REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
QUEZON CITY

**SPECIAL THIRD DIVISION**

**SIRAWAI PLYWOOD AND LUMBER CORPORATION,**
*Petitioner,*

- versus -

**COMMISSIONER OF INTERNAL REVENUE,**
*Respondent.*

**CTA Case No. 10810**

Members:

**REYES-FAJARDO**, *Chairperson*, and
**ANGELES**, *JJ.*

Promulgated:

MAR 31 2026
3:25 pm

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# DECISION

**REYES-FAJARDO, *J.*:**

This Petition for Review[1] dated March 15, 2022 seeks to: (1) lift the Bureau of Internal Revenue (BIR)'s Warrant of Distraint and/or Levy (WDL) and Warrants of Garnishment (WOGs), enforcing collection of the 2017 assessed deficiency internal revenue taxes; and (2) invalidate the 2017 deficiency internal revenue tax assessments, all issued by the BIR against Sirawai Plywood and Lumber Corporation.

## FACTS

Petitioner Sirawai Plywood and Lumber Corporation is a corporation duly formed and organized under the laws of the Republic of the Philippines, with principal address located at Guban, Sirawai, Zamboanga Del Norte.[2]

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1 Docket, pp. 7-30.

2 Par. 8, The Parties, Petition for Review. *Id.* at p. 8.

Respondent Commissioner of Internal Revenue is the Chief of the BIR, the government agency responsible for the assessment and enforcement of all national revenue taxes, fees and charge and the enforcement of all forfeitures, penalties and fines connected with such taxes.[3]

On November 27, 2019, petitioner received Letter of Authority No. 127-2019-00000085 (SN:eLA201500035162)[4] dated November 22, 2019 (LOA), issued by the OIC-Assistant Commissioner, Large Taxpayer Service, authorizing Revenue Officers Jessa Mae Bernabe (RO Bernabe), Allan Maniago, Cynthia Nedamo, and Group Supervisor Yesa Yap of Large Taxpayers Division - Davao, to examine its books of accounts and other accounting records for all internal revenue taxes, including documentary stamp tax (DST), other taxes (miscellaneous tax [MT]), for the period from January 1, 2017 to December 31, 2017.[5]

On August 12, 2020, the BIR issued a Notice of Informal Conference with Details of Discrepancies (NIC) addressed to petitioner.[6]

On September 29, 2020, petitioner's Chief Finance Officer Emmanuel T. Ramos executed a Waiver of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code.[7]

On March 9, 2021, the BIR issued a Preliminary Assessment Notice with Details of Discrepancies (PAN),[8] containing the projected deficiency internal revenue tax assessments against petitioner for TY 2017.

On June 4, 2021, the BIR issued a Formal Letter of Demand (FLD)[9] with Details of Discrepancies,[10] and Final Assessment Notices

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3 Par. 1, Summary of Admitted Facts, Joint Stipulation of Facts and Issues (JSFI). *Id.* at p. 291.

4 Exhibit "R-1." BIR Records, p. 227.

5 Par. 2, Summary of Admitted Facts, JSFI, Docket, pp. 291-292.

6 Exhibit "R-5." BIR Records, pp. 589-593.

7 Exhibit "R-6." BIR Records, p. 624. Par. 3, Summary of Admitted Facts, JSFI, Docket, p. 292.

8 Exhibit "R-8." BIR Records, pp. 646-652.

9 Exhibit "R-10." *Id.* at pp. 668-671.

10 *Id.* at pp. 665-667.

(FAN) for Income Tax (IT),[11] Value-Added Tax (VAT),[12] Fringe Benefit Tax (FBT),[13] DST,[14] and MT,[15] assessing petitioner for deficiency internal revenue taxes covering TY 2017, with the following breakdown (inclusive of increments):[16]

| Tax Type | Amount |
|---|---|
| IT | ₱30,386,679.40 |
| VAT | 24,242,405.71 |
| FBT | 1,063,786.97 |
| DST | 9,908,440.58 |
| MT | 217,000.00 |
| **Total** | **₱65,818,312.66** |

On July 9, 2021, petitioner protested the **FLD**.[17]

In the Letter dated July 16, 2021, Chief, LTD-Davao Emiliano B. Singco, Jr. (Chief Singo, Jr.) denied petitioner's administrative protest.[18]

On December 24, 2021, the BIR issued thirteen (13) WOGs[19] addressed to various banks.

On February 15, 2022, petitioner received the WDL dated December 24, 2021.[20]

On March 17, 2022, petitioner filed a Petition for Review,[21] docketed as CTA Case No. 10810, initially raffled before the Court of Tax Appeals (CTA) – First Division.

On June 6, 2022, respondent posted his Answer.[22]

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11 Exhibit "R-10-2." *Id.* at p. 664.
12 Exhibit "R-10-3." *Id.* at p. 663.
13 Exhibit "R-10-4." *Id.* at p. 662.
14 Exhibit "R-10-5." *Id.* at p. 661.
15 Exhibit "R-10-6." *Id.* at p. 660.
16 Par. 4, Summary of Admitted Facts, JSFI. Docket, p. 292.
17 BIR Records (Exhibit "R-12"), pp. 685-688.
18 Exhibit "R-11." BIR Records, pp. 689-690.
19 Exhibits "P-4" to "P-4-12." Docket, pp. 376-388.
20 Exhibit "P-3." Docket, p. 375.
21 *Supra* note 1.
22 Docket, pp. 100-119.

On March 23, 2023, the pre-trial conference was set and held. There, the parties formulated the issue to be resolved in CTA Case No. 10810. Further, the schedules for the presentation of the parties' evidence, along with the schedules for the marking of their exhibits, were set. In addition, the parties were granted until April 12, 2023 to submit their Joint Stipulation of Facts and Issues (JSFI), among others.

Under the Resolution[23] dated May 9, 2023, the parties' JSFI[24] were approved, thereby terminating pre-trial proceeding.

Through Resolution dated May 30, 2023, CTA Case No. 10810 was transferred from the CTA – First Division to the CTA – Third Division.[25]

On June 9, 2023, a Pre-Trial Order was issued.[26]

Trial ensued.

Petitioner presented:[27] (1) Mr. Joy B. Fajardo (Fajardo),[28] petitioner's Finance Head; (2) Mr. Emmanuel T. Ramos,[29] petitioner's Chief Finance Officer; and (3) Mr. Crisostomo Lenon (Lenon),[30] Accounting Head of South Davao Development Co., Inc.

On August 15, 2023, the Formal Offer of Documentary Exhibits (for Petitioner Sirawai Plywood and Lumber Corporation)[31] was filed, which was met by respondent's Comment (Re: Petitioner's Formal Offer of Documentary Exhibits),[32] followed by petitioner's Manifestation[33] filed on October 11, 2023.

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23 *Id.* at pp. 301-302.
24 *Id.* at pp. 291-296.
25 *Id.* at p. 306.
26 *Id.* at pp. 309-324.
27 Order dated August 2, 2023. *Id.* at pp. 330-332.
28 Exhibit "P-7." *Id.* at pp. 72-88; *Cf: Id.* at pp. 335-351.
29 Exhibit "P-8." *Id.* at pp. 257-266.
30 Exhibit "P-9." *Id.* at pp. 267-274; *Cf: Id.* at pp. 352-359.
31 *Id.* at pp. 360-365.
32 *Id.* at pp. 399-401.
33 *Id.* at pp. 408-411.

By Resolution[34] dated November 8, 2023, the exhibits offered by petitioner were admitted save for Exhibits "P-2," "P-2-1," "P-2-2," "P-2-3," "P-2-4," and "P-2-5."

On November 20, 2023, petitioner filed its Formal Tender of Excluded Evidence.[35]

Respondent presented[36] RO Bernabe as witness.

On July 19, 2024, Respondent's Formal Offer of Evidence[37] was filed, which was met by Comment to Formal Offer of Evidence (for Petitioner Sirawai Plywood and Lumber Corporation).[38]

Through Resolution[39] dated January 17, 2025, the evidence offered by respondent were admitted.

*Via* Minute Resolution[40] dated April 2, 2025, CTA Case No. 10810 was submitted for decision, considering: (1) Memorandum (for Petitioner Sirawai Plywoord and Lumber Corporation);[41] and (2) respondent's failure to file his Memorandum,[42] despite notice.

## ISSUE

We are called upon to answer the following questions:

a. Was jurisdiction obtained over CTA Case No. 10810?

b. Is petitioner liable for the 2017 deficiency internal revenue tax assessments found in the BIR's FLD and FAN?

c. Can the BIR enforce collection of the 2017 assessed internal revenue taxes on petitioner?

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34 *Id.* at 414-415.
35 *Id.* at pp. 416-418.
36 Order dated July 4, 2024. *Id.* at pp. 425-426.
37 *Id.* at pp. 427-438.
38 *Id.* at pp. 440-449.
39 *Id.* at pp. 454-455.
40 *Id.* at p. 521.
41 *Id.* at pp. 458-517.
42 Records Verification Report dated March 18, 2025, issued by the CTA – Judicial Records Division. *Id.* at p. 520.

## ARGUMENTS

Petitioner maintains that the CTA in Division acquired jurisdiction over CTA Case No. 10810, because it timely filed its Petition for Review on March 15, 2022, or within thirty (30) days from its receipt of the WDL on February 15, 2022.

Petitioner admits that it received the BIR's **FLD**. It nevertheless contends that it failed to receive the PAN containing the proposed 2017 deficiency taxes, and the **FAN** pertaining to the assessed deficiency internal revenue taxes for TY 2017; hence, its right to due process was violated.

Assuming that its right to due process was respected, petitioner insists that the BIR's right to assess the 2017 deficiency internal revenue taxes, is barred by prescription under Section 203 of the 1997 National Internal Revenue Code (NIRC), as amended.

Petitioner, too, asseverates that the 2017 assessed deficiency internal revenue taxes found by the BIR against it, are wanting in legal and factual foundation.

Capping up its postulations, petitioner declares it is not liable for the 2017 deficiency internal revenue taxes.

Respondent retorts that petitioner failed to timely filed an administrative protest on the BIR's **FLD**. This resulted in: (1) the CTA in Division's lack of jurisdiction over CTA Case No. 10810; and (2) the 2017 deficiency internal revenue taxes became incontestable; thus, conclusive upon petitioner.

Respondent also counters that the audit and investigation, as well as the resulting 2017 deficiency internal revenue tax assessments are in accordance with law and rules. For one, the BIR's FLD has a valid demand for payment. For another, it contained the factual and legal bases of the assessment.

Respondent, too, ripostes that the BIR's right to assess petitioner is not barred by prescription under Section 203 of the NIRC, as amended. Particularly, the BIR's right to assess petitioner for taxes covering TY 2017 was stretched by the execution of a waiver, pursuant to Section 222(b) of the same Code.

All said, respondent concludes that petitioner should be called to account for the BIR's 2017 assessed deficiency internal revenue taxes.

## RULING

The Petition fails to impress.

**Foremost.** Was jurisdiction obtained over CTA Case No. 10810?

Yes.

Section 7(a)(1), in relation to Section 11 of Republic Act (RA) No. 1125,[43] as amended by RA No. 9282, endows Us with jurisdiction over respondent's action over other matters arising from the NIRC, as amended.[44] Additionally, an aggrieved party must appeal the action being challenged, within thirty (30) days from receipt thereof. These provisions respectively read:

> 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;
>
> ...
>
> 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**

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43 An Act Creating the Court of Tax Appeals.

44 See *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*, G.R. No. 183408, July 12, 2017.

> **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.
>
> 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 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: ....
>
> ...[45]

Among the matters detailed in Section 2 of the NIRC, as amended, is the BIR's authority to collect all national internal revenue taxes, fees, and charges.[46] This includes the issuance and service of the WDL upon the taxpayer. *Commissioner of Internal Revenue v. Pacific Hub Corporation*[47] attested:

> 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 [Supreme] Court has affirmed the CTA's "other matters" jurisdiction over cases involving**: (a) the determination of whether the right of the CIR to collect the validly assessed tax has prescribed; (b) **cases seeking the cancellation and withdrawal of a warrant of distraint and/or levy**; (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.[48]

On February 15, 2022, petitioner received the WDL dated December 24, 2021.[49] Counting thirty (30) days from February 15, 2022, petitioner had until March 17, 2022 to seek redress. Therefore,

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45 Boldfacing ours.

46 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.... See *Commissioner of Internal Revenue v. Bank of the Philippines Islands,* G.R. No. 227049, September 16, 2020. (Boldfacing ours)

47 G.R. No. 252944, November 27, 2024.

48 Boldfacing ours. Citations omitted.

49 *Supra* note 20.

the timely[50] filing of a Petition for Review on March 17, 2022 bestowed Us with jurisdiction over CTA Case No. 10810.

Respondent contends that petitioner's failure to timely file an administrative protest to the BIR's FLD resulted in lack of jurisdiction over this case.

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**.[51] Yet, petitioner's appeal before Us was ***not*** because of respondent's decision or inaction over disputed assessments. Rather, petitioner's appeal to Us was by virtue by other matters arising from the NIRC, as amended, *i.e.*, WDL dated December 24, 2021. For this reason, the prior timely filing of an administrative protest on the formal assessment before the BIR is not essential for Us to exercise jurisdiction over CTA Case No. 10810.

**Next**. Is petitioner liable for the BIR's 2017 deficiency internal revenue tax assessments?

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)**

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50 *Supra* note 21.

51 See *Commissioner of Internal Revenue v. Court of Tax Appeals – Division and Citysuper, Incorporated*, G.R. No. 239464, May 10, 2021.

**days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations.**

....[52]

Indeed, 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 formal assessment final and executory.[53]

Based on petitioner's admission in its administrative protest,[54] it received the BIR's **FLD**[55] on June 7, 2021. Counting thirty (30) days therefrom, petitioner had until July 7, 2021. Therefore, the belated[56] filing of its administrative protest on July 9, 2021 resulted in the incontestability and conclusiveness of the 2017 deficiency internal revenue tax assessments on petitioner.

Petitioner argues that it allegedly did *not* receive the **FAN** corresponding to the 2017 deficiency internal revenue taxes found by the BIR against it. Too, the person, *i.e.*, Lenon, who received the FAN is *not* petitioner's employee, but of South Davao Development Co.,[57] thereby exhibiting that it indeed failed to receive the FAN. On these accounts, its right to due process was violated, and that there was no complete formal assessment made by the BIR.

This should be corrected.

**First**. Petitioner is barred from claiming that Lenon is not authorized to receive the FAN on its behalf.

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52 Boldfacing ours.

53 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)

54 *Supra* note 17.

55 Exhibit "R-10-1." BIR Records, p. 671. See also Answer to Question No. 35, Exhibit "P-7," Docket, p. 79.

56 *Supra* note 17.

57 Exhibit "P-9."

In *Factory Automation and Instrumentation Corp. v. Commissioner of Internal Revenue (FAIC)*,[58] therein taxpayer disclaimed receipt of the FLD/FAN served by the BIR, because the person who received the same, *i.e.*, a certain Irene Masula (Masula), lacks the requisite authority to do so. However, it was found that the PAN was received by Masula, and that said taxpayer was able to protest the PAN. In ruling that there was valid service, and receipt by such taxpayer of the FLD/FAN, through Masula, *FAIC* held:

> [The taxpayer] did not contest the authority of Irene Masula to receive the PAN. It cannot now claim that the same person is unauthorized to receive the FAN, when it acted on the PAN that Irene Masula previously received.

Here, the NIC[59] dated August 12, 2020 was received[60] by Lenon.[61] In her Letter dated October 5, 2020, witness Fajardo said that "...[a]s discussed in the Informal Conference last September 29, 2020, [the BIR is] giving us only a week to submit all documents to support our schedules and justification on [the BIR's] findings of 2017 deficiencies." By attending the Informal Conference, petitioner gave the impression that Lenon is authorized to receive the NIC on its behalf. Petitioner doubled down on this impression in another step of the assessment process.

Lenon received[62] the **FLD** served[63] by the BIR on June 7, 2021. In its administrative protest,[64] petitioner never questioned Lenon's authority to receive the **FLD**. In fact, petitioner admitted receipt of, and was able to protest the **FLD**. Meanwhile, the **FAN** for IT,[65] VAT,[66] FBT,[67] DST,[68] and MT[69] all bore the signature of Lenon. Lenon, too, authenticated these signatures in the FAN in open court:

**Atty. Bayona:** Your Honors, again may I manifest to this Honorable Court that the witness confirmed that it is his

58 G.R. No. 236789, March 27, 2023.
59 *Supra* note 6.
60 *Ibid.*
61 Page 33, Transcript of Stenographic Notes (August 2, 2023).
62 *Supra* note 59.
63 Exhibit "R-10-1." *Supra* note 55.
64 *Supra* note 17.
65 Exhibit "R-10-2-1." BIR Records, p. 664.
66 Exhibit "R-10-3-1." *Id.* at p. 663.
67 Exhibit "R-10-4-1." *Id.* at p. 662.
68 Exhibit "R-10-5-1." *Id.* at p. 661.
69 Exhibit "R-10-6-1." *Id.* at p. 660.

signature that has been affixed in the Notice of Informal Conference or our Exhibit "R-5". Last two documents Your Honor. Mr. Witness, I am showing you this Formal Letter of Demand together with the Assessment Notices attached therein. Can you please identify or can you please confirm if this is your signature that appears on the fact of the document and every page of the document including the Assessment Notices?

| | |
|---|---|
| **Justice Manahan:** | What is that final document, FDDA? |
| **Atty. Bayona:** | Formal Letter of Demand Your Honor together with the Assessment Notices? |
| **Witness Lenon:** | Yes attorney. |
| ... | |
| **Atty. Bayona:** | I am showing to you this Assessment Notices attached to the Formal Letter of Demand wherein there appears a signature on top of the name Cris Lenon, do you confirm that this is your signature? |
| **Witness Lenon:** | Yes attorney. |
| **Atty. Bayona:** | Each of the Assessment Notices. |
| **Justice Manahan:** | What was the date of the receipt by Mr. Lenon of that Final Formal Letter of Demand with Assessment Notices? |
| **Atty. Bayona:** | Your Honors it appears that Cris Lenon have received it last June 7, 2021 Your Honor[s]. |
| **Justice Manahan:** | And what was the hand written date of the FLD indicated on the document? |
| **Atty. Bayona:** | June 4, 2021 Your Honor. Your Honors may I manifest that counsel for the respondent has shown a copy of the FLD together with the Assessment Notices to the witness of the petitioner and he confirmed that each of the pages shown to him it appears that there is a signature of him Your Honor. |
| **Justice Manahan:** | Atty. Rafal? |
| **Atty. Rafal:** | No objection as to the manifestation Your Honor.[70] |

[70] Pages 33-34, Transcript of Stenographic Notes (August 2, 2023). Underscoring ours.

Prescinding from *FAIC,* petitioner did not contest the authority of Lenon to receive the **NIC** and **FLD**. It cannot now insist that the same person is unauthorized to receive the **FAN**, when it acted on the **NIC** and **FLD** that Lenon previously received. In other words, notwithstanding that Lenon was *not* petitioner's employee, Lenon was clothed by petitioner to receive BIR notices, like the **FAN** on its behalf.

In passing, petitioner's acts of participating in the informal conference per NIC, and protesting the FLD both received by Lenon from the BIR unravel its intention to arm Lenon with authority to receive BIR notices on its behalf. This finds solace on Section 35, Rule 130 of the Rules of Court, as amended, providing as follows:

> Section 35. *Similar acts as evidence.* - Evidence that one did or did not do a certain thing at one time is not admissible to prove that he or she did or did not do the same or similar thing at another time; **but it may be received to prove a specific intent or knowledge,** identity, plan, system, scheme, habit, custom or usage, and the like.[71]

In fine, the BIR's service of the **FAN**, as well as the receipt thereof by Lenon is tantamount to receipt of the **FAN** by petitioner. *Ergo,* the latter received a *complete* formal assessment from the BIR for TY 2017. As a result, petitioner is required to file a timely and valid administrative protest thereon.

**Second**. Petitioner's failure to question the non-receipt of the FAN in its administrative protest is a tacit admission of receipt thereof. Admission by silence could be found under Section 33, Rule 130 of the Rules of Court, as amended, which reads:

> **Section 33.** *Admission by silence.* - An act or declaration made in the presence and within the hearing or observation of a party who does or says nothing when the act or declaration is such as naturally to call for action or comment if not true, and when proper and possible for him or her to do so, may be given in evidence against him or her. (32a)

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71 Emphases ours.

*Villanueva v. Balaguer*[72] clarified that admission by silence finds application "to adverse statements in writing if the party was carrying on a mutual correspondence with the declarant." This tenet was likewise utilized on an internal revenue tax assessment and collection case.

In *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc. (SEGI)*,[73] therein respondent received the BIR's Preliminary Collection Letter (PCL), demanding payment of the assessed taxes. Therein respondent filed a Reply on the PCL, *sans* denying receipt of the FAN from which it was based. *SEGI* ruled that therein respondent's silence, when it ought to speak, would mean that it received the FAN referred to in the PCL:

> ... In this case, [therein] respondent was communicating in writing with [therein] petitioner regarding the assessment and collection of taxes. It had an interest to object promptly, to the existence and/or its receipt of the final assessment notice (Ass./Demand No.:021R-0604112007 dated April 2, 2008), as it would naturally have done if the statement was not true. [Therein] [r]espondent's silence then may reasonably be construed as an admission that it received the Final Assessment Notice referred to in the Preliminary Collection Letter.

Petitioner wrote its gripes on the deficiency internal revenue tax assessments covering TY 2017, in its administrative protest on the BIR's FLD. It had an interest to swiftly impugn *via* said protest, the improper service, much more, non-receipt of the **FAN**, as it would naturally have done, if the foregoing circumstances are false. Nay, petitioner did no such thing. Consistent with *SEGI*, petitioner's silence would mean that it tacitly admitted receipt of the BIR's FAN for deficiency internal revenue taxes covering TY 2017. This buttresses the conclusion that petitioner indeed received a *complete* formal assessment from the BIR for TY 2017.

**Third**. With petitioner's acquiescence on the receipt of the BIR's **FLD**, there exists a *praesumptio juris tantum*[74] that the issuance thereof

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72 G.R. No. 180197, June 23, 2009.

73 G.R. No. 225809, March 17, 2021.

74 Section 3(x), Rule 131 of the Rules of Court, as amended, provides "[t]hat acquiescence resulted from a belief that the thing acquiesced in was conformable to the law or fact."

is in conformity with Section 228[75] of the NIRC, as amended, and subsection 3.1.3[76] of Revenue Regulations No. 18-2013. This means that the **FLD** presumably came together with the **FAN**. *Mabunga v. People (Mabunga)*[77] discoursed the concept and effect of a disputable presumption in this wise:

> A presumption is an assumption of fact that the law requires to be made from another fact or group of facts found or otherwise established in the action. It is an "inference as to the existence of a fact not actually known, arising from its usual connection with another which is known, or a conjecture based on past experience as to what course of human affairs ordinarily take."
>
> **A presumption has the effect of shifting the burden of proof to the party who would be disadvantaged by a finding of the presumed fact.** The presumption controls decision on the presumed fact unless there is counterproof that the presumed fact is not so.

Petitioner presumably received the BIR's **FLD,** together with the concomitant **FAN** for TY 2017. Consistent with *Mabunga,* petitioner has the *onus* of proving otherwise. Not only did petitioner fail in discharging its burden; worse, the evidence on record collectively displays that the person, *i.e.,* Lenon, who received said **FLD** and **FAN,** was clothed by petitioner with authority to receive BIR notices on its behalf.

**Finally**. Jurisprudence is replete[78] with cases consistently pronouncing that when a formal 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.

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75 The pertinent portion of Section 228 of the NIRC, as amended, is cited in pages 9-10 of this Decision.

76 3.1.3 **Formal Letter of Demand and Final Assessment Notice (FLD/FAN)**. The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued by the Commissioner or his duly authorized representative. The FLD/FAN calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based; *otherwise, the assessment shall be void* (see illustration in ANNEX "B" hereof).

77 G.R. No. 142039, May 27, 2004. Boldfacing ours.

78 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.

Once more, petitioner failed to timely file an administrative protest on the BIR's ***complete*** formal assessment (FLD and FAN) for TY 2017. Obeying the immediately preceding time-honored pronouncement, petitioner's defenses relative to the merits of the 2017 deficiency internal revenue tax assessments found under the BIR's FLD and FAN should be ignored, while the 2017 deficiency internal revenue taxes embodied therein should be sustained in whole.

**ACCORDINGLY,** We **RESOLVE** to:

a. **DENY** the Petition for Review dated March 15, 2022, for lack of merit;

b. **DIRECT** Sirawai Plywood and Lumber Corporation to **PAY** the Bureau of Internal Revenue, the deficiency internal revenue taxes for Taxable Year 2017, set forth in the Formal Letter of Demand issued on June 4, 2021, and its corresponding Final Assessment Notices; and,

c. **UPHOLD** the Warrant of Distraint and/or Levy, and Warrants of Garnishment all dated December 24, 2021, implementing the collection of the assessed internal revenue taxes on Sirawai Plywood and Lumber Corporation, for Taxable Year 2017.

**SO ORDERED.**

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

**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