REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

CITY GOVERNMENT OF ILIGAN represented by Mayor Frederick W. Siao and Acting City Treasurer Ma. Luisa Z. Lacia, *Petitioner,*	**CTA Case No. 11036** Members: **REYES-FAJARDO**, *Chairperson,* and **ANGELES**, *JJ.*
- versus -	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: APR 23 2026 1:30 p.m.

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DECISION

REYES-FAJARDO, *J.*:

Though people say, "better late than never," the law frowns upon those who assert their rights past the eleventh hour.[1]

In this Petition for Review[2] dated November 18, 2022, the City Government of Iligan chiefly seeks to:

1. Invalidate the Warrant of Distraint and/or Levy under Warrant No. AMS-RR16-WDL-101-2021-01-0003 (WDL) dated January 11, 2021, issued by Regional Director Esmeralda M. Tabule (RD Tabule) against the City Government of Iligan;

2. Nullify the Formal Letter of Demand No. RR16-101-157-14 and Assessment Notices, all dated September 25, 2014 for

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1 See *Dino v. Court of Appeals,* G.R. No. 113564, June 20, 2001.
2 Docket, pp. 7-26.

deficiency Expanded Withholding Tax and Documentary Stamp Tax; and

3. Permanently enjoin respondent from proceeding with the collection of taxes found in Formal Letter of Demand No. RR16-101-157-14 and Assessment Notices, all dated September 25, 2014, as indicated in the Warrant of Distraint and/or Levy under Warrant No. AMS-RR16-WDL-101-2021-01-0003 dated January 11, 2021.

FACTS

Petitioner City Government of Iligan is a political body corporate with full powers, vested under Republic Act (RA) No. 525.[3] It is represented by its Mayor Frederick W. Siao and its Acting City Treasurer Ma. Lucia Z. Lacia, pursuant to Sanggunian Panlungsod Resolution No. 22-812 dated November 11, 2022.[4]

Respondent is the chief official of the Bureau of Internal Revenue (BIR),[5] the government office tasked with, *inter alia,* the assessment and collection of internal revenue taxes, fees, and charges.[6]

On April 25, 2007, petitioner conducted an auction sale on the delinquent real properties described in the Certificates of Sale of "Declared Owner: Northern Mindanao Power Corporation: (NMPC)," pursuant to Sections 260 and 263 of the Local Government Code (LGC).[7] There being no bidder on said auction sale, petitioner's then City Treasurer Louela S. Maybituin purchased the real properties described in said Certificates of Sale on petitioner's behalf.[8]

On June 19, 2014, OIC Regional Director of Revenue Region 16 - Cagayan de Oro Alberto S. Olasiman (RD Olasiman) issued a Letter of Authority (LOA),[9] authorizing Revenue Officer Schnieder Bagul (RO Bagul) and Group Supervisor Monib Dimalomping (GS

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3 An Act Creating the City of Iligan.
4 Exhibit "P-1." Docket, pp. 217-218.
5 Section 3 of the 1997 National Internal Revenue Code (NIRC), as amended.
6 Section 2 of the NIRC, as amended.
7 Exhibits "P-4," and "P-4-a" to "P-4-j," Docket, at pp. 223-233.
8 Exhibits "P-4," and "P-4-a" to "P-4-j," *supra* note 7.
9 Exhibit "R-1." BIR Records, p. 290.

Dimalomping) to examine petitioner's books of account and other accounting record for Capital Gains Tax (CGT) and Documentary Stamp Tax (DST) for the period April 25, 2007.

On August 7, 2014, petitioner received RD Olasiman's Preliminary Assessment Notice dated August 6, 2014 (PAN),[10] with the following amounts of proposed deficiency internal revenue taxes, inclusive of increments:

Tax Type	Amount
CGT	₱56,245,810.94
DST	14,156,536.04
Total	₱70,402,346.98

On August 15, 2014, petitioner received RD Olasiman's Amended PAN dated August 12, 2014 (APAN),[11] with the following amounts of proposed deficiency internal revenue taxes, inclusive of increments:

Tax Type	Amount
Expanded Withholding Tax (EWT)	₱55,566,568.36
DST	13,943,552.89
Total	₱69,510,121.25

On September 26, 2014, petitioner received RD Olasiman's Formal Letter of Demand with Assessment Notices, all dated September 25, 2014 (FLD/FAN),[12] assessing it for deficiency EWT and DST, with the following details:

Tax Type	Amount
EWT	₱55,566,568.36
DST	13,943,552.89
Total	₱69,510,121.25

On December 9, 2014, petitioner received the BIR's Preliminary Collection Letter dated December 8, 2014, requesting payment of the assessed taxes found in the FLD dated September 25, 2014.[13]

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10 Exhibit "P-6," Docket, pp. 235-237.
11 Exhibit "P-7," *Id.* at pp. 238-242.
12 Exhibit "R-5." BIR Records, p. 291-297.
13 Exhibit "R-7." *Id.* at p. 330.

On January 9, 2015, petitioner received the BIR's Final Notice Before Seizure of even date, reiterating its request for payment of the assessed taxes found in the FLD dated September 25, 2014.[14]

On January 13, 2021, petitioner received the BIR's WDL[15] dated January 11, 2021.

On October 24, 2022, petitioner received RD Emir U. Abutazil's Letter[16] dated October 20, 2022, conveying to petitioner that should it fail to fully settle its internal revenue tax liabilities in the total amount of ₱113,656,290.46, and corresponding increments, auction sale of its seized and/or forfeited properties would ensue.

On November 21, 2022, petitioner filed a Petition for Review (With Extremely Urgent Motion to Suspend Collection of Tax),[17] docketed as CTA Case No. 11036, initially raffled before the Court of Tax Appeals (CTA) – First Division.

On March 8, 2023, respondent posted his Comment (Re: Petitioner's Extremely Urgent Motion to Suspend Collection of Tax).[18]

On March 30, 2023, a hearing was held, tackling petitioner's Extremely Urgent Motion to Suspend Collection of Tax. In support thereof, petitioner presented Ma. Luisa Z. Lacia[19] as witness. Further, a hearing was set for presentation of respondent's evidence relative thereon.[20]

On April 5, 2023, respondent filed its Motion and Manifestation, stating that he would no longer present witness relative to petitioner's Extremely Urgent Motion to Suspend Collection of Tax, and in lieu thereof, he be allowed to submit his Memorandum.[21]

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14 Exhibit "R-8." *Id.* at p. 331.
15 Exhibit "R-9." BIR Records, p. 432.
16 Exhibit "P-3." Docket, pp. 221-222.
17 *Supra* note 2.
18 Docket, pp. 163-183.
19 Exhibit "P-9." *Id.* at pp. 74-80.
20 Order dated March 30, 2023. *Id.* at pp. 250-251.
21 *Id.* at pp. 207-209. This was noted and granted through Resolution dated May 9, 2023.

On April 13, 2023, petitioner filed its Formal Offer of Evidence, [22] to which respondent filed his Comment with Manifestation (Re: Petitioner's Formal Offer of Evidence) dated April 20, 2023.[23]

On April 24, 2023, respondent filed his Answer to petitioner's Petition.[24]

By Resolution dated May 23, 2023, CTA Case No. 11036 was transferred from the CTA - First Division to the CTA - Third Division.[25]

On May 29, 2023, respondent submitted his Memorandum *Ad Cautelam*,[26] while petitioner posted its own Memorandum[27] on June 7, 2023.

Through Resolution dated September 27, 2023, We resolved petitioner's Formal Offer of Evidence in support of its Extremely Urgent Motion to Suspend Collection of Tax. Accordingly, the evidence offered by petitioner were admitted, save for Exhibit "P-5." Then, on the basis thereof, We granted petitioner's motion, and dispensed with the required bond. It was additionally found that We acquired jurisdiction over CTA Case No. 11036.[28]

Petitioner partly moved,[29] but failed[30] to overturn the non-admission of Exhibit "P-5," as its evidence.

On February 20, 2024, pre-trial conference was held.[31] There, the issues to be addressed in CTA Case No. 11036 was formulated. Further, with petitioner's manifestation that it would adopt its evidence in support of its Extremely Urgent Motion to Suspend Collection of Tax as evidence in the main case, only the schedules for

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22 In support of its Extremely Urgent Motion to Suspend Collection of Tax. *Id.* at pp. 211-215.

23 Appended to respondent's Answer. *Id.* at pp. 278-282.

24 *Id.* at pp. 253-276.

25 See Notice issued by Executive Clerk of Court II Maria Johoanna F. Chan-Te. *Id.* at p. 296.

26 *Id.* at pp. 308-330.

27 *Id.* at pp. 332-349.

28 *Id.* at pp. 355-364.

29 Petitioner's Partial Motion for Reconsideration with Manifestation. *Id.* at pp. 395-397.

30 Resolution dated June 19, 2024. *Id.* at pp. 488-490.

31 Order dated February 20, 2024. *Id.* at pp. 432-434.

respondent's marking of exhibits and presentation of witnesses were set. Also, the parties were granted until March 21, 2024, to submit their Joint Stipulation of Facts and Issues, *inter alia.*

On March 18, 2024, petitioner filed its Manifestation with Motion (Re: Joint Stipulation of Facts and Issues), stating that petitioner proposed, and respondent refused to stipulate certain facts. In view thereof, petitioner prays for the adoption of its proposed stipulation of facts,[32] to which respondent filed his Opposition (Re: Petitioner's Manifestation with Motion dated 16 March 2024)[33] on May 8, 2024.

Under Resolution dated July 4, 2024, petitioner's Manifestation with Motion (Re: Joint Stipulation of Facts and Issues) was denied.[34]

On August 5, 2024, a Pre-Trial Order was issued.[35]

Respondent presented:[36] (1) Assistant Revenue District Officer Schneider L. Bagul;[37] and (2) Revenue Officer Christine M. Jamito[38] as witnesses.

On August 7, 2024, respondent filed his Formal Offer of Evidence,[39] which was met by petitioner's Comment to Respondent's Formal Offer of Evidence,[40] filed through accredited courier on August 20, 2024.

Through Resolution dated November 8, 2024, the exhibits offered by respondent were admitted.[41]

On April 23, 2025, CTA Case No. 11036 was submitted for decision,[42] considering: (1) Memorandum for the Petitioner dated

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32 *Id.* at 444-450.
33 *Id.* at pp. 470-473.
34 *Id.* at pp. 492-495.
35 *Id.* at pp. 500-508.
36 See Order dated July 23, 2024. *Id.* at pp. 497 and 497-A.
37 *Id.* at pp. 413-418.
38 *Id.* at pp. 422-426.
39 *Id.* at pp. 509-515.
40 *Id.* at pp. 517-518.
41 *Id.* at pp. 524-525.
42 Minute Resolution dated April 23, 2025. Docket, unpaginated.

December 5, 2024;[43] and (2) respondent's Memorandum dated December 19, 2024.[44]

ISSUES

a. Was jurisdiction obtained over CTA Case No. 11036?

b. Are the deficiency internal revenue taxes embodied in RD Olasiman's FLD/FAN conclusive upon petitioner?

c. Can the BIR collect on petitioner, the assessed internal revenue taxes stated in RD Olasiman's FLD/FAN?

ARGUMENTS

Petitioner states that on October 24, 2022, it received the BIR's Letter stating that should it fail to pay the assessed taxes on or before December 15, 2022, the BIR would proceed with the public auction of the levied real properties. Counting thirty (30) days therefrom, it had until November 23, 2022 to appeal with the CTA. Thus, the seasonable filing of its Petition on November 21, 2022 resulted in the CTA in Division's acquisition of jurisdiction over CTA Case No. 11036.

Petitioner further argues that the BIR is forbidden from enforcing the WDL dated January 11, 2021 against it because the BIR's FLD/FAN from which the same was based is void. For petitioner, the BIR's FAN is void because of the following circumstances: (a) the BIR's right to assess petitioner is barred by prescription; (b) the assessed deficiency EWT and DST lack legal and factual support; (c) the FLD/FAN lacks a definite amount of tax liabilities.

Granting, the BIR's FLD/FAN is valid, petitioner nonetheless insists that implementation of the WDL dated January 11, 2021 is still not possible because the BIR lost its right to collect the assessed taxes by reason of prescription.

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43 Docket, pp. 528-545.

44 *Id.* at pp. 549-576.

On the other hand, respondent counters that CTA Case No. 11036 should be dismissed for lack of jurisdiction. He explains that the CTA in Division only has jurisdiction over decisions or inactions on disputed assessments. There was no disputed assessment here for petitioner's failure to timely file a valid administrative protest under Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended.

Respondent further retorts that the BIR's right to assess petitioner, through the FLD/FAN is not barred by the three (3)-year prescriptive period under Section 203 of the NIRC, as amended. For him, the ten (10)-year extraordinary prescriptive period in Section 222 of the same Code should instead be applied because petitioner failed to file the pertinent tax returns.

Respondent as well ripostes that the deficiency EWT and DST assessments found against petitioner have legal and factual foundation.

Respondent points out that the FLD/FAN issued by the BIR against petitioner has a definite amount of tax liabilities. Specifically, the basic taxes remain the same; the adjustments therein were simply by reason of running interest.

In closing, respondent declares that with the finality of the BIR's FLD/FAN, the implementation of the WDL dated January 11, 2021 against petitioner, is in order.

RULING

We partly grant the Petition.

First. Was jurisdiction obtained over CTA Case No. 11036?

Yes.

Section 7(a)(1) of RA No. 1125,[45] as amended by RA No. 9282, reads:

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**;

...[46]

Section 3(a)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals[47] elucidated that the CTA in Division has jurisdiction over respondent's or his authorized representative's decision or action involving other matters arising from the NIRC, as amended, *inter alia*. One of the matters set forth in Section 2 of the same Code is the BIR's authority to collect all national internal revenue taxes, fees, and charges.[48] This embraces the issuance of the rules, regulations, and measures in pursuit of collection of taxes,[49] such as the levy of real property under Section 205(a),[50] in relation to Sections 207(B)[51] of the

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45 An Act Creating the Court of Tax Appeals.

46 Boldfacing supplied.

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

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

49 See *Commissioner of Internal Revenue v. Bank of the Philippines Islands*, G.R. No. 227049, September 16, 2020.

50 **Section 205.** *Remedies for the Collection of Delinquent Taxes.* - The civil remedies for the collection of internal revenue taxes, fees or charges, and any increment thereto resulting from delinquency shall be:

(a) By distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts and interest in and rights to personal property, and by levy upon real property and interest in rights to real property; ...

51 **Section 207.** *Summary Remedies.* -

...

(B) Levy on Real Property. - After the expiration of the time required to pay the delinquent tax or delinquent revenue as prescribed in this Section, real property may be levied upon, before simultaneously or after the distraint of personal property belonging

NIRC, as amended, along with the eventual advertisement and sale thereof, governed by Section 213[52] of the same Code. In addition, Section 11 of RA No. 1125, as amended by RA No. 9282, commands that appeal thereon must be taken by the aggrieved party, within thirty (30) days from receipt of said decision or action:

> 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, ... **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.
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> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from

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to the delinquent. To this end, any internal revenue officer designated by the Commissioner or his duly authorized representative shall prepare a duly authenticated certificate showing the name of the taxpayer and the amounts of the tax and penalty due from him. Said certificate shall operate with the force of a legal execution throughout the Philippines.

Levy shall be affected by writing upon said certificate a description of the property upon which levy is made. At the same time, written notice of the levy shall be mailed to or served upon the Register of Deeds for the province or city where the property is located and upon the delinquent taxpayer, or if he be absent from the Philippines, to his agent or the manager of the business in respect to which the liability arose, or if there be none, to the occupant of the property in question.

...

52 SEC. 213. *Advertisement and Sale.* - Within twenty (20) days after levy, the officer conducting the proceedings shall proceed to advertise the property or a usable portion thereof as may be necessary to satisfy the claim and cost of sale; and such advertisement shall cover a period of a least thirty (30) days. It shall be effectuated by posting a notice at the main entrance of the municipal building or city hall and in public and conspicuous place in the barrio or district in which the real estate lies and by publication once a week for three (3) weeks in a newspaper of general circulation in the municipality or city where the property is located. The advertisement shall contain a statement of the amount of taxes and penalties so due and the time and place of sale, the name of the taxpayer against whom taxes are levied, and a short description of the property to be sold. At any time before the day fixed for the sale, the taxpayer may discontinue all proceedings by paying the taxes, penalties and interest. If he does not do so, the sale shall proceed and shall be held either at the main entrance of the municipal building or city hall, or on the premises to be sold, as the officer conducting the proceedings shall determine and as the notice of sale shall specify.

Within five (5) days after the sale, a return by the distraining or levying officer of the proceedings shall be entered upon the records of the Revenue Collection Officer, the Revenue District officer and the Revenue Regional Director. The Revenue Collection Officer, in consultation with the Revenue district Officer, shall then make out and deliver to the purchaser a certificate from his records, showing the proceedings of the sale, describing the property sold stating the name of the purchaser and setting out the exact amount of all taxes, penalties and interest: Provided, however, That in case the proceeds of the sale exceeds the claim and cost of sale, the excess shall be turned over to the owner of the property.

...

> the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: ....
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> ...[53]

On October 24, 2022, petitioner received RD Abutazil's Letter dated October 20, 2022,[54] stating that should it fail to fully settle its internal revenue tax liabilities in the total amount of ₱113,656,290.46, and corresponding increments, auction sale of its seized and/or forfeited properties would ensue. Counting thirty (30) days from October 24, 2022, petitioner had until November 23, 2022 to seek judicial recourse. *Ergo,* the *timely* filing of petitioner's Petition[55] on November 21, 2022 bestowed Us with jurisdiction over CTA Case No. 11036.

Respondent contends that petitioner's failure to file an administrative protest to RD Olasiman's FLD/FAN would lead to the CTA's lack of jurisdiction, for failure to convert the assessment into a disputed assessment.

This is perplexing.

True, the filing of a valid administrative protest before the BIR is a condition *sine qua non* for the CTA in Division to acquire jurisdiction over **respondent's or his duly authorized representative's decision or inaction on disputed assessments.**[56] Yet, petitioner's recourse before Us was ***not*** because of respondent's decision or inaction over disputed assessments. Rather, petitioner's appeal to Us was occasioned by other matters arising from the NIRC, as amended, *i.e.,* demand for payment of taxes under the pain of auction sale of levied real properties. Therefore, the prior valid filing of an administrative protest on the FLD/FAN before the BIR is not required for Us to exercise jurisdiction over CTA Case No. 11036.

Second. Are the deficiency internal revenue taxes embodied in RD Olasiman's FLD/FAN conclusive upon petitioner?

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53 Boldfacing ours.
54 *Supra* note 16.
55 *Supra* note 17.
56 See *Commissioner of Internal Revenue v. Court of Tax Appeals – Division and Citysuper, Incorporated,* G.R. No. 239464, May 10, 2021.

Yes.

Section 228 of the NIRC, as amended, provides in part:

Section 228. *Protesting of Assessment.* — ...

...

If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations.

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.[57]

As presently formulated, when a final assessment was received by a taxpayer, the latter may file a valid administrative protest thereto, within thirty (30) days from receipt thereof. Failure to do so would render said final assessment final and executory.[58]

On September 26, 2014, petitioner received RD Olasiman's FLD/FAN.[59] Counting thirty (30) days therefrom, petitioner *initially* had until October 26, 2014 to lodge a valid administrative protest thereon. Considering that October 26, 2014 fell on a Sunday, petitioner had, at most, October 27, 2014 to file a valid administrative protest on RD Olasiman's FLD/FAN. No administrative protest was

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57 Boldfacing ours.

58 The pertinent portion of Section 3.1.4, RR No. 18-2013 provides: "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. ...

...

If the taxpayer fails 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. (Boldfacing ours)

59 *Supra* note 12.

offered,[60] let alone, admitted[61] as petitioner's evidence. In Our mind, petitioner *failed* to file a valid administrative protest on RD Olasiman's FLD/FAN, rendering the assessment final and conclusive against it.

Slew of cases[62] constantly decreed that when an assessment becomes final and executory, the taxpayer is precluded from disputing the correctness thereof, or from invoking any defense that would warrant any review of its liability on the merits. Consistent with said dictum, the defenses advanced by petitioner relative to the merits of RD Olasiman's FLD/FAN should be ignored outright, while the findings of deficiency EWT and DST specified therein are upheld.

Third. Can the BIR **collect** the assessed internal revenue taxes embedded in RD Olasiman's FLD/FAN?

No.

It is beyond quibble that RD Olasiman's FLD/FAN achieved finality and fixity. Despite this occurrence, *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.*[63] *(Hambrecht)* pointed out that the finality of the formal assessment is a distinct matter from the issue of prescription of the BIR's right to collect taxes. Precisely, the issue on prescription of the BIR's right to collect taxes may be addressed separately, despite the conclusiveness of the final assessment:

> 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

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60 *Supra* note 22.

61 *Supra* note 28.

62 See *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc.*, G.R. No. 258947, March 29, 2022; *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.*, G.R. No. 169225, November 17, 2010; *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 134062, April 17, 2007; and *Republic v. Lim Tian Teng & Co., Inc.*, G.R. No. L-21731, March 31, 1966.

63 G.R. No. 169225, November 17, 2010.

> prescribed. This issue of prescription, being a matter provided for by the NIRC, is well within the jurisdiction of the CTA to decide.
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> . . .

Akin to *Hambrecht,* the taxpayer in *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc. (QLDI)*[64] failed to file a valid administrative protest, despite its receipt of the FLD/FAN, resulting in the finality and conclusiveness thereof. *QLDI* nonetheless held that the CTA may independently address the issue involving prescription of collection of taxes, notwithstanding the incontestability of said final assessment.

Congruous with *Hambrecht* and *QLDI,* the matter of prescription of the BIR's right to collect taxes may be tackled in this case, the immutability and conclusiveness of RD Olasiman's FLD/FAN notwithstanding. In this regard, Section 222(a), in relation to Section 222(c) of the NIRC, as amended, spells out the prescriptive period to collect internal revenue taxes, if there was an assessment made, which was attended by, among others, omission to file a tax return:

> **SEC. 222.** ***Exceptions as to Period of Limitation of Assessment and Collection of Taxes.-***
>
> (a) In the case of a false or fraudulent return with intent to evade tax or of **failure to file a return, the tax may be assessed**, or a proceeding in court for the collection of such tax may be filed without assessment, at any time **within ten (10) years after the discovery of the falsity, fraud or omission**: Provided, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.
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> . . .
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> (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.**[65]

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[64] G.R. No. 258947, March 29, 2022.
[65] Boldfacing ours.

Indeed, when a final assessment was made within ten (10) years after discovery of, among others, omission to file tax returns,[66] the BIR has another five (5) years from the time the assessment was made to collect the assessed internal revenue taxes. For this purpose, an assessment is deemed made on the date the assessment notice was released, mailed, or sent to the taxpayer.[67]

Here, there is no evidence[68] showing that petitioner filed the tax returns pertaining to the assessed deficiency EWT and DST found in RD Olasiman's FLD/FAN, signifying omission to file tax returns. The recent case of *Commissioner of Internal Revenue v. Marily Development Corporation*[69] acknowledged:

> [Therein taxpayer] did not offer in evidence[,] its Annual Income Tax Return and VAT returns for 2006. We can only surmise [therein taxpayer]'s reasons for not offering in evidence these tax returns. Thus, **[therein taxpayer]** cannot avail of the defense of prescription since it **failed to present proof of actual filing of these returns. Since there is no presumption that the taxpayer duly filed its returns, the only conclusion is that no such returns were filed.** The BIR had 10 years to make the assessment.[70]

Pursuant to Sections 222(a) and (c) of the NIRC, as amended, the BIR has five (5) years from service of RD Olasiman's FLD/FAN upon petitioner on September 26, 2014,[71] or until **September 26, 2019** to collect the assessed taxes embodied therein. *QLDI*[72] discoursed how collection of internal revenue taxes is made on the taxpayer:

> 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. ....

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66 See *Commissioner of Internal Revenue v. Marily Development Corporation, infra* note 69.
67 *Bank of the Philippine Islands v. Commissioner of Internal Revenue,* G.R. No. 174942, March 7, 2008.
68 *Supra* notes 22 and 28.
69 G.R. No. 263794, April 2, 2025.
70 Boldfacing ours.
71 *Supra* note 12.
72 *Supra* note 64. Citation omitted.

Respondent did initiate collection of assessed taxes per RD Olasiman's FLD/FAN on petitioner, through the following means accepted by *QLDI*: (1) service of the WDL upon petitioner on **January 13, 2021**;[73] and (2) filing of an Answer to petitioner's Petition on **April 24, 2023**.[74] Simply put, by the time respondent sought collection of the assessed taxes against petitioner, the BIR already lost its right to do so. To accentuate, the BIR's right to collect these taxes **expired** way back **September 26, 2019**.

ACCORDINGLY, We **RESOLVE** to:

a. **PARTLY GRANT** the Petition for Review dated November 18, 2022, filed by the City Government of Iligan;

b. **DECLARE** the findings of deficiency Expanded Withholding Tax and Documentary Stamp Tax in the Formal Letter of Demand No. RR16-101-157-14 and Assessment Notices, all dated September 25, 2014 **CONCLUSIVE** upon the City Government of Iligan;

c. **INVALIDATE** the Warrant of Distraint and/or Levy under Warrant No. AMS-RR16-WDL-101-2021-01-0003 dated January 11, 2021, issued by Regional Director Esmeralda M. Tabule against the City Government of Iligan, for having been issued beyond the prescriptive period to collect taxes; and

d. **FORBID** the Commissioner of Internal Revenue, his agents, or other persons acting on his behalf, from collecting on the City Government of Iligan, the assessed deficiency Expanded Withholding Tax and Documentary Stamp Tax found in the Formal Letter of Demand No. RR16-101-157-14 and Assessment Notices, all dated September 25, 2014, by reason of prescription of the Bureau of Internal Revenue's right to collect said taxes.

SO ORDERED.

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

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73 *Supra* note 15.
74 *Supra* note 24.

I CONCUR:

HENRY S. ANGELES
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.

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

CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice