitioner filed its Petition for Review before the CTA Division on March 2, 2018. Thus, I submit that the CTA Division has jurisdiction to take cognizance of the case.

In holding that the CTA Division has no jurisdiction to take cognizance of the case, the *ponencia* affirms the findings of the CTA Division that the Final Assessment Notice (FAN) and Assessment Notices, all dated May 29, 2013, have become final and executory for petitioner's failure to protest the same within the thirty (30)-day period. Indeed, records show that petitioner received the FAN and Assessment Notices on June 3, 2013, thus, petitioner had until July 3, 2013 within which to file its protest thereon. The protest was belatedly filed on July 4, 2013.

True, with respect to assessments which became final for failure to file a timely and valid protest, the rule is that the validity or correctness of assessment may no longer be questioned on appeal.

An assessment, however, may neither attain finality nor be the subject of a lawful execution in situations where such **assessment is void *ab initio* for lack of authority of the revenue officer and group supervisor to conduct the audit of the taxpayer, as in the present case**.

A perusal of the records reveals that the FAN and Assessment Notices issued against petitioner are void as the examination of petitioner's books of accounts was made by Revenue Officer (RO) Leonilo G. Lopez and Group Supervisor (GS) Eduardo P. Carcellar, *sans* a valid Letter of Authority (LOA). Records disclose that the authority of RO Lopez and GS Carcellar emanated from a Memorandum of Assignment (MOA) dated October 21, 2011 issued by Teodoro G. Galicia, Revenue District Officer, Revenue District Office No. 049.[1]

The MOA issued by Revenue District Officer Galicia was not sufficient to clothe RO Lopez and GS Carcellar with authority to conduct the audit of petitioner and recommend the issuance of assessments against it. As a consequence, the FAN and Assessment Notices issued against petitioner are null and void.

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[1] Exhibit R-14, p. 2, CTA Division Docket, Vol. V, p. 2309; BIR Records, p. 987.

In *Commissioner of Internal Revenue vs. Sony Philippines, Inc.*[2] the Supreme Court was clear in holding that the issuance of a valid LOA is indispensable to the validity of an assessment itself, to wit:

> "Clearly, **there must be a grant of authority before any revenue officer can conduct an examination or assessment**. Xxx. **<u>In the absence of such an authority, the assessment or examination is a nullity</u>**." *(Boldfacing and underscoring supplied)*

The Supreme Court emphasized the importance of issuing a valid assessment, absence of which precludes any effort to collect a purported tax deficiency. *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*[3] is instructive, thus:

> "In the normal course of tax administration and enforcement, the BIR must first make an **assessment** then enfore the **collection** of the amounts so assessed. 'An assessment is not an action or proceeding for the collection of taxes. x x x It is **a step preliminary, but essential to warrant distraint**, if still feasible, and, also, to establish a cause for judicial action.' **The BIR may summarily enforce collection only when it has accorded the taxpayer administrative due process, <u>which vitally includes the issuance of a valid assessment</u>**. Xxx.
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> Xxx. **The Court, absent a valid assessment, refused to accord validity and effect to petitioner's collection efforts** - which involved, among other things, the successive issuances of a collection letter, a final notice before seizure, and a warrant of distraint and/or levy against the taxpayer estate - and declared that:
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>> 'x x x [P]etitioner violated the cardinal rule in administrative law that the taxpayer be accorded due process. Not only was the law here disregarded, but no valid notice was sent, either. **A void assessment bears no valid fruit**.
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> x x x x
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> The Court similarly found that there was no valid assessment in *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc. (BASF Coating Case)* as the assessment notice therein was sent to the taxpayer company's former address. Without a valid assessment, the Court pronounced that petitioner's issuance of a First Notice Before Issuance of Warrant of Distraint and Levy to be in violation of the taxpayer company's right to due process and effectively **<u>blocked any further efforts by petitioner to collect by virtue thereof</u>**. The Court ratiocinated that:

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[2] G.R. No. 178697, November 17, 2010.
[3] G.R. No. 197945, July 9, 2018.

'It might not also be amiss to point out that petitioner's issuance of the First Notice Before Issuance of Warrant of Distraint and Levy violated respondent's right to due process because no valid notice of assessment was sent to it. **An invalid assessment bears no valid fruit**.

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Absent a previously issued assessment supporting the 1998 and 2002 Collection Letters, **it is clear that petitioner's attempts to collect through said collection letters as well as the subsequent Warrants of Garnishment and Distraint and/or Levy are void and ineffectual. If <u>an invalid assessment bears no valid fruit</u>, with more reason will no such fruit arise if there was no assessment in the first place**." *(Additional boldfacing and underscoring supplied)*

In the present case, the assessment issued against petitioner, being void *ab initio*, cannot become final and executory. **The infirmity in the assessment precludes it from bearing any fruit as clearly laid down in *Pilipinas Shell*.**

Thus, irrespective of petitioner's failure to timely protest the FAN and Assessment Notices, their inherent invalidity cannot justly be ignored by the Court. After all, petitioner should not be held liable to pay any amount arising from a void *ab initio* assessment.

Stated differently, since the FAN and Assessment Notices in this case are void *ab initio*, it is within the power of the Court to slay them at sight and consequently, deny any move of respondent to collect taxes pursuant to said invalid assessments.

Like a void judgment, a void assessment produces no legal effect; **it never attains finality and - akin to an outlaw - it may be slain whenever or wherever it exhibits its head.**[4]

The disquisition in *Rene H. Imperial et al. vs. Hon. Edgar L. Armes, Presiding Judge of Branch 4, Regional Trial Court, 5th Judicial Region, Legazpi City, et al. ("Imperial"),*[5] on the effect of a void judgment is enlightening:

"**A void judgment is no judgment at all in legal contemplation**. In *Cañero v. University of the Philippines,* we held that-

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[4] Imperial vs. Cruz, G.R. No. 178842, January 30, 2017.
[5] *Id.*

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> x x x A void judgment is not entitled to the respect accorded to a valid judgment, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it. **It has no legal or binding effect or efficacy for any purpose or at any place.** Xxx.
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> xxx, our ruling in *Banco Español-Filipino* v. *Palanca* on the effects of a void judgment has reappeared consistently in jurisprudence touching upon the matter. In this case, we said that a **void judgment is 'a lawless thing, which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head.'** In concrete terms, this means that a void judgment creates no rights and imposes no duties. Any act performed pursuant to it and any claim emanating from it have no legal effect.
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> ***Effects of a void judgment***
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> Xxx.
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> Thus, in *Guevarra,* **we allowed the filing of a motion for reconsideration even if it was made beyond the reglementary 15-day period We based our ruling on the ground that the order challenged by the motion for reconsideration was issued with grave abuse of discretion and is null and void**. We explained-
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> > 'Such judgment or order may be resisted in any action or proceeding whenever it is involved. It is not even necessary to take any steps to vacate or avoid a void judgment or final order; it may simply be ignored.'
>
> Our ruling in *Gonzales* v. *Solid Cement Corporation* is more unequivocal. In this case, we found that the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction, therefore acting outside the contemplation of law. **Hence, even when the period to assail the CA decision had already lapsed, we ruled that it did not become final and immutable. A void judgment never becomes final**. Xxx." *(Boldfacing and underscoring supplied; citations omitted)*

In *Heirs of Mayor Nemencio Galvez vs. Court of Appeals, et al.,*[6] the Supreme Court emphasized that a void judgment may be attacked anytime, as the action to declare its nullity does not prescribe, *viz.*:

> "Considering that the assailed decision rendered by the lower court on May 6, 1988 is a void judgment, **it is no longer necessary to determine whether or not proper service on the late mayor's**

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[6] G.R. No. 119193, March 29, 1996.

> **lawyer-son of a copy of the said decision was valid to reckon the date of its finality inasmuch as <u>a void judgment never acquires finality and any action to declare its nullity does not prescribe. It can be attacked at anytime</u>.**" *(Boldfacing and underscoring supplied)*

In sum, I submit that a void assessment, similar to the FAN and Assessments Notices in the present case, may not be enforced or given legal effect in any proceedings at anytime.

All told, I VOTE to: (i) GRANT the Petition for Review filed by petitioner Imaginet International, Inc.; (ii) CANCEL and SET ASIDE the Final Assessment Notice and Assessment Notices, all dated May 29, 2013, Final Decision on Disputed Assessment dated December 23, 2014, Final Decision dated January 23, 2018 issued by respondent Commissioner of Internal Revenue; and, (iii) ENJOIN respondent Commissioner of Internal Revenue, his representatives, agents or any person acting on his behalf from enforcing collection and/or taking any further action against petitioner Imaginet International, Inc. in connection with the subject assessments.

ROMAN G. DEL ROSARIO
Presiding Justice