REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

VESTINA SECURITY SERVICES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10889

Present:

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

Promulgated:

NOV 24 2025
3:56 p.m.

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DECISION

ANGELES, J.:

Before the Court is a *Petition for Review*[1] filed by Vestina Security Services, Inc. (Petitioner) on June 13, 2022 praying that the assessments issued against it be declared as null and void for having been issued in violation of due process requirements under the law, and that the Warrant of Distraint and/or Levy No. AMT-WDL-2022-03460 dated May 4, 2022 (Subject WDL) be quashed, cancelled, and/or lifted.[2]

THE PARTIES

Petitioner, as herein represented by Mr. Vicente D. Delfin, Jr. (Mr. Delfin), is a corporation duly organized and existing under the laws of the Philippines with principal place of business at Units 28 & 37 Llanar Bldg. 10th Ave. cor. Bonny Serrano, Socorro, Quezon City.[3]

Respondent, on the other hand, is the Commissioner of Internal Revenue (CIR) who is charged among other powers and duties, with

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[1] Docket, pp. 6 to 19.
[2] Prayer, *Petition for Review*, Docket, p. 19; Statement of the Case, *Pre-Trial Order*, Docket, p. 372.
[3] Par. 1, Stipulation of Facts, *Pre-Trial Order*, Docket, p. 373.

the enforcement of revenue laws, collection of national internal revenue taxes, and the power to decide tax protests. He holds office at BIR Road, Diliman, Quezon City.[4]

THE ANTECEDENT FACTS (ADMINISTRATIVE LEVEL)

The following facts are stipulated by the parties:

Petitioner used to hold its principal place of business at Rm. 205, 2/F, Mercantile Insurance Building, Beaterio St. cor. Gen. Luna St. Brgy. 655 Zone 069, Intramuros, City of Manila, which is under the jurisdiction of the Bureau of Internal Revenue (BIR) Revenue District Office (RDO) No. 33, and Revenue Region No. 006-Manila.[5]

Respondent, through Romulo L. Aguila Jr., Regional Director (RD) of BIR Region 6-Manila issued against petitioner the Letter of Authority (LOA): eLA201600044630 / LOA-033-2019-00000003 dated 8 January 2019 for the examination of petitioner's books of accounts and other accounting records for the period 1 January 2017 to 31 December 2017.[6]

On April 26, 2019, pursuant to such LOA, petitioner submitted its accounting records to respondent through BIR RDO No. 33.[7] Petitioner likewise submitted additional documents to RDO No. 33 on June 3, 2019 and on July 9, 2019, as evidenced by Transmittal Letters issued on the same date.[8]

On May 12, 2022, petitioner received the Subject WDL dated May 4, 2022 finding it liable for alleged deficiency income tax (IT) for taxable year (TY) 2017 in the amount of Eight Million Seven Hundred Eighty Thousand Sixty-Two Pesos and 74/100 (Php8,780,062.74).[9]

THE PROCEEDINGS BEFORE THIS COURT

On June 13, 2022, the present *Petition for Review* was filed.[10] Having observed that the *Petition* does not indicate a list of documentary and object evidence in support of the allegations therein

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[4] Par. 2, Stipulation of Facts, *Pre-Trial Order*, Docket, p. 373.
[5] Par. 3, Stipulation of Facts, *Pre-Trial Order*, Docket, p. 373.
[6] Par. 4, Stipulation of Facts, *Pre-Trial Order*, Docket, p. 373.
[7] Par. 5, Stipulation of Facts, *Pre-Trial Order*, Docket, p. 373.
[8] Par. 6, Stipulation of Facts, *Pre-Trial Order*, Docket, p. 373.
[9] Par. 7, Stipulation of Facts, *Pre-Trial Order*, Docket, p. 373.
[10] Docket, pp. 6 to 19

as required by law, the Court afforded petitioner an opportunity to rectify and submit the same.[11] Petitioner then filed its *Compliance*.[12]

Subsequently, on July 29, 2022, petitioner filed a *Motion to Suspend Collection of Taxes*, reiterating by reference, the allegations in its *Petition*. Additionally, it stressed that during the pendency of the appeal, it was informed by a couple of its banks that the latter received notices of garnishment, and therefore placed its accounts on hold. Petitioner, in its motion, argues that if the collection of taxes will proceed, its interests will be greatly jeopardized, and its business operations will be hampered to the brink of closure since its current net income cannot pay for the taxes sought to be collected.[13]

On August 8, 2022, Summons[14] was issued to the respondent. In a separate Resolution,[15] the latter was likewise ordered to comment on petitioner's *Motion to Suspend*, yet he failed to do so.[16]

Trial then ensued for the *Motion to Suspend*.[17] Petitioner offered the testimony of its General Manager, Mr. Delfin, as well as other relevant and supporting documentary evidence.[18] On the other hand, counsel for respondent failed to appear despite due notice. Thus, respondent's right to cross-examine Mr. Delfin was deemed waived and the testimony of the latter was deemed complete and terminated.[19]

Thereafter, petitioner filed its *Formal Offer of Exhibits* on September 19, 2022,[20] while respondent failed to file a comment thereto.[21]

Meanwhile, within the extended period granted by the Court,[22] respondent filed his *Answer*.[23] He contends that petitioner is liable to pay the assessed deficiency IT for TY 2017, and cited the following special and affirmative defenses: (1) the Court of Tax Appeals (CTA) has no jurisdiction to entertain the instant Petition for Review; and (2) while maintaining that the CTA has no jurisdiction over the petition,

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[11] Resolution dated July 6, 2022, Docket, pp. 48 to 49.
[12] Docket, pp. 50 to 52.
[13] Docket, pp. 53 to 58.
[14] Docket, p. 102.
[15] Resolution dated August 18, 2022, Docket, pp. 105 to 106.
[16] Records Verification dated September 19, 2022, Docket, p. 125.
[17] Hearing Order dated September 14, 2022, Docket, pp. 116 to 116-A; Minutes of the Hearing, Docket, pp. 113 to 115.
[18] Exhibit "P-11-TRO", *Judicial Affidavit (Re: Motion to Suspend Collection of Taxes dated 26 July 2022) (Witness VICENTE D. DELFIN, JR.)*, Docket, pp. 89 to 99.
[19] Hearing Order dated September 14, 2022, Docket, pp. 116 to 116-A.
[20] Docket, pp. 126 to 137.
[21] *Records Verification* dated October 5, 2022, Docket, p. 137.
[22] *Motion for Extension of Time to File Answer*, Docket, pp. 107 to 110; and Resolution dated September 14, 2022, Docket, p. 118.
[23] Docket, pp. 138 to 148.

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petitioner's contention that the assessment is void for violation of due process clause is without merit. Respondent also included allegations in support of the motion to dismiss.

On October 18, 2022, respondent filed his *Compliance* and forwarded the BIR Records of the case which consists of one (1) folder, with Four Hundred Sixty-Eight (486) pages.[24]

Consequently, in a Resolution dated December 13, 2022,[25] the Court admitted petitioner's previously offered exhibits and granted the latter's *Motion to Suspend*, subject to the payment of bond equivalent to 100% of the total basic taxes assessed amounting to Six Million One Hundred Sixty-One Thousand, Thirty-Two and 95/100 (P6,161,032.95). In the same Resolution, the Court noted respondent's *Answer*.

The case was then referred to mediation at the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA).[26] However, the parties did not opt to have their case mediated and executed a *No Agreement to Mediate*.[27] Meanwhile, the Court granted petitioner's *Motion for Extension of Time to Post Bond (Re: Resolution dated 19 December 2022)*,[28] and petitioner was given until January 29, 2023 to post a surety bond.[29] The latter was then able to submit the bond requirement on January 26, 2023.[30]

Subsequently, the Pre-Trial Conference was set[31] and held on April 20, 2023.[32] Prior thereto, *Respondent's Pre-Trial Brief* was filed on April 13, 2023;[33] and petitioner's *Pre-Trial Brief* was filed on April 14, 2023.[34]

On May 10, 2023, the parties filed their *Joint Stipulation of Facts and Issues* (JSFI).[35] In a Resolution dated May 24, 2023, the Court approved the same and the pre-trial was deemed terminated.[36] Accordingly, a Pre-Trial Order was issued on September 29, 2023.[37]

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[24] Docket, p. 210.
[25] Docket, pp. 214 to 220.
[26] Resolution dated December 28, 2022, Docket, p. 222.
[27] Docket, p. 227.
[28] Docket, pp. 224 to 226.
[29] Docket, pp. 282 to 283.
[30] Docket, pp. 228 to 230; Resolution dated March 3, 2023, Docket, pp. 290 to 294.
[31] Notice of Pre-Trial Conference dated February 9, 2023, Docket, p. 284 to 286.
[32] Minutes of the hearing held on April 20, 2023, Docket, pp. 328 to 330; and Hearing Order dated April 20, 2023, Docket, pp. 334 to 336.
[33] Docket, pp. 299 to 304.
[34] Docket, pp. 305 to 314.
[35] Docket, pp. 339 to 353.
[36] Docket, p. 354.
[37] Docket, pp. 372 to 378.

Trial for the main *Petition* ensued, and the parties presented their respective testimonial and documentary evidence.

Petitioner again presented the testimony of its General Manager, Mr. Delfin,[38] and its business consultant, Ms. Fatima G. Calabiao.[39]

On October 26, 2023, petitioner filed its *Formal Offer of Evidence*,[40] with respondent's *Comment/Opposition [Re: Petitioner's Formal Offer of Evidence dated 24 October 2023]* filed on November 9, 2023.[41] In the Resolution dated January 8, 2024,[42] the Court admitted petitioner's offered exhibits.

For his part, respondent offered the testimonies of Revenue Officers Susan P. Halog (RO Halog),[43] and Maripe T. Cadlaon (RO Cadlaon).[44]

Respondent's Formal Offer of Evidence[45] was then filed on February 15, 2024. On February 28, 2024, petitioner filed its *Comments/Objections (Re: Respondent's Formal Offer of Evidence dated 15 February 2024)*.[46] In a Resolution dated May 16, 2024, the Court admitted respondent's offered exhibits.[47]

On June 20, 2024, respondent filed his *Memorandum*.[48] Petitioner, however, failed to file a memorandum as per Records Verification Report dated June 28, 2024.[49]

Thus, the case was submitted for decision on July 26, 2024.[50]

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[38] Exhibit "P-7", Docket, pp. 39 to 46; and Minutes of the hearing held on October 17, 2023, Docket, p. 379.
[39] Exhibit "P-8", Docket, pp. 315 to 323; and Minutes of the hearing held on October 17, 2023, Docket, p. 379.
[40] Docket, pp. 384 to 391.
[41] Docket, pp. 399 to 402.
[42] Docket, pp. 405 to 406.
[43] Exhibit "R-21", Docket, pp. 152 to 160; Minutes of the hearing held on February 1, 2024, Docket, p. 410; and Hearing Order dated February 1, 2024, Docket, pp. 411 to 412-A.
[44] Exhibit "R-22", Docket, pp. 195 to 199; Minutes of the hearing held on February 1, 2024, Docket, p. 410; and Hearing Order dated February 1, 2024, Docket, pp. 411 to 412-A.
[45] Docket, pp. 418 to 426.
[46] Docket, pp. 429 to 439.
[47] Docket, pp. 443 to 444.
[48] Docket, pp. 445 to 455.
[49] Docket, p. 456.
[50] Minute Resolution dated July 26, 2024, Docket, p. 458.

THE ISSUE

As stipulated by the parties, the issue for this Court's resolution is:

Whether or not petitioner is liable to pay the assessed deficiency income tax for TY 2017 in the amount of PhP8,780,062.74.[51]

THE ARGUMENTS OF THE PARTIES

Petitioner's arguments:

Petitioner mainly anchors its appeal on the following: (1) that respondent violated its right to due process when the latter issued the Subject WDL even though it did not receive any previous assessment notices; and thus, (2) the issuance of the Subject WDL was premature because no valid assessment has been established.

Respondent's counter-arguments:

Respondent, on the other hand, insists on the liability of petitioner to pay the deficiency IT for TY 2017 in the total amount of Eight Million Seven Hundred Eighty Thousand Sixty-Two Pesos and 74/100 (P8,780,062.74). He counters the arguments of the petitioner and cited that: (1) the CTA has no jurisdiction to entertain the instant Petition for Review; and that (2) while maintaining that the CTA lacks jurisdiction over the said petition, the contention of petitioner that the assessment is void for violation of due process clause is without merit.

THE RULING OF THE COURT

The arguments of the petitioner are meritorious, and the instant *Petition for Review* must be granted.

Before ruling on the merits, We shall first address the jurisdictional issue raised by the respondent. The latter contends that the CTA has no jurisdiction over the *Petition* considering that the present case involves an undisputed assessment. It explained that petitioner, as represented by Fatima G. Calabiao, appeared before the BIR, requested, and was able to receive a copy of the Subject WDL, the Preliminary Assessment Notice (PAN), Final Assessment Notice (FAN), and Formal Letter of Demand (FLD). Thereafter, instead of

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[51] Stipulation of Issue, *Pre-Trial Order*, Docket, p. 374.

filing an administrative protest against the assessments, petitioner went directly to Court to file the present appeal.

Thus, there being no administrative protest, there can be no decision which may be reviewable by the Court.

We disagree.

The Court has jurisdiction over the Petition for Review, and the latter was filed on time.

As a rule, Republic Act (R.A.) No. 1125, as amended by R.A. No. 9282, or the law governing the CTA (CTA Law), provides for the latter's exclusive appellate jurisdiction not only over decisions or inactions of the CIR in relation to disputed assessments or refunds, but as well as over *other matters* arising from the National Internal Revenue Code (NIRC) or other laws administered by the BIR, to wit:

> SECTION 7. Section 7 of the same Act is hereby amended to read as follows:
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> "SEC. 7. *Jurisdiction.* — The CTA shall exercise:
>
> "(a) **Exclusive appellate jurisdiction** to review by appeal, as herein provided:
>
> "(1) **Decisions** of the Commissioner of Internal Revenue in cases **involving disputed assessments, refunds** of internal revenue taxes, fees or other charges, penalties in relation thereto, **or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;**[52] *(Emphasis supplied)*

The same is likewise provided in the Revised Rules of the Court of Tax Appeals (RRCTA),[53] *viz.*:

> **RULE 4**
> **Jurisdiction of the Court**
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> SECTION 1. Jurisdiction of the Court. — The Court shall exercise exclusive original jurisdiction over or appellate jurisdiction to **review by appeal the cases specified in Republic Act No. 1125, Section 7, as amended by Republic Act No. 9282, Section 7.** (n)

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[52] Expanding the Jurisdiction of the Court of Tax Appeals, Republic Act No. 9282, March 30, 2004.
[53] Revised Rules of the Court of Tax Appeals, A.M. No. 05-11-07-CTA, November 22, 2005.

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SECTION 3. Cases Within the Jurisdiction of the Court in Divisions. — The Court in Divisions shall exercise:

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

(1) **Decisions** of the Commissioner of Internal Revenue in cases **involving disputed assessments, refunds** of internal revenue taxes, fees or other charges, penalties in relation thereto, or **other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**; *(Emphasis supplied)*

As provided in the foregoing provisions, the scope of the CTA's power to review by appeal is *not limited to decisions* of the CIR over disputed assessments or refunds. It was well-settled in the case of *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*,[54] that the Supreme Court affirmed the jurisdiction of the CTA over "other matters" in relation to the NIRC or other laws administered by the BIR under Section 7 of the CTA Law.

This runs contrary to the contention of respondent that there must be a "disputed assessment" and a "decision" before the CTA may take cognizance of a case. In view thereof, the failure to administratively protest an assessment before the BIR does not automatically deprive the taxpayer of a remedy of appeal before the CTA – as such remedy is not only available in relation to a disputed assessment. Aside from the latter, there are also *other matters* which the taxpayer may opt to elevate to the CTA to pass upon.

Such as in the present case, petitioner seeks for the quashal, cancellation, or lifting of the Subject WDL on the ground that its right to due process was violated when the same was issued despite its non-receipt of any PAN, FAN, or FLD. Indeed, petitioner is unable to file a protest against such assessments, because there were no assessments to speak of. What the petitioner seeks to appeal is the validity of the collection efforts of the BIR by virtue of the Subject WDL without an assessment; to which this Court will further elaborate below. Hence, the present case would definitely not cover any decision of the CIR over a disputed assessment, because again, there was allegedly no assessment to speak of. Instead, the question revolves around the validity of the Subject WDL and is covered by "other matters" jurisdiction of the CTA.

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[54] G.R. No. 162852, December 16, 2004.

As pronounced in, *La Flor Dela Isabela, Inc. v. Commissioner of Internal Revenue*,[55] the Supreme Court ruled that the determination of the validity of a WDL is covered by the "other matters" jurisdiction of the CTA, to wit:

> **Jurisdiction of the Court of Tax Appeals:**
>
> Section 7 of RA 9282 provides for the exclusive appellate jurisdiction of the CTA on matters arising under the NIRC or other law administered by the Bureau of Internal Revenue (BIR), to wit:
>
> > Sec. 7. Jurisdiction. — The CTA shall exercise:
> >
> > a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
> >
> > xxx xxx xxx
> >
> > 2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or **other matter arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue**, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; (Emphasis supplied.)
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> > In *Philippine Journalists*, we ruled that the CTA's appellate jurisdiction is not limited to cases involving decisions of the CIR on matters relating to assessments or refunds. Section 7 (a) (2) of RA 9282 also covers "other matter arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue." **Clearly, the CTA has jurisdiction to determine whether the WDL issued by the BIR is valid** and rule on the validity of the five waivers of the statute of limitations and La Flor's application for tax amnesty under RA 9480. *(Emphasis supplied)*

Additionally, in the recent case of *Commissioner of Internal Revenue v. Pacific Hub Corp.*,[56] the High Court had the occasion to enumerate specific instances which are covered by the "other matters" jurisdiction of the CTA. These include cases which seek the cancellation and withdrawal of a WDL, which is similar to the present case:

> Indeed, a plain reading of the provision yields the inevitable conclusion that the **CTA has the power to review not only matters arising or incidental to tax assessments or refunds, but also to *any* case arising from the application**

[55] G.R. No. 202105, April 28, 2021.
[56] G.R. No. 252944, November 27, 2024.

> **of the provisions of the Tax Code or other tax laws that are administered by the BIR.** In fact, the Court has affirmed the CTA's **"other matters" jurisdiction over cases involving:** *(a)* the determination of whether the right of the CIR to collect the validly assessed tax has prescribed; *(b)* **cases seeking the cancellation and withdrawal of a warrant of distraint and/or levy**; *(c)* cases seeking a determination of the validity of waivers of the statute of limitations as well as the proper availment of tax amnesty; and *(d)* cases on the proper exercise of the CIR's power to compromise delinquent accounts and to grant an informer's reward. *(Emphasis, italics, and underscoring supplied)*

Having settled that this Court has jurisdiction over the matter, It is now crucial to determine the timeliness of the present *Petition*.

Again, Section 7 (a)(1) of the CTA Law, and RRCTA[57] provides that the CTA Division has exclusive appellate jurisdiction to review decisions of the CIR or other matters in relation to the NIRC, or other laws administered by the BIR. The party thus adversely affected by the same has a period of thirty (30) days within which to elevate the matter before the CTA Division.

In the case at hand, respondent did not dispute the fact that on May 12, 2022, petitioner received the Subject WDL.[58] Petitioner thus had thirty (30) days or until June 11, 2022 to file an appeal before the Court. Considering that June 11, 2022 falls on a Saturday, petitioner timely filed its *Petition for Review* on June 13, 2022, the next working day.

We shall now rule on the merits of the case.

The right of petitioner to due process of law was violated when it was not properly informed of the deficiency tax assessments issued against it.

Thus, the Subject WDL has no legal basis for being based on an invalid assessment.

Petitioner insists that it cannot be made liable to pay for the deficiency tax assessments provided in the Subject WDL considering

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[57] Revised Rules of the Court of Tax Appeals, A.M. No. 05-11-07-CTA, November 22, 2005.
[58] Par. 7, Joint Stipulation of Facts, *Joint Stipulation of Facts and Issues*, Docket, p. 7; Par. 7, Stipulation of Facts, Pre-Trial Order, Docket, p. 373.

that it never received any assessment prior and in relation thereto. It emphasized that when it received the Subject WDL, it had to further request for the copies of the PAN, FAN, and FLD. It was only during such time that such assessments came to its knowledge. In view thereof, the Subject WDL should be struck down for being issued in violation of its right to due process of law, and for being a product of a void assessment.

Petitioner also explained that previously, it held its principal place of business at Rm. 205 2/F Mercantile Insurance Building, Beaterio St. cor. Gen, Luna St. Brgy, 655 Zone 069, Intramuros, City of Manila. Later, it applied and completed a transfer to Room 37 Llanar Bldg. 10th Ave. cor. Bonny Serrano, Socorro, Cubao, Quezon City. Thus, the RDO of petitioner was likewise changed from RDO No. 33 to RDO No. 40.

On the other hand, aside from the jurisdictional issues which were earlier addressed by the Court, respondent argues that it committed no violation of petitioner's right to due process. It insists that the PAN, FAN, FLD, and the Subject WDL was served by virtue of registered mail to the registered address of petitioner as per the BIR Records. At the time of its issuance and service, the registered address of petitioner remained at Rm. 205 2/F Mercantile Insurance Building, Beaterio St. cor. Gen, Luna St. Brgy, 655 Zone 069, Intramuros, City of Manila.

Moreover, it asserts that petitioner was not deprived of due process of law as it had an opportunity to refute the deficiency tax assessments when its authorized representative, Ms. Fatima G. Calabiao, appeared before the BIR, requested, and received copies of the PAN, FAN, and FLD. Thus, the remedy of petitioner should have been to file an administrative protest within thirty (30) days from such receipt.

We rule in favor of petitioner.

It is a well-settled and crucial rule that a taxpayer must be informed of the findings by the CIR or his duly authorized representative of any tax assessment against it. Otherwise, the same is void. Section 228 of the NIRC, as amended, is instructive on the matter, to wit:

CHAPTER III
PROTESTING AN ASSESSMENT, REFUND, ETC.

> **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**:

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> **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.**
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings. *(Emphasis supplied)*

Concomitantly, the manner by which a taxpayer may be properly informed or served with such assessment notices is provided in Revenue Regulations No. 18-13 (RR No. 18-13), to wit:[59]

> 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 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

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[59] Amending Certain Sections of Revenue Regulations No. 12-99, Revenue Regulations No. 18-13, November 28, 2013.

> facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.
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> 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.
>
> Service to the tax agent/practitioner, who is appointed by the taxpayer under circumstances prescribed in the pertinent regulations on accreditation of tax agents, shall be deemed service to the taxpayer." *(Emphasis supplied)*

In sum, assessment notices such as a PAN, FAN, or FLD shall first be personally served to the taxpayer. In case such personal service is impracticable, substituted service or service by mail may then be resorted to.

In the case at hand, respondent, through its witness RO Halog, testified and alleged that the latter attempted to personally serve the PAN, FAN, or FLD, to petitioner's registered address at Rm. 205 2/F Mercantile Insurance Building, Beaterio St. cor. Gen, Luna St. Brgy, 655 Zone 069, Intramuros, City of Manila. However, it failed to do so considering that there was no authorized person at the time. Hence, she then instead resorted to service by registered mail.[60]

For its part, petitioner consistently and vehemently denied receipt thereof.[61] It contends that it only came to knowledge of the existence of the assessments when it requested the same from the BIR.

We resolve.

Settled is the rule that if a taxpayer disputes or denies the receipt of an assessment, the burden to prove otherwise by competent evidence is shifted to the BIR.[62] In *Commissioner of Internal Revenue v. GJM Phil. Manufacturing Inc.*, the Supreme Court emphasized that not only must a taxpayer be notified of the assessments issued against it, the latter must likewise actually receive such notice. If the taxpayer denies receiving the same, the burden of proof is shifted to the BIR to prove otherwise, *viz.*:

> The Court has held that when an assessment is made within the prescriptive period, as in the case at bar, receipt by the taxpayer may or may not be within said period. But **it must be clarified that the rule does not dispense with the requirement that the taxpayer <u>should actually receive the assessment notice</u>**, even beyond the prescriptive period. GJM, however, **denies ever having received any FAN.**
>
> **If the taxpayer denies having received an assessment from the BIR, it then becomes <u>incumbent upon the latter to prove by competent evidence that such notice was indeed received by the addressee.</u>** Here, **the *onus probandi* has shifted to the BIR to show by contrary evidence that GJM indeed received the assessment in the due course of mail.** It has been settled 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, **the direct denial of which shifts the burden to the sender to prove that the mailed letter was, in fact, received by the addressee.**
>
> **To prove the fact of mailing, it is essential to present the registry receipt issued by the Bureau of Posts or the Registry return card <u>which would have been signed by the taxpayer or its authorized representative</u>**. And if said documents could not be located, the CIR should have, at the very least, submitted to the Court a certification issued by the Bureau of Posts and any other pertinent document executed with its intervention. The Court does not put much credence to the self-

[60] Transcript of Stenographic Notes for the February 1, 2024, Hearing, p. 10.
[61] Transcript of Stenographic Notes for the September 14, 2022, pp. 8, 12 to 13. OCTOBER 17, 2023 P. 4-5; 12-16
[62] *Commissioner of Internal Revenue v. GJM Phil. Manufacturing Inc*, G.R. No. 202695, February 29, 2016.

> **referred to in these regulations previously sent to his former legal residence or business address as appearing in his tax return for the period involved shall be considered valid and binding** for purposes of the period within which to reply.[70] *(Emphasis supplied)*

Moreover, in Revenue Regulations No. 07-12,[71] the requirement to inform the BIR of any changes with regard to any relevant information was likewise reiterated, to wit:

> 15. *"Transfer of Registration"* — shall mean the process of transmitting the records of a registered taxpayer from one BIR district office to another where the new registered address falls under the jurisdiction of a BIR district office other than where it is currently registered.
>
> xxx xxx xxx
>
> SECTION 10. *Transfer of Registration.* — In case a registered person transfers his registered address to a new location, **it shall be his duty to inform the BIR district office where he is registered of such fact by filing the prescribed BIR Form** specifying therein the complete address where he intends to transfer. *(Emphasis supplied)*

On the basis of the totality of evidence submitted before the Court, petitioner duly established that it applied for and informed respondent of the change in its address and RDO. On the other hand, respondent failed to present countervailing evidence which will prove otherwise and advance his cause. Thus, being fully aware of petitioner's change in address, the respondent is not justified in continually sending the assessment notices to petitioner's old address.

Again, respondent cannot likewise find support on its argument that the Court has no jurisdiction over the case on the ground that petitioner failed to file an administrative protest against such assessments, considering that it failed to duly inform petitioner of the same. Let it be noted that herein petitioner was only able to know about the assessments when it *requested* for the same. We stress that it is the duty of the BIR to inform the taxpayer and not for the taxpayer to find a way to inform himself or herself.

As a consequence, there being no valid assessment notices sent to and received by the petitioner, the latter was not duly informed of the same, making such assessments void. Thus:

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[70] Procedure covering administrative protests on assessments of the Bureau of Internal Revenue, Revenue Regulations No. 12-85, November 27, 1985.

[71] Amended Consolidated Revenue Regulations on Primary Registration, Updates, and Cancellation, April 2, 2012.

> **An invalid assessment bears no valid fruit. The law imposes a substantive, not merely a formal, requirement. 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.** In the instant case, respondent has not properly been informed of the basis of its tax liabilities. **Without complying with the unequivocal mandate of first informing the taxpayer of the government's claim, there can be no deprivation of property, because no effective protest can be made.**[72] *(Emphasis supplied)*

All told, considering that the petitioner was not validly informed of the deficiency tax assessments on which the Subject WDL was based, petitioner was denied due process. Hence, We rule that petitioner's non-receipt of the PAN, FAN, FLD, renders the whole assessment process null and void. Therefore, the corresponding Subject WDL has no legal basis and the petitioner cannot be made liable to pay the deficiency taxes therein for the CIR has no right to collect the same.

WHEREFORE, premises considered, the *Petition for Review* filed on June 13, 2022 is **GRANTED**.

Accordingly, the Warrant of Distraint and/or Levy No. AMT-WDL-2022-03460 dated May 4, 2022, and the Income Tax (IT) Assessment No. 33-17-44630-2021-267 (IT) for taxable year (TY) 2017 which is sought to be satisfied under the Subject WDL in the total amount of Eight Million Seven Hundred Eighty Thousand Sixty-Two Pesos and 74/100 (P8,780,062.74) is hereby **CANCELLED** and **SET ASIDE**.

Thus, the Commissioner of Internal Revenue, his representatives, agents, or any person acting on his behalf are hereby **ENJOINED** enforcing the collection of deficiency assessments against herein petitioner as contained in the Subject WDL.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

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

WE CONCUR:

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

ATTESTATION

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

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice