REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

TEKNOLOGIX, INC., *Petitioner,*	**CTA CASE NO. 10803**
	Present:
- versus -	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: OCT 27 2025 3:50 pm

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DECISION

ANGELES, J.:

Before the Court is a *Petition for Review with Prayer for Prohibition and Lifting of Garnishment* (Petition)[1] filed by Teknologix, Inc. (Petitioner) on March 9, 2022 praying that the Warrant of Distraint and/or Levy (WDL) No. RR8A-WDL-2021-09-277 (Subject WDL), including any garnishment issued pursuant thereto be quashed, cancelled, and/or lifted on account of prescription; and that the Bureau of Internal Revenue (BIR) be prohibited from collecting taxes, surcharges, and interests assessed against petitioner by virtue of such WDL, as well as from filing criminal cases.[2]

THE PARTIES

Petitioner, as represented by its President, Mr. Elmer Pura, is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal place of business at Unit 2319 Cityland 10 Tower, 154 H.V. Dela Costa St. Salcedo Village, Makati City.[3]

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[1] Docket, pp. 6 to 12.
[2] Statement of the Case, *Pre-Trial Order* dated October 11, 2023, Docket, p. 318.
[3] The Parties, *Petition for Review*, Docket, p. 6.

Respondent, on the other hand, is the Commissioner of the Bureau of Internal Revenue (CIR), charged with, among others, powers and duties such as the enforcement of revenue laws, collection of national internal revenue taxes, and power to decide tax protests.[4]

THE FACTS

The following facts were established by the evidence on record:

On January 4, 2017, petitioner received the Formal Assessment Notice (FAN)[5] dated December 21, 2016.[6]

On September 28, 2021, the Subject WDL[7] No. RR8A-WDL-2021-09-277 was issued[8] against the petitioner.

On January 18, 2022, the Petitioner submitted a Letter dated January 17, 2022[9] requesting that the Subject WDL be lifted due to financial difficulties and for the reason that the collection has already prescribed.

On February 8, 2022, petitioner then received a Letter dated January 27, 2022[10] from the BIR giving it a final opportunity to settle/pay its deficiency taxes comprising of Income Tax, Value Added Tax, Withholding Tax – Expanded, Withholding Tax – Compensation, Documentary Stamp Tax, Improperly Accumulated Earnings Tax, and Miscellaneous Tax for taxable year 2013 in the total amount of Twenty Seven Million Nine Hundred Forty Seven Thousand Three Hundred Fifty Nine Pesos and 50/100 Centavos (PHP27,947,359.50).[11]

THE PROCEEDINGS BEFORE THE COURT

On the basis of the Letter dated January 27, 2022, petitioner, on March 9, 2022, filed the present *Petition for Review with Prayer for Prohibition and Lifting of Garnishment*.

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[4] Par. 1, Admitted Facts, *Pre-Trial Order*, Docket, p. 319.
[5] Exhibit "P-2", Docket, pp. 335 to 340.
[6] Par. 3, Admitted Facts, *Pre-Trial Order*, Docket, p. 319.
[7] Exhibit "P-3", Docket, p. 341.
[8] Par. 4, Admitted Facts, *Pre-Trial Order*, Docket, p. 319.
[9] Exhibit "P-4", Docket, p. 342; the existence of the letter is likewise admitted – see par. 5, Admitted Facts, *Pre-Trial Order*, Docket, p. 319.
[10] Exhibit "P-5", Docket, p. 343.
[11] Par. 5, Admitted Facts, *Pre-Trial Order*, Docket, p. 319.

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On March 18, 2022, *Summons*[12] was issued against the respondent.

Within the extended period granted by the Court,[13] respondent posted his *Answer (with Grounds to Dismiss for Lack of Jurisdiction)*[14] interposing the following special and affirmative defenses: (1) the assessments against petitioner were already final, executory and demandable. Thus, the Court has no jurisdiction to take cognizance of the case; (2) the Letter dated January 27, 2022 is a mere reminder letter reiterating the previous demand of the CIR; (3) the right of the government to collect has not prescribed; (4) assuming that the assessments have not attained finality, the WDL should be considered the final decision of the respondent; and that (5) petitioner failed to prove that the collection of the deficiency taxes will jeopardize its interest.

On August 17, 2022, during the hearing for the conduct of pre-trial conference, counsel for respondent manifested that *Answer* which they previously filed included a motion to dismiss for lack of jurisdiction, and therefore moved that said issue be resolved first. Thus, counsel for petitioner was ordered to file its opposition thereto, and the supposed pre-trial conference was reset to a later date.[15]

On August 25, 2022, Petitioner filed its *Comment/Opposition to the Respondent's Answer (with Grounds to Dismiss for Lack of Jurisdiction)*, which the Court received on September 1, 2022.[16]

In a *Resolution*[17] dated October 20, 2022, the Court denied the respondent's Motion to Dismiss. It held that there is insufficient evidence to prove or disprove the respective stand of both parties. Thus, the Court deemed it prudent to proceed with trial on the merits for the proper determination of the issues at hand, as the opposing allegations of the parties involve factual, evidential, and legal matters which can be better threshed out after a full-blown trial where such matters should be presented and heard.

Moreover, in the same *Resolution*, the Court pointed out that a *Prayer for Prohibition and Lifting of Garnishment,* was incorporated in the *Petition for Review*, and treated the same as a motion to suspend collection of taxes. Thus, the necessary separate hearing in relation thereto was likewise set.

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[12] Docket, p. 50.
[13] *Motion for Extension of Time to File Answer*, Docket, pp. 52 to 54; and Resolution dated April 28, 2022, Docket, p. 57.
[14] Docket, pp. 58 to 75.
[15] *Hearing Order* dated August 17, 2022, Docket, pp. 102 to 103.
[16] Docket, pp. 114 to 119.
[17] Docket, pp. 122 to 132.

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Trial ensued for the motion.[18] Petitioner, along with the relevant documentary evidence, offered the testimony of its President, Elmer Pura, who anchored its motion on the irreparable damage or eventual closure which may be caused, should the collection of alleged deficiency taxes proceed.[19] For his part, respondent did not present any counter-evidence to refute the testimony of the witness for petitioner.

On December 9, 2022, petitioner filed its *Formal Offer of Evidence*.[20] There being no comment from the respondent,[21] the same was submitted for resolution.[22] In the *Resolution* dated February 7, 2023,[23] the Court admitted petitioner's offered exhibits.

Pending the resolution of petitioner's Motion, the pre-trial conference proceeded.[24] Prior thereto, petitioner's *Pre-Trial Brief* was received by the Court on August 9, 2022;[25] while the *Pre-Trial Brief (for the Respondent)* was filed on August 12, 2022.[26]

Eventually, in a *Resolution*[27] dated March 16, 2023, petitioner's motion to suspend was granted, and respondent was ordered to lift the Subject WDL. Petitioner was likewise ordered to post a cash or surety bond equivalent to the total basic tax due within ten (10) days.

On March 30, 2023, petitioner filed a *Motion to Refer to Mediation*,[28] manifesting its willingness to settle the instant case. Considering that a jurisdictional issue was raised in his *Answer*, the Court ordered the respondent to comment on petitioner's *Motion*.[29] However, respondent failed to.[30]

In a *Resolution*[31] dated May 26, 2023, the Court denied the *Motion to Refer to Mediation* and held that when the jurisdiction of the Court of Tax Appeals (CTA) is in issue, it is not covered by mediation. Furthermore, the Court noted that a *Records Verification Report* dated May 11, 2022, revealed that petitioner has not posted any bond as previously directed. Thus, the Court afforded the petitioner a

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[18] Hearing Order dated December 1, 2022, Docket, pp. 185 to 186; Transcript of Stenographic Notes for the December 1, 2022 Hearing.
[19] Exhibit "P-5", *Judicial Affidavit (Witness Elmer Pura)*, Docket, pp. 162 to 168.
[20] Docket, pp. 187 to 189.
[21] *Records Verification Report* dated January 4, 2023, Docket, p. 204.
[22] *Resolution* dated January 12, 2023, Docket p. 206.
[23] Docket, pp. 229 to 230.
[24] *Hearing Order* dated February 9, 2023, Docket, pp. 235 to 236; and Minutes of the hearing held on February 9, 2023, Docket, p. 234.
[25] Docket, pp. 210 to 216.
[26] Docket, pp. 98 to 100.
[27] Docket, pp. 242 to 247.
[28] Docket, pp. 250 to 253.
[29] *Resolution* dated April 11, 2023, Docket, p. 279.
[30] *Records Verification Report* dated May 11, 2023, Docket, p. 281.
[31] Docket, pp. 285 to 287.

final opportunity to file the requisite bond within ten (10) days, with a warning that failure to do so would cause the lifting of the suspension.

Eventually, in view of petitioner's continued failure to post the required bond, respondent filed a *Motion to Set Aside (the Suspension of Collection of Taxes Granted in the Resolution dated March 16, 2023)*[32] on July 21, 2023. In an *Order*[33] dated July 31, 2023, the Court granted the same, recalled and set aside the *Resolution* dated March 16, 2023.

Thus, trial for the main *Petition* proceeded. On August 7, 2023, respondent, through counsel, transmitted the BIR Records for this case, consisting of one (1) folder, with 163 pages.[34] Moreover, in a *Minute Resolution*[35] dated August 9, 2023, the Court noted that the parties failed[36] to file a joint stipulation of facts and issues, and thus resolved that they are deemed to have waived the filing of the same. Thus, a Pre-Trial Order shall be issued on the basis of the matters agreed upon in the Pre-Trial Conference.

On October 11, 2023, the *Pre-Trial Order*[37] was issued.

As trial ensued, the parties presented their respective testimonial and documentary evidence.

Petitioner again for its part offered the testimony of its President, Elmer Pura.[38]

On October 11, 2023, it filed its *Formal Offer of Exhibits*,[39] while respondent filed his *Opposition/Comment to Petitioner's "Formal Offer of Exhibits"* on October 24, 2023, and received by the Court on November 8, 2023.[40] In the *Resolution* dated January 16, 2024,[41] the Court admitted petitioner's offered exhibits.

Respondent, on the other hand, offered the testimony of Revenue Officer Jchellyn H. Salazar (RO Salazar).[42]

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[32] Docket, pp. 306 to 309.
[33] Docket, p. 311.
[34] *Compliance* dated August 7, 2023, Docket, p. 313.
[35] Docket, p. 315.
[36] *Records Verification Report* dated August 4, 2023, Docket, p. 312.
[37] Docket, pp. 318 to 323.
[38] Exhibit "P-6", Docket, pp. 27 to 34; and Minutes of the hearing held on October 11, 2023, Docket, p. 324; and Order dated October 11, 2023, Docket, pp. 328 to 329.
[39] Docket, pp. 330 to 332.
[40] Docket, pp. 345 to 346.
[41] Docket, pp. 350 to 351.
[42] Exhibit "R-3", Docket, pp. 257 to 261; Order dated March 5, 2024, Docket, pp. 357 to 358.

On March 11, 2024, respondent filed *via* accredited courier his *Formal Offer of Evidence*,[43] which the Court received on March 12, 2024. Petitioner filed its *Comment/Opposition to the Respondent's Formal Offer of Evidence* on March 20, 2024.[44] In the *Resolution* dated June 4, 2024,[45] the Court admitted respondent's offered exhibits.

On June 18, 2024, the *Memorandum of the Petitioner* was submitted.[46] However, as per *Records Verification Report*[47] dated August 6, 2024, respondent failed to file his memorandum.

Hence, the present case was then submitted for decision on August 13, 2024.

THE ISSUES

As agreed upon by the parties in open court,[48] the following are the issues for this Court's resolution:

1. **Whether petitioner is liable to pay the alleged deficiency Income Tax, Value-Added Tax, Expanded Withholding Tax, Withholding Tax on Compensation, Documentary Stamp Tax, and Improperly Accumulated Earnings Tax in the aggregate amount of Php27,947,359.50, inclusive of surcharges and penalties for the taxable year 2013; and**

2. **Whether the right of the respondent to collect the assessed deficiency taxes has already prescribed.**[49]

THE ARGUMENTS

Petitioner's arguments:

Petitioner mainly contends that the *collection* of taxes assessed against it has already prescribed under Section 222 of the 1997 NIRC. Hence, the Subject WDL should be lifted.

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[43] Docket, pp. 360 to 363.
[44] Docket, pp. 372 to 376.
[45] Docket, pp. 389 to 390.
[46] Docket, pp. 382 to 387.
[47] Docket, p. 392.
[48] Hearing Order dated February 9, 2023, Docket, pp. 235 to 236.
[49] Stipulated Issues, *Pre-Trial Order*, Docket, p. 319

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Respondent's counter-arguments:

Respondent, on the other hand, argues that: (1) the Court has no jurisdiction to take cognizance of the case since the *assessments* issued against petitioner were already final, executory, and demandable; (2) the Letter dated January 27, 2022 is a mere reminder letter reiterating the previous demand of the CIR; (3) the right of the government to collect has not prescribed; and (4) assuming that the assessments have not attained finality, the WDL should be considered the final decision of the respondent.

THE RULING OF THE COURT

The present appeal is meritorious.

The Court has jurisdiction over the present case as it is covered by the "other matters" jurisdiction of the CTA

At the outset, respondent insists that the Court has no jurisdiction to determine the merits of the case since the assessments were already final, executory, and demandable, in view of the petitioner's failure to file any protest within thirty (30) days from its receipt of the FAN. He emphasized that there must be a "disputed assessment" for the Court to review before the latter may take cognizance of a case. Hence, the Court must dismiss the present case.

Respondent is mistaken.

A reading of the law governing the CTA, Republic Act 1125, as amended by Republic Act 9282 (CTA Law), provides for the exclusive appellate jurisdiction of the CTA over decisions or inactions of the CIR in relation to disputed assessments or refunds, as well as over *other matters* arising from the National Internal Revenue Code (NIRC) or other laws administered by the BIR, to wit:

> SECTION 7. Section 7 of the same Act is hereby amended to read as follows:
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> "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 arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;**[50] *(Emphasis supplied)*

Moreover, the same is likewise provided in the Revised Rules of the Court of Tax Appeals (RRCTA),[51] *viz.*:

RULE 4
Jurisdiction of the Court

SECTION 1. Jurisdiction of the Court. — The Court shall exercise exclusive original jurisdiction over or appellate jurisdiction to **review by appeal the cases specified in Republic Act No. 1125, Section 7, as amended by Republic Act No. 9282, Section 7.** (n)

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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 **other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**; *(Emphasis supplied)*

As may be gleaned from the foregoing, the scope of the CTA's power to review by appeal is not limited to decisions of the CIR over disputed assessments or refunds. In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*[52] (PJI case), the Supreme Court stressed that Section 7 of the CTA Law likewise refers to the jurisdiction of the CTA over "other matters" in relation to the NIRC or other laws administered by the BIR.

Thus, this runs contrary to the contention of respondent that there must be a "disputed assessment" before the CTA may take cognizance of a case. The failure to administratively protest an assessment before the BIR does not automatically deprive the taxpayer

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[50] Expanding the Jurisdiction of the Court of Tax Appeals, Republic Act No. 9282, March 30, 2004.
[51] Revised Rules of the Court of Tax Appeals, A.M. No. 05-11-07-CTA, November 22, 2005.
[52] G.R. No. 162852, December 16, 2004.

of a remedy of appeal before the CTA – as such remedy is not limited to the assessment. Aside from the latter, there are also *other matters* which the taxpayer may opt to elevate to the CTA to pass upon.

In relation to the present case, petitioner mainly seeks for the cancellation or withdrawal of the Subject WDL on the ground that the right of respondent to collect has already prescribed. Clearly, a perusal of its *Petition* does not in any way question the amount, procedure, or *correctness of the assessment* issued against it, but concentrates on the *collection* aspect. In other words, there is no disputed assessment to speak of that should be reviewed by the Court because what the petitioner seeks to appeal is collection. Hence, the subject of the appeal is not over any decision of the CIR over a disputed assessment, but as regards the prescription of collection which is covered by "other matters" jurisdiction of the CTA, as will be discussed below.

The Supreme Court, in *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.,* (Hambrecht),[53] had the occasion to categorically rule that the issue of prescription of collection of taxes is covered by the "other matters" jurisdiction of the CTA, and the failure to protest an assessment only means that the validity or correctness of the same (assessment) may no longer be questioned on appeal. As to the regularity of the collection which necessarily follows, such matter is well within the jurisdiction of the CTA to determine. To wit:

> To be sure, **the fact that an assessment has become final for failure of the taxpayer to file a protest within the time allowed only means that the validity or correctness of the assessment may no longer be questioned on appeal. However, the validity of the assessment itself is a separate and distinct issue from the issue of whether the right of the CIR to collect the validly assessed tax has prescribed. This issue of prescription, being a matter provided for by the NIRC, is well within the jurisdiction of the CTA to decide.** *(Emphasis supplied)*

Subsequently, in *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division,*[54] citing *Hambrecht*, it was clarified that the "other matters" aspect is not qualified or limited to the phrase which preceded it. Simply stated, "other matters" need not be in relation to a disputed assessment or refund, *viz.*:

> *The CTA has jurisdiction over the case.*
>
> On the merits of the case, the CIR attributes grave abuse of discretion to the CTA Division when it assumed jurisdiction over

[53] G.R. No. 169225, November 17, 2010.
[54] G.R. No. 258947, March 29, 2022.

QLDI's Petition for Review. **The CIR claims that QLDI's failure to file a valid protest to the FAN/FLD rendered the assessment against it already final, executory, and demandable. As such, the assessments are not subject to judicial scrutiny, as it is already beyond the CTA Division's jurisdiction.**

The CIR's argument must fail in light of Section 7 (a) (1) of Republic Act No. (RA) 1125, as amended by RA 9282, which confers upon the CTA the jurisdiction to decide not only cases on disputed assessments and refunds of internal revenue taxes, but also "other matters" arising under the NIRC:

> 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 arising under the National Internal Revenue [Code]** or other laws administered by the Bureau of Internal Revenue[.] (Emphasis supplied)

Based on the foregoing provision, the **exclusive appellate jurisdiction of the CTA Division is not limited to cases involving decisions of the CIR or matters relating to assessments or refunds**. In *CIR v. Hambrecht & Quist Philippines, Inc.*, the Court held that the issue of prescription of the CIR's right to collect taxes is covered by the term "other matters" over which the CTA has appellate jurisdiction:

> x x x [T]he issue of prescription of the BIR's right to collect taxes may be considered as covered by the term "other matters" over which the CTA has appellate jurisdiction.
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> Furthermore, the phraseology of Section 7, number (1), denotes an intent to view the CTA's jurisdiction over disputed assessments and over "other matters" arising under the NIRC or other laws administered by the BIR as separate and independent of each other. This runs counter to petitioner's theory that the latter is qualified by the status of the former, *i.e.*, an "other matter" must not be a final and unappealable tax assessment or, alternatively, must be a disputed assessment. *(Emphasis and underscoring supplied)*

Lastly, in the recent case of *Commissioner of Internal Revenue v. Pacific Hub Corp.*,[55] the Supreme Court enumerated instances which is covered by "other matters". This includes the determination of the prescription of collection:

> Indeed, a plain reading of the provision yields the inevitable conclusion that the **CTA has the power to review not only matters arising or incidental to tax assessments or refunds, but also to *any* case arising from the application of the provisions of the Tax Code or other tax laws that are administered by the BIR.** In fact, the Court has affirmed the CTA's **"other matters" jurisdiction over cases involving:** *(a)* **<u>the determination of whether the right of the CIR to collect the validly assessed tax has prescribed</u>**; *(b)* **<u>cases seeking the cancellation and withdrawal of a warrant of distraint and/or levy</u>**; *(c)* cases seeking a determination of the validity of waivers of the statute of limitations as well as the proper availment of tax amnesty; and *(d)* cases on the proper exercise of the CIR's power to compromise delinquent accounts and to grant an informer's reward. *(Emphasis, italics, and underscoring supplied)*

In the case at hand, petitioner confined its *Petition* on the following *Assignment of Errors*: i.) that the collection of taxes against it has already prescribed under Section 222 of the 1997 NIRC; and for that reason, ii.) the WDL should be lifted by reason of prescription.[56] Clearly, only the aspect of collection is being raised. Respondent likewise contends in its *Answer* that the assessments against petitioner were already final, executory, and demandable.[57]

Moreover, only the following pieces of evidence were offered[58] by the parties with the following purposes, and duly admitted[59] by the Court:

	Exhibit	Description	Purpose
FOR THE PETITIONER	**P-1**	Secretary's Certificate of Elmer Pura	To prove the authority of Elmer Pura to represent the petitioner in the instant case
	P-2	Formal Notice of Assessment (FAN)	To prove that the collection of taxes assessed against the Petitioner has already prescribed under Section 222 of the 1997 National Internal Revenue Code (NIRC) and that the Warrant of Distraint and/or Levy should be lifted by reason of the said prescription in the collection of taxes assessed against the Petitioner
	P-3	Warrant of Distraint and/or Levy (WDL)	

[55] G.R. No. 252944, November 27, 2024.
[56] Docket, p. 9.
[57] Docket, p. 60.
[58] *Formal Offer of Exhibits*, Docket, pp. 330 to 343; *Formal Offer of Evidence*, Docket, pp. 360 to 363.
[59] *Resolution* dated January 16, 2024, Docket, pp. 350 to 351; *Resolution* dated June 4, 2024, Docket, pp. 389 to 390.

	P-4	Letter dated January 17, 2022 sent by the Petitioner to the Respondent	To prove that the Petitioner submitted a letter to the Respondent, requesting the lifting of the Warrant of Distraint and/or Levy (WDL) by reason of prescription in the collection of taxes under Section 222 of the 1997 National Internal Revenue Code (NIRC) and also pursuant to the procedure required by BIR RMO 41-2019 for the lifting of garnishment
	P-5	Letter dated January 27, 2022 sent by the Respondent to the Petitioner	To prove that the Respondent sent a letter to the Petitioner, giving the Petitioner a last and final opportunity to pay the taxes assessed plus surcharges and interests or else criminal cases will be filed against the Petitioner
	P-6	Judicial Affidavit of Witness, Elmer Pura	To attest to the truth of the matters stated therein
	P-6-A	Signature of Witness, Elmer Pura, on his Judicial Affidavit	
	Exhibit	**Description**	**Purpose**
FOR THE RESPONDENT	**R-1**	Memorandum of Assignment No. 8A-2021-09-1381	-To prove its existence and content -To prove that Revenue Officer Jchellyn H. Salazar was duly authorized to execute the administrative collection remedies provided under the law for the collection of petitioner's tax liabilities for taxable year 2013 amounting to Php27,947,359.50, inclusive of increments and as covered by Demand/Assessment No. FDDA-053-RR8A50-2013-eLA201100080532-A.N1279
	R-2	Warrant of Distraint and/or Levy (WDL) No. RR8A-WDL-2021-09-277 dated September 28, 2021	-To prove its existence and content -To prove that the WDL was duly served to and received by the petitioner -To prove that the WDL was issued to distrain the goods, chattels or effects, and other personal property of whatever character of the delinquent taxpayer (petitioner)
	R-2-a[60]	Specimen signature of Regional Director Maridur V. Rosario on the Warrant of Distraint and/or Levy (WDL) No. RR8A-WDL-2021-09-277 dated September 28, 2021	-To prove the authenticity and due execution of the Warrant of Distraint and/or Levy (WDL) No. RR8A-WDL-2021-09-277 dated September 28, 2021
	R-3	Judicial Affidavit of Revenue Officer Jchellyn H. Salazar	To prove the existence and contents thereof

[60] In the *Resolution* dated June 4, 2024, the Court however noted that what was marked as Exhibit "R-2-a" was the signature of Revenue Officer Jchellyn H. Salazar on the Warrant of Distraint and/or Levy dated September 28, 2021, not the signature of Regional Director Maridur V. Rosario, Docket, p. 389.

	R-3-1	Signature of Revenue Officer Jchellyn H. Salazar	To prove the authenticity and due execution of her Judicial Affidavit

Again, it is worthy to repeat that the assessment in this case is undisputed. As may be gleaned from the foregoing, even the evidence presented and the purpose for which it is offered only pertain to collection.

Thus, having settled that the Court has jurisdiction over other matters of prescription of collection such in the present case, we now proceed to determine the timeliness of the present *Petition*.

The Letter dated January 27, 2022 is appealable to this Court.

Respondent contends that the Letter dated January 27, 2022 is a mere a reminder letter which reiterate the previous demand of the CIR. Such letter provides:

> Sir:
>
> This has reference to the internal revenue tax case of **TEKNOLOGIX INC.** amounting to **Twenty Seven Million Nine Hundred Forty Seven Thousand Three Hundred Fifty Nine Pesos & 50/100 (Php 27,947,359.50)** comprising of deficiency Income Tax, Value Added Tax, Withholding Tax – Expanded, Withholding Tax – Compensation, Documentary Stamp Tax, Improperly Accumulated Earnings Tax and Miscellaneous Tax under **Assessment No. FDDA-053-RR8A50-2013 ELA201100080532-A.N. 1279** for the taxable year **2013**, dated October 7, 2020.
>
> Verification from the case docket indicates that **Teknologix Inc.** received the Final Decision on Disputed Assessment (FDDA) dated October 7, 2020 on October 13, 2020. This is in response to the protest letter to the Final Assessment Notice (FAN) dated December 21, 2016, which was received by this office on January 19, 2017. *However, despite considerable length of time given, we have not been favored with any reply until the Warrant of Distraint and/or Levy was issued on September 28, 2021.*
>
> *In the interest of due process, you are hereby given the last and final opportunity to settle/pay* within ten (10) calendar days from receipt hereof, the amount of **Php 27,957,359.50** plus accrued surcharges and interest pursuant to Section 248 and 249 of the NIRC. Otherwise, we are constrained to forward your case to the Regional Investigation Division (RID) for further evaluation and recommend your case for filing of criminal cases under RUN AFTER

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> TAX EVADERS (RATE) Program of the BIR, for violation of Section 245, 255 and 256 of the NIRC, without further notice.
>
> Please give this matter your preferential attention. *(Italics supplied).*

Although respondent claims the same as a mere reminder letter, a perusal of the tenor of the same suggests otherwise.

Again, as narrated by petitioner and uncontroverted by the respondent, the following are the relevant facts leading to the present appeal of the collection:

a) On January 4, 2017, petitioner received the FAN[61] dated December 21, 2016.[62] Thereafter, the Subject WDL[63] was issued[64] against the petitioner.

b) On January 18, 2022, petitioner submitted a Letter dated January 17, 2022[65] (Letter Request) for the lifting of the Subject WDL due to financial difficulties as well the prescription in the collection of taxes.

c) On February 8, 2022, petitioner received a Letter dated January 27, 2022[66] from the BIR where it was given the last and final opportunity to settle or pay its deficiency taxes.[67]

In view of the foregoing, from the time the Subject WDL was issued by the BIR and questioned by the petitioner through the Letter Request, the latter then received a response from respondent on February 8, 2022, through the Letter dated January 27, 2022.

An examination of such letter reveals a tenor of finality in the sense that the BIR has already made up its mind with regard to the demanded amount, and that the taxpayer's plea to question such collection through the Letter Request to lift the WDL is no longer being considered. Indeed, the determination on whether or not a demand letter is final is conditioned upon the language used or the *tenor* of the letter being sent to the taxpayer.[68]

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[61] Exhibit "P-2", Docket, pp. 335 to 340.
[62] Par. 3, Admitted Facts, *Pre-Trial Order*, Docket, p. 319.
[63] Exhibit "P-3", Docket, p. 341.
[64] Par. 4, Admitted Facts, *Pre-Trial Order*, Docket, p. 319.
[65] Exhibit "P-4", Docket, p. 342; the existence of the letter is likewise admitted – see par. 5, Admitted Facts, *Pre-Trial Order*, Docket, p. 319.
[66] Exhibit "P-5", Docket, p. 343.
[67] Par. 5, Admitted Facts, *Pre-Trial Order*, Docket, p. 319.
[68] Oceanic Wireless Network Inc. v. Commissioner of Internal Revenue, G.R. No. 148380, December 9, 2005.

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Additionally, respondent, in its *Answer*, admitted that such Letter was apparently issued in response to the Letter dated January 17, 2022 for the lifting of the Subject WDL:

> 23. A reading of the Letter dated January 27, 2022 did not suggests finality of the decision. In fact, the possibility that the tax case would be referred to the Regional Investigation Division for further evaluation was still being entertained. Further, **the Letter dated January 27, 2022** was addressed to Atty. Ebenezer Cordova, herein counsel of the petitioner, and **was apparently issued in response to his Letter dated January 17, 2022.** (Annex P-4) *(Emphasis supplied)*[69]

Thus, in view of respondent's own admission, the Letter dated January 27, 2022, likewise being the last correspondence issued by the respondent in relation to the disputed collection and questioned WDL, is appealable to this Court.

As provided in Section 7 (a)(1) of the CTA Law, and RRCTA,[70] the CTA Division has exclusive appellate jurisdiction to review decisions of the CIR or other matters in relation to the National Internal Revenue Code (NIRC), or other laws administered by the BIR. The party then adversely affected by the same has a period of thirty (30) days within which to elevate the matter before the CTA Division.

The petitioner timely filed the present appeal when it filed the latter within thirty (30) days upon receipt of the Letter dated January 27, 2022.

We now proceed to rule on the main contention of herein petitioner – the propriety or prescription of collection.

Respondent's right to collect the deficiency assessments provided in the FAN has already prescribed.

Petitioner contends that the collection against it shall only be made within five (5) years following its receipt of the FAN dated December 21, 2016 on January 4, 2017. Considering that no waivers of statute of limitations, reinvestigations, or any other court actions interrupted the running of the prescriptive period, the BIR only had five (5) years therefrom or until January 4, 2022 to collect.

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[69] Par. 23, *Answer*, Docket, p. 64.
[70] Revised Rules of the Court of Tax Appeals, A.M. No. 05-11-07-CTA, November 22, 2005.

Respondent, on the other hand, asserts that the 5-year period to collect has not expired. While it is true that reckoned from the time the petitioner received the FAN on January 4, 2017, the BIR had until January 4, 2022 to collect, the Subject WDL was issued on September 28, 2021, or within the 5-year period. The issuance of the Subject WDL likewise suspended the running of said period.

We resolve.

As a general rule, the NIRC as amended, provides for the regular period of three (3) years within which a taxpayer should be assessed, and reckoned from the last day of filing a return or from the time of its actual filing – whichever comes later:

> Section 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.

Moreover, in terms of collection, in *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division*,[71] the Supreme Court, citing *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*,[72] stated that the BIR likewise has another period of three (3) years following the assessment within which to collect:

> In *CIR v. United Salvage and Towage (Phils.), Inc.*, the Court held that in cases of assessments issued within the three-year ordinary period, **the CIR has another three years within which to collect taxes**, thus:
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> The statute of limitations on assessment and collection of national internal revenue taxes was shortened from five (5) years to three (3) years by virtue of *Batas Pambansa Blg. 700*. Thus, petitioner has three (3) years from the date of actual filing of the tax return to assess a national internal revenue tax or to commence court proceedings for the collection thereof without an assessment. However, when it validly issues an assessment within the three (3)-year period, it has another three (3) years within which to collect the tax due by distraint, levy, or court proceeding. The assessment of the tax is deemed made and the three (3)-year period for collection of the

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[71] G.R. No. 258947, March 29, 2022.
[72] G.R. No. 197515. July 2, 2014.

> assessed tax begins to run on the date the assessment notice had been released, mailed or sent to the taxpayer. *(Emphasis supplied)*

However, the rule is not without exceptions. The law likewise provides for extended or extraordinary periods to do so. In case a taxpayer filed a false, fraudulent return, or otherwise fails to file any return at all, the NIRC provides that assessment may be made within ten (10) years from discovery thereof, and collected within five (5) years thereafter, to wit:

> Section 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. The period so agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon.
>
> (c) Any internal revenue tax which has been assessed within the period of limitation as prescribed in paragraph (a) hereof may be collected by distraint or levy or by a proceeding in court within five (5) years following the assessment of the tax. *(Emphasis supplied)*

In relation to the present case, the extraordinary period of five (5) years to collect is inapplicable. On the basis of the evidence presented before the Court, We find that only the regular period of three (3) years applies. Consequently, the respondent's right to collect has already prescribed.

We explain.

To reiterate, petitioner questions the collection efforts made by respondent by virtue of the Subject WDL on the ground of prescription. It contends that following its receipt of the FAN on January 4, 2017, it received the WDL on September 28, 2021. In relation thereto, petitioner offered as evidence and admitted by the Court the FAN dated December 21, 2016 which it received on January 4, 2017, and the Subject WDL.

Considering that herein petitioner disputes the collection made by the respondent for having been made beyond the prescriptive period, the burden is shifted to the latter to prove otherwise.

Unfortunately, respondent failed to establish and present competent evidence that would support the application of the extraordinary period of five (5) years for the collection. There is nothing on the offered and admitted evidence which will show that the respondent has justified the applicability of extraordinary period of five (5) years. It merely offered as evidence, a Memorandum of Assignment allegedly authorizing the collection, the Subject WDL, and the judicial affidavit of RO Salazar.

On the basis of the totality of the evidence presented, testimonial or documentary, the right to collect has already prescribed. Respondent failed to discharge its burden to prove that the collection is justified to be made within the extended period allowed by law. Being an exception to the general rule, let it be noted that the BIR has to establish the applicability of the same. The Supreme Court in *McDonald's Philippines Realty Corp. v. Commissioner of Internal Revenue*,[73] held:

> In keeping with their duty to preserve due process in tax assessments, as enunciated in BF Goodrich, Fitness by Design, Samar Electric, Asalus, and Spouses Magaan, **the tax authorities bear the burden of establishing, with clear and convincing proof, the existence of grounds warranting the application of the 10-year period.**
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> xxx xxx xxx
>
> **It must be stressed that while the law accords the tax authorities an extended period within which they may investigate the taxpayer and issue a corresponding tax assessment, the law does so by exception.** *(Emphasis supplied)*

Furthermore, the period is reckoned from the time the assessment is made known the taxpayer. In the case of *Commissioner of Internal Revenue v. Bank of the Philippine Islands*,[74] the Court held:

> Under the 1977 Tax Code, as amended, "[a]ny internal revenue tax which has been assessed within the period of limitation above-prescribed may be *collected* by distraint or levy or by a proceeding in court within three years following the assessment of the tax." **Stated differently, the three-year prescriptive period for the BIR *to collect taxes via summary administrative processes* shall be reckoned from "the date the assessment notice had**

[73] G.R. No. 247737, August 8, 2023.
[74] G.R. No. 227049, September 16, 2020.

> **been released, mailed or sent by the BIR to the taxpayer."** *(Emphasis supplied)*

In the event that no protest is made against the assessment, it shall be reckoned the time such assessment becomes final, executory, and demandable.

Here, the latest possible time when the assessment was made known to the petitioner was from its receipt on January 4, 2017 of the FAN dated December 21, 2016. Considering that there is no such evidence presented which will show that an administrative protest was filed in relation thereto, the same became final and executory after thirty (30) days or on February 3, 2017. Reckoned therefrom, and considering that the respondent failed to prove the applicability of the extraordinary period of collection of five (5) years, the CIR only had the regular three (3) years to collect the taxes assessed or until February 3, 2020.

The Subject WDL, issued and received by the petitioner only on September 28, 2021, being 4 years, 7 months, and 25 days from the finality of the FAN, has already prescribed. As the Supreme Court held in *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division.*[75]

> To reiterate, **the CIR's collection efforts are initiated by distraint, levy, or court proceeding. The distraint and levy proceedings are validly begun or commenced by the issuance of a warrant of distraint and levy and service thereof on the taxpayer.** And a judicial action for the collection of a tax is initiated: (a) by the filing of a complaint with the court of competent jurisdiction; or (b) where the assessment is appealed to the CTA, by filing an answer to the taxpayer's petition for review wherein payment of the tax is prayed for. However, in this case no warrant of distraint and/or levy was served on QLDI, and no judicial proceedings were initiated by the CIR within the prescriptive period to collect.

Thus, in light of the foregoing, the right of respondent to collect from petitioner on the basis of the regular periods provided in Section 203 of the NIRC as amended has already lapsed. Hence, the Subject WDL has no leg to stand on.

WHEREFORE, premises considered, the *Petition for Review with Prayer for Prohibition and Lifting of Garnishment* is **GRANTED.** The Warrant of Distraint and/or Levy (WDL) No. RR8A-WDL-2021-09-277 dated September 28, 2021 is **CANCELLED** and **SET ASIDE.**

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[75] G.R. No. 258947, March 29, 2022.

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Accordingly, the Commissioner of Internal Revenue, his representatives, agents, or any person acting on his behalf are hereby **ENJOINED** enforcing the collection of deficiency assessments against herein petitioner as contained in such WDL.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

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

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice