REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2778** (CTA Case No. 10207)
	Present:
-*versus*-	**DEL ROSARIO, P.J., RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
GRAND GEO SPHERES CONSTRUCTION CORP., *Respondent.*	Promulgated: JUL 12 2024 3:22pm

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Petition for Review[1] ("Petition") filed by petitioner Commissioner of Internal Revenue ("CIR") on July 27, 2023, with respondent Grand Geo Spheres Construction Corp.'s Comment (To Petitioner Commissioner of Internal Revenue's Petition for Review dated 25 July 2023)[2] ("Comment"), filed on October 16, 2023. Petitioner seeks the nullification of the Decision,[3] dated February 6, 2023 ("assailed Decision") and Resolution,[4] dated June 19, 2023 ("assailed Resolution"), both rendered by the First Division of the Court of Tax Appeals ("Court in Division"), which granted respondent's Petition for Review and declared

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[1] *Rollo*, pp. 6-25.
[2] *Id.* at 58-79.
[3] *Id.* at 26-46.
[4] *Id.* at 47-50.

the subject income tax ("IT") and value-added tax ("VAT") assessments for calendar year 2010 void.

The Parties

Petitioner is the duly appointed CIR and is empowered to perform the duties of said office, including the power to decide on disputed assessments, claims for refunds of internal revenue taxes, fees, or charges, or penalties imposed in relation thereto, and other duties as provided by law.[5]

Respondent, meanwhile, is a domestic corporation duly organized and existing under Philippine laws and engaged in the construction of roads and bridges, flood control, river basins, dams and irrigation systems, water supplies, buildings, and other forms of infrastructure.[6]

The Facts

On November 29, 2011, a Letter Notice ("LN") was issued, alleging that respondent had underdeclared sales for calendar year ("CY") 2010, based on a discrepancy between the sales declared by respondent in its tax return and the purchases of MTD Construction (Philippines) Inc. ("MTD") from respondent, as declared by MTD.[7]

Then, on January 19, 2012, Jonas D.P. Amora, OIC-Regional Director, Quezon City, issued a Letter of Authority ("LOA") for the audit and examination of respondent's records, along with a First Request for Presentation of Records. Revenue Officer ("RO") Melirose Trazona later issued a Second Request on February 21, 2012, followed by a Final Request for Presentation of Records on May 24, 2012.[8]

Acting on the above, respondent submitted various records to respondent through a letter, dated June 4, 2012.[9]

Various notices were then issued against respondent: a Notice of Informal Conference on April 22, 2013; a Preliminary Assessment Notice ("PAN") on May 7, 2019; and a Formal Letter of Demand with Details of Discrepancy and Final Assessment Notices ("FAN") on June 10, 2019.[10]

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[5] *See* Decision, dated February 6, 2023, p. 2, *id.* at 27.
[6] *See* Decision, dated February 6, 2023, p. 1-2. *id.* at 26-27.
[7] *See* Decision, dated February 6, 2023, p. 2. *id.* at 27.
[8] *Id.*
[9] *See* Decision, dated February 6, 2023, pp. 2-3. *id.* at 27-28.
[10] *See* Decision, dated February 6, 2023, p. 3. *id.* at 28.

On October 7, 2019, respondent received a second LN demanding payment of alleged deficiency IT and VAT. This prompted respondent to file a Petition for Review before the Court in Division on November 6, 2019, with petitioner filing his Answer thereto on January 3, 2020.[11]

After a full-blown trial,[12] the Court in Division granted respondent's Petition for Review through the assailed Decision on February 6, 2023. Petitioner then sought the reversal of the assailed Decision through a Motion for Reconsideration,[13] filed on March 1, 2023, but the same was denied in the assailed Resolution on June 19, 2023.

Aggrieved, but unable to file a full Petition 15 days from his receipt of the assailed Resolution, petitioner filed a Motion for Extension of Time to File Petition for Review[14] on July 10, 2023. The Court *En Banc* granted said Motion via a Minute Resolution[15] on July 11, 2023.

Thus, petitioner filed his Petition for Review on July 27, 2023.

After the filing of respondent's Comment[16] on October 16, 2023, the Court referred the case to mediation via a Minute Resolution[17] on October 23, 2023, but the parties decided to not have their case mediated.[18] The Petition was consequently submitted for decision through a Minute Resolution[19] on March 27, 2024.

Hence, this Decision.

The Assigned Errors

Petitioner assigns the following errors to the assailed issuances of the Court in Division:[20]

(a) The Court in Division erred in declaring the subject assessments void for being violative of respondent's right to due process;
(b) The Court in Division erred in ruling that the subject assessments lacked factual and legal basis; and
(c) The Court in Division erred in finding that the subject assessments are barred by prescription.

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[11] *Id.*
[12] *See* Decision, dated February 6, 2023, pp. 3-4, *id.* at 28-29.
[13] Division Records, pp. 436-446.
[14] *Rollo*, pp. 1-4.
[15] *Id.* at 5.
[16] *Id.* at 58-79.
[17] *Id.* at 80.
[18] *See* PMC-CTA Form 6 — No Agreement to Mediate, dated March 6, 2024, *id.* at 81.
[19] *Id.* at 82.
[20] *See* Petition for Review, p 5, *id.* at 10.

The Arguments

Petitioner raises the following arguments:

(a) Petitioner sent the PAN and FANs through registered mail, a valid mode of serving such assessment notices, and did not receive any indication that respondent did not receive these, so said service was neither illegal nor erroneous;
(b) The assessment has legal and factual bases, of which respondent was sufficiently apprised, as the same was based on sales to MTD that respondent did not declare on its tax return; and
(c) The extended 10-year period for assessments is applicable here as (i) respondent substantially underdeclared its sales; and (ii) it did not inform petitioner of any change of address or closure of business.

Respondent opposes the above with the following contentions:

(a) Petitioner's arguments are a mere rehash of those raised before and already refuted by the Court in Division;
(b) Petitioner failed to prove that respondent actually received the PAN and FANs;
(c) Petitioner likewise failed to comply with the requirements laid down in *Revenue Memorandum Order* ("RMO") *Nos. 30-2003 & 46-2004*;
(d) As the assessment was based on a mere presumption, petitioner's insistence on using the extended 10-year period for assessments is unjustified;
(e) Even without a notice of change of address or closure of business, respondent could be reached through its board of directors, barring the suspension of the running of the statute of limitations; and
(f) Petitioner cannot collect an amount from petitioner based on a void assessment.

The Ruling of the Court

The Petition for Review is bereft of merit.

The Court En Banc *has jurisdiction over the instant Petition for Review*

Under *Rule 4, Section (2)(a)(1) of the Revised Rules of the Court of Tax Appeals, as amended* ("*RRCTA*"), the Court *En Banc* has jurisdiction over appeals from decisions or resolutions on motions for reconsideration promulgated by the Court in Division in cases arising from the Bureau of Internal Revenue ("*BIR*"):

> SEC. 2. *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
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> (a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over:
>
> (1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

Meanwhile, under *Rule 8, Section 3(b) of the RRCTA*, parties seeking to protest such a decision or resolution of the Court in Division must file a petition for review before the Court *En Banc* within 15 days from receipt of said issuance.

Respondent filed its Petition for Review before the Court in Division to assail the assessment made against it by petitioner, the Commissioner of the Bureau of Internal Revenue.[21] The case before the Court in Division thus arose from said administrative agency.

Meanwhile, petitioner received the assailed Resolution on June 27, 2023.[22] He then filed a Motion for Extension of Time to File Petition for Review[23] on July 10, 2023, within the 15-day period mentioned above. The same was granted by the Court *En Banc* via a Minute Resolution,[24] dated July 11, 2023, which gave petitioner until July 27, 2023 within which to file his petition. As he filed his Petition for Review on July 27, 2023, he timely filed his appeal to the Court in Division's ruling.

This Court *En Banc* thus has jurisdiction over the case at bar.

Petitioner's assessment has factual basis as an assessment based on third-party information does not require confirmation if the findings per LN are not refuted or protested

Respondent has consistently insisted before the Court in Division and the Court *En Banc* that the assessment against it lacks any factual basis.[25] It argues that *Revenue Memorandum Order* ("*RMO*") *Nos. 30-03 & 46-04* require respondent to verify third-party information used in assessments made through the BIR's RELIEF system with said third parties. As petitioner based his deficiency assessment on purchases declared by MTD but did not confirm said findings with MTD, the

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[21] *See* Petition for Review, filed November 6, 2019, p. 12, Division Records, p. 18.
[22] *See* Notice of Resolution, dated June 22, 2023, *id.* at 472.
[23] *Rollo*, pp. 1-4.
[24] *Id.* at 5.
[25] *See* Comment, pp. 9-15, *id.* at 66-72; *see also* Memorandum, pp. 25-29, Division Docket, pp. 400-404.

assessment included in the first LN is void. This position was adopted by the Court in Division, who thus declared the assessment to be without factual basis.[26]

The Court *En Banc*, however, disagrees.

The first relevant provision here is *Section E(3)(B)(B.3)(a.2) of Revenue Memorandum Order No. 30-03*, which states:

E. At the RDO/LTDO/LTAID

At the TFD for "Preprocessed" RELIEF DATA

. . . .

3. Determine appropriate action on the LNs issued to taxpayers with RELIEF data discrepancy

. . . .

B. If there is no existing audit case, serve the LN to the concerned taxpayers within five (5) days from receipt thereof

. . . .

B.3. *If the taxpayer is refuting the accuracy of the figures in the LN*, together with the DTCS --

a. Validate the figures against the VAT/Income Tax returns, etc. filed by the taxpayers.

a.1 If the discrepancy is a result of erroneous encoding, update the ITS data and submit report to AITEID for the latter to validate the same in the ITS.

a.2 If the discrepancy is on the data submitted by a third party, forward the LN to the SCG for confirmation of the figures from the TPI source by sending a "Confirmation Request" (CR) Annex "C"). The confirmation by the TPI source should be embodied in a "Confirmation Certificate"(CC) (Annexes "G" & G-1").

After the receipt of the "Confirmation Certificate", the LN, together with the CR, shall be retransmitted to the RDO/LTDO/LTAID by the SCG with an instruction as to the next course of action to take.

If there is no response on the CR, the SCG shall recommend appropriate action on the case.

(Emphasis supplied)

[26] *See* Decision, dated February 6, 2023, pp. 14-17, *Rollo*, pp. 39-42.

The second relevant provision is *Section III of RMO No. 46-04*, a specific portion of which states:

> *Action on Protested LNs due to TPI discrepancy*
>
> The Revenue Officer assigned to handle the Letter Notice shall:
>
> . . . .
>
> 3. Obtain Sworn Statements from TPI sources (Annexes "B" and "C") attesting to the veracity of the data provided
>
> (Emphasis in original)

Consistent with respondent's interpretation, the above provisions require petitioner to verify the third-party information he uses in his assessments by, for example, sending Confirmation Requests to the third parties involved, creating Confirmation Certificates using the confirmation of said third parties, and/or obtaining sworn statements from these third-party sources. This would imply that petitioner should have solicited statements and other forms of confirmation from MTD.

Note, however, that the requirement in *RMO No. 30-03* is preceded by a conditional: "[i]f the taxpayer is refuting the accuracy of the figures in the LN." Note also that the equivalent requirement in *RMO No. 46-04* falls under the heading "Action on Protested LNs due to TPI discrepancy," a heading conveniently excluded by respondent when quoting said issuance in its Memorandum before the Court in Division and in its Comment before the Court *En Banc*.

Given the foregoing, verification by a third party is required only when two conditions concurrently obtain:

(a) When the assessment is based on third-party information; and
(b) *When the assessed taxpayer refutes or protests the part of the LN based on third-party information.*

The first condition is present here, as petitioner based his assessment on MTD's declared purchases from respondent. The second condition, however, is not.

Respondent never alleged to have protested the first LN, which contained the assessment based on MTD's purchases, and certainly never presented any proof of such. Indeed, its version of events begins with its 2019 receipt of the *second* LN, remaining silent on the events before that.[27] Its only responses to the assessment in general were to (a) submit documents requested by the BIR; and (b) file a Petition for Review before the Court in Division. Neither of these can be considered refuting

[27] *See* Petition for Review, pp. 3-4, Division Records, pp. 9-10; *see also* Judicial Affidavit of Veronica M. Bautista, *id.* at 102-105.

or protesting the assessment contained in the first LN. The submission of the documents was made in connection with the LOA,[28] not in support of a protest respondent never raised. The Petition for Review, meanwhile, is a judicial protest of the second LN, not an administrative protest of the first, and cannot retroactively require petitioner to have verified the third-party information he used nearly a decade prior.

The above is consistent with petitioner's claim, uncontroverted by respondent, that he issued a Follow-up Letter after issuing the first LN. This is in line with *Section E(3)(B)(B.4) of RMO No. 30-03*, which requires a follow-up letter to be issued when a taxpayer fails to respond to the LN. The situation covered by subsection *B.4*, however, is distinct from that covered by subsection *B.3*. This implies that petitioner never received any form of protest against the first LN and that respondent simply failed to reply to it.

Given that respondent never actually protested the first LN, petitioner was never actually required to verify his third-party information with MTD. His use of such third-party information was considered unrefuted and in no need of verification. Consequently, his assessment against respondent cannot be declared void for being based on unverified presumptions, as it was based on *uncontroverted* facts.

Unfortunately for petitioner, the above cannot correct the procedural lapses in his assessment against respondent. In particular, it cannot negate his violation of respondent's right to due process by not ensuring that respondent actually received his issuances.

Respondent did not receive the PAN and FANs, in violation of its right to due process

As found by the Court in Division, respondent did not receive the PAN or FANs. Such non-receipt renders an assessment void, as repeatedly held by the Supreme Court in cases such as *Commissioner of Internal Revenue v. Reyes*,[29] *Commissioner of Internal Revenue v. Metro Star Superama*,[30] *Commissioner of Internal Revenue v. Unioil Corporation*,[31] and *Commissioner of Internal Revenue v. Next Mobile, Inc.*,[32] among others. This is consistent with the Supreme Court's "[declaring] void any assessment that [fails] to strictly comply with the due process requirements set forth in *Section 228 of the Tax Code* and *Revenue Regulations No. 12-99*."[33]

[28] *See* Judicial Affidavit Melirose R. Trazona, p. 8. *id.* at 114; *see also* Exhibit "R-8", *id.* at 129.
[29] G.R. Nos. 159694 & 163581, January 27, 2006.
[30] G.R. No. 185371, December 8, 2010.
[31] G.R. No. 204405, August 4, 2021.
[32] G.R. No. 232055 (Notice), April 27, 2022.
[33] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 3, 2018.

Significantly, the above-cited cases stress that a taxpayer must actually *receive* assessment notices issued against it for the service of such notices to be proper. The Supreme Court, in *Commissioner of Internal Revenue v. T-Shuttle Services*[34] ("*T-Shuttle Services*") has even deemed registry receipts insufficient to prove a taxpayer's receipt of assessment notices when the CIR failed to show that the signatures on said receipts belonged to the taxpayer's authorized representatives.

Such receipt, however, must be differentiated from the mere act of mailing or sending assessment notices. This is demonstrated, for example, in *Commissioner of Internal Revenue v. Yumex Philippines Corporation*.[35] There, the CIR posted a PAN via registered mail to Yumex Philippines Corporation on December 17, 2010 before mailing a FAN to said taxpayer on January 10, 2011, leaving more than 15 days between each mailing. The Supreme Court still found this insufficient to comply with the 15-day grace period, provided under *Revenue Regulations* ("*RR*") *No. 12-99*, between a taxpayer's *receipt* of a PAN and the issuance of the FAN. This finding was based on the fact that Yumex Philippines Corporation received the PAN and FAN on the same day. As such, the CIR did not issue the FAN 15 days after the taxpayer's receipt of the PAN; indeed, he issued it *before* said receipt. This shows that the CIR's *mailing* of an assessment notice, even by registered mail, cannot be equated with a taxpayer's *receipt* of the same.

In any case, the importance of actual receipt by a taxpayer stems from the very due process rights at issue here. As emphasized in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*,[36] administrative due process "is anchored on fairness and equity in procedure" in that it is "satisfied if the party is properly notified of the charge against it and is given a fair and reasonable opportunity to explain or defend itself." However, when a taxpayer does not even receive the relevant assessment notices, it is obviously *not* notified of such assessment. It has nothing from which it can learn the details of the assessment, may not even know that said assessment exists, and is consequently deprived of the opportunity to explain or defend its case against the assessment. Logically, then, due process is *not* satisfied so long as the taxpayer has not actually received the relevant assessment notices.

The above reveals petitioner's arguments to be in error. His mailing of the assessment notices, even via a "valid mode of service," is of secondary concern to the issue at hand. What is important here is the fact that respondent did not receive the PAN and FANs and was thus not notified at all of the assessment against it. Considering this, petitioner clearly violated respondent's right to due process.

Petitioner's presentation of registry receipts is unconvincing as well. The Court in Division already found that the said receipts did not comply with the requirements set by *Section 3.1.6 of RR No. 12-99, as amended by RR No. 18-13*,[37]

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[34] G.R. No. 240729 (Resolution). August 24, 2020.
[35] G.R. No. 222476. May 5. 2021.
[36] G.R. Nos. 201398-99 & 201418-19. October 3. 2018.
[37] *See* Decision, dated February 6, 2023, pp. 13-14, *Rollo*, pp. 38-39.

requirements clearly included to ensure that registry receipts properly prove that the concerned taxpayer actually receives the mailed matter. Notably, petitioner did not acknowledge such finding, much less refute it. The registry receipts consequently fail to show that the assessment notices were properly served to respondent.

The Court *En Banc* thus sees no reason to depart from the Court in Division's finding that petitioner violated petitioner's right to due process when he failed to ensure that petitioner actually received the PAN and FANs. This alone would be enough to void petitioner's assessment against respondent. It is not, however, the only problem with the assessment in the case at bar.

Petitioner's right to assess most of respondent's tax liabilities had prescribed when he issued his assessments

Petitioner argues that the falsity in respondent's tax return justifies the use of the extended 10-year period for assessments provided by *Section 222 of the National Internal Revenue Code of 1997, as amended* ("*NIRC*") rather than the regular three-year period provided by *Section 203* of said law. The Court in Division shot this argument down on account of its finding that the assessment had no factual basis, meaning that the substantial under-declaration alleged by respondent to use *Section 222* lacks basis as well. However, the Court *En Banc* now finds that the assessment does, indeed, have factual basis, as discussed above. Is petitioner's invocation of the extended 10-year period thus justified?

The Court *En Banc* rules in the negative. While petitioner alleges falsity on the part of respondent's return, he neither alleges nor proves willful intent.

In *McDonald's Philippines Realty Corporation v. Commissioner of Internal Revenue*[38] ("*McDonald's*"), the Supreme Court *En Banc* declared that intentional errors, *i.e.* willful intent, must be proven to justify the use of the extended 10-year period. As such, falsity alone is insufficient to extend the period to assess.

McDonald's, however, acknowledges that the above has not always been the Supreme Court's position on the matter. Indeed, the High Court has occasionally ruled that substantial under-declaration is enough to justify use of the extended 10-year period, such as in *Commissioner of Internal Revenue v. Asalus Corporation*[39] and *Samar-I Electric Corporation v. Commissioner of Internal Revenue*[40] ("*Samar-I*"), to name a few cases. Given these changes in jurisprudence, the Court *En Banc* must look to the prevailing jurisprudence during the periods relevant to the present assessment to determine if petitioner was allowed to use the extended 10-year period.

[38] G.R. No. 247737, August 8, 2023.
[39] G.R. No. 221590, February 22, 2017.
[40] G.R. No. 193100, May 10, 2014.

As found by the Court in Division, the prescriptive periods for assessing respondent's deficiency IT for the year 2010, deficiency VAT for the 1st quarter of 2010, and deficiency VAT for the 2nd quarter of 2010 began on April 15, 2011, April 26, 2010, and July 26, 2010, respectively.[41] At the time, the prevailing jurisprudence regarding the prescriptive period to assess was *Commissioner of Internal Revenue v. BF Goodrich, Phils., Inc.*[42] ("*Goodrich*"), promulgated on February 24, 1999, which required willful intent to be proved when using the extended 10-year period. Without the presence of willful intent, then, the three-year period would apply, and the last days for petitioner to assess the deficiency taxes listed above were on April 15, 2014, April 26, 2013, and July 26, 2013, respectively.

Goodrich was the prevailing jurisprudence for over a decade before any of the prescriptive periods in this case began. The necessity of proving willful intent was only overturned by *Samar-I* on May 10, 2014, after the latest deadline of April 15, 2014. Petitioner, however, could not have predicted the future judgment of the Supreme Court in *Samar-I*. Even if he did, he should not have retroactively applied a judgment that had yet to be promulgated. As such, petitioner should have determined with certainty that willful intent was behind the falsities in respondent's tax returns before allowing himself to enjoy the extended 10-year period.

The same is true of petitioner's issuance of the FANs, which he mailed to respondent on June 10, 2019. The Supreme Court promulgated *Commissioner of Internal Revenue v. Philippine Daily Inquirer, Inc.*[43] on March 22, 2017, a case where the High Court once again declared willful intent to be necessary for the use of the extended 10-year period. As this was the prevailing jurisprudence at the time, petitioner should have known, when he issued the FANs, that his use of the extended 10-year period would be unjustified unless respondent had willfully falsified its tax returns.

Petitioner has not alleged, much less proven, willful intent on the part of respondent, whether before the Court in Division or the Court *En Banc*. His reliance on the extended 10-year period is thus unjustified. Consequently, his right to assess respondent for the relevant taxes has prescribed.

Neither can petitioner hide behind *Section 223 of the NIRC*, which states that the prescriptive period for assessments is suspended "when the taxpayer cannot be located in the address given by [it] in the return filed upon which a tax is being assessed or collected." The same contradicts petitioner's own position before the Court in Division and in a different argument he raises before the Court *En Banc*.

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41 *See* Decision, dated February 6, 2023, pp. 18-19. *Rollo*, pp. 43-44. The Court in Division found that (a) the copy of respondent's VAT Return for the 3rd quarter of 2010 was illegible; and (b) neither party submitted a copy of respondent's VAT Return for the 4th quarter of 2010. We are thus unable to determine the start of the prescriptive period for assessing respondent's deficiency VAT for the 3rd and 4th quarters of 2010. Consequently, We shall make no pronouncement as to whether or not petitioner's right to assess respondent's deficiency VAT for said periods has prescribed. Said assessments, of course, are still void, on account of respondent's non-receipt of the PAN and FANs.

42 G.R. No. 104171, February 24, 1999.

43 G.R. No. 213943, March 22, 2017.

Recall that petitioner mailed the PAN and FANs to a specific address. He further argues that he received no indication that respondent did not receive the PAN and FANs mailed to said address.[44] The implication here is that petitioner believed said address to be respondent's actual address, where the latter could be located.

This contradicts petitioner's current position. If petitioner genuinely believed that respondent received the PAN and FANs, then he cannot be said to have been unable to locate respondent, as he was aware of (what he believed to be) respondent's actual address. On the other hand, if petitioner genuinely believed that he could not locate petitioner during the assessment period, then he should not have mailed the PAN and FANs to an address at which he knew respondent could not be located, before treating such mailing as valid service. The argument is thus unconvincing, belied by petitioner's previous arguments, and seemingly made in bad faith.

Given that (a) the assessments for respondent's alleged deficiency IT for 2010, deficiency VAT for the 1st quarter of 2010, and deficiency VAT for the 2nd quarter of 2010 are simultaneously void and barred by prescription; and (b) the assessments for respondent's alleged deficiency VAT for the 3rd and 4th quarters of 2010, while not conclusively barred by prescription, are still void, the Court *En Banc* sees no reason to disturb the ruling of the Court in Division.

ACCORDINGLY, petitioner's Petition for Review, filed on July 27, 2023, is hereby **DENIED** for lack of merit. The Decision, dated February 6, 2023, and the Resolution, dated June 19, 2023, both rendered by the Court in Division in CTA Case No. 10207, are hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

(I concur ***solely*** *on grounds stated on pp. 8-12.)*
ROMAN G. DEL ROSARIO
Presiding Justice

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[44] *See* Petition for Review, p. 8, *Rollo*, p. 13.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(I concur solely on grounds provided in pp. 8-12.)
CATHERINE T. MANAHAN
Associate Justice

(I concur solely on grounds cited in pp. 8-12.)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(I concur solely on grounds as stated in pp. 8-12.)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

(I concur only with respect to the grounds stated in pp. 8-12.)
CORAZON G. FERRER-FLORES
Associate Justice

(I concur solely on grounds on pp. 8-12.)
HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to *Article VIII, Section 13 of the Constitution*, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice