REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

TOWER CLUB, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10384

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

JUN 25 2024

8:30 a.m.

x -- x

DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court are the Petition for Review[1] ("Petition") filed on October 23, 2020, and Supplemental Petition for Review[2] ("Supplemental Petition") filed on May 19, 2023 (collectively "Petitions"), of petitioner Tower Club, Inc. against respondent Commissioner of Internal Revenue ("CIR").

In its Petition, petitioner prays that the Court:[3]

(a) Lift the Warrants of Garnishment ("WG"), dated September 23, 2020 and October 1, 2020, and suspend the collection of tax;
(b) Dispense with the Payment of Bond;
(c) Declare null and void the WGs and the assessment for alleged deficiency value-added tax ("VAT") for taxable year ("TY") 2009 ("assailed assessment"); and
(d) Order respondent to withdraw and cancel the Warrant of Distraint and/or Levy ("WDL") received by petitioner on October 20, 2020.

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1 *Rollo* Vol. 1, pp. 6-32.
2 *Rollo* Vol 2, pp. 746-741.
3 *See* Petition for Review, pp. 24-25, *Rollo* Vol. 1, pp. 29-30.

Meanwhile, in its Supplemental Petition, petitioner prays that the Court:[4]

(a) Declare the WGs, dated September 23, 2020 and October 1, 2020, and WDL, dated October 12, 2020, null and void;
(b) Order respondent to withdraw and lift the aforementioned WGs and WDL;
(c) Declare the assailed assessment null and void; and
(d) Cancel and withdraw the assailed assessment.

The Parties[5]

Petitioner is a VAT-registered taxpayer with Certificate of Registration No. 9RC0000039774 and Tax Identification Number 207-434-425-000.

Respondent is sued in his official capacity and is represented by the Legal Officers of the Legal Division, Bureau of Internal Revenue ("BIR"), Revenue Region 8A, Makati City.

The Facts

On September 7, 2012, petitioner received Letter of Authority ("LOA") No. LOA-050-2012-00000217 (SN:eLA201000078622), dated September 4, 2012, which authorized Group Supervisor Josefina Yu and Revenue Officer Joey Fragante to examine petitioner's accounting records for all internal revenue taxes for TY 2009.[6]

Petitioner then received, on November 26, 2012, a Notice for Informal Conference with attached Details of Discrepancies, dated November 26, 2012.[7]

Later, petitioner received a Preliminary Assessment Notice ("PAN") on December 28, 2012. The PAN assessed petitioner for alleged deficiency income tax, VAT, expanded withholding tax, withholding tax on compensation, final withholding tax, and documentary stamp tax for TY 2009.[8] Petitioner allegedly filed a Reply to the PAN within the allowed period.[9]

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4 *See* Supplemental Petition for Review, p. 13, *Rollo* Vol 2, p. 758.
5 *See* Pre-Trial Order, dated January 25, 2023, p. 2, *id.* at 695.
6 *Id.*
7 *Id.*
8 *See* Pre-Trial Order, dated January 25, 2023, p. 3, *id.* at 696.
9 *See* Petition for Review, p. 3, *Rollo* Vol. 1, p. 8.

Respondent issued a Formal Assessment Notice ("FAN") on January 14, 2013, which petitioner received on even date. The FAN assessed petitioner for the same kinds of alleged deficiency taxes as those assed in the PAN.[10] Petitioner then filed a letter protest to the FAN on February 13, 2013.[11]

On 12 July 2017, petitioner received a Final Decision on Disputed Assessment ("FDDA"), dated July 6, 2017, finding petitioner liable for deficiency VAT, to which petitioner filed an appeal with respondent on August 9, 2017.[12]

Despite receiving letters claiming that its appeal was being evaluated,[13] on October 1, 2020, petitioner was informed that East West Banking Corporation, Paseo De Roxas-Legaspi branch, had received WG No. RR8A-WG-2020-09-0112-13, dated September 23, 2020, from respondent, issued to satisfy the alleged tax liabilities as assessed in the July 6, 2017 FDDA.[14] The next day, on October 2, 2020, petitioner also discovered that Bank of the Philippine Islands, Ayala Paseo branch, had received a Notice of Garnishment, dated October 1, 2020, from respondent.[15]

Petitioner then received WDL No. RR8A-WDL-2020-09-163, dated October 12, 2020, on October 20, 2020.[16]

Aggrieved, petitioner filed the instant Petition on October 23, 2020, with an Urgent Motion to Lift Garnishment and To Suspend the Collection of Tax and Dispense with Payment of Bond ("Urgent Motion").

Acting on the Petition and Urgent Motion through a Resolution,[17] dated November 17, 2020, the Court directed respondent to file his Comment to the Urgent Motion, set the Urgent Motion for hearing, and ordered the issuance of Summons to respondent.

A hearing on the Urgent Motion was held on November 26, 2020. Petitioner presented witness Marlo Lomibao Patacsil. The Court then gave petitioner until December 1, 2020 within which to file its Formal Offer of Evidence ("FOE") and respondent until December 7, 2020 within which to file his Opposition to the Urgent Motion.[18]

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[10] *See* Pre-Trial Order, dated January 25, 2023, p. 3, *id* at 696.
[11] *See* Petition for Review, p. 4, *id.* at 9.
[12] *See* Petition for Review, pp. 4-5, *id.* at 9-10.
[13] *See* Petition for Review, p. 5, *id.* at 10.
[14] *Id.*
[15] *See* Petition for Review, p. 6, *id.* at 11.
[16] *Id.*
[17] *Id.* at 225.
[18] *See* Minutes of the Hearing, held on November 26, 2020, *id.* at 404.

Respondent filed his Comment Against Petitioner's Urgent Motion to Lift Garnishment and to Suspend the Collection of Tax and Dispense with Payment of Bond[19] via registered mail on December 1, 2020.

Petitioner filed its FOE[20] on December 1, 2020, while respondent filed his Comment (To Petitioner's Formal Offer of Evidence dated December 01, 2020)[21] via registered mail on December 7, 2020. This Court then promulgated a Resolution[22] on February 2, 2021, admitting most of the offered exhibits but denying others for being illegible and for petitioner's failure to present the originals for comparison.

Aggrieved by the denial of its exhibits, petitioner filed a Motion for Reconsideration (with Motion to Set Additional Commissioner's Hearings)[23] on February 26, 2021, but this was later deemed moot and academic by this Court.[24]

On March 2, 2021, this Court promulgated its Resolution[25] on the Urgent Motion, where we partially granted the same by suspending the collection of tax but ordered the payment of a cash bond.

Aggrieved by the denial of its prayer to dispense with the payment of bond, petitioner filed a Motion for Reconsideration (With Motion to Defer the Posting of the Bond)[26] on March 18, 2021. Respondent filed no Comment to the Motion,[27] despite order.[28]

This Court then granted the Motion for Reconsideration, in a Resolution,[29] dated August 17, 2022, where the Court suspended the collection of tax, ordered respondent to lift the WGs, dated 23 September 2020 and October 1, 2020, and WDL, dated October 12, 2020, further ordered respondent to desist from giving effect to the said Warrants or attempting to collect the subject assessment, and dispensed with the payment of the bond.[30]

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19 *Id.* at 414-419.
20 *Id.* at 229-240
21 *Id.* at 423-425.
22 *Id.* at 482-483.
23 *Rollo* Vol. 2, pp. 485-486.
24 *See* Resolution, dated March 18, 2021, *id.* at 504-505.
25 *Id.* at 492-502.
26 *Id.* at 506-517.
27 *See* Records Verification Report, dated July 20, 2022, *id.* at 520; *see also* Resolution, dated July 26, 2022, *id.* at 522-523.
28 *See* Resolution, dated May 25, 2021, *id.* at 519.
29 *Id.* at 525-530.
30 *See* Resolution, dated August 17, 2022, p.6, *id.* at 530.

In the main case, respondent had earlier filed his Answer (With Special and Affirmative Defenses)[31] via registered mail on January 11, 2021, after an extension granted by the Court.[32] Petitioner filed a Reply[33] to the same on February 1, 2023.

After order,[34] petitioner filed its Pre-Trial Brief[35] on September 7, 2022, while respondent filed his Pre-Trial Brief[36] on September 16, 2022.

Pre-Trial ensued on September 22, 2022,[37] followed by the parties' filing of their Joint Stipulation of Facts and Issues[38] on October 24, 2022 and the issuance of the Pre-Trial Order[39] on January 25, 2023. During Pre-Trial, the Court referred the case to mediation, but this was ultimately unsuccessful.[40]

In the hearing for the presentation of petitioner's evidence, held on January 25, 2023, petitioner manifested that it would simply adopt the testimony of witness Patacsil, as earlier offered in support of its Urgent Motion.[41]

Petitioner filed its FOE[42] for the main case on February 9, 2023, while respondent filed his Comment[43] thereto on February 14, 2023. The Court admitted the majority of the offered exhibits, but denied two of these for failing to correspond with the document that was actually marked.[44]

Before the scheduled hearing for the presentation of respondent's evidence, petitioner filed a Motion to File Supplemental Petition for Review (with Attached Supplemental Petition for Review)[45] ("Motion to File") on May 19, 2023. Respondent had apparently acted on petitioner's appeal to the FDDA through a Decision, dated November 7, 2022 ("administrative Decision"); petitioner received the same on March 27, 2023. The administrative Decision granted said appeal, thereby cancelling and withdrawing the FDDA. Petitioner thus wished to file a Supplemental Petition for Review in light of this new development in its case.

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31 *Rollo* Vol. 1, pp. 434-447.
32 *See* Motion for Extension of Time to File Answer, *id.* at 427-428; *see also* Resolution, dated January 13, 2021, *id.* at 431-432.
33 *Id.* at 460-480.
34 *See* Resolution, dated July 26, 2022, *Rollo* Vol. 2, pp. 522-523.
35 *Id.* at 531-551.
36 *Id.* at 553-558.
37 *See* Minutes of the Hearing, held on September 22, 2022, *id.* at 645.
38 *Id.* at 649-671.
39 *Id.* at 694-705.
40 *See* Mediator's Report, dated March 28, 2023, *id.* at 731.
41 *See* Minutes of the Hearing, held on January 25, 2023, *id.* at 706.
42 *Id.* at 714-725.
43 *Id.* at 729.
44 *See* Resolution, dated April 11, 2023, *id.* at 736-738.
45 *Id.* at 740-745.

After order,[46] respondent filed his Comment/Opposition Against Petitioner's Motion for Leave to File Supplemental Petition for Review dated May 19, 2023[47] on May 29, 2023. The Court then granted the Motion to Admit and admitted the Supplemental Petition through a Resolution,[48] dated October 12, 2023.

Earlier, the Court also held a hearing for the presentation of respondent's evidence on May 23, 2023.[49] Respondent then filed his FOE[50] on June 1, 2023, to which petitioner filed its Comment (to Respondent's Formal Offer of Evidence dated June 1, 2023)[51] on June 13, 2023. The Court acted upon the FOE through the aforementioned October 12, 2023 Resolution,[52] where it admitted many of the offered exhibits but denied others for not being found in the records of the case.

Petitioner filed its Memorandum[53] on November 23, 2023, while respondent filed his Memorandum[54] on November 28, 2023. The case was then submitted for decision on December 7, 2023.

Hence, this Decision.

The Issues

The sole issue for this Court's resolution is whether or not petitioner is liable for the alleged deficiency VAT for TY 2009.[55]

Arguments of the Parties

Petitioner raises the following arguments:[56]

(a) Respondent already cancelled and withdrew the FDDA through the administrative Decision;
(b) Respondent's right to assess petitioner for alleged deficiency VAT for the first, second, and third quarter of TY 2009 has already prescribed;

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[46] *See* Minutes of the Hearing, held on May 23, 2023, *id.* at 787.
[47] *Id.* at 799-806.
[48] *Id.* at 842-846.
[49] *Supra* note 46.
[50] *Id.* at 791-798.
[51] *Id.* at 809-814.
[52] *Supra* note 48.
[53] *Id.* at 847-885.
[54] *Id.* at 886-897.
[55] *See* Pre-Trial Order, p.3, *id.* at 696. The Pre-Trial Order and the parties' Joint Stipulation of Facts and Issues identify TY *2019* as the relevant taxable year, but the facts of the case show that it is the alleged VAT liability for TY *2009* that is at issue. TY 2009 is also correctly identified as the relevant period in both parties' respective memoranda.
[56] *See* Memorandum, *id.* at 847-885.

(c) Respondent's right to collect the alleged deficiency VAT has also prescribed;

(d) Two of the ROs assigned to examine petitioner's records were never named in a LOA and thus lacked the authority to conduct such an examination;

(e) Respondent violated petitioner's right to due process by prematurely issuing the WDL and WGs and by not addressing the arguments it raised in its protests to the PAN and FAN; and

(f) Petitioner is not liable for the alleged deficiency VAT as membership dues, the basis for the assailed assessment, are not subject to VAT.

Respondent counters the above with the following:[57]

(a) The WDL, dated October 12, 2020, is respondent's final decision on the assailed assessment;

(b) The statute of limitations on the assessment and collection of national internal revenue taxes were suspended as petitioner requested a reinvestigation;

(c) As the July 6, 2017 FDDA found unreported sales of more than 30% of the declared sales, there is *prima facie* evidence of a false or fraudulent return, and the 10-year prescriptive period for collection applies here; and

(d) Petitioner is liable for the assessed deficiency VAT.

The Ruling of the Court

The Petitions are mostly moot and partially outside of this Court's jurisdiction. However, they are also partially meritorious.

This Court has jurisdiction over respondent's collection efforts but not over the disputed assessment

Under *Republic Act* ("*RA*") *No. 1125, as amended* ("*CTA Law*"), the Court of Tax Appeals ("CTA") has exclusive appellate jurisdiction over "other matters" arising under the *National Internal Revenue Code of 1997, as amended* ("*NIRC*"):

> SEC. 7. Jurisdiction. — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

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[57] *See* Memorandum, *id.* at 886-897.

> (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.)

This is implemented by *Rule 4, Section 3(a)(1) of the Revised Rules of the Court of Tax Appeals, as amended* ("*RRCTA*"), which reiterates the above almost verbatim.

Meanwhile, the final paragraph of *Section 228 of the NIRC* provides a 30-day period for filing a judicial appeal, counted either from the taxpayer's receipt of the adverse decision on disputed assessment or from the lapse of the 180 days given to the CIR to act upon administrative protests.

Jurisprudence confirms that the CTA can take cognizance of protests against collection efforts initiated by the CIR, as in *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*.[58] Applying *Section 228 of the NIRC*, taxpayers have 30 days from receipt of notice of such collection efforts within which to file a judicial appeal.

Petitioner received the subject WDL on October 20, 2020. It thus had until November 19, 2020 within which to file a judicial appeal, which would fall under the CTA's jurisdiction over "other matters," as discussed above. As it filed its Petition for Review on October 23, 2020, a mere three days after receiving the WDL, the Petition was timely filed.

Meanwhile, the *RRCTA* lacks any direct rule governing the filing of supplementary pleadings. *Rule 10, Section 6 of the Rules of Court* thus sees suppletory application here:

> SEC. 6. Supplemental pleadings.—Upon motion of a party, the court may, upon reasonable notice and upon such terms as are just, permit [them] to serve a supplemental pleadings setting forth transactions, occurrences or events which have happened since the date of the pleading sought to be supplemented. ...

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

Petitioner filed a motion for the admission of its Supplemental Petition and thus properly filed the latter. As the Court already had jurisdiction over the original Petition sought to be supplemented, We also gained jurisdiction over the Supplemental Petition, insofar as it (a) brings the administrative Decision to the Court's attention; and (b) reiterates the prayers from the original Petition regarding the WGs and WDL.

We do not, however, appear to have jurisdiction over petitioner's prayers regarding the assessment against it.

To review, the original Petition was filed to appeal WGs and a WDL and contained prayers exclusively concerning respondent's collection efforts. It thus fell under the Court's jurisdiction over "other matters." The same is distinct from Our jurisdiction over decisions on disputed assessments. As such, when petitioner filed the original Petition, We gained the authority to rule on the propriety of respondent's collection efforts, but We did not necessarily gain any similar jurisdiction over the assessment upon which said collection efforts were based.

Did We gain such jurisdiction upon petitioner's filing of the Supplemental Petition? It unfortunately seems We did not.

Following *Section 7 of the CTA Law*, *Rule 10, Section 6 of the RRCTA*, and *Section 228 of the NIRC*, a taxpayer aggrieved by a decision on a disputed assessment must file a judicial appeal within 30 days from receipt of said decision. Petitioner received the administrative Decision on March 27, 2023, giving it until April 26, 2023 within which to file its judicial appeal. It filed its Supplemental Petition, attached to its motion to admit the same, on May 19, 2023. This was 53 days from its receipt of the administrative Decision and 23 days from the end of 30-day period.

Accordingly, the administrative Decision has become final and executory. We thus cannot entertain any prayers regarding the assessment.

The Supplemental Petition was validly filed insofar as it manifests the issuance of the administrative Decision, to be clear. We can thus take cognizance of the administrative Decision when we render Our judgment on respondent's collection efforts. As a prayer regarding the assessment, however, it was belatedly filed, depriving Us of any jurisdiction to act on said assessment.

In short, the Court has the requisite jurisdiction to act on petitioner's prayers regarding the WGs and the WDL but not on petitioner's prayers to withdraw, cancel, and declare the assessment null and void.

The Court observes, however, and without rendering any judgment, that said prayers are already moot and academic. The administrative Decision already cancelled and withdrew the FDDA, effectively cancelling and withdrawing the disputed assessment. As such, even if We had gained jurisdiction over the same, there would be nothing left for Us to declare null and void.

The Court already ordered the lifting and withdrawal of the subject WGs and WDL and dispensed with the payment of bond

Moving to the merits, the Court first agrees with respondent that petitioner's prayer that this Court order respondent to lift and withdraw the WGs, dated September 23, 2020 and October 1, 2020, respectively, and WDL, dated October 12, 2020, is moot and academic.

As narrated above, this Court granted petitioner's Urgent Motion and thus already ordered respondent to lift and withdraw said WGs and WDL. We reproduce the relevant paragraph of Our August 17, 2022 Resolution below:

> The collection of taxes under the subject assessment is **SUSPENDED**. Respondent is **ORDERED** to **LIFT** the following (a) Warrant of Garnishment No. RR8A-WG-2020-09-0112-13 dated September 23, 2020, (b) Warrant of Garnishment No. RR8A-WG-2020-09-0112-15 dated October 01, 2020 and (c) Warrant of Distraint and/or Levy No. RR8A-WDL-2020-09-163 dated October 12, 2020.

We also dispensed with the payment of bond in the said Resolution, similarly rendering that prayer moot.

Indeed, while not explicit, We effectively ordered such lifting in Our earlier March 2, 2021 Resolution:

> **WHEREFORE**, premises considered, Petitioner's Urgent Motion to Lift Garnishment and to Suspend the Collection of Tax and Dispense with Payment of Bond. . . is **PARTIALLY GRANTED**. The collection of taxes is **SUSPENDED**.

Given the above, We no longer need to act on petitioner's prayer that the Court order respondent to lift and withdraw the relevant WGs and WDL, as We already issued said order in the Resolutions quoted above.

The subject WGs and WDL have no assessment to serve as their basis

While We lack the jurisdiction to affirm, reverse, or modify it, this Court can take cognizance of the administrative Decision, as discussed above. And given that said administrative Decision cancels and withdraws the disputed assessment, the assailed WGs and WDL have no basis for their validity.

To recall, on November 7, 2022, then-CIR Lilia Catris Guillermo issued a Decision granting petitioner's protest against the FDDA issued against it. The relevant portion of the Decision withdrew and cancelled the FDDA, to wit:

> WHEREFORE, predicated on all the foregoing, **TOWER CLUB, INC.**'s request for reconsideration is hereby granted and the [FDDA] dated July 6, 2017 is hereby **WITHDRAWN** and **CANCELLED**.
>
> Consequently, the corresponding Authority to Cancel Assessment (ATCA) should be issued in favor of **TOWER CLUB, INC.** and that its name be deleted from the List of Delinquent Taxpayers, in so far as the assessment demanding payment of the total amount of ₱15,610,385.40, representing deficiency value-added tax, increments included, for the taxable period from January 1, 2009 to December 31, 2009 is concerned.
>
> This constitutes the Final Decision of this Office on the matter.

By withdrawing and cancelling the FDDA, recommending the issuance of an Authority to Cancel Assessment in favor of petitioner, and ordering that petitioner be removed from the List of Delinquent Taxpayers, insofar as the alleged deficiency VAT for TY 2009 is concerned, the CIR effectively cancelled and withdrew the assailed assessment against petitioner.

Again, having been cancelled and set aside, there is no longer any assessment against petitioner for any alleged deficiency VAT for TY 2009.

Respondent's contentions against his (predecessor's) Decision hold no water, but they do call for some discussion. The linchpin of his argument is the claim that the October 12, 2020 WDL was the CIR's final decision on the assailed assessment. As such, then-CIR Guillermo acted outside her jurisdiction and authority, and the Decision granting petitioner's administrative appeal is invalid. This position is based on *Lascona Land Co., Inc. v. Commissioner of Internal Revenue*[59] ("*Lascona*"), *Oceanic Wireless Network, Inc. v. Commissioner of Internal Revenue*[60] ("*Oceanic*"), and *Light Rail Transit Authority v. Bureau of Internal Revenue*[61] ("*LRTA*").

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[59] G.R. No. 171251, March 5, 2012.
[60] G.R. No. 148380, December 9, 2005.
[61] G.R. No. 231238, June 20, 2022.

In *Lascona*, the Supreme Court reiterated that a taxpayer seeking to file a judicial appeal against an assailed assessment has two options when the CIR fails to timely act on its administrative appeal: (a) file the judicial appeal within 30 days from the expiration of the 180-day period; *or* (b) await the final decision of the CIR on the administrative appeal and file a judicial appeal 30 days from receipt. Importantly, the Supreme Court emphasized that the two options are mutually exclusive.

In *Oceanic*, the High Court declared that a letter demanding the payment of delinquent taxes "may be considered a decision on a disputed or protested assessment," and that determining whether or not such a letter is a *final* decision rests on its tenor.

Finally, in *LRTA*, the Supreme Court considered a letter sent by the CIR to the taxpayer as the former's final decision on a disputed assessment, emphasizing that the previous issuances could not be considered his *final* decision, given the pendency and consistency of petitioner's administrative appeals.

The conclusion respondent draws from the above is that petitioner should be barred from enjoying the reliefs granted by the administrative Decision, either because (a) the options given to taxpayers for raising a judicial appeal when the CIR fails to timely act on an administrative appeal are mutually exclusive; or (b) as the WDL was considered the CIR's final decision on the assessment, the administrative Decision should not have been issued and should not be accepted as valid.

We disagree.

First, the WDL is not a final decision. The original petition fell under Our jurisdiction over "other matters," not that over decisions on disputed assessment. As such, nothing in the proceedings of this Court considered the WDL as a final decision that would somehow bar the issuance of any later decision. Respondent argument fails on this point alone.

Second, assuming *arguendo* that the WDL was considered a "final decision," *Lascona* and the mutual exclusivity of a taxpayer's options when faced with inaction by the CIR are inapplicable to this case. For respondent's argument to work here, he would have to show that petitioner is barred from "[awaiting] the final decision of the Commissioner"[62] and should thus not be allowed to find relief in a belatedly issued Decision. Petitioner did not file the instant Petition 30 days after the expiration of the 180-day period for the CIR to act on its administrative protest, however. It did not file its Petition before this Court on March 5, 2018, 30 days after February 3, 2018, which is 180

[62] *Supra* note 59.

days after it filed its protest to the FDDA on August 7, 2017. It filed the Petition only after receiving the WDL on October 20, 2020. As such, it cannot be said to have opted to file its judicial appeal 30 days after the expiration of the 180-day period. Petitioner is thus not barred from awaiting the final decision of the CIR.

Third, all of the above jurisprudence concerns treating demand letters and other such issuances as final decisions *for the purpose of filing judicial appeals*. All of these Supreme Court Decisions discuss the CIR's final decisions on assessments in a specific context: that of determining whether a judicial appeal was properly and *timely* filed and thus whether the Court of Tax Appeals ("CTA") validly assumed jurisdiction over the case. This is true even of the landmark cases cited by the Decisions discussed above, such as *Commissioner of Internal Revenue v. Villa*,[63] *Surigao Electric Co., Inc. v. The Honorable Court of Tax Appeals*,[64] *Commissioner of Internal Revenue v. Ayala Securities Corporation*,[65] *Commissioner of Internal Revenue v. Union Shipping Corporation*,[66] *Commissioner of Internal Revenue v. Isabela Cultural Corporation*,[67] and *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*.[68]

The Supreme Court's pronouncements on treating letters and other issuances as the CIR's final decision on an assessment should thus be construed as placing limitations on (a) a taxpayer's privilege to dispute an assessment made against it; and (b) the CTA's jurisdiction over such disputations. The cases cited do *not*, however, seem to place any equivalent restrictions on the CIR. They contain no explicit prohibition on the CIR from deciding on an administrative protest when, say, a WDL was already issued and used as a "decision" from which a judicial appeal was filed.

To repeat: in the cases named above, demand letters and similar issuances are *considered* or *treated as* final decisions *solely for the purpose of filing judicial appeals*. In other words, they are conferred the status of "final decisions" only insofar as their issuance effectively resets the reglementary period for filing a judicial appeal before the appropriate body. The Court thus finds no basis for allowing this status, given only for a specific purpose, to bar respondent from acting on an administrative protest to which he never directly replied.

We must also not lose sight of the root issue of these controversies regarding jurisdiction: that of assessments becoming final and executory. When a taxpayer files a judicial appeal within the allowed period from receiving a denial letter or similar issuance, it is allowed to do so because the

[63] G.R. No. L-23988, January 7, 1968.
[64] G.R. No. L-25289, June 28, 1974.
[65] G.R. No. L-29485, March 31, 1976.
[66] G.R. No. 66160, May 21, 1990.
[67] G.R. No. .135210, July 11, 2001.
[68] G.R. No. 168498, April 24, 2007.

assessment has not yet become final and executory. The assessment is thus appealable. However, as neither final nor executory, such an assessment *may be subject to change prior to and separate from the judgment of a court*, such as when the CIR and a taxpayer enter into a compromise agreement while judicial proceedings are ongoing. Respondent thus cannot claim that since petitioner filed an appeal to the WDL, the same has become his "final decision" and that the administrative Decision is consequently void.

Fourth, a memorandum, comment, or opposition is not the proper venue for protesting the CIR's decision on a disputed assessment. That said, respondent, not being the taxpayer under assessment, would not have the authority to file a Petition for Review against the administrative Decision.

Lastly, the administrative Decision has become final and executory as petitioner failed to file a timely appeal to it.

The assailed assessment, in sum, was validly withdrawn and cancelled through the CIR's administrative Decision.

There being no assessment to serve as basis, the WGs and WDL are null and void.

A void assessment bears no fruit,[69] as "the BIR's right to collect deficiency taxes must flow from a valid assessment."[70] While the truism, which has been consistently reiterated by both this Court and the Supreme Court, is usually used in the context of an assessment declared void *ab initio*, it is relevant to the case at bar as well. It simply says, to put it less metaphorically, that no collection of deficiency taxes can be pursued when no valid assessment exists as basis.

As the assailed assessment was already cancelled and withdrawn, the subject WGs and WDL are based on nothing. They are thus consequently null, void, and without force and effect.

For the same reason, respondent must be prohibited from initiating any future collection efforts on the now-withdrawn assessment.

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[69] *See People v. Italcar Pilipinas, Inc.*, G.R. No. 222280, January 18, 2023; *see also Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*, G.R. No. 223767, April 24, 2023; *see also Commissioner of Internal Revenue v. Azcuna T. Reyes*, G.R. Nos. 159694 & 163581, January 27, 2006.

[70] *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*, G.R. No. 249153, September 12, 2022.

ACCORDINGLY, the instant Petition for Review is **PARTIALLY GRANTED**. The Warrants of Garnishment, dated September 23, 2020 and October 1, 2020, and the Warrant of Distraint and/or Levy, dated October 12, 2020, are hereby declared **NULL** and **VOID**.

Accordingly, respondent is **ENJOINED** and **PROHIBITED** from collecting the amount sought by the cancelled assessment.

Finally, petitioner's prayer that the Court (a) withdraw and cancel the disputed assessment; and (b) declare the assessment null and void is hereby **DENIED** for lack of jurisdiction.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

Ma. Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest that the conclusion in the above 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
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 opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice