CTA Form No. 8

22-000043-0097

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

**SPECIAL FIRST DIVISION**

**CTA CASE NO. 10753**

**RUSS REUBEN L. PICZON,**
Petitioner,

- versus -

**COMMISSIONER OF INTERNAL REVENUE,**
Respondent.

**NOTICE OF AMENDED DECISION**

**To:**

**OFFICE OF THE SOLICITOR GENERAL**
134 Amorsolo St., Legazpi Village
Makati City

**ATTY. PAULYN ANN A. UMIPIG-LABUCAY**
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**PECABAR LAW**
3rd Floor, Vernida IV Bldg., 128 Leviste Street
Salcedo Village, 1227 Makati City

***GREETINGS:***

You are hereby notified by these presents that on **June 17, 2026,** a Amended Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **June 19, 2026.**

**Atty. Maria Johoanna F. Chan-Te**
Executive Clerk of Court III

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

## SPECIAL FIRST DIVISION

**RUSS REUBEN L. PICZON,**
Petitioner,

- versus -

**COMMISSIONER OF INTERNAL REVENUE,**
Respondent.

CTA CASE NO. **10753**

Members:

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

Promulgated:
JUN 17 2026; 9:40AM

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# AMENDED DECISION

***BACORRO-VILLENA, J.:***

Dissatisfied with the Court's Decision dated 07 July 2025[1] (**assailed Decision**) dismissing the case for lack of jurisdiction, petitioner Russ Reuben L. Piczon (**petitioner**) filed a "Verified Motion for Reconsideration (Re: Decision dated July [7], 2025"[2] (**MR**) on 31 July 2025, with respondent Commissioner of Internal Revenue (**respondent**'s/**CIR**'s) "Comment/Opposition"[3] (**Comment**) filed on 13 October 2025.

In the assailed Decision, the First Division declared that petitioner only had until **02 February 2022** to file his Petition for Review[4] before the Court of Tax Appeals (**CTA**). Considering that petitioner personally filed the same **on 03 February 2022**, but failed to transmit an electronic

[1] Division Docket, Volume V, pp. 2214-2236.
[2] Id., pp. 2237-2341.
[3] Id., pp. 2344-2351.
[4] Id., Volumes I-II, pp. 6-887, with annexes.

copy,[5] the Petition for Review was filed out of time; hence the dismissal of the case for lack of jurisdiction.

Importantly, the Court, in the assailed Decision, recognized that had the petitioner electronically filed his Petition for Review on 02 February 2022, the same would have been sanctioned by the rules in effect at that time. Specifically, the assailed Decision states –

> ...
>
> Accordingly, in case of the CIR's adverse decision or ruling, the taxpayer is given 30 days to file a Petition for Review with the CTA.
>
> Here, petitioner received a copy of respondent's Final Decision (dated 10 August 2021) on **15 December 2021**. ... Counting 30 days therefrom, petitioner originally had until **14 January 2022** to file his judicial appeal.
>
> Relevantly, on 10 January 2022, in response to challenges brought by COVID-19 pandemic and super typhoon "Odette", the Supreme Court issued Administrative Circular (**AC**) No. 01-2022. The said AC extended the filing periods of all pleadings and court submissions falling due in the month of January 2022 until 01 February 2022. In consideration thereof, the end of petitioner's period to file his Petition for Review would instead fall on 01 February 2022. However, such date coincides with the celebration of Chinese New Year, which was designated as a special non-working day pursuant to Proclamation No. 1236, s. 2021. Petitioner thus had until Wednesday, **02 February 2022**, or the next working day, to file his Petition.
>
> ...
>
> The Resolution in question, CTA *En Banc* Resolution No. 4-2021 dated 24 February 2021, indeed allows electronic filings for pleadings (including initiatory pleadings), motions, and other court submissions during the period permitted therein:
>
>> ...
>>
>> **WHEREAS**, the Supreme Court (SC) issued various Administrative Circulars allowing the electronic filing of initiatory pleadings, motions and other court submissions through the respective official email addresses of the courts in view of the COVID-19 pandemic;

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[5] See Records Verification dated 17 June 2025, id., Volume V, p. 2210.

> **WHEREAS**, pursuant to SC Administrative Circular No . 45-2020, dated 18 August 2020, the Court of Appeals, *Sandiganbayan*, and Court of Tax Appeals (CTA) may continue to receive petitions and pleadings electronically in accordance with paragraph 1 thereof and process the same pursuant to their respective internal rules;
>
> **NOW, THEREFORE**, pursuant to its authority under Section 8 of Republic Act No. 1125, as amended, this Court, sitting *En Banc* **RESOLVES**, as it hereby **RESOLVED**, to adopt the following guidelines in relation to the filing of pleadings, motions, and other court submissions by email during the Period of State of Public Health Emergency due to the COVID-19 Pandemic:
>
> 1. Pleadings, motions, and other court submissions may be filed by email through the official email address of the CTA Judicial Records Division <u>jrd.cta@judiciary.gov.ph</u> copy furnished the official email address of the CTA *En Banc* <u>enbanc.cta@judiciary.gov.ph</u> for *en banc* cases or the email address of the concerned CTA Division for Division cases, as follows:
>
> First Division - 1stdiv.cta@judiciary.gov.ph
> Second Division - 2nddiv.cta@judiciary.gov.ph
> Third Division - 3rddiv.cta@judiciary.gov.ph;
>
> 2. The cut-off time for pleadings, motions, and other court submissions filed by email shall be at 4:30 p.m. which is the same cut-off time for the physical filing of pleadings, motions, and other court submissions. Pleadings, motions, and other court submissions filed by email after the 4:30 p.m. cut-off time shall be considered as filed on the next working day[.][6]

...

In his MR, petitioner presented screenshots of email transmittals and metadata to prove that the Petition for Review was sent to the official email address of the CTA Judicial Records Division (**CTA-JRD**) (<u>jrd.cta@judiciary.gov.ph</u>) **on 02 February 2022.**

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6 Supra at note 1, pp. 2230-2233; Citations omitted, emphasis, italics and underscoring in the original text.

Acting on the MR, the First Division, in its Resolution dated 06 February 2026,[7] declared that the digital copies of the email retained in petitioner's counsels' messaging application, in conjunction with the documentation petitioner earlier submitted, would paint a more reliable picture regarding the Petition for Review's transmittal. As such, the Court directed petitioner to submit a USB Drive containing digital copies of the emails transmitting the Petition for Review and its attachments in ".MSG", ".EML", or similar format.

On 05 March 2026, petitioner submitted a "Compliance",[8] attaching thereto the USB Drive containing digital copies of the following documents in ".MSG" format:

1. E-mail transmittal of the Petition for Review;
2. E-mail transmittal of the link for the Exhibits;
3. E-mail transmittal that was resent to the CTA *En Banc*'s e-mail address; and
4. E-mail transmittal of proof of personal filing and payment of official receipts.

Subsequently, on 16 March 2026, respondent filed an "Opposition (to the Compliance dated March 5, 2026)".[9] On 25 March 2026, the MR was submitted anew for resolution.[10]

**We resolve.**

Upon careful examination of petitioner's digital submissions in his Compliance and a second hard look on the records of this case, this Court is constrained to reconsider its earlier disquisitions as articulated in the assailed Decision.

Particularly, the copies of the email transmittals as retained in petitioner's counsels' messaging application were **confirmed and verified by the Management Information Systems Division (MISD) of the CTA to be accurate and reliable proof that the**

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[7] Id., pp. 2376-2380.
[8] Id., pp. 2381-2384.
[9] Id., pp. 2386-2392.
[10] See Resolution dated 25 March 2026, id., p. 2406.

**CTA-JRD received the Petition for Review that was indeed electronically transmitted <u>on 02 February 2022</u>.** We reproduce below the text of the Records Verification dated 19 May 2026[11] issued by the CTA-JRD:

> ...
>
> *This is to verify and upon examination of the records of the above-entitled case, this Office received the electronic copy of the petitioner's Petition for Review on **<u>February 2, 2022</u>** as verified by the Management Information Systems Division (MISD).*
>
> ...

**Said Records Verification supersedes the previous Records Verification dated 17 June 2025,**[12] which stated that petitioner failed to file a softcopy of the Petition for Review dated 01 February 2022.

Having sufficiently ascertained the fact of electronic transmittal of the instant Petition for Review on 02 February 2022, We find it proper to reassess whether this Court has jurisdiction over the same.

THE PETITION FOR REVIEW WAS TIMELY FILED AND THE COURT OF TAX APPEALS ACQUIRED JURISDICTION OVER THE SAME

As the records bear, petitioner, through counsel, received a copy of respondent's Decision dated 10 August 2021 on **<u>15 December 2021</u>**.[13] Pursuant to Section 3(a),[14] Rule 8 of the Revised Rules of the Court of Tax Appeals (**RRCTA**), petitioner has thirty (30) days, or until **<u>14 January 2022</u>**, to elevate the case to the CTA.

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11 Id., p. 2407.

12 Supra at note 5.

13 Exhibit "P-22", Division Docket, Volume IV, p. 1876.

14 SEC. 3. *Who may appeal; period to file petition.* —
(a) **A party adversely affected by a decision,** ruling or the inaction **of the Commissioner of Internal Revenue on disputed assessments** or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction **may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision** or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. (Emphasis supplied)

However, on 10 January 2022, or four (4) days prior to the deadline, the Supreme Court issued Administrative Circular (**AC**) No. 01-2022,[15] extending the filing periods of all pleadings and court submissions falling due in the month of January 2022 (which includes the instant Petition for Review) to **01 February 2022**. Considering that said date coincided with the celebration of Chinese New Year, which was designated as a special non-working day,[16] petitioner had until **02 February 2022**, or the next working day, to file his Petition for Review.

The 2019 Rules of Civil Procedure provides that initiatory pleadings, such as the instant Petition for Review, are to be filed personally or by registered mail when allowed, and shall not be filed electronically, unless express permission is granted by the court.[17] Accordingly, the CTA *En Banc* issued Resolution No. 4-2021 dated 24 February 2021,[18] which allows electronic filings for pleadings (including initiatory pleadings), motions, and other court submissions during the Period of State of Public Health Emergency due to the COVID-19 pandemic, or until 31 December 2022.[19]

In the case at bar, petitioner electronically filed the instant Petition for Review on 02 February 2022.[20] On the next day, he personally filed the same[21] and paid the filing fees due thereon,[22] in compliance with the requirement under CTA *En Banc* Resolution No. 4-2021 that hardcopies be filed and filing fees be paid within five (5) calendar days from the date of email filing. Therefore, **the instant Petition for Review was timely filed and this Court has jurisdiction to rule over the same.**

We now proceed to address the merits of the Petition for Review.

After thoroughly reviewing the records and evaluating the parties' arguments *vis-à-vis* the pertinent laws, rules, and jurisprudence, this

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15 RE: EXTENSION OF THE DEADLINES FOR THE FILING OF ANY AND ALL PLEADINGS AND OTHER COURT SUBMISSIONS FALLING DUE IN THE MONTH OF JANUARY 2022 IN ALL COURTS.
16 Proclamation No. 1236, s. 2021.
17 2019 Amendments to the 1997 Rules of Civil Procedure, Rule 13, Section 14(a).
18 Pleadings, Motions and Other Court Submissions Filed by Email.
19 See CTA *En Banc* Resolution No. 3-2023.
20 Supra at note 10.
21 Division Docket, Volume I, pp. 6-25, with annexes.
22 Id., pp. 3-5.

Court finds that the **subject tax assessments are void on the ground of prescription and violation of petitioner's due process rights.**

RESPONDENT'S RIGHT TO <u>**ASSESS**</u> THE SUBJECT DEFICIENCY TAXES HAS PRESCRIBED

Section 203 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, provides for the general rule that the assessment and collection of taxes is subject to the prescriptive period of three (3) years:

> ...
>
> **SEC. 203.** *Period of Limitation Upon Assessment and Collection.* - Except as provided in Section 222, internal revenue taxes shall be **assessed within three (3) years after the last day prescribed by law for the filing of the return**, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: *Provided*, That **in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed**. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.[23]
>
> ...

In the case at bar, petitioner was assessed deficiency income tax and value-added tax (**VAT**) (collectively, "**subject deficiency taxes**") on the basis of his Annual Income Tax Return (**AITR**) and first quarter VAT return for taxable year (**TY**) 2012. Counting three (3) years from the statutory deadline to file the said returns, the prescriptive period for the assessment of the subject deficiency taxes ended on 15 April 2016 (for income tax) and on 25 April 2015 (for VAT), as illustrated below:

| Tax return | Statutory deadline | Actual filing date | Deadline of period for assessment |
|---|---|---|---|
| AITR | 15 April 2013 | 15 April 2013[24] | 15 April 2016 |
| Q1 VAT return | 25 April 2012 | 12 April 2012[25] | 25 April 2015 |

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23 Emphasis supplied and italics in the original text.
24 BIR Records, pp. 1-20.
25 Id., p. 41.

Considering that respondent issued the Formal Letter of Demand/ Final Assessment Notice[26] (**FLD/FAN**) on 19 July 2016, the same clearly falls beyond the ordinary prescriptive period.

THE WAIVER OF THE DEFENSE OF PRESCRIPTION EXECUTED IN THIS CASE IS NULL AND VOID

Prior to the expiration of the abovementioned prescriptive periods to assess the subject deficiency taxes, the parties appear to have executed a document entitled: WAIVER OF THE DEFENSE OF PRESCRIPTION UNDER THE STATUTE OF LIMITATIONS OF THE NATIONAL INTERNAL REVENUE CODE[27] (**Waiver**), which extended the prescriptive period for assessment and/or collection of taxes to **30 June 2017**.

Section 222 of the NIRC of 1997, as amended, provides for the exceptions to the three (3)-year prescriptive period, one of which is when the CIR and the taxpayer agree on a different period for assessment and collection:

> ...
>
> **SEC. 222.** *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* –
>
> ...
>
> (b) If before the expiration of the time prescribed in Section 203 for the assessment of the tax, **both the Commissioner and the taxpayer have agreed in writing to its assessment after such time, the tax may be assessed within the period agreed upon.** The period so agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon.
>
> ...
>
> (d) Any internal revenue tax, which has been assessed within the period agreed upon as provided in paragraph (b) hereinabove, **may be collected by distraint or levy or by a proceeding in court within the period agreed upon in writing before the expiration of the five (5)-year period.** The period so agreed upon may be

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26 Exhibit "P-18", Division Docket, Volume IV, pp. 1765-1772.

27 Exhibit "R-7", BIR Records, p. 32K4.

> extended by subsequent written agreements made before the expiration of the period previously agreed upon.[28]
>
> ...

These written agreements are waivers of the statute of limitations under the NIRC of 1997, as amended. In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue,*[29] the Supreme Court explained the nature of these waivers and declared that they are to be strictly construed:

> ...
>
> A waiver of the statute of limitations under the NIRC, to a certain extent, is a **derogation of the taxpayers' right to security against prolonged and unscrupulous investigations** and must therefore be carefully and strictly construed. The waiver of the statute of limitations is not a waiver of the right to invoke the defense of prescription as erroneously held by the Court of Appeals. It is an **agreement between the taxpayer and the BIR that the period to issue an assessment and collect the taxes due is extended to a date certain. The waiver does not mean that the taxpayer relinquishes the right to invoke prescription** unequivocally particularly where the language of the document is equivocal. For the purpose of safeguarding taxpayers from any unreasonable examination, investigation or assessment, our tax law provides a statute of limitations in the collection of taxes. Thus, the law on **prescription**, being a remedial measure, **should be liberally construed** in order to afford such protection. As a corollary, the **exceptions to the law on prescription should perforce be strictly construed.**
>
> ...

In *Commissioner of Internal Revenue v. First Philippine Industrial Corporation*[30] ***(First Philippine Industrial)***, the Supreme Court laid out the requirements for validity of waivers of the statute of limitations:

> ...
>
> RMO 20-90 and RDAO 05-01 provide for the following procedures for the proper execution of a valid waiver:
>
> 1. The waiver must be in the proper form prescribed by RMO 20-90. The phrase "but not after ______ 19 ____,"

[28] Emphasis supplied and italics in the original text.
[29] G.R. No. 162852, 16 December 2004; Citations omitted and emphasis supplied.
[30] G.R. No. 266409 (Notice), 23 August 2023; Citations omitted, emphasis in the original text and supplied.

**which indicates the expiry date of the period agreed upon to assess/collect the tax after the regular three-year period of prescription, should be filled up.**

2. The waiver must be **signed by the taxpayer himself or his duly authorized representative.** In the case of a corporation, the waiver must be signed by any of its responsible officials. In case the authority is delegated by the taxpayer to a representative, such delegation should be in writing and duly notarized.

3. The waiver should be **duly notarized.**

4. The **CIR or the revenue official authorized by him must sign the waiver** indicating that the BIR has accepted and agreed to the waiver. The **date of such acceptance by the BIR should be indicated.** However, before signing the waiver, the CIR or the revenue official authorized by him must make sure that the waiver is in the prescribed form, duly notarized, and executed by the taxpayer or his duly authorized representative.

5. Both **the date of execution by the taxpayer and date of acceptance** by the Bureau should be before the expiration of the period of prescription or before the lapse of the period agreed upon in case a subsequent agreement is executed.

6. The waiver must be executed in three copies, the original copy to be attached to the docket of the case, the second copy for the taxpayer and the third copy for the Office accepting the waiver. **The fact of receipt by the taxpayer of his/her file copy** must be indicated in the original copy to show that the taxpayer was notified of the acceptance of the BIR and the perfection of the agreement.

**These procedures, as discussed, are mandatory** for the validity of a waiver of the defense of prescription.

The foregoing procedures, taken together with RMO 20-90, RDAO 05-01, and relevant jurisprudence, indicate that a waiver of the defense of prescription, in order to be valid, must contain the following requirements: (1) the period agreed upon or the date within which the BIR may assess and collect revenue taxes to prevent the waiver from becoming unlimited in time; (2) the kind and amount of tax due to prevent the waiver from becoming applicable to multiple tax audits for

> the same taxable period; (3) the date of execution and acceptance of the waiver by the CIR to determine whether the waiver was validly executed and accepted before the expiration of the original three-year period; (4) the conformity/signature of the CIR or his/her authorized representative; (5) the conformity/signature of the taxpayer or their authorized representative; (6) the fact of receipt by the taxpayer of its copy/copies of the waiver; and (7) notarization.
>
> ...

In case of non-compliance with the above-enumerated requirements, **the waiver shall be void:**

> ...
>
> **A waiver of the defense of prescription that does not contain the above enumerated requirements is void.** Waivers of the defense of prescription are bilateral agreements between a taxpayer and the CIR. Section 222 (b) of the NIRC provides that the CIR and taxpayer must have both "agreed in writing" to the waiver or extension of the period for assessment. There can be no agreement if the information necessary to intelligently consent to waiver is not in the body of such waiver. It is for this reason that **the above enumerated specific information are necessary for the validity of a waiver** of the defense of prescription. It should be emphasized that the **legal provisions on prescription should be liberally construed to protect taxpayers and that, as a corollary, the exceptions to the rule on prescription, such as waivers of the defense of prescription, should be strictly construed.**[31]
>
> ...

Applying these requirements to the instant Waiver, this Court finds the same to be void on the following grounds: (1) the kind and amount of tax due were not specified; (2) the date of acceptance by the CIR was not indicated; and (3) it was not notarized in accordance with the 2004 Rules on Notarial Practice.[32]

On the kind and amount of tax due – the Supreme Court, in *First Philippine Industrial,* deemed as void the waivers which failed to indicate the specific tax involved and the exact amount of the tax to be assessed and collected. Similarly, in the instant case, the Waiver merely referred

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[31] See *Commissioner of Internal Revenue v. First Philippine Industrial Corporation*, supra at note 30; Citations omitted, emphasis in the original text and supplied.

[32] A.M. No. 02-8-13-SC.

to "all internal revenue tax liabilities for the year 2012", without specifying the type of tax and its amount, to wit:

> ...
>
> I, RUSS REUBEN L. PICZON[,] BRAND AMBASSADOR MANPOWER SERVICES / STAR BRAND AUDIO VISUAL WAREHOUSE request for approval by the Commissioner of Internal Revenue for more time to submit the documents required in connection with the investigation/reinvestigation/re-evaluation/collection enforcement of my/its ALL INTERNAL REVENUE tax liabilities for the year 2012.[33]
>
> ...

On the CIR's date of acceptance – the Supreme Court, in a plethora of cases,[34] consistently invalidated waivers on the ground that the CIR's date of acceptance was not indicated therein. Applying this to the case at bar, while the instant Waiver bears the name and signature of Revenue District Officer Rosemarie V. Ramos-Ragasa, the space allotted below her signature to indicate the date of acceptance is left blank. Thus, the Waiver failed to indicate respondent's date of acceptance of the same.

On the notarization – in *Heir of Herminigildo A. Unite v. Atty. Raymund P. Guzman*,[35] the Supreme Court emphasized the requirement for the affiant's competent evidence of identity in the notarization of documents:

> ...
>
> Under Section 2 (b) (1) and (2), Rule IV of the Notarial Rules, a notary public should not notarize a document unless the signatory to the document is "in the notary's presence personally at the time of the notarization," and is "*personally known to the notary public or otherwise identified by the notary public through competent evidence of identity.*" ...
>
> ...
>
> While respondent argues that, apart from the CTC, he required all the parties to the Deed to present at least two (2) current government

[33] Supra at note 27.

[34] *Republic of the Philippines v. First Gas Power Corporation*, G.R. No. 214933, 15 February 2022; *Commissioner of Internal Revenue v. Standard Chartered Bank*, G.R. No. 192173, 29 July 2015; *Commissioner of Internal Revenue v. FMF Development Corporation*, G.R. No. 167765, 30 June 2008; *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*, G.R. No. 162852, 16 December 2004.

[35] A.C. No. 12062, 02 July 2018; Citations omitted, italics in the original text and emphasis supplied.

> identification documents and conducted further interviews to ascertain their capacity and personality to enter into the transactions, the Deed itself, however, belies this contention. **Had respondent indeed required – and had the parties presented – current government identification documents at the time of the Deed's notarization, respondent should have reflected these facts on the Deed's acknowledgement portion** in the same manner that the Deed reflected Torrices' CTC. **By notarizing the Deed notwithstanding the absence of the competent evidence of identity required by the Notarial Rules, respondent undoubtedly failed to properly perform his duty as a notary public.**
>
> ...

In the present case, the Acknowledgment portion in the Waiver does not contain the name and competent evidence of identity of petitioner, in violation of the requirement that waivers be duly notarized.

To the Court's mind, all these, taken together, sufficiently prove that the instant Waiver failed to comply with the requirements provided under Revenue Memorandum Order (**RMO**) No. 20-90,[36] Revenue Delegation of Authority Order (**RDAO**) No. 05-01,[37] and prevailing jurisprudence on the matter, thereby rendering the same **null and void**. Consequently, the three (3)-year prescriptive period provided under Section 203 of the NIRC of 1997, as amended, cannot be said to have been waived or suspended. Accordingly, the FLD/FAN issued on 19 July 2016, beyond the prescriptive period which ended on 15 April 2016 (for income tax) and on 25 April 2015 (for VAT), is **time-barred.**

EVEN ASSUMING THAT THE WAIVER IS VALID, RESPONDENT'S RIGHT TO <u>COLLECT</u> THE SUBJECT DEFICIENCY TAXES HAS ALREADY PRESCRIBED

Assuming *arguendo* that the instant Waiver is valid and that it properly extended the prescriptive period to assess to 30 June 2017, the same will only legitimize the issuance of the FLD/FAN on 19 July 2016,

36 Proper Execution of the Waiver of the Statute of Limitations under the National Internal Revenue Code.

37 Delegation of Authority to Sign and Accept the Waiver of the Defense of Prescription Under the Statute of Limitations.

*i.e.*, respondent's right to **assess**. The fact, remains, however, that the respondent's right to **collect** has prescribed.

In *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc.*[38] (***QL Development***), the Supreme Court ruled that in cases of valid assessments issued within the three (3)-year period, the Bureau of Internal Revenue (**BIR**) has another three (3) years to collect the deficiency taxes.

In the case at bar, counting three (3) years from 30 June 2017, which is the period agreed upon in the instant Waiver, respondent only had until **30 June 2020** to initiate its collection efforts. Notably, because of the COVID-19 pandemic, the running of the statute of limitations on assessment and collection of taxes was suspended through several issuances of the BIR. Pursuant to BIR Operations Memorandum No. 66-2022,[39] for the period of 16 March 2020 up to 15 September 2021, the running of the statute of limitations was suspended for a total of **420 days**. Thus, after considering the 420-day suspension, the respondent, in this case, only had until **24 August 2021** to collect the subject deficiency taxes.

As explained by the Supreme Court in *QL Development,* said collection efforts come in many forms –

> ...
> To reiterate, the CIR's collection efforts are initiated by distraint, levy, or court proceeding. The distraint and levy proceedings are validly begun or commenced by the issuance of a **warrant of distraint and levy** and service thereof on the taxpayer. And, a judicial action for the collection of a tax is initiated: (a) by the filing of a complaint with the court of competent jurisdiction; or (b) where the assessment is appealed to the CTA, by **filing an answer** to the taxpayer's petition for review wherein payment of the tax is prayed for.[40]
> ...

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[38] G.R. No. 258947, 29 March 2022.

[39] Further Clarification on the Suspension of the Running of the Statute of Limitations on Assessment and/or Collection of Internal Revenue Taxes Under Sections 203 and 222 of the 1997 Tax Code, As Amended, in View of the Declaration of Enhanced Community Quarantine (ECQ)/Modified Enhanced Community Quarantine (MECQ)

[40] Supra at note 38; Citations omitted and emphasis supplied.

Based on the records of this case, the earliest collection effort was initiated by respondent extrajudicially on **17 December 2021**, when it issued the Warrant of Distraint and/or Levy.[41] At this point, 115 days have already passed since 24 August 2021. Other collection efforts commenced much later, with the issuance of Warrants of Garnishment[42] on 10 February 2022 and filing of respondent's Answer[43] before this Court on 19 April 2022. Evidently, respondent's collection efforts were already barred by prescription.

Therefore, regardless of whether the Waiver in this case is valid or not, the Court will arrive at the same conclusion that the **respondent's right to collect the deficiency taxes has already prescribed.**

THE TEN (10)-YEAR EXTRAORDINARY PERIOD FOR ASSESSMENT OF TAXES IS INAPPLICABLE IN THIS CASE

In his or her Answer and Memorandum,[44] respondent asserts that the extraordinary period of ten (10) years to assess deficiency taxes applies in this case on the ground of substantial underdeclaration of income.

It is true that under Section 222 of the NIRC of 1997, as amended, the 10-year prescriptive period for assessment of taxes applies in case of filing of fraudulent return with intent to evade tax:

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

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41 Exhibit "R-10", BIR Records, p. 592.
42 Exhibits "R-11-1" to "R-12", id., pp. 599-649.
43 Division Docket, Volume II, pp. 907-928, with annexes.
44 Id., Volume IV, pp. 2156-2166.

(c) Any internal revenue tax which has been assessed within the period of limitation as prescribed in paragraph (a) hereof may be **collected by distraint or levy or by a proceeding in court within five (5) years following the assessment** of the tax.[45]

...

However, the extraordinary period of 10 years to assess and five (5) years to collect deficiency taxes cannot be invoked haphazardly and purely at the whim or convenience of the parties. Instead, it must be consistent with the taxpayer's fundamental right to due process. The Supreme Court, in the 2023 case of *McDonald's Philippines Realty Corporation v. Commissioner of Internal Revenue,*[46] elucidated that:

...

[W]hile the law accords the tax authorities an extended period within which they may investigate the taxpayer and issue a corresponding tax assessment, **the law does so by exception.** Furthermore, it is recognized that the law on prescription should be ***liberally construed in favor of the taxpayer***, to afford them protection against unreasonable examination, investigation, or assessment.

Thus, when invoking the benefit of the extraordinary 10-year assessment period, as well as the presumption of falsity or fraud, the **tax authorities are duty-bound to respect a taxpayer's *fundamental right to due process of the law.*** There is due process when the taxpayer is provided with information necessary to mount an *intelligent and timely protest/defense to the assessment.*

Consequently, ***first*****, the tax authorities are required to *communicate* to the taxpayer, in a clear and adequate manner, the basis for extending the assessment period.** Guided by the pronouncements in *Asalus, Fitness by Design*, and *Spouses Magaan*, the tax authorities are obligated to indicate in the *assessment notice* that the extraordinary prescriptive period is being applied and the bases of allegations of falsity or fraud (First Due Process Requirement).

*Second*, they are likewise ***proscribed from adopting a position inconsistent with the invocation of the extended period*** **or that which will mislead the taxpayer and prejudice its defense** (Second Due Process Requirement).

In the past, **the Court regarded the following acts performed by the tax authorities as contradictory to the application of the**

45 Emphasis supplied and italics in the original text.

46 G.R. No. 247737, 08 August 2023; Citations omitted, italics and emphasis in the original text and supplied.

> **10-year prescriptive period: (a) prior execution of waivers meant to extend the basic three-year period** (*Inquirer*); (b) hasty issuance of an assessment notice in order to meet the basic three-year deadline (*i.e.*, one day before the last day of the three-day prescriptive period, as in *Unioil*).
>
> ...

Verily, respondent cannot execute waivers with the intention of extending the basic three (3)-year prescriptive period and, at the same time, apply the extraordinary 10-year prescriptive period. If, indeed, respondent is convinced and firm in his or her position that there is *prima facie* evidence of fraud, it is sufficient for him or her to invoke the extraordinary 10-year period, without having to execute a waiver of the three (3)-year period. Respondent cannot do both, for to do otherwise would mislead the taxpayer and prejudice the latter's right to due process.

In this case, the Details of Discrepancies attached to both the Preliminary Assessment Notice[47] (**PAN**) and FLD/FAN[48] bear the same section on prescriptive period, as follows:

> ...
>
> PERIOD OF PRESCRIPTION
>
> Since you/your authorized representative had executed a waiver of the defense of prescription under the statute of limitations prescribed in Sections 203 and 222, and other related provisions of the NIRC of 1997, as amended, on March 4, 2015 and have consented to the assessment and/or collection of tax or taxes of said year which may be found due after investigation/reinvestigation/re-evaluation at any time before or after the lapse of the period of limitations fixed by said sections of the NIRC of 1997, as amended, but not later than **June 30, 2017**, the period of prescription, therefore, is suspended from the date of execution up to **June 30, 2017**.
>
> Since you have failed to report your receipt in an amount exceeding thirty percent (30%) of that declared per return[,] the period of prescription thereof, is extended at any time within ten (10) years after discovery of the falsity pursuant to the provision of Section 222(a) of the NIRC of 1997, as amended, which states that "In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time

47 Exhibit "P-17", Division Docket, Volume IV, pp. 1761-1764.
48 Supra at note 26.

> within ten (10) years after the discovery of the falsity, fraud, or omission..."
>
> ...

Clearly, respondent did both – executed the Waiver and invoked the extraordinary 10-year period. In signing the Waiver, respondent misled petitioner into believing that it was the ordinary three (3)-year prescriptive period that was being followed, only to be informed in the PAN and FLD/FAN that the extraordinary 10-year period is being applied. Consequently, respondent's invocation of the extraordinary 10-year period is improper and the ordinary three (3)-year prescriptive period applies. The same, however, as elaborated in the earlier discussions, already lapsed.

It is the mandatory nature of the rule of dismissing cases on the ground of prescription that compels Us to rule in favor of the taxpayer in the instant case. It has long been established in jurisprudence that prescription in tax cases is liberally construed in favor of the taxpayer. In *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.*,[49] the Supreme Court explained that:

> ...
>
> It bears stressing that, in a number of cases, this Court has explained that the statute of limitations on the collection of taxes **primarily benefits the taxpayer.** ...
>
> ...
>
> Likewise, in *Republic of the Philippines v. Ablaza*, this Court elucidated that the prescriptive period for the filing of actions for collection of taxes is justified by the need to protect law-abiding citizens from possible harassment. Also, in *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, it was held that the statute of limitations on the assessment and collection of taxes is **principally intended to afford protection to the taxpayer against unreasonable investigations as the indefinite extension of the period for assessment deprives the taxpayer of the assurance that he will no longer be subjected to further investigation** for taxes after the expiration of a reasonable period of time. Thus, in *Commissioner of Internal Revenue v. B.F. Goodrich Phils., Inc.*, this Court ruled that the **legal provisions on prescription should be**

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49 G.R. No. 198677, 26 November 2014; Citations omitted, italics in the original text and emphasis supplied.

> **liberally construed to protect taxpayers** and that, as a corollary, the exceptions to the rule on prescription should be strictly construed.
>
> ...

Furthermore, in *QL Development,* the Supreme Court recognized that while taxes are the lifeblood of the government, it cannot sanction the continued assessment or collection of taxes that have already prescribed:

> ...
>
> At this juncture, the Court ought to reiterate that **while taxes are the lifeblood of the nation, the Court cannot allow tax authorities indefinite and infinite periods to assess and collect alleged unpaid taxes.** Certainly, it is an **injustice to leave taxpayers in perpetual uncertainty whether they will be made liable for deficiency or delinquent taxes.** The Court has elaborated on the significance of adopting a statute of limitations on tax assessment and collection in this wise:
>
>> The law prescribing a limitation of actions for the collection of the income tax is beneficial both to the Government and to its citizens; to the Government because tax officers would be obliged to act promptly in the making of assessment, and to citizens because **after the lapse of the period of prescription citizens would have a feeling of security against unscrupulous tax agents who will always find an excuse to inspect the books of taxpayers, not to determine the latter's real liability, but to take advantage of every opportunity to molest peaceful, law-abiding citizens.** Without such legal defense taxpayers would furthermore be under obligation to always keep their books and keep them open for inspection subject to harassment by unscrupulous tax agents. The law on prescription being a remedial measure should be interpreted in a way conducive to bringing about the beneficient purpose of affording protection to the taxpayer within the contemplation of the Commission which recommends the approval of the law.[50]
>
> ...

Having determined that respondent's right to collect the deficiency taxes has prescribed, there is, in reality, no reason for Us to

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[50] Supra at note 38; Citations omitted and emphasis supplied.

address the other issues raised by the parties. This notwithstanding, this Court makes the subsequent discussion in order to show that even if the issue of prescription was to be overlooked, the subject deficiency tax assessments will still be nullified on the ground of due process violation.

EVEN ASSUMING THAT THE PRESCRIPTIVE PERIODS HAVE NOT YET LAPSED, THE ASSESSMENTS ARE VOID FOR VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS

If, for the sake of argument, this Court looks past the issue of prescription, the subject assessments remain to be void for violating petitioner's right to due process. **The records reveal that revenue officers (ROs) who were not authorized under a Letter of Authority (LOA) participated in the audit and investigation of petitioner.**

Under the NIRC of 1997, as amended, the authority to examine the taxpayer and assess the correct amount of tax must come from the CIR or his duly authorized representative. Pertinently, Section 6 thereof provides that:

> ...
>
> **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 duly authorized representative may authorize the examination of any taxpayer** and the assessment of the correct amount of tax[.][51]
>
> ...

Section 13 of the NIRC of 1997, as amended, then clarifies that it is the Revenue Regional Director, not any other officer such as a Revenue District Officer, who is considered the authorized representative of the CIR and is empowered to vest ROs with the authority to conduct an examination of taxpayers:

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[51] Emphasis supplied and italics in the original text.

> ...
>
> **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.[52]
>
> ...

In the 2021 case of *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.,*[53] the Supreme Court declared that the presence of a LOA is a requirement of due process that cannot be supplanted by a mere memorandum of assignment (**MOA**) or anything less than a LOA. In case of reassignment or transfer of ROs, a new LOA must be issued in order to clothe the replacing ROs with proper authority; otherwise, the assessment shall be void. To wit:

> ...
>
> ***A. Due Process Requires Identification of Revenue Officers Authorized to Continue the Tax Audit or Investigation***
>
> **The issuance of an LOA prior to examination and assessment is a requirement of due process. It is not a mere formality or technicality.** In *Medicard Philippines, Inc. v. Commissioner of Internal Revenue,* We have ruled that the issuance of a Letter Notice to a taxpayer was not sufficient if no corresponding LOA was issued. In that case, We have stated that "[d]ue process demands x x x that after [a Letter Notice] has serve its purpose, the revenue officer should have properly secured an LOA before proceeding with the further examination and assessment of the petitioner. Unfortunately, this was not done in this case." **The result of the absence of a LOA is the nullity of the examination and assessment based on the violation of the taxpayer's right to due process.**
>
> To comply with due process in the audit or investigation by the BIR, the taxpayer needs to be informed that the revenue officer knocking at his or her door has the proper authority to examine his books of accounts. The only way for the taxpayer to verify the existence of that authority is when, upon reading the LOA, there is a link between the

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52 Emphasis supplied and italics in the original text.

53 G.R. No. 242670, 10 May 2021; Citations omitted and emphasis supplied.

said LOA and the revenue officer who will conduct the examination and assessment; and the only way to make that link is by looking at the names of the revenue officers who are authorized in the said LOA. If any revenue officer other than those named in the LOA conducted the examination and assessment, taxpayers would be in a situation where they cannot verify the existence of the authority of the revenue officer to conduct the examination and assessment. Due process requires that taxpayers must have the right to know that the revenue officers are duly authorized to conduct the examination and assessment, and this requires that the LOAs must contain the names of the authorized revenue officers. In other words, **identifying the authorized revenue officers in the LOA is a jurisdictional requirement of a valid audit or investigation by the BIR, and therefore of a valid assessment.**

...

***B. The Use of Memorandum of Assignment, Referral Memorandum, or Such Equivalent Document, Directing the Continuation of Audit or Investigation by an Unauthorized Revenue Officer Usurps the Functions of the LOA***

It is true that the service of a copy of a memorandum of assignment, referral memorandum, or such other equivalent internal BIR document may notify the taxpayer of the fact of reassignment and transfer of cases of revenue officers. However, notice of the fact of reassignment and transfer of cases is one thing; proof of the existence of authority to conduct an examination and assessment is another thing. **The memorandum of assignment, referral memorandum, or any equivalent document is not a proof of the existence of authority of the substitute or replacement revenue officer.** The memorandum of assignment, referral memorandum, or any equivalent document is not issued by the CIR or his duly authorized representative for the purpose of vesting upon the revenue officer authority to examine a taxpayer's books of accounts. It is issued by the revenue district officer or other subordinate official for the purpose of reassignment and transfer of cases of revenue officers.

...

**The practice of reassigning or transferring revenue officers, who are the original authorized officers named in the LOA, and subsequently substituting them with new revenue officers who do not have a separate LOA issued in their name, is in effect a usurpation of the statutory power of the CIR or his duly authorized representative.** The memorandum of assignment, referral memorandum, or such other equivalent internal document of the BIR directing the reassignment or transfer of revenue officers, is typically signed by the revenue district officer or other subordinate official, and not signed or issued by the CIR or his duly authorized representative under Sections 6, 10(c) and 13 of the NIRC. Hence, the issuance of such memorandum of assignment, and its subsequent use as a proof of authority to continue the audit or investigation, is in effect supplanting the functions of the LOA, since it seeks to exercise a power that belongs exclusively to the CIR himself or his duly authorized representatives.

***C. Revenue Memorandum Order No. 43-90 dated September 20, 1990 Expressly and Specifically Requires the Issuance of a New LOA if Revenue Officers are Reassigned or Transferred***

Section D(5) of RMO No. 43-90 dated September 20, 1990 provides:

> **Any re-assignment/transfer of cases to another RO(s), and revalidation of L/As which have already expired, shall require the issuance of a new L/A,** with the corresponding notation thereto, including the previous L/A number and date of issue of said L/As.

The above provision expressly and specifically requires the issuance of a new LOA if revenue officers are reassigned or transferred to other cases. The provision involves the following two separate phrases: "re-assignment/transfer of cases to another RO(s)", on the one hand, and "revalidation of L[/]As which have already expired", on the other hand. The occurrence of one, independently of the other, requires the issuance of a new LOA. The new LOA must then have a corresponding relevant notation, including the previous LOA number and date of issue of the said LOAs.

...

In summary, We rule that **the practice of reassigning or transferring revenue officers originally named in the LOA and substituting them with new revenue officers to continue the audit or investigation without a separate or amended LOA (i) violates the taxpayer's right to due process in tax audit or investigation;** (ii) usurps the statutory power of the CIR or his duly authorized representative to grant the power to examine the books of account of a taxpayer; and (iii) does not comply with existing BIR rules and regulations, particularly R.MO No. 43-90 dated September 20, 1990.

...

In the case at bar, LOA-040-2014-00000795 (SN: eLA201100092510)[54] was issued on 24 September 2014 authorizing RO Ruby Cacdac (**RO Cacdac**) and Group Supervisor (**GS**) Ethelda Rivera (**GS Rivera**) to examine the books of accounts and other accounting records of petitioner for the period of 01 January 2012 to 31 December 2012. Pursuant to the LOA, the Memorandum[55] for issuance of PAN against petitioner and the Audit Reports[56] on Income Tax and VAT were prepared and signed by RO Cacdac and GS Rivera. In the Audit Reports, RO Cacdac and GS Rivera found petitioner liable for the following basic deficiency taxes:

| Basic Deficiency Taxes | Amount |
|---|---|
| Income tax | ₱ 19,653,139.83 |
| VAT | 7,327,868.27 |
| Total | ₱ 26,981,008.10 |

Interestingly, the final amount of basic deficiency income tax that appeared in the PAN and FLD/FAN was only ₱1,433,964.07[57] (instead of ₱19,653,139.83, as recommended by RO Cacdac and GS Rivera), while the amount of basic deficiency VAT was maintained. This can be explained by the change in ROs that happened prior to the issuance of the PAN on 23 June 2016.

Based on the records, on 30 March 2016, or before the date of issuance of the PAN, a MOA[58] was issued to RO Agatha Kristie E. Buizon (**Buizon**) and GS Dirce M. Diaz (**Diaz**), assigning the case to them for the purpose of:

> ...
> **Continuation of the audit/ investigation** to replace the previously assigned Revenue Officer who resigned/retired/transferred to another district office[.][59]
> ...

54 Exhibit "R-4", BIR Records, p. 24.
55 Exhibit "R-6", id., p. 208.
56 Id., pp. 206-207.
57 See PAN, supra at note 47; FLD/FAN, supra at note 26.
58 BIR Records, p. 238.
59 Emphasis and underscoring supplied.

Thereafter, on 26 April 2016, **a new set of issuances that included a Memorandum[60] for issuance of PAN against petitioner and the Audit Reports[61] on Income Tax and VAT were prepared and signed, but this time, by RO Buizon and GS Diaz.** In the revised Audit Reports, RO Buizon and GS Diaz found petitioner liable for the following basic deficiency taxes:

| Basic Deficiency Taxes | Amount |
|---|---|
| Income tax | ₱ 1,436,990.56 |
| VAT | 7,327,868.27 |
| Total | ₱ 8,764,858.83 |

It is crystal clear that the initial findings of RO Cacdac and GS Rivera, both of whom were named in the LOA, were superseded by the findings of RO Buizon and GS Diaz, who were, in turn, **not** authorized under the same LOA. We emphasize that RO Buizon and GS Diaz did not participate in the reinvestigation stage based on a protest by the petitioner. Instead, **they continued the audit and examination of the taxpayer and actually made the findings prior to the issuance of the PAN on the strength of a mere MOA, which is not sanctioned either by jurisprudence or respondent's *own* rules.** This cannot be countenanced, and to do otherwise would result in the Court abetting respondent's violation of petitioner's right to due process.

It being settled in jurisprudence that the conduct of audit and examination by unauthorized officers results in a void assessment which bears no fruit,[62] **the participation of RO Buizon and GS Diaz in the audit and examination of the petitioner *sans* authority proceeding from a LOA tainted the assessment process with illegality, thereby rendering the resulting tax assessments void and of no effect.**

This Court emphasizes that due process of law is grounded on principles far too important for this Court, and anyone, much more the CIR, for that matter, to disregard. Protection of the taxpayers' due

60 BIR Records, p. 250.

61 Id., p. 249.

62 *Himlayang Pilipino Plans, Inc. v. Commissioner of Internal Revenue,* G.R. No. 241848, 14 May 2021; *Medicard Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 222743, 05 April 2017.

process rights prevails over even the most fundamental principle in taxation that taxes are the lifeblood of the government or the presumption of regularity or correctness of tax assessments. In *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*,[63] the Supreme Court elucidated that –

> ...
> It is an elementary rule enshrined in the 1987 Constitution that no person shall be deprived of property without due process of law. In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side, and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, **the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution.** Thus, while "taxes are the lifeblood of the government," the power to tax has its limits, in spite of all its plenitude. Hence in *Commissioner of Internal Revenue v. Algue, Inc.*, it was said –
>
> > Taxes are the lifeblood of the government and so should be collected without unnecessary hindrance. On the other hand, **such collection should be made in accordance with law as any arbitrariness will negate the very reason for government itself.** It is therefore necessary to reconcile the apparently conflicting interests of the authorities and the taxpayers so that the real purpose of taxation, which is the promotion of the common good, may be achieved.
> > ...
> >
> > It is said that taxes are what we pay for civilized society. Without taxes, the government would be paralyzed for the lack of the motive power to activate and operate it. Hence, despite the natural reluctance to surrender part of one's hard-earned income to taxing authorities, every person who is able to must contribute his share in the running of the government. The government for its part is expected to respond in the form of tangible and intangible benefits intended to improve the lives of the people and enhance their moral and material values. This symbiotic relationship is the rationale of taxation and should dispel the erroneous notion that it is an arbitrary method of exaction by those in the seat of power.

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63 G.R. No. 185371, 08 December 2010; citations omitted, italics and emphasis in the original text and supplied.

> **But even as we concede the inevitability and indispensability of taxation, it is a requirement in all democratic regimes that it be exercised reasonably and in accordance with the prescribed procedure.** If it is not, then the taxpayer has a right to complain and the courts will then come to his succor. **For all the awesome power of the tax collector, he may still be stopped in his tracks if the taxpayer can demonstrate . . . that the law has not been observed.**

...

To recapitulate, this Court finds that the subject deficiency tax assessments issued by respondent against petitioner ought to be cancelled and set aside on the following grounds:

1. The FLD/FAN was issued beyond the original three (3)-year prescriptive period to assess deficiency taxes.

2. The Waiver executed in this case is null and void and thus, did not suspend the running of the three (3)-year prescriptive period to assess deficiency taxes. The extraordinary prescriptive period for assessment of 10 years is inapplicable.

3. Regardless of the validity of the Waiver, the prescriptive period to collect the subject deficiency taxes has nevertheless prescribed. The extraordinary prescriptive period of five (5) years for collection is inapplicable.

4. Even assuming that the assessments are not yet time-barred, the same remain void on the ground that the audit and examination was conducted by unauthorized ROs, in violation of petitioner's right to due process.

**WHEREFORE**, the foregoing premises considered, the present Petition for Review filed by petitioner Russ Reuben L. Piczon on 03 February 2022 is hereby **GRANTED**. Respondent Commissioner of Internal Revenue's notices and assessments imposing deficiency tax liabilities against petitioner for the taxable year 2012 amounting to ₱22,685,738.66, inclusive of interest and surcharge, are hereby **CANCELLED** and **SET ASIDE.**

Respondent Commissioner of Internal Revenue or any person duly acting on his or her behalf is hereby **ENJOINED** from pursuing any action against petitioner relative to the above-mentioned void assessments.

**SO ORDERED.**

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**I CONCUR:**

**LANEE S. CUI-DAVID**
Associate Justice

## ATTESTATION

I attest that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice
Special 1st Division Acting Chairperson

## CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special 1st Division Acting Chairperson's Attestation, it is hereby certified that the conclusions in the above Amended 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