CTA Form No. 8

22-000002-0053

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10716

AEGIS INTEGRATED LIGHTNING AND GROUNDING PROTECTION INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. RAMON B. LORENZO
ATTY. ROWELL B. VICENTE
ATTY. KRISTINE ALMA T. CAYABYAB
Bureau of Internal Revenue
Legal Division, BIR Revenue Region No. 6
5/F, BIR Building I, Solana Street
Intramuros, Manila

MORENO AND MORENO LAW OFFICES
2331 Onyx Street, Sta. Ana, Manila

GREETINGS:

You are hereby notified by these presents that on **August 13, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 14, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

AEGIS INTEGRATED LIGHTNING AND GROUNDING PROTECTION INC., Petitioner,	**CTA CASE NO. 10716**
	Members:
	DEL ROSARIO, *P.J., Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 13 2025 8:05AM

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Aegis Integrated Lightning and Grounding Protection Inc. (**petitioner**), pursuant to Section 3(a)[2], Rule 8 in relation to Section 3(a)(1)[3], Rule 4 of the Revised

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[1] Filed on 04 January 2022, Division Docket, pp. 7-26.

[2] **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. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

[3] **SEC. 3.** *Cases Within the Jurisdiction of the Court in Division.* — The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

Rules of the Court of Tax Appeals (**RRCTA**). It seeks to cancel and set aside the Final Assessment Notice/Formal Letter of Demand[4] (**FAN/FLD**) dated 11 December 2020 and the Warrant of Garnishment[5] (**WOG**) No. AMT-WG-2021-41764 dated 11 November 2021 that respondent Commissioner of Internal Revenue (**respondent/CIR**) issued to petitioner for its alleged tax deficiency assessment in the aggregate amount of ₱11,644,511.01 for the calendar year (**CY**) ending 31 December 2011.

PARTIES OF THE CASE

Petitioner is a corporation duly organized and existing under the laws of the Philippines, with principal office address at 2146-2148 Pedro Gil St., Sta. Ana, Manila.[6] Petitioner is primarily engaged in general construction, lightning and grounding protection.[7]

Respondent, on the other hand, is the duly appointed CIR vested with the authority to carry out the functions, duties, and responsibilities of the said office including, *inter alia*, the power to decide disputed assessments, refunds of internal revenue taxes, fees, other charges, and penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code (**NIRC**) of 1997, as amended, or other laws or portions thereof administered by the Bureau of Internal Revenue (**BIR**).

FACTS OF THE CASE

On 17 January 2014, respondent issued a Letter of Authority (**LOA**) No. 034-2014-00000073/eLA201100049043[8], authorizing Revenue Officer Winchester Aritao (**RO Aritao**) and Group Supervisor Lani Gameng

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(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[.]

4 Exhibits "R-16" to "R-18", BIR Records, pp. 166-169.

5 Exhibit "P-2", Division Docket, p. 30.

6 See Paragraph 3, Parties, Petition for Review, supra at note 1, p. 8.

7 See petitioner's Notes to the Financial Statements, Note 1, Organization and Business, BIR Records, p. 12.

8 Exhibit "R-6", id., p. 59. It appears that Laarni S. Mariveles erroneously indicated 28 January 2013, as her receiving date, instead of the correct date of receipt on 28 January 2014. This is confirmed by the receiving date which she signed on the Checklist of Requirements; Exhibit "R-7", id., p.58.

(**GS Gameng**) of Revenue District No. 034, Paco-Pandacan-Sta. Ana, to examine petitioner's books of accounts for income tax (**IT**) and value-added tax (**VAT**) for the period of 01 January 2011 to 31 December 2011, or CY 2011. Petitioner's authorized representative, Laarni S. Mariveles (**Mariveles**), received the LOA on 28 January 2014.

Thereafter, on even date, petitioner also received a Checklist of Requirements (**Checklist**) dated 21 January 2014.[9] In the Checklist, the BIR directed petitioner to present its books of accounts and other related accounting records within ten (10) days from receipt. Complying with the Checklist, petitioner, through Marycris S. Oplas (**Oplas**), submitted the requested documents on 12 February 2014.[10]

On 28 October 2020, respondent issued the Preliminary Assessment Notice[11] (**PAN**) with Details of Discrepancies[12], where it was stated that petitioner has been assessed with deficiency IT and VAT in the total amount of ₱11,568,579.16.

Later, or on 03 November 2020, Revenue District Officer Caroline M. Takata (**RDOr Takata**) issued a Memorandum of Assignment[13] (**MOA**) assigning RO Aldwin Alaan (**RO Alaan**) and GS Eleuteria Sagun (**GS Sagun**) to: (1) replace the previously assigned ROs who resigned/ retired/transferred; and (2) to serve the PAN on petitioner.

On 11 December 2020, respondent also issued to petitioner the FAN/FLD[14] with Details of Discrepancies[15], which directed it to pay its deficiency tax liabilities on or before 11 January 2021.[16]

Subsequently, on 01 December 2021, through Feliciano Yao, petitioner received a letter dated 29 November 2021[17] from Philtrust Bank (**Philtrust**). The said letter stated that: (1) on 12 November 2021, the BIR served a WOG upon petitioner's deposit account; and (2) its

9 Exhibit "R-7", id., p. 58.
10 Exhibit "R-8", id., p. 90. The BIR's receiving date stamped on the Letter was 12 February 2013.
11 Exhibit "R-14", id., pp.145-146.
12 Exhibit "R-14-a", id., pp. 143-144.
13 Exhibit "R-13", id., p. 148.
14 Exhibits "R-16" to "R-18", supra at note 4.
15 Exhibit "R-18-a", BIR Records, pp. 164-165.
16 Exhibits "R-16" to "R-17", id., pp. 168-169, see due date as indicated in the Assessment Notices.
17 Exhibit "P-1", Division Docket, p. 306.

then current deposit balance account has been placed on hold-out status.

PROCEEDINGS BEFORE THE COURT

On 04 January 2022, petitioner filed a "Petition for Review"[18] before this Court. The case was raffled to the First Division and was docketed as CTA Case No. 10716. Later, with the issuance of the Summons, the First Division ordered respondent to file his or her Answer to the instant petition.[19] After being granted an extension of time to file an Answer[20], respondent filed his or her "Answer (with Motion to Dismiss)"[21] (**Answer with MTD**) on 09 June 2022.

In his or her Answer with MTD, respondent interposed the following defenses, to wit: (1) this Court has no jurisdiction to entertain the present Petition; (2) petitioner failed to file a protest against the FAN/FLD, hence the present petition has been filed prematurely; (3) petitioner was not deprived of due process; (4) respondent's right to assess petitioner of deficiency IT and VAT has not yet prescribed; and (5) tax assessments are presumed correct and made in good faith and it is the taxpayer's duty to prove otherwise.[22]

In the *interim*, respondent submitted the BIR Records[23] which the First Division noted in a Resolution dated 28 June 2022.[24]

On 12 July 2022, petitioner filed its "Comment/Opposition (To [MTD])"[25] (**Comment/Opposition**). There, petitioner averred that: (1) respondent has raised conflicting grounds in calling for the dismissal of its petition, stating that it cannot appeal the FAN/FLD with the BIR while also insisting that the FAN/FLD has become final, executory and demandable; (2) petitioner did not receive the FAN/FLD, hence it could not have filed a protest; (3) petitioner was only able to secure a copy of the FAN/FLD when it requested certified true copies thereof; (4) it

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18 Supra at note 1.
19 See Summons dated 08 April 2022, Division Docket, p. 64.
20 See Resolution dated 26 May 2022, id., p. 70.
21 Id., pp.71-89.
22 See Respondent's Answer, id.
23 See Compliance dated 21 June 2022, id., p. 181.
24 Id., p. 183.
25 Id., pp. 184-190.

received its copies after the issuance of the WOG; and (5) this Court has jurisdiction over the instant case.

On 26 August 2022[26], the First Division issued a Resolution which: (1) denied respondent's MTD incorporated in respondent's Answer; and (2) held that the present petition is grounded on petitioner's receipt of the WOG, thus falling under the Court's jurisdiction on "other matters arising under the NIRC or other laws administered by the BIR."[27]

Subsequently, both parties filed their Pre-Trial Briefs[28] on 22 September 2022 and 06 October 2022, respectively. On 13 October 2022[29], the case was referred to mediation proceedings. Later, however, the Philippine Mediation Center – Court of Tax Appeals (**PMC-CTA**), informed the First Division that the parties decided to not proceed with the mediation proceedings.[30]

During the pre-trial proper[31], the First Division: (1) granted the parties a period of thirty (30) days to file their Joint Stipulation of Facts and Issues (**JSFI**); and (2) set the dates for the Commissioner's Hearing and the presentation of petitioner's and respondent's respective evidence. Due to the failure of both parties to file their "[JSFI]" *per* the Order dated 17 August 2023[32], the First Division issued a Resolution[33] noting that both parties waived their right to file the same. On 10 October 2023, the First Division issued the Pre-Trial Order[34] and declared the pre-trial terminated.[35]

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26 Id., pp. 195-199.

27 Section 7 of Republic Act (RA) No. 1125, as amended by RA 9282:
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 or other laws administered by the Bureau of Internal Revenue[.]** (Emphasis supplied)

28 See Respondent's Pre Trial-Brief and Petitioner's Pre Trial-Brief, Division Docket, pp. 203-208 and 210-214A, respectively.

29 See Minutes of the Hearing and Order dated 13 October 2022, id., pp. 214B-215 and 216-217, respectively.

30 See No Agreement to Mediate dated 02 December 2022, id., p. 222.

31 See Minutes of the Hearing and Order, both dated 17 August 2023, id., pp. 252-252B and pp. 256-258, respectively.

32 See Records Verification dated 19 September 2023, id., p. 270.

33 See Resolution dated 27 September 2023, id., p. 273.

34 Id., pp. 287-300.

35 Supra at note 33.

In the trial that ensued subsequently, petitioner presented its witness, Charles C. Yao (**Yao**) who testified by way of a Judicial Affidavit dated 29 December 2021.[36] There, he declared that: (1) he is petitioner's Corporate Secretary; (2) petitioner did not receive the FAN/FLD dated 11 December 2020; (3) his house is located in the same compound as petitioner's registered address; (4) petitioner's registered office is just across the barangay hall; (5) if the BIR was not able to send the assessment notices[37] (**ANs**) due to the absence of authorized persons to receive, the service of the ANs should have been made to a barangay official; (7) petitioner only became aware of the ANs when Philtrust informed it that its account was garnished; (8) petitioner requested and obtained copies of the ANs from the BIR; (9) the FAN/FLD covered CY 2011 but was issued only on 11 December 2020; (10) the prescriptive period for assessments is only three (3) years; (11) after review of the FAN/FLD, the BIR applied the prescriptive period of 10 years based on petitioner's supposed fraudulent return; and (12) the BIR failed to establish fraud by clear and convincing evidence.

During cross-examination, Yao stated that: (1) as a matter of practice, the security guard notifies petitioner if any letter or document is received; (2) the security guard is not petitioner's employee; and (3) he is not sure if petitioner filed any protest to the FAN/FLD.[38]

On redirect examination, Yao declared that: (1) the security guard did not turn over any letter or document from the BIR; and (2) petitioner has no problem receiving other correspondence from the said security guard.[39]

Respondent did not conduct any re-cross examination.[40]

Later, responding to the Court's clarificatory questions, Yao confirmed that petitioner only became aware of the ANs when Philtrust informed it that petitioner's account was already garnished.[41]

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36 Exhibit "P-4", id., pp. 41-46.
37 See Exhibits "R-14" and "R-16" to "R-18", supra at notes 11 and 14.
38 TSN dated 13 February 2024, pp. 17-22.
39 Id., pp. 22-24.
40 Id., p. 24.
41 Id., p. 26.

After all the witnesses were presented, on 19 February 2024, petitioner filed its Formal Offer of Exhibits[42] (**FOE**) and offered Exhibits "**P-1**" to "**P-4**", inclusive of the sub-markings. Respondent filed his or her Comment/Opposition thereto on 26 February 2024.[43] In a Resolution dated 27 March 2024[44], the First Division admitted all of petitioner's offered exhibits.

For his or her part, respondent presented RO Aritao as his or her first witness.[45] In his Judicial Affidavit[46], RO Aritao declared that: (1) he is the RO assigned to audit petitioner's books of accounts and other accounting records for CY 2011; (2) he served a copy of the LOA and Checklist on petitioner on 28 January 2014; (3) during the course of his investigation, he sent a Confirmation Request dated 30 September 2013, *via* registered mail to petitioner's supplier, Northpoint Trading Central Corp. (**NTCC**); (4) in the said Confirmation Request, the BIR informed NTCC about petitioner's audit/investigation and requested NTCC to verify if it sold goods/services to petitioner amounting to ₱5,791,606.91; (5) he received a letter with attachments from petitioner, through its representative Oplas; (6) based on his audit, he prepared a memorandum recommending the issuance of ANs to collect petitioner's deficiency taxes; and (7) thereafter, through Chief of Assessment Division, he indorsed the entire 2011 tax docket to the Regional Director (**RD**).

During his cross-examination, RO Aritao testified that he can no longer remember if NTCC replied to his Confirmation Request.[47] No redirect examination was conducted.[48]

For his or her second witness, respondent presented RO Alaan.[49] In his Judicial Affidavit dated 07 June 2022[50], RO Alaan stated that: (1) he was required to serve the PAN on petitioner by virtue of a MOA dated 03 November 2020; (2) he served the PAN dated 28 October 2020 at petitioner's registered address; (3) he issued Memorandum Report

42 Division Docket, pp. 318-321.
43 See Comment/Opposition (To Petitioner's Formal Offer of Evidence), id., pp. 323-325.
44 Id., pp. 333-334.
45 See Order dated 21 May 2024, id., pp. 336-338.
46 Exhibit "R-22", id., pp. 93-99.
47 TSN dated 21 May 2024, p. 12.
48 Id., p. 13.
49 Supra at note 45.
50 Exhibit "R-23", Division Docket, pp. 145-150.

dated 09 November 2020, informing the RD that he served the PAN *via* registered mail; (4) he served the FAN/FLD on petitioner also *via* registered mail; and (5) the ANs were all served *via* registered mail because the guard on duty during his visit to petitioner's registered address claims that no company name exists in the said address.

On cross-examination, RO Alaan declared that: (1) he personally went to petitioner's office to serve the ANs; (2) the security guard on duty informed him that no such company exists in the said compound; (3) he did not attempt to serve the ANs *via* substituted service; and (4) he has no proof that petitioner actually received the FAN/FLD.[51]

On redirect examination, RO Alaan confirmed that petitioner's sole registered address with the BIR is at 2146-2148 Pedro Gil St., Paco, Manila.[52] No re-cross examination was conducted.[53]

Responding to the Court's clarificatory questions, RO Alaan confirmed that he does not have any certification or proof that, indeed, the guard on duty stated that petitioner's company does not exist in the said compound. He likewise affirmed that the FAN/FLD does not contain any allegation of fraud.[54]

For his or her third witness, respondent presented RO Teresita Z. Barrios (**RO Barrios**).[55] In her Judicial Affidavit dated 07 June 2022[56], RO Barrios declared that: (1) she is an RO Seizure Agent charged with the enforcement and collection of final and demandable internal revenue taxes; (2) petitioner's 2011 tax docket was assigned to her for enforcement and collection of its deficiency taxes; (3) she received a request letter from petitioner asking for certified true copies of the ANs; and (4) she gave petitioner certified true copies of both the PAN dated 28 October 2020 and FAN/FLD dated 11 December 2020. No cross examination was conducted.[57]

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51 TSN dated 21 May 2024, pp. 29-33.
52 Id., pp. 34-35.
53 Id., p. 35.
54 Id., pp. 35-37.
55 Supra at note 45.
56 Exhibit "R-24", Division Docket, pp. 169-172.
57 TSN dated 21 May 2024, p. 44.

Later, or on 30 May 2024, respondent filed his or her FOE[58], to which petitioner filed its Comment/Objections on 10 June 2024.[59] In the Resolution dated 08 July 2024[60], the First Division admitted all of respondent's offered exhibits.

On 30 July 2024, respondent filed his or her Memorandum[61], while petitioner filed its Memorandum[62] on 09 August 2024. On 16 August 2024, the case was then deemed submitted for decision.[63]

ISSUES

The parties put forward these issues for the Court's resolution –

I.
WHETHER THE COURT HAS JURISDICTION OVER THE PRESENT PETITION FOR REVIEW;

II.
WHETHER PETITIONER AEGIS INTEGRATED LIGHTNING AND GROUNDING PROTECTION, INC. IS LIABLE TO PAY DEFICIENCY INCOME TAX (IT) AND VALUE-ADDDED TAX (VAT), SURCHARGE AND COMPROMISE PENALTY IN THE TOTAL AMOUNT OF ₱11,644,511.01, FOR THE CALENDAR YEAR (CY) 2011; AND

III.
WHETHER THE WARRANT OF GARNISHMENT (WOG) ISSUED IN RELATION TO THE DISPUTED ASSESSMENT IS VOID.

ARGUMENTS

In support of the petition, petitioner claims that it timely filed the present petition with this Court, pursuant to Section 7(a)(1) of Republic Act (**RA**) No. 1125[64], as amended by RA 9282.[65] Petitioner adds that the

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58 Division Docket, pp. 344-364.
59 See "Comment/Objection To: Formal Offer of Exhibits of Respondent", id., pp. 366-370.
60 Id., pp. 378-379.
61 Id., pp. 380-396.
62 Id., pp. 398-419.
63 See Resolution dated 16 August 2024, id., p. 421.
64 AN ACT CREATING THE COURT OF TAX APPEALS.
65 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

First Division has already ruled that this Court has jurisdiction over the instant case in its Resolution dated 26 August 2022[66], when it denied respondent's MTD.[67]

Petitioner also maintains that it is not liable to pay IT, VAT, as well as the surcharge and compromise penalty for CY 2011.[68] It contends further that respondent's right to assess deficiency IT and VAT has prescribed in 2015.[69] As a result, all assessments issued in relation thereto, including the WOG, should be declared void.[70]

Finally, petitioner claims that its right to due process was violated when it was assessed with deficiency taxes despite the fact that it never received both the PAN and FAN/FLD from respondent. It only received a copy of the WOG after the same was served upon its bank (Philtrust).[71]

Responding to petitioner's arguments, respondent prays for the dismissal of the present Petition. According to respondent, the Court has no jurisdiction to entertain the present Petition due to petitioner's failure to file a protest against the FAN/FLD.[72] Respondent maintains that the FAN/FLD are undisputed assessments due to petitioner's failure to file a protest. Hence, the FAN/FLD became final, executory and demandable.[73]

Respondent also claims that, contrary to petitioner's claim, the latter's right to due process was not violated. Further, he or she maintains that respondent's right to assess petitioner deficiency IT and VAT has not yet prescribed.[74] Finally, respondent argues that his or her assessment is presumed valid and petitioner has the burden of proof to impugn its validity.

66 Supra at note 26.
67 See Petitioner's Memorandum, Division Docket, p. 403.
68 Id., p. 403.
69 Id., p. 408.
70 Id., p. 408.
71 Id.
72 See Respondent's Memorandum, id., pp. 382-385.
73 Id., p. 385.
74 Id., pp. 389-391.

RULING OF THE COURT

At the outset, the Court addresses respondent's attack on its jurisdiction on the ground that petitioner did not exhaust the administrative remedies available to it before filing this instant case. In other words, respondent insists that this petition has been filed prematurely.

After a careful review of the records and the evidence submitted, We are unable to agree with respondent.

Section 7(a)(1) of RA 1125[75], as amended by RA 9282[76], provides:

> ...
>
> **Sec.** 7. *Jurisdiction*. — The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. **<u>Decisions</u> 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 **<u>other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue[.]</u>**[77]
>
> ...

Based on the foregoing provision, this Court has jurisdiction over the decisions of respondent in cases, not only those "involving disputed assessments, and refunds of internal revenue taxes, fees or other charges, penalties in relation thereto" but also on "other matters arising under the [NIRC] or other laws administered by the [BIR]."

In the similar case of *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*[78], where the taxpayer brought an action against the CIR after it received a Warrant of Distraint and/or Levy (**WDL**) (but

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75 Supra at note 64.
76 Supra at note 65.
77 Italics in the original text, emphasis and underscoring supplied.
78 G.R. No. 162852, 16 December 2004; Citations omitted, emphasis supplied and italics in the original text.

denied any assessment notices), the Supreme Court declared that it has jurisdiction over the Petition for Review. It held:

> ...
>
> **The appellate jurisdiction of the CTA is not limited to cases which involve decisions of the Commissioner of Internal Revenue on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the Bureau of Internal Revenue. The wording of the provision is clear and simple.** It gives the CTA the jurisdiction to determine if the warrant of distraint and levy issued by the BIR is valid and to rule if the Waiver of Statute of Limitations was validly effected.
>
> **This is not the first case where the CTA validly ruled on issues that did not relate directly to a disputed assessment or a claim for refund.** In *Pantoja v. David*, **we upheld the jurisdiction of the CTA to act on a petition to invalidate and annul the distraint orders of the Commissioner of Internal Revenue.** Also, in *Commissioner of Internal Revenue v. Court of Appeals*, the decision of the CTA declaring several waivers executed by the taxpayer as null and void, thus invalidating the assessments issued by the BIR, was upheld by this Court.
>
> ...

In the case at bar, the WOG's issuance is a matter that arose out of respondent's implementation of the provisions of the NIRC of 1997, as amended. Such being the case, this Court has jurisdiction to take cognizance thereof.

Anent the timeliness of the petition, a taxpayer adversely affected by a decision or inaction of the CIR should appeal to this Court within 30 days from receipt of the decision or after the expiration fixed by law for action as referred to in Section 7(a)(1) of the NIRC of 1997, as amended.[79] In petitioner's case, it had 30 days from receipt of the WOG[80] to file a Petition for Review before Us. Counting 30 days therefrom, it originally had until 31 December 2021 to do so. Considering that 31 December 2021 fell on a holiday, petitioner then had until 03 January 2022 to file its Petition for Review.

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79 Republic Act No. 1125, as amended.

80 Received on 01 December 2021. Please Exhibit "P-1-A", Division Docket, p. 307. Though the said Exhibit is not duly marked, this was admitted by the Court in its Resolution dated 27 March 2024; Supra at note 44.

Relevantly, on 10 January 2022, in response to the challenges brought by the COVID-19 pandemic and super typhoon "Odette", the Supreme Court issued Administrative Circular (**AC**) No. 01-2022.[81] The said AC extended the filing periods of all pleadings and court submissions falling due in the month of January 2022 to 01 February 2022. In consideration thereof, the end of petitioner's period to file its petition for review fell on 01 February 2022. However, such date coincided with the celebration of Chinese New Year, a designated special non-working day (pursuant to Proclamation No. 1236, s. 2021[82]). Thus, petitioner had until Wednesday, 02 February 2022, or the next working day, to file its petition. Clearly then, petitioner timely filed the instant Petition for Review on **04 January 2022.**[83]

We now proceed to the merits of the case.

RESPONDENT FAILED TO PROVE THAT PETITIONER RECEIVED THE PRELIMINARY ASSESSMENT NOTICE (PAN), FINAL ASSESSMENT NOTICE (FAN) AND FORMAL LETTER OF DEMAND (FLD).

Here, respondent insists that the PAN and FAN/FLD were properly served on petitioner through registered mail. He or she further argues that RO Alaan resorted to service by mail because the guard on duty claimed that petitioner was not holding office at its registered business address.[84]

We do not share respondent's argument.

The rule is that once a taxpayer denies receipt of the BIR's issuances, the burden of proof rests upon the latter to prove that these issuances have been actually received. In the case of *Barcelon, Roxas Securities Inc. (now known as UBP Securities, Inc.) v. Commissioner of Internal Revenue*[85] (**Barcelon**), citing the case of *Gonzalo P. Nava v.*

81 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.

82 DECLARING THE REGULAR HOLIDAYS AND SPECIAL (WORKING/NON-WORKING) DAYS FOR THE YEAR 2022.

83 Supra at note 1.

84 See pars. 19 and 20, Respondent's Memorandum, Division Docket, p. 388.

85 G.R No. 157064, 07 August 2006; Citations omitted and emphasis supplied.

Commissioner of Internal Revenue[86], the Supreme Court, quoting the Court of Tax Appeals (**CTA**), emphasized that it is imperative for the BIR to satisfactorily prove the release, mailing or sending of the assessment, *viz*:

> ...
>
> Jurisprudence is replete with cases holding that if the **taxpayer denies ever having received an assessment from the BIR, it is incumbent upon the latter to prove by competent evidence that such notice was indeed received by the addressee.** The **onus probandi was shifted to respondent to prove by contrary evidence** that the Petitioner received the assessment in the due course of mail. The Supreme Court has consistently held that while a mailed letter is deemed received by the addressee in the course of mail, this is merely a disputable presumption subject to controversion and a direct denial thereof shifts the burden to the party favored by the presumption to prove that the mailed letter was indeed received by the addressee.
>
> ...
>
>> "While we have held that an assessment is made when sent within the prescribed period, even if received by the taxpayer after its expiration, this ruling makes it the more imperative **that the release, mailing or sending of the notice be clearly and satisfactorily proved.** Mere notations made without the taxpayer's intervention, notice or control, **without adequate supporting evidence cannot suffice**; otherwise, the taxpayer would be at the mercy of the revenue offices, without adequate protection or defense."
>
> ...

In *Republic of the Philippines v. The Court of Appeals and Nielson & Company, Inc.*[87] and in *Barcelon*[88], the Supreme Court also held that a party favored by the presumption has the burden of proving that the addressee received the mailed letter in cases when there is a direct denial of the receipt of the mail. Consistently, the Supreme Court has held that it is a due process requirement that the taxpayer actually receives the assessment, to wit:

86 G.R No. L-19470, 30 January 1965.
87 G.R No. L-38540, 30 April 1987.
88 Supra at note 85.

> ...
>
> It must be noted, however, that the foregoing rule requires that the notice be sent <u>to the taxpayer</u>, and not merely to a disinterested party. Although there is no specific requirement that the taxpayer should receive the notice within the said period, due process requires at the very least that such notice actually be received. In *Commissioner of Internal Revenue v. Pascor Realty and Development Corporation*, we had occasion to say:
>
> > An assessment contains not only a computation of tax liabilities, but also a demand for payment within a prescribed period. It also signals the time when penalties and interests begin to accrue against the taxpayer. To enable the taxpayer to determine his remedies thereon, <u>due process requires that it must be served on and received by the taxpayer</u>.[89]
>
> ...

Firstly, in trying to prove valid service of the ANs, respondent offered in evidence (1) the Registry Receipt No. RE 413 124 375 ZZ[90]; (2) the Registry Receipt No. RE 413 124 937 ZZ[91]; and (3) the Affidavit Service of PAN.[92] We quote below the relevant portion of the said Affidavit of Service:

> ...
>
> Relative thereto, please be informed that on <u>November 6, 2020,</u> the undersigned serve a copy of the above[-]mentioned Preliminary Assessment Notice to AEGIS INTEG. LIGHTNING & GROUNDING PROTECTION INC. of No. 2146-2148 Pedro Gil St., Paco, Manila through:
>
> ...
>
> C. MAIL
>
> - by registered mail to the registered or known address, per Registry Receipt No. *RE 413 124 937 ZZ* (attach Registry Receipt) ____________
>
> ...

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89 *Estate of the Late Juliana Diez Vda. De Gabriel v. Commissioner of Internal Revenue*, G.R No. 155541, 27 January 2004; Citations omitted, italics and underscoring in the original text.

90 Exhibit "R-18-b", BIR Records, p. 167. (Description taken from respondent's FOE, Division Docket, p. 358)

91 Exhibit "R-14-b", id., p. 146. (Description taken from respondent's FOE, Division Docket, p. 358)

92 Exhibit "R-15", id., p. 150.

Relative to the PAN's Affidavit of Service, RO Alaan also executed a Report on Service by Mail/Courier[93], where the place of mailing, the name of company, and the address were left blank. In RO Alaan's Memorandum dated 22 December 2020[94], he also outlined the circumstances surrounding the service of the FAN/FLD, to wit:

> ...
>
> This refers to the Final Assessment Notice (FAN) and Formal Letter of Demand (FLD) issued to the above-named taxpayer for service by the undersigned revenue officer. The said FAN and FLD was sent through registered mail on December 15, 2020. **Personal service was not possible for the reason that the security guard on duty during the visit at the registered address claims that no such company exists inside the compound.**
>
> ...

The BIR's own regulations, particularly Section 3.1.6 of Revenue Regulations (**RR**) No. 12-99[95], as amended by RR No. 18-2013[96], and RR No. 7-2018[97] provide the following:

> ...
>
> SEC. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —
>
> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
>
> ...
>
> 3.1.6 *Modes of Service.* — The notice (PAN/FLD/FAN/FDDA) to the taxpayer herein required may be served by the Commissioner or his duly authorized representative through the following modes:
>
> ...
>
> (i) The notice shall be served through personal service by delivering personally a copy thereof to the party at his registered or known

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93 Id., p. 151.

94 The Memorandum was duly marked as Exhibit "R-19" but was not formally offered as part of respondent's evidence. BIR Records, p. 174; Emphasis supplied.

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

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

97 Amending Certain Sections of Revenue Regulations No. 12-99, as Amended by Revenue Regulations No. 18-13, Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

address or wherever he may be found. A *known address* shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.

In case personal service is not practicable, the notice shall be served by substituted service or by mail.

(ii) Substituted service can be resorted to when the party is not present at the registered or known address under the following circumstances:

The notice may be left at the party's registered address, with his clerk or with a person having charge thereof.

If the known address is a place where business activities of the party are conducted, the notice may be left with his clerk or with a person having charge thereof.

If the known address is the place of residence, substituted service can be made by leaving the copy with a person of legal age residing therein.

If no person is found in the party's registered or known address, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses to the address so that they may personally observe and attest to such absence. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.

Should the party be found at his registered or known address or any other place but refuse to receive the notice, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses in the presence of the party so that they may personally observe and attest to such act of refusal. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.

"*Disinterested witnesses*" refers to persons of legal age other than employees of the Bureau of Internal Revenue.

(iii) Service by mail is done by sending a copy of the notice by registered mail to the registered or known address of the party with instruction to the Postmaster to return the mail to the sender after ten (10) days, if undelivered. **A copy of the notice, may also be sent through reputable professional courier service.** If no registry or reputable professional courier service is available in the locality of the addressee, service may be done by ordinary mail.

> **The server shall accomplish the bottom portion of the notice.** He shall also make a written report under oath before a Notary Public or any person authorized to administer oath under Section 14 of the NIRC, as amended, setting forth the manner, place and date of service, **the name of the person/barangay official/professional courier service company who received the same** and such other relevant information. The **registry receipt issued by the post office** or the official receipt issued by the professional courier company **containing sufficiently identifiable details of the transaction shall constitute sufficient proof of mailing and shall be attached to the case docket.**[98]
>
> ...

The above cited regulation is clear that service by mail is resorted to only when personal service is not practicable. Aside from RO Alaan's bare allegation, it appears that respondent has failed to prove that petitioner cannot be located at its registered address. Accordingly, respondent's service by mail is not justified.

The records also show that, on redirect examination, Yao himself positively asserted that petitioner did not have any problem receiving other correspondence.[99] Similarly, the records yield that RO Alaan admitted that he has no proof that the guard on duty made a statement that petitioner cannot be found at its registered address.[100]

Assuming *ex gratia in argumenti* that respondent was able to justify service by registered mail, his or her exhibits, particularly, Exhibits "R-14", "R-14-b", "R-16", "R-17", and "R-18-b"[101] (ANs and the two [2] registry receipts) highlighted respondent's failure to comply with Section 3.1.6 of Revenue RR No. 12-99[102], as amended by RR No. 18-2013[103],

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98 Emphasis supplied and italics in the original text.

99 See TSN dated 13 February 2024, p. 24.

100 See TSN dated 21 May 2024, p. 37.

101

Exhibit No.	Description
"R-14"	Preliminary Assessment Notice.
"R-14-b"	Registry Receipt No. RE 413 124 937 ZZ
"R-16"	Final Assessment Notice No. 34-11-49043-2020-454 (IT), dated 11 December 2020.
"R-17"	Final Assessment Notice No. 34-11-49043-2020-454 (VT), dated 11 December 2020.
"R-18-b"	Registry Receipt No. RE 413 124 375 ZZ.

102 Supra at note 95.

103 Supra at note 96.

and RR No. 7-2018.[104] Under these RRs, it would appear that: (1) the server did not accomplish the bottom portion of the notice, leaving the printed name, signature and designation of the person who received the subject ANs, and the date of receipt blank; and (2) the registry receipts contain no identifiable details of the transaction, the Letter/Package No. that should have been indicated in the registry receipt was unaccomplished.

Moreover, respondent's other pieces of evidence also did not include any written report, certification, or any other document from the Philippine Postal Corporation (**Philpost**) on the service of the subject ANs. Thus, respondent's exhibits failed to prove that petitioner actually received the ANs. With this, We cannot agree with respondent's claim that there was a valid service of the PAN and FAN/FLD on petitioner.

The requirement of informing the taxpayer of the assessment is **mandatory** in nature as provided in Section 228 of the NIRC of 1997, as amended, and Section 3 of RR No. 12-99[105], as amended, by RR No. 18-2013[106], and RR No. 7-2018[107] the relevant portions of which are quoted below:

> ...
>
> **SEC. 228.** *Protesting of Assessment.* — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: ...
>
> ...
>
> **The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.**[108]
>
> ...
>
> SEC. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —
>
> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:

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104 Supra at note 97.
105 Supra at note 95.
106 Supra at note 96.
107 Supra at note 97.
108 Emphasis supplied and italics in the original text.

> 3.1.1 *Preliminary Assessment Notice (PAN).* — If after review and evaluation by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer a Preliminary Assessment Notice (PAN) for the proposed assessment. **It shall show in detail the facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based** (see illustration in ANNEX "A" hereof).
>
> **If the taxpayer fails to respond within fifteen (15) days from date of receipt of the PAN, he shall be considered in default, in which case, a Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued** calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.
>
> ...
>
> 3.1.3 *Formal Letter of Demand and Final Assessment Notice (FLD/FAN).* — The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued by the Commissioner or his duly authorized representative. **The FLD/FAN calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based; o*therwise, the assessment shall be void*** (see illustration in ANNEX "B" hereof).
>
> 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[.][109]
>
> ...

Additionally, while respondent insists that he or she validly served the ANs on petitioner *via* registered mail, the latter's denial shifted the burden of proof (on the service on petitioner) to respondent. Unfortunately, the latter failed to discharge this burden. Worse, respondent's pieces of evidence have even contradicted his or her own claim.

For respondent's failure to inform petitioner of the facts and the law on which the assessment was made, through the valid service of the

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109 Emphasis supplied and italics in the original text.

PAN and FAN/FLD, as mandated under the NIRC of 1997, as amended, a violation of due process occurred. This violation renders the subject assessment void and of no legal effect.

With the above disquisition, We find no relevant need to proceed with an exhaustive discussion or resolution of the other issues raised. It is well settled that a void assessment bears no valid fruit.[110] The law imposes a substantive, not merely a formal requirement.[111] To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations: that taxpayers should be able to present their case and adduce supporting evidence.[112] And since the PAN and the FAN/FLD are void, the WOG is likewise void.

No person shall be deprived of property without due process of law.[113] 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., et al.*[114], the Supreme Court ruled:

> ...
>
> 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

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110 *Commissioner of Internal Revenue v. Azucena T. Reyes*, G. R Nos. 159694 and 163581, 27 January 2006.

111 *Samar-I Electric Cooperative v. Commissioner of Internal Revenue*, G.R. No. 193100, 10 December 2014.

112 *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.*, G.R. No. 198677, 26 November 2014.

113 1987 Constitution, Article III, Section 1.

114 G.R. No. L-28896, 17 February 1988; Emphasis supplied.

> 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.
>
> 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.**
>
> ...

WHEREFORE, with the foregoing premises, the Petition for Review filed by petitioner Aegis Integrated Lightning and Grounding Protection, Inc. on 04 January 2022, is hereby **GRANTED.** Accordingly, the deficiency Income Tax, and Value-Added Tax, for the calendar year ending 31 December 2011, in the aggregate amount of ₱11,644,511.01, as found in the Final Assessment Notice/Formal Letter of Demand and Warrant of Garnishment No. AMT-WG-2021-41764 dated 11 November 2021, are hereby **CANCELLED** and **SET ASIDE**.

Consequently, respondent Commissioner of Internal Revenue or any person duly acting on his or her behalf is hereby **ENJOINED** and **PROHIBITED** from collecting the said amount against petitioner Aegis Integrated Lightning and Grounding Protection, Inc.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
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