REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

KING AIR FBO, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. **11763**

Members:

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

Promulgated:
_______________ 4:27 pm

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RESOLUTION

Before the Court are the following:

1. Petitioner King Air FBO, Inc.'s (**petitioner**'s) "Prayer for Preliminary Injunction and/or to Suspend Collection of Taxes"[1] (**Prayer for Suspension**), incorporated in its Petition for Review[2] filed on 26 February 2025; with respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Comment/Opposition (to Petitioner's [Prayer for Suspension])" (**Opposition**) personally filed on 19 February 2026 and emailed on 02 March 2026; and

2. Petitioner's "Formal Offer of Exhibits (on the Motion to Suspend Collection of Taxes)" (**FOE**) filed through a courier on 10 March 2026 and *via* email on 19 March 2026, with respondent's "Comment/Objection (to Petitioner's [FOE])" (**Comment**) filed *via* accredited courier on 17 March 2026 and *via* email on 18 March 2026.

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1 Division Docket, Volume I, pp. 29-30.
2 Id., pp. 6-32.

In compliance with the Summons issued by the Court and after filing one "Motion for Extension of Time to File Answer,"[3] respondent filed his or her "Answer (with Manifestation and Motion)"[4] (**Answer**), dated 12 September 2025, *via* registered mail on 12 September 2025 and *via* email on 15 September 2025.

On 13 October 2025, the Court issued a Temporary Suspension Order[5] (**TSO**) enjoining respondent, including any of his or her authorized representatives or agents, from pursuing any collection efforts related to petitioner's alleged deficiency taxes that are the subject of the present case, pending resolution of petitioner's Prayer for Suspension.

Earlier, in a Minute Resolution dated 09 October 2025,[6] the Court set the Prayer for Suspension for hearing on 12 November 2025. Petitioner then moved to postpone the 12 November 2025 hearing, filing its "Motion for Postponement,"[7] *via* LBC on 06 November 2025 and *via* email on 07 November 2025. As it turned out, the 12 November 2025 hearing did not proceed for lack of quorum.[8] The hearing was reset to 26 November 2025, which both parties moved to postpone the same and was granted by the Court in its Minute Resolution dated 26 November 2025[9] and reset to 29 January 2026.

Pursuant to Administrative Circular No. 01-2026, entitled "Reorganizing the Divisions of the Court," the Court ordered the case transferred to the Second Division, which division was thereafter designated to hear the case, and cancelled, until further orders, the hearing on the Prayer for Suspension previously set for 29 January 2026. By Minute Resolution dated 03 February 2026, the Court reset the hearing on the Prayer for Suspension to 19 February 2026.

At the hearing on 19 February 2026, petitioner presented its witness, Gloria Valdez (**Valdez**), who testified on direct examination by way of her Judicial Affidavit (**JA**) dated 25 February 2025[10] and Supplemental JA dated 10 November 2025;[11] and the Court noted respondent's manifestation that he or she would no longer present

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3 Id., pp. 336-338.
4 Id., pp. 353-360.
5 Id., pp. 386-387.
6 Id., pp. 380-381.
7 Id., pp. 419-422.
8 See Notice of Resetting dated 14 November 2025, id., p. 430.
9 Id., p. 490.
10 Id., pp. 294-320.
11 Id., pp. 436-440.

evidence to oppose the Prayer for Suspension, such that, upon resolution of the FOE, the Prayer for Suspension would thereupon be deemed submitted for resolution.

I. FORMAL OFFER OF EVIDENCE ON MOTION FOR SUSPENSION

For purposes of the Prayer for Suspension, petitioner offered Exhibits "**P-1**" through "**P-22**",[12] inclusive of sub-markings. For Exhibits

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Exh. No.	*Exhibit Description*
"P-1"	Certificate of Incorporation of Petitioner with the [Securities and Exchange Commission] SEC
"P-2"	Secretary's Certificate
"P-3"	General Information Sheet of the Petitioner
"P-4"	Copy of the Replacement LOA with SN No. Ela201700033984
"P-5"	Protest Letter of Petitioner dated December 21, 2018
"P-6"	Protest Letter of Petitioner dated February 04, 2019
"P-7"	Final Decision on the Disputed Assessment (FDDA) dated February 23, 2022 issued by the BIR to the Petitioner assessing the latter for deficiency taxes for the period January 1, 2015 to December 31, 2015
"P-8"	Request for Reconsideration dated April 12, 2022 filed with the Office of the [CIR], then Hon. Cesar Dulay, relative to the FDDA
"P-9"	Supplemental Letter to Request for Reconsideration dated March 04, 2022 filed with the Office of the [CIR], then Hon. Cesar Dulay, relative to the FDDA
"P-10"	Decision of Respondent dated 12 December 2024 affirming FDDA in its entirety
"P-11"	Copy of manpower and security services agreement between Petitioner and Gallant
"P-12"	Accounts Payable Vouchers for 2015 relative to manpower services between Petitioner and Gallant
"P-13"	Billing Statements for 2015 relative to manpower services between Petitioner and Gallant
"P-14"	Check Vouchers with BIR Forms 2307 and official receipts as proof of withholding and payment of taxes by the Petitioner on the agency fee due to Gallant based on the agreements between Petitioner and Gallant
"P-15"	Summary of WT-E-payments for 2015 with 1604E and supporting documents showing 2% withholding and payment of taxes by the Petitioner on the total amount due to Floral and IGL
"P-16"	Copy of Certificate of Registration and Tax Exemption of Dornier Technology, Inc. issued by Clark Development Corporation covering the period from June 26, 2014 to March 01, 2016
"P-17"	Billing Statement of Mactan-Cebu International Airport Authority with bill date 102617
"P-17-A"	Billing Statement of Mactan-Cebu International Airport Authority with bill date 102618
"P-17-B"	Service Invoice No. 70481 of U-Freight Philippines, Inc.
"P-17-C"	Service Invoice No. 70482 of U-Freight Philippines, Inc.
"P-18"	Tax exemption certificate of South East Asian Airlines (SEAIR) Inc., Petitioner's customer
"P-18-A"	Tax exemption certificate of South East Asian Airlines (SEAIR) Inc., Petitioner's customer
"P-18-B"	Tax exemption certificate of Philippine Air Asia Inc., Petitioner's customer
"P-19"	Copy of Petitioner's AFS for 2015
"P-19-A"	Pages 34 to 36 of the AFS for 2015 of Petitioner
"P-19-B"	Pages 34 to 36 of the AFS for 2015 of Petitioner

"**P-1**" through "**P-4**", "**P-7**", "**P-10**", and "**P-21**" to "**P-22**", respondent provides no objection to their admissibility.

In his Comment, respondent objects to the admissibility of several of petitioner's exhibits on two (2) distinct grounds. An examination of each ground will be in order.

As to Exhibits "**P-5**", "**P-6**", "**P-8**", "**P-9**", "**P-11**" **to** "**P-14**", "**P-16**", "**P-18**" and "**P-18-B**", respondent objects on the ground that the original copies were not presented at the hearing. The objection invokes the Original Document Rule under Section 3, Rule 130 of the Revised Rules on Evidence (**RRE**), as amended, which ordinarily requires the original when the subject of inquiry is the contents of a document, subject to enumerated exceptions.

The rule, however, does not operate as an absolute bar to the copies petitioner presented. Section 4(c), Rule 130 of RRE, as amended, provides that "a duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original, or (2) in the circumstances, it is unjust or inequitable to admit the duplicate in lieu of the original." **Neither condition obtains here.** Respondent does not, in his or her Comment, raise any genuine question as to the authenticity of the originals of the documents in question — his or her objection is confined entirely to the fact of non-presentation, not to any suspicion that the copies offered misrepresent, alter, or depart from the originals. Nor is it unjust or inequitable to admit these exhibits as duplicates. Despite the failure of petitioner to present the originals at that hearing, the Court accordingly **ADMITS** Exhibits "**P-5**", "**P-6**", "**P-8**", "**P-9**", "**P-11**" to "**P-14**", "**P-16**", "**P-18**" and "**P-18-B**" as duplicates under Section 4(c), Rule 130 of the RRE, as amended.

As to Exhibits "**P-15**", "**P-17**" to "**P-17-C**", "**P-18-A**", "**P-19**" to "**P-19-B**", and "**P-20**" to "**P-20-C**", respondent objects that these are irrelevant, being offered in support of a Prayer for Suspension. Save for Exhibits "**P-19**" to "**P-19-B**", respondent's objection does not identify

"P-20"	Judicial Affidavit of Gloria Valdez
"P-20-A"	Affiant Gloria Valdez' signature in Judicial Affidavit
"P-20-B"	Supplemental Judicial Affidavit of Gloria Valdez
"P-20-C"	Affiant Gloria Valdez' signature in the Supplemental Judicial Affidavit
"P-21"	Preliminary Assessment Notice (PAN) to Petitioner dated 11 December 2018
"P-22"	Final Assessment Notice to Petitioner dated 08 January 2019

which fact in issue these exhibits fail to relate to, nor does it explain why documents offered in support of the Prayer for Suspension would have no bearing on the very Prayer for Suspension for which they were offered. Under Section 4, Rule 128[13] of the RRE, as amended, evidence is relevant when it has "such a relation to the fact in issue as to induce belief in its existence or non-existence." At the stage of formal offer, the inquiry is whether the exhibit bears such a relation to any fact properly in issue in the incident then pending — here, the Prayer for Suspension — not whether the exhibit, standing alone, conclusively proves petitioner's entitlement to the relief sought; that latter inquiry goes to weight and sufficiency, to be resolved when the Prayer for Suspension itself is decided on the merits, not to admissibility. A generic invocation of irrelevance, without more, does not discharge respondent's burden of showing why these exhibits bear no rational connection to the Prayer for Suspension they were expressly offered to support. The Court cannot sustain the objection to Exhibits "**P-15**", "**P-17**" to "**P-17-C**", "**P-18-A**", "**P-19**" to "**P-19-B**", and "**P-20**" to "**P-20-C**" on so generic a ground.

Specifically as to Exhibits "**P-19**" to "**P-19-B**", respondent objects on the more particular ground that these financial statements do not reflect the company's current financial position. The Court likewise cannot sustain this objection. Under Section 11 of Republic Act (**RA**) No. 1125, as amended by RA 9282, the Court may suspend the collection of taxes where, in its opinion, collection "may jeopardize the interest of the Government and/or the taxpayer" — an inquiry that inherently calls for evidence of the taxpayer's financial condition, and of the trend and trajectory of that condition over time, in order to assess whether collection at this stage would work irreparable injury, and, should suspension be warranted, to fix the amount of any bond or deposit the Court may require. Financial statements for a given taxable year remain relevant to that inquiry even if not the most recent available, as they form part of the very financial history from which the taxpayer's present capacity, or incapacity, is to be inferred; whether a given fiscal year's statements are ultimately persuasive on that question, in light of any claimed change in circumstances, is a matter of weight for the Court to consider in resolving the Prayer for Suspension itself, not a ground to exclude the exhibits at the threshold. The objection to Exhibits "**P-19**" to "**P-19-B**" is accordingly **OVERRULED**.

In sum, acting on petitioner's FOE and over respondent's objections, Exhibits "**P-1**" to "**P-22**", inclusive of sub-markings, are

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[13] Section 4. *Relevancy; collateral matters.*

ADMITTED, subject to this Court's final evaluation and/or appreciation of their probative value to the issues involved in this case.

With the admission of petitioner's exhibits, We proceed to the resolution of petitioner's Prayer for Suspension.

II. PRAYER FOR PRELIMINARY INJUNCTION AND/OR TO SUSPEND COLLECTION OF TAXES

In the present case, petitioner was assessed for alleged deficiency taxes and compromise penalties for the calendar year (**CY**) ended 31 December 2015 (**2015**). Consequently, on 28 January 2025, petitioner received a Decision[14] from respondent dated 12 December 2024 (**Final Decision**) affirming the Final Decision of the Disputed Assessment[15] (**FDDA**) dated 23 February 2022. The total assessed amount is **₱57,572,784.40**, inclusive of interest, surcharge, and penalties. The breakdown of the alleged deficiency tax assessment is shown in the following tabulation:

Tax Type	Basic Tax Due	Surcharge	Interest	Total
Income Tax	₱12,075,583.11	-	₱10,293,028.54	₱22,368,611.65
Value-Added Tax (**VAT**)	16,695,495.23	-	14,971,971.22	31,667,466.45
Expanded Withholding Tax (**EWT**)	1,250,677.15	-	1,128,419.17	2,379,096.32
Documentary Stamp Tax (**DST**)	209,292.92	₱52,323.23	189,980.63	451,596.78
Improperly Accumulated Earnings Tax (**IAET**)	341,247.97	85,311.99	239,453.24	666,013.20
Subtotal	***₱30,572,296.38***	***₱137,635.22***	***₱26,822,852.80***	***₱57,532,784.40***
Compromise Penalties	40,000.00	-	-	40,000.00
Total	**₱30,612,296.38**	**₱137,635.22**	**₱26,822,852.80**	**₱57,572,784.40**

On 26 February 2025, petitioner then filed its Petition for Review (with Prayer for Preliminary Injunction and/or to Suspend Collection of Taxes).[16]

In its Prayer for Suspension,[17] petitioner argues that: (**1**) respondent did not at all consider the protest letters, reconciliation statements, and supporting documents petitioner submitted in

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[14] Exhibit "P-10", Division Docket, Volume I, pp. 92-94.
[15] Exhibit "P-7", id., pp. 67-70.
[16] Supra at note 2.
[17] Supra at note 1.

disputing the assessment; (**2**) the Final Decision merely affirmed the FDDA, which was itself but a reiteration of the Formal Letter of Demand (**FLD**)/Final Assessment Notice (**FAN**) and Preliminary Assessment Notice (**PAN**), bereft of any basis, justification, or detail, in violation of due process; (**3**) an assessment issued in violation of due process is null and void, citing *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[18] (**Avon**); (**4**) no Warrant of Distraint and/or Levy (**WDL**) has been issued, although respondent is set to enforce collection at any time against petitioner's properties for the full assessed amount; and (**5**) enforcement of the WDL, unless restrained, would inflict injustice upon petitioner.

In his or her Comment, respondent counters that: (**1**) no injunction lies against the collection of taxes, these being the lifeblood of the Government; (**2**) suspension under Section 11 of RA 1125, as amended by RA 9282, requires both a showing that collection would jeopardize the interest of the State and/or the taxpayer and the posting of a bond in an amount not exceeding double the assessed amount, neither of which petitioner has satisfied; (**3**) petitioner failed to present its latest audited financial statements (**AFS**) to establish that its current financial position would be jeopardized by enforced collection; (**4**) a motion for suspension is evidentiary in nature and its resolution properly awaits full-blown trial; and (**5**) issuing a writ of preliminary injunction at this stage would, in effect, pre-judge and dispose of the main case without trial.

At the hearing on the Prayer for Suspension held on 19 February 2026, petitioner presented its sole witness, Valdez, its Director of Finance. Valdez testified that this case was brought before the Court because the issuance of the PAN, FLD/FAN, and FDDA violated petitioner's right to due process: the FAN merely reiterated respondent's assessment in the PAN and denied all of petitioner's protest letters outright, while the Final Decision merely affirmed the FDDA without discussing the merits of petitioner's "Request for Reconsideration on the [FDDA]"[19] (**Request for Reconsideration**) or passing upon the substantive issues petitioner raised. According to Valdez, the FDDA contained sweeping statements that the additional documents petitioner submitted during reinvestigation were "not relevant," in violation of Section 228[20] of the National Internal Revenue Code (**NIRC**) of 1997, as amended. On the substantive tax items, Valdez testified to an overview of the disallowed expenses assessed

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18 G.R. Nos. 201398-99, 03 October 2018.
19 Exhibit "P-8", Division Docket, Volume I, pp. 71-74.
20 SEC. 228. *Protesting of Assessment.*

for income tax (contract services, rentals, and professional fees) and of the sales/receipts assessed for VAT as allegedly not subjected thereto.[21]

On cross-examination, Valdez admitted that petitioner filed a Request for Reconsideration, that respondent's Final Decision denying it was received, and that petitioner was, at all stages of the assessment, given the opportunity to dispute it. Asked for proof of petitioner's claim that collection would inflict irreparable injury, Valdez testified that petitioner "has not been in operation since 2016" and that she had not brought petitioner's latest financial statements; on clarificatory questioning, she reaffirmed that petitioner has ceased operations since 2016, without further elaboration. She confirmed that no WDL has yet been received. Finally, asked whether she had personally conducted a side-by-side comparison of the PAN and the FAN, Valdez stated that the two (2) were "merely identical" without confirming that she had performed such a comparison herself.[22]

We resolve.

A perspicacious review of the present Prayer for Suspension, as incorporated in the Petition for Review, and the applicable law and jurisprudence, compels the Court to confront a threshold question that, once resolved, is dispositive of this case – whether respondent's right to collect the deficiency taxes assessed against petitioner for CY 2015 has been extinguished by prescription. For the reasons that follow, the Court finds that it has.

The Court is not without authority to raise and resolve this question *motu proprio*. Section 1, Rule 9[23] of the Rules of Civil Procedure (**RCP**), as amended, provides that although defenses not pleaded are generally deemed waived, "when it appears from the pleadings or the evidence on record that... the action is barred by... statute of limitations, the court shall dismiss the claim." The word "shall" is not discretionary,[24] and the rule applies whether or not any party has pleaded prescription, so long as it appears from the pleadings or the evidence already before the Court.

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21 Judicial Affidavit dated 25 February 2025 and Supplemental JA dated 10 November 2025, supra at notes 10 and 11.

22 TSN dated 19 February 2026, pp. 9-18.

23 Rule 9
EFFECT OF FAILURE TO PLEAD
SEC. 1. *Defenses and objections not pleaded.*

24 See *Cipriano Enriquez, et al. v. Maximo Enriquez (Now Deceased), Substituted by Carmen Agana, et al.*, G.R. No. 139303, 25 August 2005.

Applying the foregoing, the Supreme Court, in the case of *Bank of the Philippine Islands v. Commissioner of Internal Revenue*,[25] has held that:

> . . .
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> **If the pleadings or the evidence on record show that the claim is barred by prescription [of the period to collect], the court is mandated to dismiss the claim even if prescription is not raised as a defense**. In *Heirs of Valientes v. Ramas*, we ruled that the CA may *motu proprio* dismiss the case on the ground of prescription despite failure to raise this ground on appeal. The court is imbued with sufficient discretion to review matters, not otherwise assigned as errors on appeal, if it finds that their consideration is necessary in arriving at a complete and just resolution of the case. More so, when the provisions on prescription were enacted to benefit and protect taxpayers from investigation after a reasonable period of time.[26]
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> . . .

That is precisely the posture of this case. The operative dates are confirmed or left genuinely undisputed by respondent's Answer for the reasons discussed below and require no evidence beyond what the parties have themselves already placed on record. No party is prejudiced by the Court's resolving the case on this basis without further proceedings, since no additional fact-finding is required and both parties' own pleadings supply everything necessary to decide it. To require a full trial on the merits of a deficiency assessment that respondent can no longer lawfully collect would not serve the "just, speedy, and inexpensive determination" the Rules exist to secure – it would delay the inevitable at the expense of both parties.[27]

THE PRESCRIPTIVE PERIODS UNDER SECTIONS 203, 222 AND 223 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED.

Section 203 of the NIRC of 1997, as amended, provides for the prescriptive period in the assessment and collection of internal revenue taxes:

. . .

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[25] G.R. No. 181836, 09 July 2014.

[26] Citations omitted, emphasis supplied and italics in the original text.

[27] Revised Rules of the Court of Tax Appeals (RRCTA), Rule I.

. . .

SEC. 2. *Liberal construction.* — The Rules shall be liberally construed in order to promote their objective of securing a just, speedy, and inexpensive determination of every action and proceeding before the Court.

> **SEC. 203.** *Period of Limitation Upon Assessment and Collection.* - Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: *Provided,* That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.
> ...

In *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc.*[28] (**QL Development**), the Supreme Court, citing the case of *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*[29] (**United Salvage**), ruled that in cases of valid assessment issued within the three (3)-year period, the Bureau of Internal Revenue (**BIR**) has another three (3) years to collect the taxes reckoning from the date the assessment notice had been released, mailed or sent to the taxpayer:

> ...
> 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 assessed tax begins to run on the date the assessment notice had been released, mailed or sent to the taxpayer.**[30]
> ...

However, where the assessment itself alleges a false or fraudulent return with intent to evade tax, Section 222 extends the period, as follows:

> ...
> ... The five-year period for collection of taxes only applies to assessments issued within the extraordinary period of 10 years in cases of false or fraudulent return or failure to file a return. Indeed, Section 222 of the NIRC, as amended, provides:

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[28] G.R. No. 258947, 29 March 2022; Emphasis and italics in the original text.
[29] G.R. No. 197515, 02 July 2014.
[30] Citation omitted and emphasis supplied.

> SEC. 222. Exceptions as to Period of Limitation of Assessment and Collection of Taxes. —
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> (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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> xxxx
>
> (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)[31]

. . .

Meanwhile, Section 223 of the NIRC of 1997, as amended, provides for instances when the running of the statute of limitation may be suspended, to wit:

. . .

> **SEC. 223**. *Suspension of Running of Statute of Limitations.* - The running of the Statute of Limitations provided in Sections 203 and 222 on the making of assessment and the beginning of distraint or levy or a proceeding in court for collection, in respect of any deficiency, shall be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or levy or a proceeding in court and for sixty (60) days thereafter; **when the taxpayer requests for a reinvestigation which is granted by the Commissioner;** when the taxpayer cannot be located in the address given by him in the return filed upon which a tax is being assessed or collected: *Provided, that*, if the taxpayer informs the Commissioner of any change in address, the running of the Statute of Limitations will not be suspended; when the warrant of distraint or levy is duly served upon the taxpayer, his authorized representative, or a member of his household with sufficient discretion, and no property could be located; and when the taxpayer is out of the Philippines.[32]

. . .

These grounds are limitative and must be strictly construed, being exceptions to a statute designed to protect taxpayers from stale

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[31] Supra at note 28; Empasis supplied.
[32] Emphasis supplied and italics in the original text.

claims.[33] Pertinently, the mere characterization of a protest as one for "reinvestigation" does not, by itself, suspend the running of the period; the request must have been granted by the CIR or the latter's duly authorized representative, and "the burden of proving that the request was granted rests on the CIR."[34]

WHETHER THE EXTRAORDINARY PERIOD UNDER SECTION 222(A) APPLIES TO THE VALUE-ADDED TAX (VAT) ASSESSMENT

Before the ordinary and extraordinary periods can be told apart on the facts of this case, one threshold matter must be addressed: the PAN already flagged the VAT assessment as resting on a *prima facie* false or fraudulent return. A comparison of petitioner's gross receipts, as reported in its financial statements and VAT returns, against the amount of receipts actually subjected to VAT, showed a discrepancy in excess of thirty percent (30%). Under Section 248(B)[35] of the NIRC of 1997, as amended, "[a] substantial underdeclaration of taxable sales, receipt or income, or a substantial overstatement of deductions... shall constitute prima facie evidence of a false or fraudulent return," and failure to report sales, receipts, or income in an amount exceeding thirty percent (30%) of that declared is deemed a substantial underdeclaration for this purpose.[36]

The consequence of crossing that thirty percent (30%) threshold is twofold. *First*, it relieves the CIR of the burden of proving falsity or fraud and shifts that burden to the taxpayer, who must then refute the presumption. *Second*, a *prima facie* false or fraudulent return is sufficient ground to apply the extraordinary ten-year assessment period, and the corresponding five-year collection period, under Section 222(a). This presumption, however, is exactly that – a presumption, and a rebuttable one: "[t]he substantial nature of an underdeclaration under Section 248(B) gives rise to a mere presumption of falsity or fraud. It is not conclusive. The taxpayer may overcome the presumption by presenting evidence showing that, in

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33 *Commissioner of Internal Revenue v. Standard Insurance Co., Inc.*, G.R. No. 259729, 17 November 2025.

34 *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, G.R. No. 139736, 17 October 2005; *China Banking Corporation v. Commissioner of Internal Revenue*, G.R. No. 172509, 04 February 2015.

35 SEC. 248. *Civil Penalties*.

36 NIRC of 1997, as amended, Sec. 248(B).

fact, there was no falsity or fraud in the return within the contemplation of Section 222(a)."[37]

Petitioner did precisely that. In its "[PAN] (P-LA008619-047-2015) – Part 1"[38] (**Reply to the PAN**) dated 21 December 2018, petitioner explained that it also provides ground handling services to related parties, and that the analysis of revenues allegedly not subjected to VAT should therefore have accounted for the movement of total receivables from those parties, rather than trade accounts alone. Petitioner further explained that it services locators registered with the Ecozone, whose transactions are VAT zero-rated, and it accordingly furnished a reconciliation of its VATable revenues, annexed to its Reply to the PAN as Annex "C." These explanations go directly to the very discrepancy the PAN relied upon: they show that the apparent shortfall was, at least in substantial part, the product of an incomplete comparison – one that omitted related-party receivables properly includible in the reconciliation and included, or failed to consider receipts from VAT zero-rated transactions with ECOZONE locators that should never have entered the VATable base to begin with.

Nothing in the FDDA or in the Final Decision now under review shows that respondent examined and rejected this explanation or made any independent finding of actual falsity or fraud in petitioner's VAT returns, as opposed to resting on the bare statutory presumption under Section 248(B) of the NIRC of 1997, as amended. On this record, the presumption of *prima facie* fraud as to the VAT assessment stands rebutted, and the extraordinary ten-year assessment period and five-year collection period under Section 222(a) of the NIRC of 1997, as amended, do not apply to any part of the assessment, VAT included. The ordinary three-year periods under Section 203 of the NIRC of 1997, as amended, accordingly govern the assessment and collection of all the deficiency taxes at issue in this case.

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37 *McDonald's Philippines Realty Corp. v. Commissioner of Internal Revenue*, G.R. No. 247737, 08 August 2023, citing *Commissioner of Internal Revenue v. Asalus Corporation*, G.R. No. 221590, 22 February 2017.

38 Exhibit "P-5", Division Docket, Volume I, pp. 48-55.

THE RELEVANT DATES ARE ESTABLISHED BY THE PARTIES' OWN PLEADINGS

The following dates are central to the computation that follows: respondent issued the FLD[39] on **08 January 2019** and received by petitioner on 10 January 2019; petitioner timely filed a "Request for Reinvestigation and Reconsideration – [FAN] dated 08 January 2019 and [PAN] dated 11 December 2018 For Taxable Year 2015"[40] (**Protest**) on 04 February 2019, which respondent received on 06 February 2019;[41] respondent, through his or her authorized representative, issued the FDDA on 23 February 2022, which petitioner timely elevated to respondent, himself or herself, *via* a Request for Reconsideration on 13 April 2022; and respondent issued the Final Decision now under review, affirming the FDDA in its entirety, on 12 December 2024.

Respondent's Answer confirms most of these dates outright, and does not genuinely dispute the rest. As to the FLD/FAN, respondent's Answer does not merely fail to deny the 08 January 2019 date - it affirmatively asserts it: paragraph 9 of the Answer states that "the truth of the matter is that the [FLD/FAN] finding petitioner liable for deficiency assessed taxes was issued on January 8, 2019," [42] which is a judicial admission.[43] As to the FDDA, respondent's Answer admits its issuance and date without qualification.[44] As to the Final Decision under review, respondent's Answer likewise admits, without qualification, "the existence and issuance of Final Decision dated December 12, 2024."[45] As to the Reply to the PAN[46] dated 21 December 2018 and its corresponding attachments, respondent effectively admitted their existence.[47]

It is true that respondent's Answer denied, for lack of knowledge, several allegations bearing on the exact filing dates of the Protest and Request for Reconsideration, including paragraphs 8 and 10 of the Petition for Review. The Court does not treat those denials as an admission of the dates stated by petitioner; however, neither do they create a genuine factual issue that would preclude resolution.

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39 Exhibit "P-22", id., Volume II.
40 Exhibit "P-6", id., Volume I, pp. 56-59.
41 Id.
42 Id., pp. 354-355.
43 Section 4, Rule 129, Revised Rules on Evidence, as amended.
44 Par. 15, Answer, supra at note 4, p. 356.
45 Par. 10, id., p. 355.
46 Exhibit "P-5", supra at note 38.
47 Par. 19, supra at note 4, p. 356.

A denial for lack of knowledge or information is effective only when the pleader truly has no means of knowing the fact denied. Where, as here, the fact pertains to the receipt date of the Protest and Request for Reconsideration filed with and stamped by respondent's own office, the denial does not satisfy the requirement of a specific denial under Section 10, Rule 8[48] of the RCP, as amended. As the Court held in *Republic of the Philippines v. Honorable Sandiganbayan (Special First Division), et al.*[49] and *Ferdinand R. Marcos, Jr. v. Republic of the Philippines*,[50] a profession of ignorance about a matter plainly within the pleader's knowledge is ineffective and may be disregarded; it does not properly tender an issue. For all these reasons, the material dates are, for purposes of this Resolution, either judicially admitted or unrebutted by any competent and specific denial, and the Court proceeds to apply the law to them.

THE "REQUEST FOR REINVESTIGATION AND RECONSIDERATION – FINAL ASSESSMENT NOTICE DATED 08 JANUARY 2019 AND PRELIMINARY ASSESSMENT NOTICE DATED 11 DECEMBER 2018 FOR TAXABLE YEAR 2015" DID *NOT* TOLL PRESCRIPTION.

Petitioner's Protest, although captioned as one for reinvestigation and accompanied by annexes, did not toll the running of the prescriptive period to collect.

First, petitioner's witness, Valdez, testified that after the filing of the Protest with its annexes, petitioner received no further correspondence from respondent, aside from the FDDA and, later, the Final Decision – nothing in between suggesting that the request for reinvestigation had been acted upon at all.[51]

Second, and consistently with this, there is no showing that respondent ever accepted, expressly or otherwise.

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48 Rule 8
MANNER OF MAKING ALLEGATIONS IN PLEADINGS
...
SEC. 10. *Specific denial.*

49 G.R. No. 152154, 15 July 2003.

50 G.R. No. 189434, 25 April 2012.

51 23. Q: What did the BIR do after receiving the Petitioner's Protest Letter dated February 04, 2019 disputing the assessments made by the BIR in the FAN dated January 08, 2019 and the PAN dated December 11, 2018?

A: On March 15, 2022, Petitioner received the [FDDA] of the BIR dated February 23, 2022 substantially reiterating the deficiency tax assessments against the Petitioner in the FAN.

Third and more importantly, even on the assumption that respondent impliedly accepted the request, the Protest is itself clear that it merely re-submits documents petitioner had previously furnished; it does not, in substance, seek a reinvestigation at all. Revenue Regulations (**RR**) No. 12-99,[52] as amended by RR No. 18-2013,[53] draws the line between the two (2) kinds of protest not by their caption but by whether the taxpayer offers newly-discovered or additional evidence: a request for reconsideration is "a plea of a re-evaluation of an assessment on the basis of existing records without need of additional evidence," while a request for reinvestigation is "a plea of re-evaluation... on the basis of newly-discovered or additional evidence that a taxpayer intends to present." Confronted with a similarly ambiguous protest, the Supreme Court in *Bank of the Philippine Islands v. Commissioner of Internal Revenue*[54] looked past the caption the taxpayer used and asked whether the protest "offer[ed] to present any new evidence," among others. Finding none, it held the protest to be, in substance, a request for reconsideration rather than a request for reinvestigation, notwithstanding how either party referred to it. Petitioner's Protest fails that same test on its face: by its own account in the Protest itself, what it asked respondent to re-examine was "the documents, reconciliation of accounts together with supporting documents that were submitted to the handling tax audit team in various meetings and during the preliminary conference on 25 July 2018." Additionally, a careful review of the reconciliation schedules attached to the Protest shows that they are the very same reconciliation schedules petitioner had already submitted as annexes to its Reply to the PAN. Thus, respondent's re-examination in the FDDA was based solely on the existing records, and not on any newly discovered or additional evidence presented for the first time. For this reason, petitioner's Protest may be properly treated only as a request for reconsideration.

Indeed, the law prescribing a limitation of actions for the collection of taxes is beneficial both to the State and to its citizens; to the State because tax officers would be obliged to act promptly in the making of assessment or collection, and to citizens because after the lapse of the period of prescription citizens would have a feeling of security against unscrupulous tax agents who will always find an excuse to inspect the books of taxpayers, not to determine the latter's

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

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

[54] Supra at note 34.

real liability, but to take advantage of every opportunity to molest peaceful, law-abiding citizens.[55] The law on prescription being a remedial measure should be interpreted in a way conducive to bringing about the beneficent purpose of affording protection to the taxpayer.[56]

However, even if petitioner's Protest did not suspend the statute of limitations on the collection of the deficiency taxes, other circumstances nonetheless operate to suspend that period, which the Court is duty-bound to examine.

EFFECT OF THE COVID-19 PANDEMIC
ON THE PRESCRIPTIVE PERIOD

Pursuant to Section 223 of the NIRC of 1997, as amended, by operation of law, the original three (3)-year prescriptive period may be suspended during a period where respondent or the authorized representative is prohibited from making the assessment and for sixty (60) days thereafter. In this regard, Section 4(z)[57] of Republic Act (**RA**) No. 11469,[58] which declared a national emergency due to the Coronavirus Disease 2019 (**COVID-19**) pandemic, and the subsequent issuance of RR Nos. 11-2020[59] and 12-2020,[60] must be taken into account. These regulations excluded from the computation of prescriptive periods the days when affected areas were under Enhanced Community Quarantine (**ECQ**) or Modified Enhanced Community Quarantine (**MECQ**), recognizing that the BIR (specifically Revenue Region No. 8A – Makati City [who conducted the audit] and

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55 See *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, id.

56 Id.

57 Section 4. *Authorized Powers*. - Pursuant to Article VI. action 23 (2) of the Constitution, the President is hereby authorized to exercise powers that are necessary and proper to carry out the declared national policy. The President shall have the power to adopt the following temporary emergency measures to respond to crisis brought by the pandemic:

...

(z) Move statutory deadlines and timelines for the filing and submission of any document, the payment of taxes, fees, and other charges required by law, and the grant of any benefit, in order to ease the burden on individuals under Community Quarantine[.]

58 AN ACT DECLARING THE EXISTENCE OF A NATIONAL EMERGENCY ARISING FROM THE CORONAVIRUS DISEASE 2019 (COVID-19) SITUATION AND A NATIONAL POLICY IN CONNECTION THEREWITH, AND AUTHORIZING THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES FOR A LIMITED PERIOD AND SUBJECT TO RESTRICTIONS, TO EXERCISE POWERS NECESSARY AND PROPER TO CARRY OUT THE DECIDED NATIONAL POLICY AND FOR OTHER PURPOSES.

59 Amends Section 2 of Revenue Regulations No. 10-2020 relative to the extension of statutory deadlines and timeliness for the filing and submission of any document and the payment of taxes pursuant to Section 4(z) of Republic Act No. 11469, otherwise known as "Bayanihan to Heal as One Act".

60 Amends Revenue Regulations No. 10-2020, as amended by Revenue Regulations No. 11-2020, relative to the extension of statutory deadlines and timeliness for the filing and submission of any document and the payment of taxes pursuant to Section 4(z) of Republic Act No. 11469, otherwise known as "Bayanihan to Heal as One Act".

respondent's National Office[61] [where the request for reconsideration was pending]) could not perform audit, assessment, or collection functions during such periods. Accordingly, in computing the prescriptive period to collect from 2020 to 2022, the following restrictive quarantine periods imposed in the National Capital Region (**NCR**) must be considered:

Dates	Imposed Quarantine Restriction	Number of days	COVID-19-related Issuances
01 June 2020 to 15 June 2020	GCQ	15	Inter-Agency Task Force (**IATF**) Resolution No. 40, 27 May 2020
16 June 2020 to 30 June 2020	GCQ	15	IATF Resolution No. 46-A, 15 June 2020
01 July 2020 to 15 July 2020	GCQ	15	IATF Resolution No. 50-A, 29 June 2020
16 July 2020 to 31 July 2020	GCQ	16	IATF Resolution No. 55-A, 14 July 2020
01 August 2020 to 03 August 2020	GCQ	3	IATF Resolution No. 60-A, 30 July 2020
04 August 2020 to 18 August 2020	**MECQ**	**15**	**Memorandum from the Executive Secretary dated 03 August 2020**
19 August 2020 to 31 August 2020	GCQ	13	IATF Resolution No. 64, 17 August 2020
01 September 2020 to 30 September 2020	GCQ	30	IATF Resolution No. 66, 27 August 2020
01 October 2020 to 31 October 2020	GCQ	31	IATF Resolution No. 75-A, 28 September 2020
01 November 2020 to 30 November 2020	GCQ	30	IATF Resolution No. 81, 26 October 2020
01 December 2020 to 31 December 2020	GCQ	31	Memorandum from the Executive Secretary from 01 December 2020
01 January 2021 to 31 January 2021	GCQ	31	Memorandum from the Executive Secretary from 01 January 2021
01 February 2021 to 28 February 2021	GCQ	28	Memorandum from the Executive Secretary from 29 January 2021
01 March 2021 to 28 March 2021	GCQ	28	Memorandum from the Executive Secretary from 27 February 2021
29 March 2021 to 30 April 2021	**ECQ/MECQ**	**33**	**Memorandum from the Executive Secretary from 27 March 2021; IATF-EID Resolution No. 108-A, 04 April 2021; IATF-EID Resolution No. 109-A, 10 April 2021**
01 May 2021 to 14 May 2021	**MECQ**	**14**	**IATF-EID Resolution No. 113-A, 29 April 2021**
15 May 2021 to 31 May 2021	GCQ	17	IATF-EID Resolution No. 115-A, 13 May 2021

61 Situated at BIR National Office Building, Senator Miriam Defensor-Santiago Avenue, Diliman, Quezon City.

01 June 2021 to 30 June 2021	GCQ	30	IATF-EID Resolution No. 118-A, 31 May 2021; IATF-EID Resolution No. 121, 14 June 2021
01 July 2021 to 31 July 2021	GCQ	31	IATF-EID Resolution No. 124, s. 2021, 30 June 2021; IATF-EID Resolution No. 127-E, 15 July 2021
01 August 2021 to 05 August 2021	GCQ	5	**IATF-EID Resolution No. 130-A, 29 July 2021**
06 August 2021 to 20 August 2021	**ECQ**	**15**	
21 August 2021 to 31 August 2021	**MECQ**	**11**	**IATF-EID Resolution No. 134, 19 August 2021**
01 September 2021 to 07 September 2021		7	**IATF-EID Resolution No. 135-A, 26 August 2021**
08 September 2021 to 15 September 2021		**8**	**IATF-EID Resolution No. 137, 07 September 2021**
16 September 2021 to 30 September 2021	GCQ	15	IATF-EID Resolution No. 136-F, 06 September 2021
16 September 2021 to 15 March 2022	Alert Levels 4, 3, 2 and 1[62]	181	Guidelines on the Pilot Implementation of Alert Levels System for COVID-19 Response in the National Capital Region, 13 September 2021; IATF-EID Resolution No. 141-A, 30 September 2021; IATF-EID Resolution No. 143-A, 14 October 2021

From the foregoing tabulation, apart from 16 March 2020 to 31 May 2020 *per* Revenue Memorandum Circular (**RMC**) No. 136-2020,[63] NCR was also under: (*i*) MECQ from 04 August 2020 to 18 August 2020 for fifteen (15) days; (*ii*) ECQ/MECQ from 29 March 2021 to 14 May 2021 for forty-seven (47) days; and (*iii*) ECQ/MECQ from 06 August 2021 to 15 September 2021 for forty-one (41) days.

Summatim, because the presumption of *prima facie* fraud as to the VAT assessment stands rebutted for the reasons already explained, the ordinary three-year period governs the collection of the entire assessment, VAT included, and the following computation applies uniformly to all of the deficiency taxes at issue:

Date	Event
08 January 2019	Issue date of the FLD/FAN
23 February 2022	Issue date of the FDDA
08 January 2022	End of the three (3)-year period to collect after the issuance of the FLD/FAN

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62 The highest Alert Level imposed in Metro Manila was Alert Level 4, during which government agencies, such as the BIR, were already required to be fully operational.

63 Clarification on the Suspension of the Statute of Limitation Provided Under Revenue Regulations (RR) No. 11-2020.

04 March 2023[64]	**End of the three (3)-year period to collect after considering COVID-related suspension of 420 days**
12 September 2025	**Respondent's filing of his or her Answer demanding the payment of the deficiency taxes.**

Even assuming *arguendo* that the presumption of *prima facie* fraud as to the VAT assessment had not been rebutted, and that the extraordinary ten-year assessment period and five-year collection period under Section 222(a) of the NIRC of 1997, as amended, still applied to that portion of the assessment, the result would be the same:

Date	Event
08 January 2024	End of the five (5)-year period to collect deficiency VAT after the issuance of the FLD/FAN
12 December 2024	Issue date of the CIR's Final Decision.
03 March 2025[65]	**End of the five (5)-year period to collect deficiency VAT after considering COVID-related suspension of 420 days**
12 September 2025	**Respondent's filing of his or her Answer demanding the payment of the deficiency taxes.**

QL Development instructs that the BIR's collection efforts are validly commenced only through distraint, levy, or a judicial proceeding – the latter either by an independent collection suit, or, where the assessment is under appeal to this Court, by the filing of an answer praying for payment of the tax. On clarificatory questioning, Valdez confirmed that no WDL was ever served on petitioner.[66] The only act

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Last day of period to collect	08 January 2022
Add: COVID-19 related suspension	420 days
Last day of period to collect after COVID-19 related suspension	**04 March 2024**

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Last day of period to collect	08 January 2024
Add: COVID-19 related suspension	420 days
Last day of period to collect after COVID-19 related suspension	**03 March 2025**

66 ...

JUSTICE CUI-DAVID:
Has the BIR issued a Warrant of Distraint and/or Levy? Yes?

WITNESS (MS. VALDEZ):
We only received the final decision.

JUSTICE CUI-DAVID:
Just the final decision. No WDL yet?

WITNESS (MS. VALDEZ):
None, Your Honor.

...

of collection respondent ever undertook, therefore, is the Answer he or she filed before this Court on 12 September 2025, praying for payment of the assessed deficiency taxes.

By that date, the three-year period to collect the deficiency Income Tax, VAT, EWT, DST and IAET had already lapsed on **04 March 2023**, ***even well before the CIR's Final Decision***. Even under the *arguendo* computation applying the extraordinary five-year period to the VAT assessment alone, that deadline, too, had already lapsed on **03 March 2025**. Respondent's right to collect any part of the assessment was, by the time he or she acted, already extinguished, under any reasonable computation of the applicable period and suspension.

Where prescription has clearly set in and no valid cause for suspension or interruption exists, it becomes legally pointless to proceed to trial. To litigate further on the merits of petitioner's alleged deficiency tax liability that has already been extinguished by the passage of time would be an exercise in futility.

ACCORDINGLY, premises considered:

1. Petitioner King Air FBO, Inc.'s "Prayer for Preliminary Injunction and/or to Suspend Collection of Taxes," incorporated in its Petition for Review filed on 26 February 2025, is **DENIED** for being moot and academic. There being no collection to suspend as the right of respondent Commissioner of Internal Revenue to collect the subject deficiency taxes is already barred by the statute of limitations;

2. Petitioner's Petition for Review filed on 26 February 2025 is hereby **GRANTED**. Accordingly, the collection of the subject deficiency taxes is declared **VOID** for having been issued and/or enforced beyond the prescriptive period; and

3. Respondent Commissioner of Internal Revenue, including any of the latter's authorized officers, agents, or representatives, is hereby **PERMANENTLY ENJOINED** from enforcing or collecting the deficiency taxes subject of the assessments.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice