REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

3M PHILIPPINES, INC., *Petitioner,*	**CTA Case No. 9841**
	Members:
- versus -	**DEL ROSARIO**, *PJ, Chairperson,* **MANAHAN**, and **REYES-FAJARDO**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: SEP 19 2023 3:40 pm

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DECISION

REYES-FAJARDO, *J.*:

We address the Petition for Review filed on May 25, 2018, by 3M Philippines, Inc., which seeks to: (1) cancel and set aside the assessment on deficiency income tax (IT), expanded withholding tax (EWT), withholding tax, final value-added tax (FWVAT), related interest and compromise penalties in the total amount of ₱37,286,558.75, for the Taxable Year (TY) 2014; and (2) refund the amount of ₱13,398,898.25, representing the amount it paid under protest last April 30, 2018 on the said assessment.[1]

FACTS

Petitioner 3M Philippines, Inc. is a corporation duly organized under Philippine laws, with principal place of business at 9th Floor, Three World Square Building, No. 22 Upper McKinley Road, McKinley Hill Park, Fort Bonifacio, Taguig City.[2]

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1 See Par. I, Statement of the Case, Pre-Trial Order, Docket (Vol. II), p. 857.

2 Par. 1, Stipulated Facts in the Pre-Trial Conference. See Minutes of the Hearing held on, and Order dated, March 14, 2019. *Id.* at p. 802.

Respondent is the duly appointed Commissioner of Internal Revenue, vested by law to implement and enforce the provisions of the National Internal Revenue Code (NIRC) and other tax laws.[3]

On January 21, 2016, petitioner received[4] a Letter of Authority (LOA) dated January 7, 2016, issued by Assistant Commissioner Large Taxpayer's Service (ACIR-LTS) Nestor S. Valeroso, authorizing Revenue Officers (ROs) Rosario Arriola, and Shella Samaniego, under Group Supervisor (GS) Rolando Balbido to examine its books of account, and other accounting records for deficiency internal revenue taxes, covering taxable year ending December 31, 2014.

On May 19, 2017, petitioner received[5] a Preliminary Assessment Notice (PAN)[6] of even date, containing the proposed deficiency IT, VAT, EWT, FWVAT, documentary stamp tax (DST), improperly accumulated earnings tax (IAET), with interest and penalties, for TY 2014, in the total amount of ₱497,622,251.22.

On June 2 and 9, 2017, petitioner respectively filed its Reply[7] and Supplemental Reply[8] against the PAN.

On July 5, 2017, petitioner received[9] a Formal Letter of Demand of even date, with Final Assessment Notices, and Details of Discrepancy (FLD/FAN),[10] assessing it for deficiency internal revenue taxes, interest and penalties for taxable year ending December 31, 2014.

On August 3, 2017, petitioner protested the FLD/FAN,[11] followed by its submission[12] of documents in support thereof on October 2, 2017.

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3 Par. 2, Stipulated Facts in the Pre-Trial Conference. See Minutes of the Hearing held on, and Order dated, March 14, 2019. *Id.* at p. 802.

4 Par. 5, Stipulated Facts in the Pre-Trial Conference. See Minutes of the Hearing held on, and Order dated, March 14, 2019. *Id.* at p. 802.

5 Par. 7, Stipulated Facts in the Pre-Trial Conference. See Minutes of the Hearing held on, and Order dated, March 14, 2019. *Id.* at p. 803.

6 Exhibit "P-8," Docket (Vol. VI), pp. 3147-3158; and Exhibit "R-5," Folder I, BIR Records, pp. 739-746.

7 Exhibit "P-9." Docket (Vol. VI), pp. 3159-3176.

8 Exhibit "P-10." *Id.* at pp. 3177-3186.

9 Par. 8, Stipulated Facts in the Pre-Trial Conference. See Minutes of the Hearing held on, and Order dated, March 14, 2019. Docket (Vol. II), p. 803.

10 Exhibits "P-11," "R-7," and "P-62-1" to "P-62-7." Folder II, BIR Records, pp. 647-665.

11 Exhibit "P-12." Docket (Vol. VI), pp. 3187-3196.

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On April 27, 2018, petitioner received an undated Final Decision on Disputed Assessment (FDDA), with attached Details of Discrepancies and Assessment Notices,[13] partially denying its protest on the FLD/FAN.[14] In said FDDA, petitioner was still assessed in the total amount of ₱83,356,710.88, inclusive of interests, broken down as follows:

TAX TYPE	Amount
IT	₱ 18,483,376.00
VAT	1,994,829.77
EWT (including penalty for late remittance)	14,311,330.78
FWVAT	48,164,763.57
DST	195,410.76
Miscellaneous tax (compromise penalties)	207,000.00
TOTAL	**₱ 83,356.710.88**

On May 3, 2018, petitioner filed the letter dated May 2, 2018,[15] informing the BIR, *inter alia,* that on April 30, 2018, it paid under protest the following:

TAX TYPE	Amount
EWT	₱ 7,224,550.00[16]
FWVAT	5,967,348.25[17]
Miscellaneous tax (compromise penalties)	207,000.00[18]
TOTAL	**₱ 13,398,898.25**

On May 23, 2018, petitioner filed a Letter of even date, with the BIR,[19] seeking the refund of ₱13,398.898.25, since the deficiency tax assessments issued against it are without factual and legal bases, and are already prescribed.

On May 25, 2018, petitioner filed a Petition for Review,[20] docketed as CTA Case No. 9841,[21] to which respondent filed his

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12 Exhibit "P-13." Folder II, BIR Records, pp. 974-981.

13 Exhibit "P-16," Docket (Vol. VI), pp. 3197-3204; and Exhibits "R-9," and "P-63-1" to "P-63-7," BIR Records, pp. 1116 to 1134.

14 Par. 9, Stipulated Facts in the Pre-Trial Conference. See Minutes of the Hearing held on, and Order dated, March 14, 2019. *Id.* at p. 803.

15 Exhibit "P-17." Docket (Vol. VI), pp. 3205-3207.

16 Exhibit "P-17-3." *Id.* at pp. 3212-3213.

17 Exhibit "P-17-5." *Id.* at pp. 3216-3217.

18 Exhibit "P-17-8." *Id.* at pp. 3222-3223.

19 Exhibit "P-18." *Id.* at pp. 3224 to 3227.

20 Docket (Vol. I), pp. 19-46.

21 Initially raffled with the Third Division of the Court.

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Answer[22] on August 3, 2018, followed by petitioner's Reply (Answer dated July 25, 2018), posted on August 24, 2018,[23] and respondent's Rejoinder with Leave of Court,[24] filed on September 28, 2018.

Meanwhile, in the Order dated September 27, 2018,[25] this case was transferred from the Third Division to the First Division of the Court.

On March 14, 2019, the Pre-Trial Conference[26] was held, whereby the parties stipulated on some facts, identified their respective witnesses and the documents, for presentation during the trial of the case.

On May 3, 2019, we issued a Pre-Trial Order (PTO).[27]

On May 27, 2019, petitioner filed a Manifestation with Motion,[28] praying for the amendment of said PTO. In the hearing held on July 9, 2019,[29] we granted the Motion, and corrections thereon were made in open court.

Trial ensued.

Petitioner presented: (1) Mr. Eugenio T. Miranda,[30] petitioner's Warehouse Supervisor; (2) Ms. Maria Lizbeth U. Ignacio,[31] Senior Plant Accounting Analyst of 3M Service Center APAC, Inc.; (3) Ms. Maricel Sumio-Ammogawen,[32] the Court-commissioned Independent

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22 Docket (Vol. I), pp. 332-359.
23 *Id.* at pp. 374-391.
24 *Id.* at pp. 397-400.
25 *Id.* at p. 395.
26 See Resolution dated October 8, 2018, Docket (Vol. I), p. 403; Resolution dated February 6, 2019, Docket (Vol. I), p. 460; Minutes of the Hearing held on, and Order dated, March 14, 2019, Docket (Vol. II), pp. 801-805, and 809-810, respectively.
27 Docket (Vol. II), pp. 857-872.
28 *Id.* at pp. 906-909.
29 Minutes of the Hearing held on, and Order dated, July 9, 2019. Docket (Vol. III), pp. 1050-1058.
30 Exhibit "P-35," Docket (Vol. II), pp. 812-820; Minutes of the Hearing held on, and Order dated, June 11, 2019, *id.* at pp. 928-932.
31 Exhibits "P-33" and "P-34,"*id.* at pp. 832-839, and 941-952, respectively; Minutes of the hearing held on, and Order dated, July 9, 2019, Docket (Vol. III), pp. 1050-1057.
32 Exhibit "P-37," *id.* at pp. 1064-1085; Minutes of the Hearing held on, and Order dated, August 6, 2019, *id.* at pp. 1149-1155.

Certified Public Accountant (ICPA);[33] (4) Ms. Darlene Clarin-San Manuel,[34] 3M Service Center APAC, Inc.'s former Finance Manager; and, (5) Ms. Marisol A. Rosel,[35] Pollution Control Officer of Cleanway Environment Management Solutions, Inc., as its witnesses.

On November 19, 2020, petitioner posted its Formal Offer of Evidence,[36] *sans* respondent's comment.[37]

Under Resolution dated February 3, 2021,[38] the documents offered by petitioner was admitted as its evidence, save for:

1. Exhibits "P-3," "P-14," "P-1-A-ICPA," "P-1-B-ICPA," "P-1-C-ICPA," "P-1-D-ICPA," "P-1-E-ICPA," "P-1-F-ICPA," "P-1-G-ICPA," "P-1-H-ICPA," "P-1-I-ICPA," "P-1-J-ICPA," "P-1-K-ICPA," "P-1-L-ICPA," "P-1-M-ICPA," "P-1-N-ICPA," "P-1-O-ICPA," "P-1-P-ICPA," "P-1-Q-ICPA," "P-1-R-ICPA," "P-1-S-ICPA," "P-1-T-ICPA," "P-1-U-ICPA," "P-1-V-ICPA," "P-1-W-ICPA," "P-1-X-ICPA," "P-1-Y-ICPA," "P-1-Z-ICPA," "P-1-AA-ICPA," "P-1-AB-ICPA," "P-10-ICPA," "P-11-A-ICPA," "P-11-B-ICPA," "P-11-C-ICPA," "P-11-D-ICPA," "P-11-E-ICPA," "P-11-F-ICPA," "P-11-G-ICPA," "P-11-H-ICPA," "P-12-A-ICPA," "P-12-B-ICPA," "P-12-C-ICPA," "P-12-D-ICPA," "P-12-E-ICPA," "P-12-F-ICPA," "P-12-G-ICPA," "P-13-A.1-ICPA," "P-13-A.2-ICPA," "P-13-A.3-ICPA," "P-13-A.4-ICPA," "P-13-A.5-ICPA," "P-13-A.6-ICPA," "P-13-A.7-ICPA," "P-13-A.8-ICPA," "P-13-A.9-ICPA," "P-13-A.10-ICPA," "P-13-A.11-ICPA," "P-13-A.12-ICPA," "P-13-A.13-ICPA," "P-13-A.14-ICPA," "P-13-A.15-ICPA," "P-13-A.16-ICPA," "P-13-A.17-ICPA," "P-13-A.18-ICPA," "P-13-A.19-ICPA," "P-13-A.20-ICPA," "P-13-A.21-ICPA," "P-13-A.22-ICPA," "P-13-A.23-ICPA," "P-13-A.24-ICPA," "P-13-A.25-ICPA," "P-13-A.26-ICPA," "P-13-A.27-ICPA," "P-13-A.28-ICPA," "P-13-A.29-ICPA," "P-13-A.30-ICPA," "P-13-A.31-ICPA," "P-13-A.32-ICPA," "P-13-A.33-ICPA," "P-13-A.34-ICPA," "P-13-A.35-ICPA," "P-13-A.36-ICPA," "P-13-A.37-ICPA," "P-13-A.38-ICPA," "P-13-A.39-ICPA," "P-13-A.40-ICPA," "P-13-A.41-ICPA," "P-13-A.42-ICPA," "P-13-A.43-ICPA," "P-13-A.44-ICPA," "P-13-A.45-ICPA," "P-13-A.46-ICPA," "P-13-A.47-ICPA," "P-13-A.48-

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[33] Oath of Commission dated May 16, 2019, Docket (Vol. II), p. 890; Minutes of the Hearing held on, and Order dated, May 16, 2019, *id.* at pp. 887-889, and 891, respectively.

[34] Exhibit "P-38," Docket (Vol. III), pp. 1169-1187; Minutes of the Hearing held on, and Order dated, September 10, 2019, *Id.* at pp. 1209-1213.

[35] Exhibit "P-54," *id.* at pp. 1259-1273; Minutes of the Hearing held on, and Order dated, February 6, 2020, *id.* at pp. 1322-1326; Exhibit "P-58," *id.* at pp. 1333-1340; Minutes of the Hearing held on, and Order dated, October 20, 2020, *id.* at pp. 1425-1429.

[36] Docket (Vol. V), pp. 2300-3118.

[37] Records Verification dated December 17, 2020. *Id.* at p. 3120.

[38] Docket (Vol. VI), pp. 3540-3602.

ICPA," "P-13-A.49-ICPA," "P-13-A.50-ICPA," "P-13-A.51-ICPA," "P-13-A.52-ICPA," "P-13-A.53-ICPA," "P-13-A.54-ICPA," "P-13-A.55-ICPA," "P-13-A.56-ICPA," "P-13-A.57-ICPA," "P-13-A.58-ICPA," "P-13-A.59-ICPA," "P-13-A.60-ICPA," "P-13-A.61-ICPA," "P-13-A.62-ICPA," "P-13-A.63-ICPA," "P-13-A.64-ICPA," "P-13-A.65-ICPA," "P-13-A.66-ICPA," "P-13-A.67-ICPA," "P-13-A.68-ICPA," "P-13-A.69-ICPA," "P-13-A.70-ICPA," "P-13-A.71-ICPA," "P-13-A.72-ICPA," "P-13-A.73-ICPA," "P-13-A.74-ICPA," "P-13-A.75-ICPA," "P-13-A.76-ICPA," "P-13-A.77-ICPA," "P-13-A.78-ICPA," "P-13-A.79-ICPA," "P-13-A.80-ICPA," "P-13-A.81-ICPA," "P-13-A.82-ICPA," "P-13-A.83-ICPA," "P-13-A.84-ICPA," "P-13-A.85-ICPA," "P-13-A.86-ICPA," "P-13-A.87-ICPA," "P-13-A.88-ICPA," "P-13-A.89-ICPA," "P-13-A.90-ICPA," "P-13-A.91-ICPA," "P-13-A.92-ICPA," "P-13-A.93-ICPA," "P-13-A.94-ICPA," "P-13-A.95-ICPA," "P-13-A.96-ICPA," "P-13-A.97-ICPA," "P-13-A.98-ICPA," "P-13-A.99-ICPA," "P-13-A.100-ICPA," "P-13-A.101-ICPA," "P-13-A.102-ICPA," "P-13-A.103-ICPA," "P-13-A.104-ICPA," "P-13-A.105-ICPA," "P-13-A.106-ICPA," "P-13-A.107-ICPA," "P-13-A.108-ICPA," "P-13-A.109-ICPA," "P-13-A.110-ICPA," "P-13-A.111-ICPA," "P-13-A.112-ICPA," "P-13-A.113-ICPA," "P-13-A.114-ICPA," "P-13-A.115-ICPA," "P-13-A.116-ICPA," "P-13-A.117-ICPA," "P-13-A.118-ICPA," "P-13-A.119-ICPA," "P-13-A.120-ICPA," "P-13-A.121-ICPA," "P-13-A.122-ICPA," "P-13-A.123-ICPA," "P-13-A.124-ICPA," "P-13-A.125-ICPA," "P-13-A.126-ICPA," "P-13-A.127-ICPA," "P-13-A.128-ICPA," "P-13-A.129-ICPA," "P-13-A.130-ICPA," "P-13-A.131-ICPA," "P-13-A.132-ICPA," "P-13-A.133-ICPA," "P-13-A.134-ICPA," "P-13-A.135-ICPA," "P-13-A.136-ICPA," "P-13-A.137-ICPA," "P-13-A.138-ICPA," "P-13-A.139-ICPA," "P-13-A.140-ICPA," "P-13-A.141-ICPA," "P-13-A.142-ICPA," "P-13-A.143-ICPA," "P-13-A.144-ICPA," "P-13-A.145-ICPA," "P-13-A.146-ICPA," "P-13-A.147-ICPA," "P-13-A.148-ICPA," "P-13-A.149-ICPA," "P-13-A.150-ICPA," "P-13-A.151-ICPA," "P-13-A.152-ICPA," "P-13-A.153-ICPA," "P-13-A.154-ICPA," "P-13-A.155-ICPA," "P-13-A.156-ICPA," "P-13-A.157-ICPA," "P-13-A.158-ICPA," "P-13-A.159-ICPA," "P-13-A.160-ICPA," "P-13-A.161-ICPA," "P-13-A.162-ICPA," "P-13-A.163-ICPA," "P-13-A.164-ICPA," "P-13-A.165-ICPA," "P-13-A.166-ICPA," "P-13-A.167-ICPA," "P-13-A.168-ICPA," "P-13-A.169-ICPA," "P-13-A.170-ICPA," "P-13-A.171-ICPA," "P-13-A.172-ICPA," "P-13-A.173-ICPA," "P-13-A.174-ICPA," "P-13-A.175-ICPA," "P-13-A.176-ICPA," "P-13-A.177-ICPA," "P-13-A.178-ICPA," "P-13-A.179-ICPA," "P-13-A.180-ICPA," "P-13-A.181-ICPA," "P-13-A.182-ICPA," "P-13-A.183-ICPA," "P-13-A.184-ICPA," "P-13-A.185-ICPA," "P-13-A.186-ICPA," "P-13-A.187-ICPA," "P-13-A.188-ICPA," "P-13-A.189-ICPA," "P-13-A.190-ICPA," "P-13-A.191-ICPA," "P-13-A.192-ICPA," "P-13-A.193-ICPA," "P-13-A.194-ICPA," "P-13-A.195-ICPA," "P-13-A.196-ICPA," "P-13-A.197-ICPA," "P-13-A.198-ICPA," "P-13-A.199-ICPA," "P-13-A.200-ICPA," "P-13-A.201-

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2. Exhibits "P-6," "P-7," and "P-15," for failure to duly mark the same;

3. Exhibits "P-28-15," "P-28-16," "P-28-17," "P-28-18," "P-28-19," "P-28-20," "P-28-21," "P-28-22," "P-28-23," and "P-28-24," for being improperly marked, there being two different documents offered and marked for these exhibit numbers;

4. Exhibits "P-29-1," "P-30-8," "P--30-9," "P--30-10," and "P--30-11," for failure to describe the documents being offered;

5. Exhibit "P-57," for failure to present the original for comparison; and

6. Exhibits "P-2-O-ICPA," "P-2-J-ICPA," "P-13-D.99-ICPA," "P-14-E.5-40-ICPA," "P-14-E.5-41-ICPA," "P-14-E.7-6-ICPA," "P-14-K.3-6-ICPA," "P-14-P.4-13-ICPA," "P-14-T.6-6-ICPA," "P-14-T.6-7-ICPA," "P-14-Z.7-8-ICPA," "P-14-Z.7-9-ICPA," "P-14-AE.3-13," "P-14-AE.3-14," "P-14-AE.3-15," and "P-14-AE.3-16," for failure of the document formally offered to correspond with the document marked.

Respondent presented Group Supervisor (GS) Rosario Arriola, as his witness.[39]

On February 11, 2021, respondent filed his Formal Offer of Evidence,[40] to which petitioner filed its Comment (To Respondent's Formal Offer of Evidence dated February 10, 2021) on March 5, 2021.[41]

On February 19, 2021, petitioner filed its Motion for Partial Reconsideration with Manifestation,[42] Supplemental Formal Offer of Evidence,[43] and Amended Formal Offer of Evidence,[44] without respondent's comment thereon.[45]

Through Resolution dated June 8, 2021,[46] the pieces of evidence offered by respondent were admitted.

By Resolution dated June 27, 2022,[47] we resolved:

> (1) petitioner's Amended Formal Offer of Evidence, by admitting Exhibits "P-6," "P-7," "P-28-15," "P-28-16," "P-28-17," "P-28-18," "P-28-19," "P-28-20," "P-28-21," "P-28-22," "P-28-23,"

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39 Exhibit "R-11," Docket (Vol. I), pp. 410-417; Minutes of the Hearing held on, and Order dated, February 4, 2021, Docket (Vol. VI), pp. 3605-3610.

40 Docket (Vol. VI), pp. 3620-3623.

41 Docket (Vol. VIII), pp. 4459-4462.

42 *Id.* at pp. 3625-3633.

43 *Id.* at pp. 3635-3641.

44 *Id.* at pp. 3642-4458.

45 Records Verification dated June 18, 2021. Docket (Vol. VIII), p. 4467.

46 Docket (Vol. VIII), p. 4466.

47 *Id.* at pp. 4510-4525.

"P-28-24," "P-28-15-A," "P-28-16-A," "P-28-17-A," "P-28-18-A," "P-28-19-A," "P-28-20-A," "P-28-21-A," "P-28-22-A," "P-28-23-A," "P-28-24-A," "P-57," "P-1-A-ICPA," "P-1-B-ICPA," "P-1-C-ICPA," "P-1-D-ICPA," "P-1-E-ICPA," "P-1-F-ICPA," "P-1-G-ICPA," "P-1-H-ICPA," "P-1-I-ICPA," "P-1-J-ICPA," "P-1-K-ICPA," "P-1-L-ICPA," "P-1-M-ICPA," "P-1-N-ICPA," "P-1-O-ICPA," "P-1-P-ICPA," "P-1-Q-ICPA," "P-1-R-ICPA," "P-1-S-ICPA," "P-1-T-ICPA," "P-1-U-ICPA," "P-1-V-ICPA," "P-1-W-ICPA," "P-1-X-ICPA," "P-1-Y-ICPA," "P-1-Z-ICPA," "P-1-AA-ICPA," "P-1-AB-ICPA," "P-2-O-ICPA," "P-2-J-ICPA," "P-10-ICPA," "P-11-A-ICPA," "P-11-B-ICPA," "P-11-C-ICPA," "P-11-D-ICPA," "P-11-E-ICPA," "P-11-F-ICPA," "P-11-G-ICPA," "P-11-H-ICPA," "P-12-A-ICPA," "P-12-B-ICPA," "P-12-C-ICPA," "P-12-D-ICPA," "P-12-E-ICPA," "P-12-F-ICPA," "P-12-G-ICPA," "P-13-A.1-ICPA," "P-13-A.2-ICPA," "P-13-A.3-ICPA," "P-13-A.4-ICPA," "P-13-A.5-ICPA," "P-13-A.6-ICPA," "P-13-A.7-ICPA," "P-13-A.8-ICPA," "P-13-A.9-ICPA," "P-13-A.10-ICPA," "P-13-A.11-ICPA," "P-13-A.12-ICPA," "P-13-A.13-ICPA," "P-13-A.14-ICPA," "P-13-A.15-ICPA," "P-13-A.16-ICPA," "P-13-A.17-ICPA," "P-13-A.18-ICPA," "P-13-A.19-ICPA," "P-13-A.20-ICPA," "P-13-A.21-ICPA," "P-13-A.22-ICPA," "P-13-A.23-ICPA," "P-13-A.24-ICPA," "P-13-A.25-ICPA," "P-13-A.26-ICPA," "P-13-A.27-ICPA," "P-13-A.28-ICPA," "P-13-A.29-ICPA," "P-13-A.30-ICPA," "P-13-A.31-ICPA," "P-13-A.32-ICPA," "P-13-A.33-ICPA," "P-13-A.34-ICPA," "P-13-A.35-ICPA," "P-13-A.36-ICPA," "P-13-A.37-ICPA," "P-13-A.38-ICPA," "P-13-A.39-ICPA," "P-13-A.40-ICPA," "P-13-A.41-ICPA," "P-13-A.42-ICPA," "P-13-A.43-ICPA," "P-13-A.44-ICPA," "P-13-A.45-ICPA," "P-13-A.46-ICPA," "P-13-A.47-ICPA," "P-13-A.48-ICPA," "P-13-A.49-ICPA," "P-13-A.50-ICPA," "P-13-A.51-ICPA," "P-13-A.52-ICPA," "P-13-A.53-ICPA," "P-13-A.54-ICPA," "P-13-A.55-ICPA," "P-13-A.56-ICPA," "P-13-A.57-ICPA," "P-13-A.58-ICPA," "P-13-A.59-ICPA," "P-13-A.60-ICPA," "P-13-A.61-ICPA," "P-13-A.62-ICPA," "P-13-A.63-ICPA," "P-13-A.64-ICPA," "P-13-A.65-ICPA," "P-13-A.66-ICPA," "P-13-A.67-ICPA," "P-13-A.68-ICPA," "P-13-A.69-ICPA," "P-13-A.70-ICPA," "P-13-A.71-ICPA," "P-13-A.72-ICPA," "P-13-A.73-ICPA," "P-13-A.74-ICPA," "P-13-A.75-ICPA," "P-13-A.76-ICPA," "P-13-A.77-ICPA," "P-13-A.78-ICPA," "P-13-A.79-ICPA," "P-13-A.80-ICPA," "P-13-A.81-ICPA," "P-13-A.82-ICPA," "P-13-A.83-ICPA," "P-13-A.84-ICPA," "P-13-A.85-ICPA," "P-13-A.86-ICPA," "P-13-A.87-ICPA," "P-13-A.88-ICPA," "P-13-A.89-ICPA," "P-13-A.90-ICPA," "P-13-A.91-ICPA," "P-13-A.92-ICPA," "P-13-A.93-ICPA," "P-13-A.94-ICPA," "P-13-A.95-ICPA," "P-13-A.96-ICPA," "P-13-A.97-ICPA," "P-13-A.98-ICPA," "P-13-A.99-ICPA," "P-13-A.100-ICPA," "P-13-A.101-ICPA," "P-13-A.102-ICPA," "P-13-A.103-ICPA," "P-13-A.104-ICPA," "P-13-A.105-ICPA," "P-13-A.106-ICPA," "P-13-A.107-ICPA," "P-13-A.108-ICPA," "P-13-A.109-ICPA," "P-13-A.110-ICPA," "P-13-A.111-ICPA," "P-13-A.112-ICPA," "P-13-A.113-ICPA," "P-13-A.114-ICPA," "P-13-A.115-ICPA," "P-13-A.116-ICPA," "P-13-A.117-ICPA," "P-13-A.118-ICPA," "P-13-A.119-ICPA," "P-13-A.120-ICPA," "P-13-A.121-ICPA," "P-13-A.122-ICPA," "P-13-A.123-ICPA," "P-13-A.124-

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2. petitioner's Supplemental Formal Offer of Evidence, by admitting Exhibits "P-59," "P-60," "P-61," "P-61-a," "P-62-1," "P-62-2," "P-62-3," "P-62-4," "P-62-5," "P-62-6," "P-62-7," "P-63-1," "P-63-2," "P-63-3," "P-63-4," "P-63-5," "P-63-6," and "P-63-7"; and,

3. petitioner's Motion for Partial Reconsideration, by partly granting the same.

Under Minute Resolution dated September 19, 2022,[48] this case was submitted for decision, considering the respective filing of respondent's Memorandum[49] on August 1, 2022 and petitioner's Memorandum[50] on August 26, 2022.

ISSUES[51]

We are called upon to answer the following matters:

First. Is petitioner liable for the deficiency taxes under the assessment, as appearing in the FDDA of 2014?

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48 *Id.* at p. 4595.
49 *Id.* at pp. 4526-4557.
50 *Id.* at pp. 4559-4594.
51 See stipulated issues during the Pre-Trial Conference. Minutes of the Hearing held on, and Order dated, March 14, 2019, Docket (Vol. II), pp. 803-804.

Second. Is petitioner entitled to the refund being sought in the Petition for Review?

ARGUMENTS

Petitioner states that the deficiency IT for TY 2014 arose from: (1) undeclared sales (Summary List of Sales vs. Summary Alphalist of Withholding Taxes); (2) gross profit on undeclared importation; (3) unaccounted salaries and wages; (4) unaccounted support and service fee; and (5) disallowed write-off inventories.

According to petitioner, it already paid items (1) to (4). However, it insists that it is not liable for deficiency IT emanating from item (5). Specifically, it had presented numerous documents to establish inventory destruction, such as: (1) notice to the Bureau of Internal Revenue (BIR); and (2) the fact of destruction and the value thereof. In view thereof, the BIR's disallowance of the inventories it wrote-off, and consequently, claimed as a deduction from gross income, was improper.

Petitioner also avers that the BIR subjected to 5% EWT on rentals, the ₱144,491,000.00, found under Note 17 of its 2017 Audited Financial Statements (AFS). It nonetheless claims that it is not liable therefrom because: (1) under BIR Ruling No. [DA-VAT-021) 092-09], trade discounts, said amount are not subject to Creditable Withholding Tax (CWT), among others; and (2) said amount are not rentals, but actual promotional activities to increase market demand and eventual sale of its products.

Petitioner, too, asserts that the BIR's FWVAT assessment may not be enforced against it because the same is barred by prescription. Besides, on April 30, 2018, it already paid and remitted to the BIR, FWVAT corresponding to its non-resident foreign corporation (NRFC) supplier, for the months of June to December 2014, whereas it paid under protest, the FWVAT pertaining to January to May of 2014.

Petitioner finally claims that it must be exonerated from compromise penalties because it never agreed to its imposition.

 ql

Given that the tax assessments against it for TY 2014 lack legal and factual bases, petitioner concludes that the refund amounting to ₱13,398,898.25, corresponding to portions of said assessment, is warranted.

On the other hand, respondent points out that the deficiency tax assessments issued against petitioner, for TY 2014 is a product of a valid BIR examination and audit.

Respondent counters that said tax assessments have legal and factual basis, as embodied in the Details of Discrepancies appended to the PAN, FLD/FAN, and FDDA.

Respondent, as well, retorts that the BIR's disallowance of the destroyed inventories, written-off by petitioner is correct because supporting documentation thereof is wanting.

Respondent also ripostes that the ₱144,491,000.00 can hardly be treated as trade discount because of the sheer amount involved. Instead, it must be considered as income of the distributor.

Respondent further points out that the deficiency FWVAT assessment is not barred by prescription because: (1) withholding taxes are imprescriptible; and (2) assuming that FWVAT are subject to the laws of prescription, the tax assessment pertaining thereto, was issued within the ten (10)-year extraordinary prescriptive period to assess internal revenue taxes, enshrined in Section 222 of NIRC, as amended.

Respondent, too, claims that the BIR's imposition of deficiency interest on EWT and FWVAT, is sanctioned by various provisions under the NIRC, as amended.

Since the deficiency tax assessments issued against petitioner for TY 2014 are valid, respondent declares that its plea for the refund of the amount it paid, in relation thereto, must be rejected.

RULING

We grant the Petition.

First, do we have jurisdiction over this case?

Yes.

Section 7(a)(1) of Republic Act (RA) No. 1125,[52] as amended by RA No. 9282, which reads:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
>
> a. **Exclusive appellate jurisdiction to review by appeal**, as herein provided:
>
> 1. **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
>
> ...[53]

Section 3(a)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals [54] (RRCTA) clarified that the Court in Division has jurisdiction over respondent's decision involving disputed assessments, among others. [55] For the decision of respondent or his duly authorized representatives to be raised on appeal before the Court in Division, there must first be a disputed assessment.[56] To properly dispute an assessment, a valid administrative protest by the

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52 An Act Creating the Court of Tax Appeals.

53 Boldfacing supplied.

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

55 **SEC. 3.** *Cases within the jurisdiction of the Court in Divisions.* - The Court in Divisions shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal the following:
(1) **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, **or other matters arising under the National Internal Revenue Code** or other laws, administered by the Bureau of Internal Revenue; (Boldfacing supplied)

56 See *Commissioner of Internal Revenue v. Liquigaz Philippines Corporation,* G.R. No. 215534, April 18, 2016.

taxpayer must be made pursuant to Section 228 of the NIRC, as amended, which states:

> Section 228. *Protesting of Assessment.* — ...
>
> ...
>
> If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
>
> **Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations.**
>
> ...
>
> **If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.**[57]

In turn, the validity of the administrative protest rests upon the confluence of two (2) conditions, namely: *first,* it must be filed within thirty (30) days from the receipt of the final assessment; and *second,* it must be in such form and manner as may be prescribed by implementing rules and regulations.[58] Section 3.1.4 of Revenue Regulations (RR) No. 18-2013, prescribes the form and manner of an administrative protest:

> 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. The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:
>
> (i) Request for reconsideration — refers to a plea of re-evaluation of an assessment on the basis of existing records without

57 Boldfacing supplied.

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

> need of additional evidence. It may involve both a question of fact or of law or both.
>
> (ii) Request for reinvestigation – refers to a plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that a taxpayer intends to present in the reinvestigation. It may also involve a question of fact or of law or both.
>
> The **taxpayer shall state in his protest** (i) the nature of protest whether reconsideration or reinvestigation, specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based, otherwise, his protest shall be considered void and without force and effect.
>
> ...[59]

As presently formulated, the taxpayer has thirty (30) days from receipt of the final assessment to file a valid administrative protest, either by way of request for reconsideration or request for reinvestigation. If a request for reinvestigation was filed, the taxpayer has sixty (60) days from the filing of its request for reinvestigation to submit documents in support thereof. Upon the taxpayer's receipt of the FDDA, it has another thirty (30) days to appeal to the Court in Division.

Petitioner received the BIR's FLD/FAN on July 5, 2017.[60] Counting thirty (30) days therefrom, petitioner had until August 4, 2017 to file an administrative protest thereto; thus, it timely protested the FLD/FAN by way of request for reinvestigation on August 3, 2017.[61] Said protest, too, contained: (1) date of the FLD/FAN; (2) it is a request for reinvestigation; (3) the factual and legal basis of said protest; (4) statement of supporting documents in support thereof.[62] Thus, petitioner filed a valid request for reinvestigation against the FLD/FAN.

On April 27, 2018, petitioner received respondent's FDDA.[63] Counting thirty (30) days therefrom, petitioner had until May 28,

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[59] Boldfacing supplied.
[60] *Supra* note 9.
[61] *Supra* note 11.
[62] *Ibid.*
[63] *Supra* note 14.

2018[64] to seek judicial recourse. Therefore, petitioner's timely filing of the Petition for Review on May 25, 2018,[65] bestowed us with jurisdiction to review respondent's FDDA.

Section 7(a)(2) of RA No. 1125,[66] as amended by RA No. 9282, in relation to Section 3(a)(2), Rule 4 of the RRCTA[67] also clothes us with jurisdiction over inaction of respondent or his duly authorized representatives involving refund of internal revenue taxes and penalties in relation thereto, among others. Among the kinds of refund of internal revenue taxes is one premised upon illegal or erroneous collection thereof, as recognized in Sections 204 and 229 of the NIRC, as amended. *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc. (Carrier)*[68] laid down the conditions for us to acquire jurisdiction over said type of refund case, in the following fashion:

> Section 204 [of the NIRC, as amended] refers to the Commissioner of Internal Revenue's administrative authority to credit or refund erroneously paid or illegally collected taxes. Under this provision, an administrative claim for refund or credit must be filed within two years from payment of the tax.
>
> Section 229 [of the NIRC, as amended], on the other hand, requires two conditions for the filing of judicial claims: (1) an administrative claim must be filed first; and (2) the judicial claim

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64 The 30th day, *i.e.*, May 27, 2018, fell on a Sunday.

65 *Supra* note 21.

66 Sec. 7. Jurisdiction. - The CTA shall exercise:

a. **Exclusive appellate jurisdiction to review by appeal**, as herein provided:

...

2. **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes, fees or other charges, penalties in relations thereto**, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; (Boldfacing supplied)

67 **SEC. 3.** *Cases within the jurisdiction of the Court in Divisions.* - The Court in Divisions shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal the following:

...

(2) **Inaction by 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 ... (Boldfacing supplied)

68 G.R. No. 226592, July 27, 2021.

> must be filed within two years after payment of the tax sought to be refunded.
>
> Reading the two provisions together, both administrative and judicial claims must be filed within the two-year period. Furthermore, the administrative claim must be filed before the judicial claim. This Court has previously declared that "[t]imeliness of the filing of the claim is mandatory and jurisdictional. The [Court of Tax Appeals] cannot take cognizance of a judicial claim for refund file either prematurely or out of time."

On April 30, 2018, petitioner paid under protest the following:

TAX TYPE	Amount
EWT	₱ 7,224,550.00[69]
FWVAT	5,967,348.25[70]
Miscellaneous Tax (compromise penalties)	207,000.00[71]
TOTAL	**₱ 13,398,898.25**

In line with *Carrier*, petitioner had two (2) years from April 30, 2018, or until April 30, 2020, to file both its administrative and judicial claims for refund in the order stated. Petitioner seasonably instituted: *one*, its administrative[72] claim for refund on May 23, 2018; *two*, its Petition for Review filed on May 25, 2018.[73] Hence, we have jurisdiction over petitioner's judicial claim for refund.

Next, is petitioner liable for the deficiency tax assessments for TY 2014?

No.

Section 6(A) of the NIRC, as amended, confines the authority to examine any taxpayer for correct determination of tax liabilities to petitioner, or his or her duly authorized representatives. By way of exception, petitioner, or his or her duly authorized representatives may authorize the examination of any taxpayer for the correct determination of tax liability:

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69 *Supra* note 16.
70 *Supra* note 17.
71 *Supra* note 18.
72 *Supra* note 19.
73 *Supra* note 20.

> SEC. 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.*
>
> (A) Examination of Returns and Determination of Tax Due. After a return has been filed as required under the provisions of this Code, the Commissioner or his [or her] duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax: ...
>
> ...

Sections 10(c) and 13 of the NIRC, as amended, allows the Revenue Regional Directors (RDs) to issue LOAs in favor of ROs performing assessment functions in their respective region and district offices for the examination of any taxpayer within such region:

> SEC. 10. ***Revenue Regional Director.*** - Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the Revenue Regional director shall, within the region and district offices under his jurisdiction, among others:
>
> ...
>
> (c) Issue Letters of authority for the examination of taxpayers within the region;
>
> ...
>
> SEC. 13. ***Authority of a Revenue Officer.*** - Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself [or herself].

Section D(4) of Revenue Memorandum Order (RMO) No. 43-90[74] also provides that deputy commissioners of internal revenue (DCIRs), and other BIR officials authorized by the petitioner are

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[74] SUBJECT: *Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revise Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit.*

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permitted to issue an LOA.[75] Among the BIR officials expressly authorized[76] by respondent to issue an LOA are the Assistant Commissioners (ACIRs) and Head Revenue Executive Assistants (HREAs).

The LOA is the concrete manifestation of the grant of authority bestowed by the CIR or his [or her] authorized representatives to the revenue officers pursuant to Sections 6, 10(c) and 13 of the NIRC, as amended. Naturally, this grant of authority is issued or bestowed upon an agent of the BIR, *i.e.*, a revenue officer.[77] It gives notice to the taxpayer that it is under investigation for possible deficiency tax assessment; at the same time it authorizes or empowers a designated revenue officer to examine, verify, and scrutinize a taxpayer's books and records, in relation to internal revenue tax liabilities for a *particular period.*[78] Contrariwise, the absence of such an authority renders the assessment or examination a patent nullity.[79]

In the LOA dated January 7, 2016, issued by ACIR-LTS Valeroso, he authorized ROs Rosario Arriola (Arriola), and Shella Samaniego, under GS Rolando Balbido to examine petitioner's books of account, and other accounting records for deficiency internal revenue taxes, covering TY ending December 31, 2014.[80]

In the Memorandum of Assignment (MOA) No. LOA-116-2017-0098 dated February 20, 2017 issued by the Chief, Regular LT Audit Division I, Ms. Shirley A. Calapatia (Chief Calapatia), petitioner's case for TY 2014 was referred to RO Abigail N. Cayabyab (Cayabyab), because the then RO named in the LOA, *i.e.*, Arriola, was designated as GS.[81] Chief Calapatia likewise issued a Letter of even date to petitioner, informing it that ROs Maria Graciella Cecilia S. Anaban,

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75 For proper monitoring and coordination of the issuance of Letter of Authority, the only BIR officials authorized to issue and sign Letters of Authority are the Regional Directors, the Deputy Commissioners and the Commissioner. For exigencies of service, other officials may be authorized to issue and sign Letters of Authority but only upon prior authorization by the Commissioner himself.

76 No. 2, Roman Number II of RMO No. 29-2007 permits assistant commissioners and head revenue executive assistants to issue LOAs.

77 *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corporation,* G.R. No. 242670, May 10, 2021.

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

79 See *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue,* G.R. No. 241848, May 14, 2021.

80 *Supra* note 4.

81 Exhibit "P-56." Folder 1, BIR Records, p. 724.

Riza F. Budano, Carolyn V. Mendoza, and Tito R. Monforte, are authorized to assist RO Cayabyab under GS Arriola.[82]

Additionally, in the Letter dated February 20, 2017, Officer-in-Charge (OIC) ACIR-LTS Teresita M. Angeles informed petitioner that RO Cayabyab "is authorized to continue the examination of [petitioner's] books of accounts and other accounting records pursuant to Memorandum of Assignment No. LOA-116-2017-0098 dated February 20, 2017 and in accordance with Sec. 6(A) and Sec. 10 (c) of the NIRC of 1997, as amended."[83]

Meanwhile, the pertinent Memoranda, leading to the finding of deficiency taxes against petitioner for TY 2014 are detailed below:

BIR Document	Date	Recommendation	Prepared by:	Reviewed by:
Memorandum[84]	May 10, 2017	Issuance of PAN against petitioner	ROs Abigail N. Cayabyab, Maria Graciella S. Anaban, Riza F. Budano, Tito R. Monforte, and Carolyn V. Mendoza	Rosario A. Arriola
Memorandum[85]	June 22, 2017	Issuance of FLD/FAN against petitioner	ROs Abigail N. Cayabyab, Maria Graciella S. Anaban, Riza F. Budano, Tito R. Monforte, and Carolyn V. Mendoza	Rosario A. Arriola

What we can refract therefrom is that no LOA was issued by respondent or his duly authorized representatives under the names of ROs Abigail N. Cayabyab, Maria Graciella S. Anaban, Riza F. Budano, Tito R. Monforte, and Carolyn V. Mendoza to conduct the audit and examination on petitioner for TY 2014. Neither was there an amended or substituted LOA to reflect said ROs to continue the audit and examination of petitioner for said year. *Ergo,* the absence thereof taints the whole examination process, and resultant tax

82 Exhibit "P-6." Folder 1, BIR Records, p. 727.
83 Exhibit "P-7." Folder 1, BIR Records, p. 729.
84 Exhibit "R-4." Folder 1, BIR Records, pp. 728-735.
85 Exhibit "R-6." Folder 1, BIR Records, pp. 971-982.

qv

assessments issued against petitioner covering said year with invalidity.

We, too, are cognizant that GS Arriola was named in the LOA dated January 7, 2016, issued by ACIR-LTS Valeroso. Equally true is that in the Memoranda dated May 10, 2017,[86] and June 22, 2017,[87] GS Arriola *reviewed* the findings of ROs Cayabyab, Anaban, Budano, Monforte, and Mendoza. However, there was nothing for GS Arriola to review or check, since the findings unearthed by ROs Cayabyab, Anaban, Budano, Monforte, and Mendoza are a patent nullity.

Therefore, we declare the deficiency tax assessments covering TY2014 void, for being a product of illegal audit and examination by respondent's tax agents.

Lastly, is petitioner entitled to the refund portions of the EWT, FWVAT, and Miscellaneous Tax (compromise penalties) covering TY 2014, in the total amount of ₱13,398,898.25?

Yes.

Section 229[88] of the NIRC, as amended, allows the recovery of taxes erroneously or illegally collected. An "erroneous or illegal tax" is defined as one levied without statutory authority, or upon property not subject to taxation or by some officer having no authority to levy the tax, or one which is some other similar respect is illegal.[89]

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86 *Supra* note 84.

87 *Supra* note 85.

88 **SEC. 229.** ***Recovery of Tax Erroneously or Illegally Collected.***- no suit or proceeding shall be maintained in any court for the recovery of **any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected,** until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

... (Boldfacing supplied)

89 See *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation,* G.R. No. 188497, April 25, 2012.

Adverting to our earlier discussion, the deficiency tax assessments issued against petitioner for TY 2014 are void because the same was a result of an illegal examination conducted by the BIR. *A fortiori*, the EWT, FWVAT, and Miscellaneous Tax (compromise penalties) for TY 2014, paid under protest by petitioner, in the total amount of ₱13,398.898.25, were unlawfully collected by the BIR. Precisely, refund thereof must ensue.

WHEREFORE, the Petition for Review filed on May 25, 2018, by 3M Philippines, Inc., is **GRANTED**. Accordingly, we **RESOLVE** to:

a. **CANCEL** and **SET ASIDE** the deficiency Income Tax, Expanded Withholding Tax, Withholding Tax-Final Value-Added Tax assessments, their corresponding interests and compromise penalties in the total amount of ₱37,286,558.75, for the Taxable Year 2014;

b. **ORDER** respondent to **REFUND** petitioner the amount of ₱13,398,898.25, representing the amount it paid under protest on April 30, 2018; and,

c. **ENJOIN** respondent, his representatives, agents, or other persons acting in his behalf, from collecting on petitioner, the deficiency tax assessments covering Taxable Year 2014.

SO ORDERED.

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

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice