



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

SPECIAL FIRST DIVISION

CTA CASE NO. 11340

**IN.CORP CORPORATE
SERVICES PHILIPPINES, INC.
(formerly known as KITTELSON &
CARPO CONSULTING, INC.),**
Petitioner,

NOTICE OF DECISION

- versus -

**COMMISSIONER OF INTERNAL
REVENUE,**
Respondent.

To:

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

**ATTY. SHERYLL P. CACAYURAN
ATTY. JARED MITCHELL V. ACUÑA
ATTY. KAREN DENZEL SALAZAR**
Bureau of Internal Revenue - Revenue Region No. 8B
Legal Division, 2nd Floor, BIR Regional Office Building
313 Sen. Gil Puyat Avenue
Makati City

CARPO LAW & ASSOCIATES
8th Floor, Marajo Tower
312 26th Street corner 4th Avenue
Bonifacio Global City
1634 Taguig City

GREETINGS:

You are hereby notified by these presents that on **September 18, 2026**, a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **September 23, 2026.**

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

IN.CORP CORPORATE
SERVICES PHILIPPINES,
INC. (formerly known as
KITTELSON & CARPO
CONSULTING, INC.),

Petitioner,

CTA Case No. 11340

Members:

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

- versus -

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

Promulgated:
SEP 18 2026; 3:15PM

x ----- x

DECISION

BACORRO-VILLENA, L:

At bar is a "Petition for Review with Application for Temporary Restraining Order and/or Writ of Preliminary Injunction and Urgent Motion to Cancel the Warrant of Distrainment and/or Levy Received on 17 October 2023, Suspension of Collection of Taxes and to Dispense with the Surety Bond Requirement as a Condition to Suspend Collection of Deficiency Taxes"¹ (**Petition for Review**) filed by petitioner In.Corp Corporate Services Philippines, Inc. (formerly known as Kittelson & Carpo Consulting, Inc.) (**petitioner**) on 16 November 2023, pursuant to

¹ Division Docket, Volume I, pp. 7-32.

Section 3(a),² Rule 8, in relation to Section 3(a)(1),³ Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), seeking to cancel the Warrant of Dstraint and/or Levy dated 13 October 2023⁴ (WDL) issued by the Revenue Region (RevReg) No. 8B — South National Capital Region (NCR), through Regional Director (RD) Edgar B. Tolentino (Tolentino), and to suspend the collection of petitioner's alleged deficiency taxes for the period 01 January 2017 to 31 December 2017 (CY 2017) in the aggregate amount of ₱24,614,662.71, inclusive of interest and penalties.

PARTIES OF THE CASE

Petitioner is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at 8th Floor, Marajo Tower, 312 26th Street corner 4th Avenue, Bonifacio Global City, Taguig City, Metro Manila 1634. It is registered with Tax Identification Number (TIN) 006-650-345-000.⁵

Respondent Commissioner of Internal Revenue (respondent/ CIR), on the other hand, is the duly appointed Commissioner of Internal Revenue, vested with authority to assess and collect all national internal revenue taxes, fees and charges, and to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National

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:

(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 Exhibit "P-3", Division Docket, Volume I, p. 294.

⁵ Par. 1, I. Admitted Facts, JSFI, id., Volume II, p. 848.

Internal Revenue Code (**NIRC**) of 1997, as amended, or other laws administered by the Bureau of Internal Revenue (**BIR**).⁶

FACTS OF THE CASE

On 05 September 2018, respondent, through RevReg No. 8 — Makati City, served upon petitioner Letter of Authority (**LOA**) No. eLA201500088765 dated 31 August 2018,⁷ authorizing Revenue Officer (**RO**) Marvin Khaber Boransing (**Boransing**) and Group Supervisor (**GS**) Villaflor A. Lagundi (**Lagundi**) to examine petitioner's books of accounts and other accounting records for all internal revenue taxes CY 2017.⁸

Nearly a year and four months later or on 06 January 2020, respondent served upon petitioner an undated Notice of Informal Conference (**NIC**) with Details of Discrepancy.⁹ On 02 October 2020, petitioner, through its authorized representative, executed a "Limited Waiver of the Statute of Limitations under the [NIRC]"¹⁰ (**waiver**) covering CY 2017.¹¹ Thereafter, petitioner submitted supporting documents during discussions with RO Boransing and GS Lagundi on 29 October 2020.¹²

The examination culminated in the issuance of a Preliminary Assessment Notice¹³ (**PAN**), which petitioner received on 13 January 2021.¹⁴ The PAN assessed alleged basic deficiency taxes for CY 2017 in the total amount of ₱21,956,605.51, inclusive of surcharge and interest.¹⁵ In response, petitioner filed its "Reply to [PAN] in relation to [LOA] No. 201500088765 dated 31 August 2018 covering [CY 2017]"¹⁶ (**Reply**) on 03 February 2021.¹⁷

⁶ See Par. 2, id.

⁷ Exhibit "P-4", id., Volume I, p. 295.

⁸ See Par. 3, Admitted Facts, JSFI, id., Volume II, pp. 848-849.

⁹ See Par. 4, id., p. 849.

¹⁰ Exhibit "P-6", id., Volume I, pp. 302-303.

¹¹ See Par. 5, Admitted Facts, JSFI, id., Volume II, p. 849.

¹² See Par. 6, id.

¹³ Exhibit "P-7", id., Volume I, pp. 304-317.

¹⁴ See Par. 7, Admitted Facts, JSFI, id., Volume II, p. 849.

¹⁵ Id.

¹⁶ Exhibit "P-8", id., Volume I, pp. 318-332.

¹⁷ See Par. 8, Admitted Facts, JSFI, id., Volume II, p. 849.

Subsequently, respondent issued the Formal Letter of Demand and Final Assessment Notices¹⁸ (FLD/FAN), dated 10 February 2021, which petitioner received eight (8) days later or on 18 February 2021.¹⁹ The FLD/FAN demanded payment of alleged deficiency taxes totaling ₱22,119,640.91, inclusive of interest and penalties, by 12 March 2021.²⁰ Petitioner disputed the assessment through its "Protest to FLD/FAN with Request for Reinvestigation in relation to [LOA] No. 201500088765 dated 31 August 2018 covering [CY 2017]"²¹ (**Protest**), filed on 19 March 2021, asserting that the assessment lacked factual and legal bases.²²

On 16 April 2021, petitioner received respondent's "Action on [Protest],"²³ granting the request for reinvestigation and directing petitioner to submit supporting documents within sixty (60) days from the filing of the protest.²⁴

More than a year later or on 27 October 2022, petitioner received the Final Decision on Disputed Assessment²⁵ (FDDA) dated 10 October 2022, issued by RD Atty. Jethro M. Sabariaga (**Sabariaga**) directing it to pay alleged deficiency taxes in the aggregate amount of ₱24,614,662.71, inclusive of interest and penalties, on or before 09 November 2022, broken down as follows:²⁶

Tax Type	Basic Tax	Interest	Surcharge	Total
Income Tax	₱8,467,417.19	₱4,612,770.50		₱13,080,187.69
Value-Added Tax (VAT)	6,078,324.17	3,471,139.43		9,549,463.60
Expanded Withholding Tax (EWT)	689,704.15	392,507.80		1,082,211.95
Withholding Tax on Compensation (WTC)	422,762.41	242,816.20		665,578.61
Documentary Stamp Tax (DST)	129,795.00	74,975.86	₱32,449.00	237,220.86

¹⁸ Exhibit "P-9", id., pp. 333-351.

¹⁹ See Par. 9, Admitted Facts, JSFI, id., Volume II, p. 849.

²⁰ See id.

²¹ Exhibit "P-10", id., Volume I, pp. 352-368.

²² See Par. 10, Admitted Facts, JSFI, id., Volume II, p. 849.

²³ Exhibit "P-11", id., Volume I, p. 369.

²⁴ See Par. 11, Admitted Facts, JSFI, id., Volume II, p. 849.

²⁵ Exhibit "P-12", id., Volume I, pp. 371-378.

²⁶ See Par. 12, Admitted Facts, JSFI, id., Volume II, p. 849.

Tax Type	Basic Tax	Interest	Surcharge	Total
TOTAL	₱15,788,003.92	₱8,794,209.79	₱32,449.00	₱24,614,662.71

On 25 November 2022, petitioner filed a “Request for Reconsideration of [FDDA] in relation to [LOA] No. 201500088765 dated 31 August 2018 covering [CY 2017]”²⁷ (**Request for Reconsideration**) with the Office of the CIR, praying for the withdrawal and cancellation of the FLD/FAN.²⁸

While the Request for Reconsideration was pending, petitioner received, on 17 October 2023, a WDL²⁹ dated 13 October 2023 issued by RD Tolentino. The warrant directed the distraint of petitioner's goods, chattels, effects, and other personal property, and the levy upon its real property and interests in or rights to real property, on account of alleged deficiency taxes in the amount of ₱24,614,662.71, inclusive of interest and penalties.³⁰

On 27 October 2023, petitioner filed a “Request for Lifting of [WDL] issued for [CY 2017]”³¹ (**Request for Lifting the WDL**).

Undaunted, petitioner elevated the matter to this Court by filing the present Petition for Review on 16 November 2023.³²

PROCEEDINGS BEFORE THE COURT

In its petition before Us, petitioner sought the cancellation of the WDL received on 17 October 2023, the suspension of collection of taxes and the dispensation with the surety bond requirement. Petitioner alleged, among others, that the FDDA had not yet become final, executory and demandable because it timely elevated the FDDA to the CIR by way of Request for Reconsideration filed on 25 November 2022. 

²⁷ Exhibit “P-13”, id., Volume I, pp. 379-402.
²⁸ See Par. 13, Admitted Facts, JSFI, id., Volume II, p. 850.
²⁹ Exhibit “P-3”, supra at note 4.
³⁰ See Par. 14, Admitted Facts, JSFI, Division Docket, Volume II, p. 850.
³¹ Exhibit “P-14”, id., Volume I, pp. 403-407; See Par. 15, Admitted Facts, JSFI, id, Volume II, p. 850.
³² Supra at note 1.

On 11 December 2023, the Court issued a Resolution directing the issuance of summons upon respondent; directing petitioner to submit a Verification and Certification of Non-Forum Shopping within five (5) days from notice; granting respondent five (5) days from notice to comment or oppose petitioner's "Application for Temporary Restraining Order and/or Writ of Preliminary Injunction and Urgent Motion to Cancel the [WDL]" (**Motion for Suspension**) incorporated in the petition; setting the hearing on petitioner's Motion for Suspension on 31 January 2024; directing the parties to submit the judicial affidavits of their witnesses at least five (5) days before the hearing and to bring the documents in support of the motion; issuing a Temporary Suspension Order (TSO); and directing respondent to discontinue the enforcement or implementation of the WDL.³³

On 12 December 2023, the Court issued Summons³⁴ to respondent.

On 19 December 2023, the Court issued a TSO enjoining respondent, and/or any of his or her authorized representatives or agents, from pursuing the collection of petitioner's alleged deficiency taxes subject of the present case pending resolution of petitioner's Motion for Suspension.³⁵

On 20 December 2023, petitioner filed its "Compliance and Manifestation",³⁶ with attached Verification and Certification of Non-Forum Shopping, which was noted by the Court in its Resolution dated 17 January 2024.³⁷

On 15 January 2024, respondent filed his or her "Motion to Admit",³⁸ with attached "Comment/Opposition (To Petitioner's [Motion for Suspension])."

On 31 January 2024, the Court heard petitioner's Motion for Suspension. During the hearing, the Court granted respondent's "Motion for Extension of Time to File Answer" and gave him or her a non-

³³ Minute Resolution dated 11 December 2023, Division Docket, Volume I, pp. 170-171.

³⁴ Id., p. 173.

³⁵ Id., pp. 174-175.

³⁶ Id., pp. 176-180.

³⁷ Id., pp. 193-194.

³⁸ Id., pp. 183-190.

extendible period of thirty (30) days, or until 11 February 2024, within which to file his or her Answer. Thereafter, petitioner presented its witness, Andrew Torcelino (**Torcelino**), who testified by way of his Judicial Affidavit dated 16 November 2023.³⁹

On the witness stand, Torcelino, petitioner's Corporate Finance Director, testified that: (1) he has been employed with petitioner since 03 June 2019; (2) as Corporate Finance Director, he is tasked with maintaining and keeping petitioner's corporate records, including BIR registration documents and letters, lease contracts and other communications from the BIR; (3) he has handled petitioner's corporate records since June 2019, when he was employed as Senior Finance Manager of petitioner's Finance Division, and said records were transferred to him by the former Assistant Manager of Finance, Boaz Eduardo (**Eduardo**); (4) before the issuance of PAN, he had personal knowledge of the audit of petitioner for CY 2017; (5) on 05 September 2018, petitioner received the LOA, which, based on petitioner's records, was served upon its authorized representative, Atty. Clarence Alcordo (**Atty. Alcordo**); (6) on 02 October 2020, petitioner, through its duly authorized representative Franchesca R. Carpo (**Carpo**), executed a waiver; (7) on 03 February 2021, petitioner its Reply to the PAN; (8) on 18 February 2021, petitioner received the FLD/FAN; (9) on 19 March 2021, petitioner timely filed its Protest against the FLD/FAN through counsel; (10) on 16 April 2021, petitioner received an Action on Protest, whereby the BIR granted the request for reinvestigation incorporated in its Protest; (11) on 27 October 2022, petitioner received the FDDA dated 10 October 2022, with attached Details of Discrepancies; (12) on 25 November 2022, petitioner, through counsel, filed a Request for Reconsideration to set aside the FDDA before the CIR, himself or herself; (13) petitioner did not receive any resolution or order from the BIR on its Request for Reconsideration; (14) on 17 October 2023, while the Request for Reconsideration remained pending, petitioner constructively received, through counsel, the WDL dated 13 October 2023; (15) upon receipt of the WDL, petitioner instructed counsel to request the lifting thereof; (16) on 27 October 2023, petitioner filed its Request for Lifting the WDL; (17) petitioner filed the present Petition for Review by way of appeal to the alleged deficiency tax assessments for CY 2017 issued by the BIR; (18) petitioner also sought the issuance of a temporary restraining order and/or suspension order enjoining the collection by WDL; and

(19) the distraint and/or levy of petitioner's assets and bank accounts would hamper its operations and greatly affect not only its clients' payroll and tax payments, but more importantly, its employees' payroll and tax payments.⁴⁰

During cross-examination, Torcelino clarified that: (1) he did not personally prepare petitioner's tax returns and financial records; and (2) no documents were submitted to support his statements that the enforcement of the WDL would hamper petitioner's operations and greatly affect its employees' payroll and tax payments.⁴¹

Upon redirect examination, Torcelino further explained that: (1) he was not yet part of the company in 2017; (2) the petitioner's previous finance manager was responsible for the preparation of the 2017 tax returns; and (3) when he joined the company in 2019, he was made aware of the pending LOA for CY 2017.⁴²

No re-cross examination was conducted.⁴³

On 07 February 2024, petitioner filed its "Very Urgent Omnibus Motion (To Present Additional Witness and To Admit Attached Judicial Affidavit of Witness, Ms. Christiffany B. Tud [Tud])"⁴⁴ (**Omnibus Motion**).

On 12 February 2024, petitioner filed its "Formal Offer of Evidence"⁴⁵ (**FOE for the Motion**). On even date, via LBC, respondent filed his or her "Answer with Motion to Dismiss",⁴⁶ (**Answer**) alleging the following: (1) the FDDA that petitioner received on 27 October 2022, became final, executory and demandable on 26 November 2022, rendering the WDL valid and enforceable; (2) petitioner's Request for Reconsideration filed with the Office of the CIR on 25 November 2022 was not a valid appeal, as it failed to state the date of the assessment notice and the assessment notice number in compliance with Revenue 

⁴⁰ See Judicial Affidavit of Andrew Torcelino dated 16 November 2023, Exhibit "P-16", id., pp. 155-165.

⁴¹ TSN dated 31 January 2024, pp. 15-17.

⁴² Id., pp. 17-18.

⁴³ Id., p. 18.

⁴⁴ Division Docket, Volume I, pp. 220-224.

⁴⁵ Id., pp. 277-288.

⁴⁶ Id., pp. 424-431.

Regulations (RR) No. 18-2013,⁴⁷ applying *Commissioner of Internal Revenue v. Court of Tax Appeals Third Division and Citysuper, Incorporated*⁴⁸ (**Citysuper**); (3) compliance with Section 228 of the NIRC of 1997, as amended, is a substantive requirement and not a mere matter of form, such that petitioner's defective request did not toll the reglementary period; (4) petitioner failed to file a petition for review before this Court within 30 days from its receipt of the FDDA, pursuant to Section 3(a), Rule 8 of the RRCTA, the said period being reckoned from receipt of the FDDA and not of the WDL, following *Light Rail Transit Authority v. Bureau of Internal Revenue*⁴⁹ (**LRTA**), wherein the Supreme Court held that the 30-day period cannot be reckoned from receipt of a Preliminary Collection Letter (PCL), a Final Notice Before Seizure (FNBS), or a WDL; (5) the Petition for Review having been filed only on 16 November 2023, or 355 days beyond the reglementary period, and the perfection of an appeal within the statutory period being jurisdictional and not merely mandatory, this Court has no jurisdiction over the present Petition for Review; and (6) accordingly, the Petition for Review should be dismissed for lack of merit and jurisdiction, and judgment rendered ordering petitioner to pay the amounts stated in the FDDA in the total sum of ₱24,614,662.71, representing deficiency taxes inclusive of interest, surcharge and penalties.⁵⁰

On 15 February 2024, via registered mail, respondent filed his or her "Comment/Opposition (To Petitioner's [FOE for the Motion])"⁵¹ (**Opposition**).

Thereafter, on 22 February 2024, petitioner filed a "Motion to Declare Respondent in Default"⁵² (**Motion to Declare in Default**).

In its Resolution dated 01 March 2024,⁵³ the Court noted the filing of the: (1) Formal Entry of Appearance filed by Carpo Law & Associates; (2) petitioner's Omnibus Motion; (3) petitioner's FOE for the Motion; (4) respondent's Answer; (5) respondent's Opposition; and (6) petitioner's Motion to Declare in Default. 

⁴⁷ Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

⁴⁸ G.R. No. 239464, 10 May 2021.

⁴⁹ G.R. No. 231238, 20 June 2022.

⁵⁰ Supra at note 46.

⁵¹ Division Docket, Volume I, pp. 434-436.

⁵² Id., pp. 438-443.

⁵³ Id., pp. 446-447.

Responding to respondent's Answer, on 18 March 2024, petitioner filed a "Reply with Motion to Exclude Evidence and/or Witnesses (to the Respondent's [Answer] dated February 12, 2024)"⁵⁴ (**Reply to Answer**), which was noted by the Court in its Resolution dated 08 April 2024.⁵⁵

On 10 July 2024, the Court denied petitioner's Motion to Declare in Default for lack of merit.⁵⁶ Likewise, it granted petitioner's Omnibus Motion and allowed the presentation of petitioner's additional witness, Tud.⁵⁷

On 31 July 2024, petitioner presented its additional witness, Tud, who testified by way of her Judicial Affidavit dated 06 February 2024.⁵⁸ Tud, petitioner's Assistant Finance Manager, testified that: (1) she was hired by petitioner on 17 October 2023 and, as Assistant Finance Manager, exercises supervisory functions over petitioner's day-to-day financial operations, including financial reporting and tax compliance, billing and collection, treasury and disbursement, internal and external audit, and the timely filing of petitioner's Audited Financial Statements (AFS) and Income Tax Returns (ITRs); (2) she became familiar with the present case as she reported at petitioner's office a day after the WDL was served on petitioner on 17 October 2023, and thereafter came to know of the assessments issued by respondent, the circumstances leading to their issuance and the status of the case; (3) the WDL sought to collect from petitioner the alleged deficiency taxes for CY 2017 in the aggregate amount of ₱24,614,662.71, the enforced collection of which would cause petitioner grave and irreparable injury; (4) petitioner was unable to pay the said amount, as shown by its AFS for CY 2022 and its Unaudited Profit and Loss Statement as of 31 December 2023; (5) *per* its 2022 AFS, petitioner's total assets stood at ₱162,383,566.00, of which only ₱42,028,867.00 is booked as Cash, while its Trade and Other Payables amounted to ₱83,227,052.00 — of which ₱34,439,141.00 represents Advances from Clients, or funds held in trust and earmarked for the payment of clients' government fees, taxes, permits and similar incidental expenses, as well as clients' payroll; (6) petitioner could not, with cash of ₱42,028,867.00, pay the assessed ₱24,614,662.71, settle its liabilities including the said advances from clients, and still continue its

⁵⁴ Id., pp. 449-459.

⁵⁵ Id., p. 487.

⁵⁶ See Resolution dated 10 July 2024, id., pp. 591-594.

⁵⁷ Id.

⁵⁸ See Order dated 31 July 2024, id., Volume II, pp. 597-599.

operations without incurring serious loss and damage; (7) *per* its 2023 Unaudited Profit and Loss Statement, petitioner's net income after taxes was only ₱6,655,452.71, such that the payment of the ₱24,614,662.71 assessment would leave it with a net loss of ₱17,959,210.00; (8) should respondent garnish petitioner's bank accounts, the garnishment would necessarily reach the advances held for its clients, disabling petitioner from complying with its contractual undertakings to pay its clients' government fees and payroll, and thereby causing grave and irreparable damage to its business reputation and goodwill, a consequent reduction in revenue, impairment of its profitability and liquidity, and eventually layoffs and the closure of its operations; (9) even if petitioner's current and non-current assets were summed up, it would still be impossible for it to continue its business operations should these be levied upon or garnished; and (10) petitioner's interest would be jeopardized severely because the assessment has not attained finality, its appeal being still pending with the CIR, such that collection pending resolution of the merits would be to its grave prejudice.⁵⁹

In the course of cross-examination, Tud clarified that: (1) among her duties and responsibilities as Assistant Finance Manager is to ensure the timely submission of petitioner's returns to the BIR; (2) the financial statement she attached to her judicial affidavit is petitioner's AFS for CY 2022; (3) although petitioner had already filed its final ITR and AFS for CY 2023 at the time she executed her judicial affidavit on 06 February 2024, she did not attach the same thereto; and (4) while she maintained that the CY 2022 AFS reflects petitioner's financial condition, she conceded that it is not petitioner's current or latest AFS.⁶⁰

During redirect examination, Tud expounded on: (1) the reason for her non-attachment of the CY 2023 AFS, explaining that the AFS were not yet available when she executed her judicial affidavit, for which reason petitioner attached instead its Unaudited Profit and Loss Statement as of 31 December 2023, the audited version having become available only at the time of her testimony; and (2) petitioner's present inability to pay, testifying that *per* the Statement of Financial Position in its CY 2022 AFS, its cash of ₱42,028,867.00 is allocated for operational expenses and payables, the bulk of the latter being advances from clients

⁵⁹ Judicial Affidavit of Christiffany B. Tud dated 06 February 2024, Exhibit "P-20", id., Volume I, pp. 225-233.

⁶⁰ TSN dated 31 July 2024, pp. 9-11.

— deposits made for a particular engagement or service, which are refundable and must remain readily available once the condition of the engagement occurs — such that after deducting the ₱34,439,141.00 in advances from clients from its only liquid asset, petitioner's cash is insufficient to answer for the alleged deficiency taxes of ₱24,614,662.71.⁶¹

No re-cross examination was conducted.⁶²

Upon manifestation of petitioner that she was its last witness in support of the motion, petitioner was given five (5) days, or until 05 August 2024, to file its amended FOE for the Motion. Respondent was given five (5) days from receipt thereof to file comment.⁶³

On 05 August 2024, petitioner filed its Amended FOE for the Motion.⁶⁴ Then, on 13 August 2024, respondent filed *via* LBC his or her amended Opposition thereto.⁶⁵

On 05 September 2024, the Court submitted for resolution petitioner's Motion for Suspension and Amended FOE for the Motion.⁶⁶

On 10 October 2024, the Court resolved to admit petitioner's exhibits and partially grant petitioner's Motion for Suspension. Respondent's enforcement of the WDL was suspended subject to petitioner's posting of cash or surety bond equivalent to forty percent (40%) of its alleged basic deficiency tax of ₱15,788,003.92, or in the total amount of ₱6,315,201.57.⁶⁷

On 30 October 2024, acting on the parties' "Joint Manifestation with Motion for Referral to Mediation" filed on 05 August 2024, the Court referred the case to mediation.⁶⁸ As prayed for, the court proceedings were suspended for 30 days,⁶⁹ which was further extended until 03 March 

⁶¹ Id., pp. 11-13.

⁶² Id., p. 14.

⁶³ See Order dated 31 July 2024, *supra* at note 58, p. 598.

⁶⁴ Division Docket, Volume II, pp. 601-616.

⁶⁵ Id., pp. 734-737.

⁶⁶ See Minute Resolution dated 05 September 2024, *id.*, pp. 739-740.

⁶⁷ See Resolution dated 10 October 2024, *id.*, pp. 744-757.

⁶⁸ See Resolution dated 30 October 2024, *id.*, pp. 760-761.

⁶⁹ Id.

2025⁷⁰ upon another parties' "Urgent Joint Manifestation with Motion for Extension of Time to Continue Mediation" filed on 03 February 2025.⁷¹

On 03 March 2025, the parties again filed another "Urgent Joint Manifestation with Motion for Extension of Time to Continue Mediation,"⁷² which the Court denied in its Resolution dated 25 April 2025,⁷³ and the case thereafter proceeded to pre-trial. The case was set for pre-trial conference on 10 June 2025.⁷⁴ Prior thereto, petitioner⁷⁵ and respondent⁷⁶ submitted their respective Pre-Trial Briefs on 05 June 2025.

In the *interim*, on 30 April 2025, the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA) issued the Mediator's Report,⁷⁷ stating that the mediation between the parties was unsuccessful.

On 10 June 2025, during pre-trial, the parties agreed to submit their Joint Stipulation of Facts and Issues (JSFI) within twenty (20) days, or until 30 June 2025.⁷⁸ Pursuant thereto, on 30 June 2025, the parties filed their JSFI.⁷⁹

On 31 July 2025, the Court approved the JSFI, noted the transmittal of BIR Records, terminated the pre-trial proceedings and directed the issuance of a Pre-Trial Order (PTO).⁸⁰ A PTO⁸¹ was then issued on 25 September 2025.

On 02 September 2025, petitioner again presented Torcelino, who again offered his Judicial Affidavit dated 16 November 2023 as his testimony, the same affidavit having already been offered during the hearing on petitioner's Motion for Suspension.⁸² 

⁷⁰ See Minute Resolution dated 13 February 2025, id., p. 784.

⁷¹ Id., pp. 778-781.

⁷² Id., pp. 786-789.

⁷³ Id., pp. 794-796.

⁷⁴ See Notice of Pre-Trial Conference dated 28 April 2025, id., pp. 797-799.

⁷⁵ Id., pp. 809-821.

⁷⁶ Id., pp. 824-827.

⁷⁷ Id., p. 801.

⁷⁸ See Minutes of Hearing dated 10 June 2025, id., pp. 831-834.

⁷⁹ Id., pp. 848-853.

⁸⁰ See Resolution dated 31 July 2025, id., p. 872.

⁸¹ Id., pp. 886-906.

⁸² See Order dated 02 September 2025, id., pp. 874-876; See pp. 7-8.

On cross-examination, Torcelino, shed light on: (1) petitioner’s receipt of the BIR’s Action on Protest; (2) the fact that, after receiving the said Action on Protest, petitioner merely waited for the BIR’s response; (3) his confirmation that the Action on Protest required petitioner to submit supporting documents within 60 days from the filing of the Protest to support its claims and defenses; (4) petitioner’s submission of supporting documents, consisting of, among others, the general ledgers and schedules of the taxes under assessment; and (5) the existence of receiving copies evidencing the submission of said documents to the BIR.⁸³

There was no redirect examination conducted.⁸⁴

With no further witnesses to present, petitioner orally offered its exhibits, all of which the Court admitted, except Exhibit “P-15”,⁸⁵ for not having been included in petitioner’s Pre-Trial Brief.⁸⁶ The records further show that respondent failed to file the judicial affidavit of its lone witness, RO Kathleen Kaye L. Chiong (**Chiong**). Consequently, respondent was deemed to have waived the presentation of her testimony and the hearing scheduled for 19 November 2025 was cancelled.⁸⁷ Thereafter, the parties were directed to file their respective memoranda within 30 days, or until 02 October 2025, after which the case would be deemed submitted for decision.⁸⁸

Petitioner filed its Memorandum⁸⁹ on 02 October 2025. On even date, respondent filed *via* registered mail his or her Memorandum.⁹⁰

In a Resolution dated 21 October 2025, the Court submitted the case for decision.⁹¹ 

⁸³ TSN dated 02 September 2025, pp. 8-11.
⁸⁴ Id., p. 11.
⁸⁵

Exhibit No.	Description
“P-15”	Certificate of Employment of Andrew Torcelino.

⁸⁶ See Order dated 02 September 2025, Division Docket, Volume II, pp. 874-876.
⁸⁷ Id.
⁸⁸ Id.
⁸⁹ Id., pp. 907-941.
⁹⁰ Id., pp. 1060-1067.
⁹¹ Id., p. 1070.

ISSUES

As can be gleaned from the parties' JSFI,⁹² the issues for this Court's resolution are:

I.

WHETHER PETITIONER IN.CORP CORPORATE SERVICES PHILIPPINES, INC. (FORMERLY KNOWN AS KITTELSON & CARPO CONSULTING, INC.) IS LIABLE FOR THE ALLEGED DEFICIENCY TAXES FOR CALENDAR YEAR (CY) 2017, CONSISTING OF: INCOME TAX IN THE AMOUNT OF ₱13,080,187.69; VALUE-ADDED TAX (VAT) IN THE AMOUNT OF ₱9,549,463.60; EXPANDED WITHHOLDING TAX (EWT) IN THE AMOUNT OF ₱1,082,211.95; WITHHOLDING TAX ON COMPENSATION (WTC) IN THE AMOUNT OF ₱665,578.61; AND DOCUMENTARY STAMP TAX (DST) IN THE AMOUNT OF ₱237,220.86;

II.

WHETHER THE ASSESSED DEFICIENCY TAXES HAVE BECOME FINAL, EXECUTORY AND DEMANDABLE; AND

III.

WHETHER THE WARRANT OF DISTRRAINT AND/OR LEVY (WDL) IS VALID AND ENFORCEABLE.

ARGUMENTS

Petitioner assails the assessments on both substantive and procedural grounds.

On the substantive aspect, petitioner argues that the deficiency income tax assessment must be reduced because the alleged unreported receipts relied upon by respondent do not constitute taxable income. Petitioner maintains that the amounts treated by respondent as income substantially refer to reimbursements from clients for out-of-pocket expenses, advances from related parties and reclassification of allowance for bad debts. According to petitioner, these items do not represent gain, profit, or accession to wealth, but are mere reimbursements, pass-through amounts, advances, or accounting adjustments.

⁹² See supra at note 79, pp. 850-851.

Petitioner further contends that respondent improperly disallowed expenses allegedly claimed out-of-period or overclaimed. It argues that the supposed out-of-period expenses were either advances made on behalf of clients or expenses accrued in the proper taxable year but paid thereafter. As to the alleged overclaimed expenses, petitioner submits that respondent merely compared figures in its cash disbursement journal and summary list of purchases, without showing that the entries were in fact claimed as deductions in computing taxable income. Petitioner thus insists that the assessment is a naked assessment unsupported by sufficient factual foundation.

As to the disallowance of expenses for alleged non-withholding, petitioner avers that the amounts classified as commissions substantially consisted of accrued salaries already subjected to WTC, while the rental-related disallowance merely pertained to adjustments to accounts payable. Petitioner likewise disputes the deficiency WTC assessment, arguing that the benefits questioned by respondent fell within the statutory threshold for exempt benefits under Section 32(B)(7)(e)⁹³ of the NIRC of 1997, as amended.

With respect to VAT, petitioner argues that the alleged receipts not subjected to VAT were not consideration for the sale or exchange of services, but reimbursements of expenses advanced by petitioner on behalf of its clients. Since these amounts did not redound to petitioner's benefit and were received merely as cost reimbursements, petitioner maintains that the same should not form part of the VAT base.

Petitioner also disputes the disallowance of alleged excess credits. It posits that creditable taxes withheld at source and quarterly income tax payments are expressly allowed to be credited against income tax due under the NIRC of 1997, as amended, and that unused tax credits partake of the nature of property which cannot be disallowed without due process.

Apart from contesting the merits of the assessments, petitioner argues principally that the subject assessments have not become final, executory and demandable. Petitioner stresses that it timely filed its Request for Reconsideration of the FDDA with the Office of the CIR on 

25 November 2022, or within 30 days from receipt of the FDDA on 27 October 2022. Invoking Section 3.1.5 of RR No. 12-99,⁹⁴ as amended by RR No. 18-2013,⁹⁵ and the ruling in *LRTA*, petitioner argues that when a taxpayer elevates the decision of the CIR's duly authorized representative to the CIR within the reglementary period, the decision shall not be considered final, executory and demandable until acted upon by the CIR.

Consequently, petitioner maintains that the WDL issued on 13 October 2023 is void and unenforceable for being premature. According to petitioner, respondent may resort to summary remedies of distraint and levy only upon the taxpayer's failure to pay delinquent taxes. Since the assessments remain pending before the CIR by reason of petitioner's timely Request for Reconsideration, petitioner insists that there is, as yet, no delinquent tax to collect.

Respondent, for his or her part, argues that the WDL and the WOG were issued validly in accordance with law. Respondent invokes Revenue Memorandum Order (RMO) No. 42-2010⁹⁶ and maintains that upon issuance of an FDDA by the CIR or his or her authorized representative, or upon the filing of a petition for review before this Court or the CTA *En Banc* involving a decision upholding an assessment, warrants of distraint, garnishment and/or levy may forthwith issue.

Respondent further asserts that petitioner failed to file a valid Request for Reconsideration. According to respondent, the records do not show that petitioner filed its Motion for Reconsideration dated 25 November 2022 with the Office of RD Sabariaga of RevReg No. 8B — South NCR, the office which issued the FDDA. Respondent claims that petitioner filed the motion directly with the Office of the CIR, contrary to Revenue Memorandum Circular (RMC) No. 39-2013,⁹⁷ which requires protest letters, requests for reinvestigation or reconsideration, and

⁹⁴ 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.

⁹⁵ Supra at note 47.

⁹⁶ Prohibition on the Issuance of Temporary Restraining Orders on the Collection of Taxes Against the Bureau of Internal Revenue By Courts Other than the Court of Tax Appeals, the Issuance of Warrants of Distraint and Garnishment, and/or Levy on Final Decisions of the Bureau of Internal Revenue on Disputed Assessments, Cases Filed Before the Court of Tax Appeals, and the Sale of Property Distrainted and Garnished.

⁹⁷ Receipt of Protest Letter on Final Assessment Notices and Final Decision on Disputed Assessments.

similar correspondences to be filed with the office of the concerned RD, Assistant Commissioner-Large Taxpayers Service, or Assistant Commissioner-Enforcement Service who signed the relevant assessment notices. Respondent thus contends that petitioner's Request for Reconsideration is void and without force and effect. From respondent's standpoint, there was no valid administrative appeal from the FDDA; hence, the assessment became final, executory and demandable upon petitioner's failure to validly appeal the same within the period prescribed by law.

Respondent likewise argues that because no valid Request for Reconsideration was filed, there was no disputed assessment seasonably elevated for review. Citing *Citysuper*, respondent maintains that where the taxpayer's protest or request for reconsideration fails to comply with the rules and regulations, there is no valid administrative protest to speak of, and correspondingly no decision on a disputed assessment that may be reviewed by this Court.

Finally, respondent submits that this Court lacks jurisdiction to entertain the present case. According to respondent, the Court of Tax Appeals (CTA) is a court of special and limited jurisdiction, and that its jurisdiction under Section 7(a)(1) and (2) of Republic Act (RA) No. 1125,⁹⁸ as amended, extends only to decisions or inaction of the CIR in cases involving disputed assessments or other matters arising under the NIRC of 1997, as amended, or other laws administered by the BIR. Since petitioner allegedly failed to file a valid Request for Reconsideration, respondent concludes that the assessments became final and unappealable, leaving this Court with no jurisdiction except to dismiss the case.

RULING OF THE COURT

Before delving into the merits of the case, We find it propitious to first resolve whether this Court has jurisdiction over the instant petition. 

THE COURT OF TAX APPEALS (CTA)
HAS JURISDICTION OVER THE
INSTANT PETITION FOR REVIEW.

Respondent assails Our jurisdiction, arguing that: (1) the FDDA⁹⁹ dated 10 October 2022, which petitioner received on 27 October 2022, lapsed into finality on 26 November 2022; (2) petitioner's Request for Reconsideration¹⁰⁰ filed with the CIR on 25 November 2022 is void because, under RMC No. 39-2013,¹⁰¹ it should have been filed with the RD who issued the FDDA, and because no record of it appears in respondent's database; (3) there is therefore no "disputed assessment" to speak of; and (4) that the Petition for Review was filed 355 days out of time.

Respondent's objection fails on every level.

The WDL, *not* the FDDA, is the subject of appeal before Us.

Section 7(a)(1) of RA 1125, as amended by RA 9282,¹⁰² vests this Court with exclusive appellate jurisdiction not only over decisions of the CIR in cases involving disputed assessments, but also over other matters, to wit:

...

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[.]

...

⁹⁹ Exhibit "P-12", supra at note 25.

¹⁰⁰ Exhibit "P-13", supra at note 27.

¹⁰¹ Supra at note 97.

¹⁰² 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 OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*,¹⁰³ the Supreme Court held as follows, to wit:

...

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.

...

The foregoing jurisprudential pronouncements confirm that this Court's appellate jurisdiction is not limited to cases involving respondent's decisions on matters relating to assessments or refunds. The law also provides the Court's appellate jurisdiction over any case that could arise from the NIRC of 1997, as amended, and other related laws that the BIR administers.

In the case at bar, the WDL's issuance is a matter that arose out of respondent's implementation of the provisions of the NIRC of 1997, as amended, particularly Section 205,¹⁰⁴ *inter alia*. Such being the case, this Court has jurisdiction to take cognizance of the present petition. Relatedly, Section 11 of RA 1125, as amended, prescribes the period for filing an appeal before this Court, viz:



¹⁰³ G.R. No. 162852, 16 December 2004; Citations omitted, emphasis supplied and italics in the original text.

¹⁰⁴ SEC. 205. *Remedies for the Collection of Delinquent Taxes.*

...

SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — Any party adversely affected by a decision, ruling, or inaction of the Commissioner of Internal Revenue . . . may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.¹⁰⁵

...

The afore-cited provisions are also provided in Section 3(a),¹⁰⁶ Rule 4 and Section 3(a),¹⁰⁷ Rule 8 of the RRCTA.

Based on the foregoing, the Court has exclusive jurisdiction to review a WDL by appeal, provided that the appeal is filed within 30 days from petitioner's receipt thereof.

In this case, petitioner had 30 days from receipt of respondent's WDL within which to file a Petition for Review with this Court. Petitioner received the WDL on 17 October 2023,¹⁰⁸ which it questioned administratively through its Request to Lift dated 27 October 2023 and elevated to this Court on 16 November 2023¹⁰⁹ — well within 30 days from receipt of the WDL.

Respondent resists this reckoning. He or she maintains that the period should be counted not from the WDL but from the FDDA received on 27 October 2022, upon the theory that petitioner's Request for Reconsideration of 25 November 2022 was no request at all, having been filed with the Office of the CIR instead of with the issuing office, *i.e.*, RD, and without the particulars required by RR No. 18-2013,¹¹⁰ citing *Citysuper*. The theory does not survive scrutiny.

THE REQUEST FOR
RECONSIDERATION WAS PROPERLY
FILED WITH THE COMMISSIONER OF
INTERNAL REVENUE (CIR)



¹⁰⁵ Emphasis supplied and italics in the original text.

¹⁰⁶ Supra at note 3.

¹⁰⁷ Supra at note 2.

¹⁰⁸ Exhibit "P-3", supra at note 4.

¹⁰⁹ Supra at note 1.

¹¹⁰ Supra at note 47.

Section 3.1.4 of RR No. 12-99,¹¹¹ as amended by RR No. 18-2013,¹¹² is explicit:

...

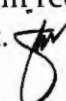
If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may either: (i) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the said decision; or (ii) elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision. No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.¹¹³

...

In applying the foregoing rules, the Supreme Court, in the case of *Philippine Amusement and Gaming Corporation v. Bureau of Internal Revenue, et al.*¹¹⁴ (PAGCOR) and later on in *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*,¹¹⁵ explained that there are three (3) options by which a taxpayer may appeal the denial of its administrative protest, to wit:

...

Following the *verba legis* doctrine, the law must be applied exactly as worded since it is clear, plain, and unequivocal. A textual reading of Section 3.1.5 gives a protesting taxpayer like PAGCOR only three options:

1. If the protest is wholly or partially denied by the CIR or his authorized representative, then the taxpayer may appeal to the CTA within 30 days from receipt of the whole or partial denial of the protest.
2. If the protest is wholly or partially denied by the CIR's authorized representative, then the taxpayer may appeal to the CIR within 30 days from receipt of the whole or partial denial of the protest. 

¹¹¹ Supra at note 94.

¹¹² Supra at note 47.

¹¹³ Emphasis and underscoring supplied.

¹¹⁴ G.R. No. 208731, 27 January 2016; Citation omitted, italics, underscoring and emphasis in the original text and supplied.

¹¹⁵ G.R. No. 221780, 25 March 2019.

3. If the CIR or his authorized representative failed to act upon the protest within 180 days from submission of the required supporting documents, then the taxpayer may appeal to the CTA within 30 days from the lapse of the 180-day period.

...

To avoid confusion, the Supreme Court in *PAGCOR* further summarized the rules in the following wise:

...

To further clarify the three options: A whole or partial denial by the CIR's authorized representative may be appealed to the CIR or the CTA. **A whole or partial denial by the CIR may be appealed to the CTA.** The CIR or the CIR's authorized representative's failure to act may be appealed to the CTA. There is no mention of an appeal to the CIR from the failure to act by the CIR's authorized representative.¹¹⁶

...

Based on the foregoing provisions and jurisprudence, in cases where a taxpayer's protest is denied by the CIR's duly authorized representative, a taxpayer is given **two (2) alternative remedies**, to either: *first*, appeal to the CTA within 30 days from the date of receipt of the representative's decision; or, *second*, **elevate the protest through a request for reconsideration to the CIR, within the same 30-day period, otherwise referred to as an "administrative appeal" and await the final decision of the CIR on the disputed assessments and appeal such final decision to the CTA within 30 days from receipt of a copy of such decision.**

The FDDA¹¹⁷ here was issued by respondent's duly authorized representative, RD Sabariaga of RevReg No. 8B — South NCR. Petitioner took the *second* route, seasonably, on 25 November 2022,¹¹⁸ *i.e.*, on the twenty-ninth (29th) day from its receipt of the FDDA on 27 October 2022.¹¹⁹ That is not a void act. **It is the very remedy the regulation and jurisprudence prescribe, addressed to the very officer the regulation and jurisprudence designate.** Respondent's submission that the request should have been filed with the issuing office inverts

¹¹⁶ Supra at note 114; Emphasis supplied.

¹¹⁷ Exhibit "P-12", supra at note 25.

¹¹⁸ Exhibit "P-13", supra at note 27, p. 379.

¹¹⁹ Exhibit "P-12", supra at note 25.

the provision: an administrative appeal from a subordinate's decision is by nature taken to the superior, and it would be an odd rule that required a taxpayer to elevate his or her protest to the CIR by filing it with the official whose decision is being assailed.

Additionally, this case is not on all fours with *Citysuper*. What the Supreme Court there voided was the taxpayer's initial protest against the FLD and Assessment Notices — the act by which a taxpayer first converts an assessment into a disputed one under Section 228¹²⁰ of the NIRC of 1997, as amended. It is that protest, and that protest alone, to which the three (3) formal recitals attach. Section 3.1.4 of RR No. 12-99,¹²¹ as amended, requires that:

...

The taxpayer shall state in his [or her] protest (i) the nature of the protest whether reconsideration or reinvestigation, specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his [or her] protest is based, otherwise, **his [or her] protest shall be considered void and without force and effect.**¹²²

...

The sanction of nullity is thus written into the paragraph governing the protest against the FLD/FAN. It is conspicuously absent from the later paragraph of the same section governing the administrative appeal to the CIR, which prescribes only the forum, the remedy and the period, and which — far from demanding recitals — presupposes that the issues have already been framed below, since “only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.” Where the framers of the regulation intended to impose formal requisites and attach nullity to their breach, they expressly so provided. In the absence of such language, We may not supply the omission or impose a consequence that the regulation does not prescribe. The doctrine of *casus omissus pro omisso habendus est*—that a case omitted is deemed intentionally omitted—precludes courts from inserting into a law or

¹²⁰ SEC. 228. *Protesting of Assessment.*

¹²¹ Supra at note 94.

¹²² Emphasis supplied.

regulation what its framers chose not to include, as doing so would amount to judicial legislation.¹²³

The evil addressed in *Citysuper* is absent here. The Supreme Court did not treat the requisites as ritual. Its reasoning was functional – the taxpayer’s letter did no more than advise that it “[was] in the process of compiling the necessary documentation”, so that while this “could imply that it was requesting a reinvestigation, its failure to explicitly state this means that [CIR] had no way of knowing whether [he or she] should monitor the 60-day period stated in [RR] No. 18-2013”.¹²⁴ The letter there did not even identify the taxpayer’s name and address, the nature of the protest, the assessment number, the findings agreed to and those disputed, or any statement of facts and law.¹²⁵

Nothing of that sort obtains in this case. Petitioner’s Protest¹²⁶ to the FLD, filed on 19 March 2021, expressly requested reinvestigation, stated its factual and legal grounds, and was understood by respondent precisely as such — he or she granted the request in the Action on Protest dated 16 April 2021, conducted the assessment anew, and issued the FDDA¹²⁷ of 10 October 2022 resolving the protest on its merits. The 60-day period whose monitoring so concerned the Supreme Court in *Citysuper* was here monitored, and the protest it was meant to safeguard was here entertained and decided.

In any event, the requirement’s purpose was substantially served. Even if the Court were to indulge itself with respondent’s premise that the recitals apply to an administrative appeal, the purpose of the rule on material dates is to enable the CIR to identify the decision being challenged and to determine the periods applicable to the appeal. Petitioner’s Request for Reconsideration¹²⁸ identified the assailed FDDA by date, referred to the related LOA number, and was filed within 30 days from petitioner’s receipt of the FDDA. Clearly, respondent was sufficiently apprised of the assessments being challenged, the CY involved, and the amounts in controversy.

¹²³ See *Francisco I. Chavez v. Judicial Bar Council, et al.*, G.R. No. 202242, 16 April 2013.

¹²⁴ See *Commissioner of Internal Revenue v. Court of Tax Appeals Third Division and Citysuper, Incorporated*, supra at note 48.

¹²⁵ See id.

¹²⁶ Exhibit “P-10”, supra at note 21.

¹²⁷ Exhibit “P-12”, supra at note 25.

¹²⁸ Exhibit “P-13”, supra at note 27.

Furthermore, RMC No. 39-2013¹²⁹ cannot modify RR No. 12-99,¹³⁰ as amended. The circular respondent invokes is an internal issuance prescribing the processing, docketing and monitoring of protests within the BIR.¹³¹ It creates duties for ROs, not conditions precedent for taxpayers. The RMC, being an “[issuance] that publish[es] pertinent and **applicable portions, as well as amplifications**, of laws, rules, **regulations** and precedents issued by the BIR and other agencies/offices”,¹³² cannot amend the regulation it implements or amplifies, much less abridge the right granted by Section 228¹³³ of the NIRC of 1997, as amended, to protest an assessment and to have that protest acted upon; administrative issuances must remain consistent with the law and the regulations they carry into effect, and are void insofar as they as they override, supplant, or modify them.¹³⁴

Nor does respondent’s failure to find the request in his or her own records unmake it. Petitioner’s proof of filing — the Request for Reconsideration bearing respondent’s receiving stamp¹³⁵— stands un rebutted. Respondent presented no evidence controverting the document and, more significantly, stipulated that “[o]n 25 November 2022, [petitioner] filed a Request for Reconsideration to set aside the FDDA and to withdraw and cancel the FLD/FAN with the Office of the [CIR].”¹³⁶ This stipulation constitutes a judicial admission under Section 4, Rule 129 of the Revised Rules on Evidence (RRE), as amended, and therefore requires no further proof. It is binding upon respondent unless shown to have been made through palpable mistake or that no such admission was made.¹³⁷

Because the Request for Reconsideration was validly and timely filed and remains unresolved to this day, the FDDA never became final, executory and demandable. **The assessment remained disputed.**

¹²⁹ Supra at note 97.

¹³⁰ Supra at note 94.

¹³¹ Addressed to “[a]ll Internal Revenue Officers and Others Concerned”.

¹³² See Concurring and Dissenting Opinion of Associate Justice Amy C. Lazaro-Javier in *Commissioner of Internal Revenue v. Court of Tax Appeals (First Division), et al.*, G.R. Nos. 210501, 211294 & 212490, 15 March 2021.

¹³³ Supra at note 120.

¹³⁴ See *Department of Finance (DOF), et al. v. Asia United Bank, et al.*, G.R. Nos. 240163 & 240168-69, 01 December 2021.

¹³⁵ Exhibit “P-13”, supra at note 27, p. 379.

¹³⁶ Par. 13, JSFI, supra at note 79, p. 850.

¹³⁷ Revised Rules on Evidence, as amended, Rule 129, Section 4.

After a careful and thorough evaluation of the parties' respective evidence and the applicable laws, rules and regulations, the Court finds merit in the instant petition.

THE WARRANT OF DISTRRAINT/LEVY
(WDL) IS VOID FOR BEING PREMATURE

Sections 205 and 207 of the NIRC of 1997, as amended, state:

...

SEC. 205. *Remedies for the Collection of Delinquent Taxes.* — The civil remedies for the collection of internal revenue taxes, fees or charges, and any increment thereto **resulting from delinquency** shall be:

(a) By distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts and interest in and rights to personal property, and by levy upon real property and interest in rights to real property[.]

...

SEC. 207. *Summary Remedies.* —

(A) *Distraint of Personal Property.* — **Upon the failure of the person owing any delinquent tax or delinquent revenue to pay the same at the time required**, the Commissioner or his duly authorized representative, if the amount involved is in excess of One million pesos (₱1,000,000), or the Revenue District Officer, if the amount involved is One million pesos (₱1,000,000) or less, shall seize and distraint any goods, chattels, or effects, and the personal property of such persons in sufficient quantity to satisfy the tax, or charge, together with any increment thereto **incident to delinquency**...

...

(B) *Levy on Real Property.* — **After the expiration of the time required to pay the delinquent tax or delinquent revenue as prescribed in this Section**, real property may be levied upon[.]¹³⁸

...

As can be gleaned from the foregoing, distraint and levy under are summary remedies that presuppose a delinquent tax — one that is due, demandable and collectible. Simply stated, before respondent can avail

of the summary administrative collection remedies, it must first be established that the taxes sought to be collected have become delinquent.¹³⁹

Concomitantly, Section 3.1.4 of RR No. 12-99, as amended by RR No. 18-2013, is categorical:

...

If the protest or administrative appeal, as the case may be, is **denied, in whole or in part**, by the Commissioner, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision. **Otherwise, the assessment shall become final, executory and demandable.** ...

If the protest or administrative appeal is not acted upon by the Commissioner within one hundred eighty (180) days counted from the date of filing of the protest, the taxpayer may either: (i) appeal to the CTA within thirty (30) days from after the expiration of the one hundred eighty (180)-day period; or (ii) **await the final decision of the Commissioner on the disputed assessment and appeal such final decision to the CTA within thirty (30) days after the receipt of a copy of such decision.**¹⁴⁰

...

Where an administrative appeal has been taken to the CIR — as in the instant case — that which ripens the assessment into one final, executory and demandable is a denial, in whole or in part, of the disputed assessment, followed by the taxpayer's failure to appeal before this Court within 30 days from receipt thereof. Finality is thus the consequence of two concurring circumstances: an adverse decision, and the taxpayer's inaction upon it. Neither obtains here.

Additionally, respondent's own RMO No. 39-2007,¹⁴¹ which governs the issuance of WDLs, pins respondent to the very same discipline — 

¹³⁹ *Commissioner of Internal Revenue v. Stradcom Corporation*, G.R. No. 255520, 21 April 2025.

¹⁴⁰ Emphasis supplied.

¹⁴¹ Issuance of Warrants of Dstraint and Garnishment, and/or Levy on Disputed Assessments Finally Decided by the Bureau Against the Taxpayer on Assessments Upheld by the Court of Tax Appeals.

...

III. ISSUANCE AND SERVICE OF WARRANTS OF DISTRAINT AND GARNISHMENT, AND/OR LEVY

Upon issuance by the Commissioner or Regional Director of the final decision on the disputed assessment against the taxpayer or upon issuance by the CTA in Division or *En Banc* of its decision upholding the assessment, **Warrants of Distraint and Garnishment, and/or Levy shall forthwith be immediately issued and served.**¹⁴²

...

In *LRTA*, the Supreme Court held that the BIR's issuances, including a WDL, were void and without effect as they stemmed from a non-demandable assessment, given that the assessment was still pending appeal with the CIR.¹⁴³ Similarly, in *Mannasoft Technology Corporation v. Commissioner of Internal Revenue*,¹⁴⁴ the Supreme Court emphasized that the summary collection remedies under the NIRC of 1997, as amended, such as the issuance of a WDL, are premised first and foremost on the existence of "delinquent taxes."

Tested against these legal precepts, the fate of the WDL assailed in the bar is not difficult to foretell. As previously discussed, petitioner elevated the FDDA to respondent on 25 November 2022,¹⁴⁵ within the 30-day period prescribed. It thereby did the precise opposite of the omission which alone could have resulted in delinquency — for what that provision penalizes is the *failure* to file an administrative appeal before the CIR, and petitioner filed one. By the plain terms of Section 3.1.4 of RR No. 12-99,¹⁴⁶ as amended, the FDDA thereupon ceased to be final, executory and demandable, and the protest passed to the CIR for decision. The CIR here never decided. **When, therefore, the WDL was issued on 13 October 2023, there was no final decision to execute, no executory assessment to enforce and no delinquent account to collect. There was, in a word, nothing.**

Moreover, it cannot be argued that the WDL serves as the implied denial of petitioner's Request for Reconsideration before the CIR, since 

¹⁴² Emphasis supplied.

¹⁴³ Supra at note 49.

¹⁴⁴ G.R. No. 244202, 10 July 2023.

¹⁴⁵ Par. 13, JSFI, supra at note 79, p. 850.

¹⁴⁶ Supra at note 94.

the WDL here was issued by an RD, not by the CIR. The rationale of the remedy is review — review by a superior of what a subordinate has done. **To hold that the subordinate's own subsequent act may stand for the superior's decision is to render the remedy nugatory, for the taxpayer would then be remitted for relief to the very authority from whose ruling it had appealed. *Nemo debet esse iudex in propria causa* — no officer may sit in review of his or her own judgment.**¹⁴⁷ The office of the RD, RevReg No. 8B — South NCR, having already spoken through the FDDA, was, in the contemplation of the regulation, *functus officio* as to that assessment; and whatever issued from that office thereafter could not be the CIR's decision upon the appeal, but at most a tentative act of the very office whose ruling was itself under review — which is precisely how the Supreme Court characterized the like issuances in *LRTA*.

Perforce, the WDL dated 13 October 2023 must be cancelled.

At this juncture, it is worthy to point out that while ordinarily, a finding of prematurity would end the Court's inquiry, it cannot do so here. The doctrine of exhaustion of administrative remedies is a relative one, flexible according to the peculiarity and uniqueness of the factual and circumstantial settings of a case.¹⁴⁸ It yields, among others, where the administrative act is patently illegal, where the remedy is neither plain, speedy nor adequate, and where the issue of non-exhaustion has been rendered moot.¹⁴⁹ All of these obtain here, for one plain reason: respondent is no longer merely resisting petitioner's appeal — he or she is collecting.

Respondent's collection efforts are initiated by distraint, levy, or court proceeding. Distraint and levy proceedings are validly begun or commenced by the issuance of a warrant of distraint and levy and service thereof upon the taxpayer. A judicial action for the collection of a tax, on the other hand, is initiated: (a) by the filing of a complaint with the court of competent jurisdiction; or (b) where the assessment is 

¹⁴⁷ See *Commissioner of Internal Revenue v. Nippon Express Philippines Corporation*, G.R. No. 271701, 06 May 2025.

¹⁴⁸ See *National Power Corporation v. Provincial Government of Bulacan, et al.*, G.R. No. 207140, 30 January 2023.

¹⁴⁹ See *Republic of the Philippines, et al. v. Carlito Lacap*, G.R. No. 158253, 02 March 2007.

appealed to this Court, by the filing of an answer to the taxpayer's petition for review wherein payment of the tax is prayed for.¹⁵⁰

Respondent has resorted to both. He or she caused the issuance and service of the WDL¹⁵¹ dated 13 October 2023 — which, for the reasons already given, was void and of no force and effect. And he or she filed his or her Answer¹⁵² praying that petitioner “be ordered to pay the amount of ₱24,614,662.71”, inclusive of interest, surcharge and penalties, a prayer he or she renewed in his or her Memorandum.¹⁵³ The same constitutes the commencement of a judicial action for collection of the very assessment before Us.

Having invoked Our authority to order collection, respondent has submitted to Our authority to determine whether there is anything lawfully collectible. Indeed, the parties' stipulated issues¹⁵⁴ themselves lead with petitioner's liability for the deficiency income tax, VAT, EWT, WTC and DST for CY 2017 — and the validity of the assessments is necessarily subsumed in that question, since a void assessment bears no valid fruit.¹⁵⁵

To remit the parties to the administrative process would be an idle and purely formalistic exercise. No administrative determination remains to be awaited: respondent has stood silent on petitioner's Request for Reconsideration dated 25 November 2022 from that time until the present and respondent, through his or her Answer, has already initiated collection. The parties have been afforded ample opportunity to argue their respective positions; the evidence is before the Court; and the case stands submitted for decision.

As the Supreme Court has repeatedly held, remand is unnecessary where the records are complete and the controversy may be resolved on 

¹⁵⁰ *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division, et al.*, G.R. No. 258947, 29 March 2022.

¹⁵¹ Exhibit “P-3”, *supra* at note 4.

¹⁵² *Supra* at note 46.

¹⁵³ *Supra* at note 90.

¹⁵⁴ See *supra* at note 79.

¹⁵⁵ *Commissioner of Internal Revenue v. Liquigaz Philippines Corporation*, G.R. Nos. 215534 & 215557, 18 April 2016.

the merits, *inter alia*.¹⁵⁶ Judicial economy seeks “efficiency in the operation of the courts and the judicial system”, particularly by avoiding the duplication of the parties’ and the courts’ efforts.¹⁵⁷ Thus, where further proceedings would merely return the controversy to the Court after another round of litigation, the Court may resolve the case outright in the interest of justice and to avoid protracted proceedings.¹⁵⁸

A ruling limited to prematurity would serve no substantive purpose. It would leave the FLD/FAN and the FDDA in force, invite respondent to issue a new warrant of distraint or levy immediately after this Decision becomes final, and compel petitioner to commence a second proceeding involving the very assessments that respondent has already sought to enforce in this case.

Courts do not decide controversies in a manner that guarantees their own repetition.¹⁵⁹ The policy against multiplicity of suits, together with the demands of judicial economy, substantial justice and the speedy and inexpensive disposition of every action, requires that a controversy be laid to rest in a single proceeding when the parties have fully ventilated the issues and the record is sufficient for adjudication.¹⁶⁰

To withhold judgment on the merits would not preserve respondent’s administrative prerogatives. It would only prolong petitioner’s exposure to a demand that, for the reasons discussed below, was void from the beginning.

THE TAX ASSESSMENTS WERE ISSUED
IN VIOLATION OF PETITIONER’S
RIGHT TO ADMINISTRATIVE DUE
PROCESS, RENDERING THE SAME
NULL AND VOID.



¹⁵⁶ See *Sioland Development Corporation v. Fair Distribution Center Corporation*, G.R. No. 199539, 09 August 2023; *Annabelle Dela Peña, et al. v. The Court of Appeals, et al.*, G.R. No. 177828, 13 February 2009; *Rizza Lao @ Nerissa Laping v. People of the Philippines*, G.R. No. 159404, 27 June 2008.

¹⁵⁷ *Matthew Westfall v. Maria Carmela D. Locsin, et al.*, G.R. No. 250763, 16 April 2024.

¹⁵⁸ See *Heirs of Crisanta Y. Gabriel-Almoradie, et al. v. Court of Appeals, et al.*, G.R. No. 91385, 04 January 1994.

¹⁵⁹ See *Matthew Westfall v. Maria Carmela D. Locsin, et al.*, *supra* at note 157.

¹⁶⁰ See *Government Service Insurance System v. Commission on Audit*, G.R. No. 138381 & 141625, 10 November 2004.

The PAN¹⁶¹ dated 13 January 2021 assessed petitioner ₱21,956,605.51 in deficiency taxes for CY 2017, on findings of: (1) receipts not subjected to income tax of ₱12,851,476.33; (2) disallowed expenses for being out of period or overclaimed of ₱6,940,194.78; (3) disallowed expenses for non-withholding of ₱8,177,405.11; (4) disallowed salaries and wages of ₱1,659,939.72; (5) excess credits carried over of ₱2,721,633.90; (6) receipts not subjected to VAT of ₱50,652,701.36; and (7) bases for EWT, WTC and DST of ₱705,198.61, ₱422,762.41 and ₱129,796.00, respectively.

On 03 February 2021, within the 15-day period, petitioner filed a fifteen (15)-page Reply¹⁶² to the PAN, supported by Annexes “A” to “J”¹⁶³ — among them a schedule of accounts receivable, a breakdown of out-of-period receipts, the deductions claimed in its 2017 ITR, breakdowns of commissions, professional fees and *de minimis* benefits, its 2018 ITR, a reconciliation of its Summary List of Sales (SLS) against cash receipts, and the waiver. Clearly, the Reply did not merely deny. It identified the accrual and timing differences behind the alleged undeclared receipts, explained that a substantial portion of the amounts treated as income and as gross receipts were reimbursements of costs advanced for clients, and traced respondent’s figures to their sources.

Seven days later, on 10 February 2021, respondent issued the FLD/FAN¹⁶⁴ for ₱22,119,640.91. An assiduous comparison of the two (2) documents is instructive: the Details of Discrepancies attached to the FLD reproduce those of the PAN *verbatim* — same findings, same schedules, same figures, same phrasing — with not a single amount adjusted, not a single explanation addressed and not a single reason given for rejecting any of petitioner’s submissions. The only addition is that respondent “hereby acknowledge[s] your protest letter[, which] shall form part of the tax docket”, and that “rest assured that we have taken note of the relevant issues and concerns you have raised in your said reply to the PAN in the preparation of this FLD and AN”, with a citation to Section 3.1.3 of RR No. 18-2013.¹⁶⁵

¹⁶¹ Exhibit “P-7”, *supra* at note 13.

¹⁶² Exhibit “P-8”, *supra* at note 16.

¹⁶³ BIR Records, Folder 2, pp. 352-523.

¹⁶⁴ Exhibit “P-9”, *supra* at note 18.

¹⁶⁵ *Supra* at note 47.

That is not compliance with due process. It is a mere semblance of compliance.

Section 228 of the NIRC of 1997, as amended, as implemented by RR No. 12-99,¹⁶⁶ as amended, outlines the due process requirements for the issuance of deficiency tax assessments.

Section 228 of the NIRC of 1997, as amended, states:

...

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.

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.¹⁶⁷

...

Relevant portions of Section 3 of RR No. 12-99, as amended, state:

...

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:

3.1.1 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



¹⁶⁶

Supra at note 94.

¹⁶⁷

Italics in the original text, emphasis and underscoring supplied.

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.

If the taxpayer, within **fifteen (15) days from date of receipt of the PAN, responds that he/it disagrees with the findings of deficiency tax or taxes, an FLD/FAN shall be issued within fifteen (15) days from filing/submission of the taxpayer's response,** calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.¹⁶⁸

...

The landmark case of *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*,¹⁶⁹ (**Avon**) citing *Ang Tibay, represented by Toribio Teodoro, manager and proprietor, and National Workers' Brotherhood v. The Court of Industrial Relations and National Labor Union, Inc.*,¹⁷⁰ is squarely on point. There, the Supreme Court struck down assessments where the CIR issued a final assessment identical to the pre-assessment notice despite the taxpayer's protest and submissions, holding that the right to be heard includes the right of the party interested or affected to present his or her own case and submit evidence in support thereof and, indispensably, the right to have that evidence and those arguments considered by the deciding authority:

...

The *Ang Tibay* safeguards were subsequently "simplified into four basic rights," as follows:

- (a) [T]he right to notice, be it actual or constructive, of the institution of the proceedings that may affect a person's legal right; (b) **reasonable opportunity to appear and defend his rights and to introduce witnesses and relevant evidence in his favor;** (c) *a tribunal so constituted as to give him reasonable assurance of honesty and impartiality,* and one of competent jurisdiction; and (d) a finding or decision by 

¹⁶⁸ Italics in the original text and emphasis supplied.

¹⁶⁹ G.R. Nos. 201398-99 & 201418-19, 03 October 2018; Citations omitted, italics and emphasis in the original text and supplied, and underscoring supplied.

¹⁷⁰ G.R. No. 46496, 27 February 1940.

that tribunal supported by substantial evidence presented at the hearing or at least ascertained in the records or disclosed to the parties.

...

The importance of providing the taxpayer with adequate written notice of his or her tax liability is undeniable. Under Section 228, it is explicitly required that the taxpayer be informed in writing of the law and of the facts on which the assessment is made; otherwise, the assessment shall be void. Section 3.1.2 of Revenue Regulations No. 12-99 requires the Preliminary Assessment Notice to show in detail the facts and law, rules and regulations, or jurisprudence on which the proposed assessment is based. Further, Section 3.1.4 requires that the Final Letter of Demand must state the facts and law on which it is based; otherwise, the Final Letter of Demand and Final Assessment Notices themselves shall be void. Finally, Section 3.1.6 specifically requires that the decision of the Commissioner or of his or her duly authorized representative on a disputed assessment shall state the facts and law, rules and regulations, or jurisprudence on which the decision is based. Failure to do so would invalidate the Final Decision on Disputed Assessment.

...

On the other hand, the taxpayer is explicitly given the opportunity to explain or present his or her side throughout the process, from tax investigation through tax assessment. Under Section 3.1.1 of Revenue Regulations No. 12-99, the taxpayer is given 15 days from receipt of the Notice for Informal Conference to respond; otherwise, he or she will be considered in default and the case will be referred to the Assessment Division for appropriate review and issuance of deficiency tax assessment, if warranted. Again, under Section 228 of the Tax Code and Section 3.1.2 of Revenue Regulations No. 12-99, the taxpayer is required to respond within 15 days from receipt of the Preliminary Assessment Notice; otherwise, he or she will be considered in default and the Final Letter of Demand and Final Assessment Notices will be issued. After receipt of the Final Letter of Demand and Final Assessment Notices, the taxpayer is given 30 days to file a protest, and subsequently, to appeal his or her protest to the Court of Tax Appeals.

...

The facts demonstrate that Avon was deprived of due process. It was not fully apprised of the legal and factual bases of the assessments issued against it. The Details of Discrepancy attached to the Preliminary Assessment Notice, as well as the Formal Letter of Demand with the Final Assessment Notices, did not even comment or address the defenses and documents submitted by Avon. Thus, Avon was left unaware on how the Commissioner or her authorized representatives appreciated the explanations or



defenses raised in connection with the assessments. There was clear inaction of the Commissioner at every stage of the proceedings.

First, despite Avon's submission of its Reply, together with supporting documents, to the revenue examiners' initial audit findings, and its explanation during the informal conference, the Preliminary Assessment Notice was issued. The Preliminary Assessment Notice reiterated the same audit findings, except for the alleged under-declared sales which ballooned in amount from P15,700,000.00 to P62,900,000.00, without any discussion or explanation on the merits of Avon's explanations.

Upon receipt of the Preliminary Assessment Notice, Avon submitted its protest letter and supporting documents, and even met with revenue examiners to explain. Nonetheless, the Bureau of Internal Revenue issued the Final Letter of Demand and Final Assessment Notices, merely reiterating the assessments in the Preliminary Assessment Notice. There was no comment whatsoever on the matters raised by Avon, or discussion of the Bureau of Internal Revenue's findings in a manner that Avon may know the various issues involved and the reasons for the assessments.

Under the Bureau of Internal Revenue's own procedures, the taxpayer is required to respond to the Notice of Informal Conference and to the Preliminary Assessment Notice within 15 days from receipt. Despite Avon's timely submission of a Reply to the Notice of Informal Conference and protest to the Preliminary Assessment Notice, together with supporting documents, the Commissioner and her agents violated their own procedures by refusing to answer or even acknowledge the submitted Reply and protest.

The Notice of Informal Conference and the Preliminary Assessment Notice are a part of due process. They give both the taxpayer and the Commissioner the opportunity to settle the case at the earliest possible time without the need for the issuance of a Final Assessment Notice. However, this purpose is not served in this case because of the Bureau of Internal Revenue's inaction or failure to consider Avon's explanations.

...

It is true that the Commissioner is not obliged to accept the taxpayer's explanations, as explained by the Court of Tax Appeals. However, when he or she rejects these explanations, he or she must give some reason for doing so. He or she must give the particular facts upon which his or her conclusions are based, and those facts must appear in the record.



Indeed, the Commissioner's inaction and omission to give due consideration to the arguments and evidence submitted before her by Avon are deplorable transgressions of Avon's right to due process. The right to be heard, which includes the right to present evidence, is meaningless if the Commissioner can simply ignore the evidence without reason.

In Edwards v. McCoy:

The object of a hearing is as much to have evidence considered as it is to present it. **The right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration.**

In Ang Tibay, this Court similarly ruled that "[n]ot only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must consider the evidence presented."

...

The Commissioner's total disregard of due process rendered the identical Preliminary Assessment Notice, Final Assessment Notices, and Collection Letter null and void, and of no force and effect.

This Court has, in several cases, declared void any assessment that failed to strictly comply with the due process requirements set forth in Section 228 of the Tax Code and Revenue Regulations No. 12-99.

...

In this case, Avon was able to amply demonstrate the Commissioner's disregard of the due process standards raised in *Ang Tibay* and subsequent cases, and of the Commissioner's own rules of procedure. **Her disregard of the standards and rules renders the deficiency tax assessments null and void.**

...

The parallel with *Avon* is controlling. As in *Avon*, the PAN and the FLD/FAN here are identical. As in *Avon*, the taxpayer submitted substantive defenses with supporting schedules. And as in *Avon*, the FLD/FAN contains no discussion, no computation adjustment, and no

ruling on those defenses — only an assurance that they were “taken note of.”

That is not the consideration that administrative due process requires. The taxpayer must not only be given an opportunity to present the latter’s defenses and evidence; the CIR and the ROs must **actually consider** them in reaching their conclusions and sufficiently inform the taxpayer of the reasons for those conclusions. Respondent cannot reduce the taxpayer’s response to a procedural formality by acknowledging its receipt while disregarding its substance.

If respondent had in truth weighed the Reply¹⁷¹ and its annexes, the FLD/FAN¹⁷² would bear some discernible trace of that evaluation— whether through a reasoned rejection, a revised computation, an adjustment to the assessment, or at least a specific explanation of which submission was found insufficient and why. Its perfect identity with the PAN demonstrates the contrary — that petitioner’s defenses and supporting documents were not meaningfully considered.

At the risk of being repetitive, Section 228 of the NIRC of 1997, as amended and *Avon* require that the taxpayer be informed in writing of the law and the facts on which the assessment is based, **including the particular facts and reasons underlying the CIR’s or the duly authorized representative’s rejection of the taxpayer’s explanations, defenses and supporting documents, which must appear in the record and be sufficiently disclosed to the taxpayer. Otherwise, the assessment is void.**

The foregoing requirement necessarily encompasses more than the mechanical repetition of the proposed assessment. It requires the BIR to disclose the factual and legal basis for rejecting the taxpayer’s contrary showing, so that the taxpayer may understand how the assessment was arrived at and meaningfully challenge it. A *pro forma* acknowledgment that the taxpayer’s defenses were “taken note of”, without any discussion or reasoned disposition, satisfies neither the statute nor the constitutional demands of administrative due process. 

¹⁷¹ Exhibit “P-8”, supra at note 16.

¹⁷² Exhibit “P-9”, supra at note 18.

Nor may the infirmity be dismissed as harmless haste. Only seven (7) days elapsed between petitioner's filing of its Reply and respondent's issuance of the FLD/FAN, notwithstanding the fifteen (15)-day period under RR No. 12-99, as amended, within which the BIR was expected to consider the taxpayer's response before issuing the final assessment. That truncated period, taken with the *verbatim* reproduction, demonstrates that the final assessment was prepared without due regard to petitioner's Reply, arguments and supporting evidence.

The importance of the PAN-Reply stage of the assessment process cannot be discounted as it presents an opportunity for both the taxpayer and the BIR to settle the case at the earliest possible time without need for the issuance of an FLD/FAN.¹⁷³

The power to tax is an attribute of sovereignty,¹⁷⁴ but it is not a license to dispense with the forms of fair play by which sovereignty is civilized. The assessments here were made without hearing petitioner, and they were enforced without waiting for the CIR's own decision. Neither the assessments nor their enforcement can survive.

WHEREFORE, premises considered, the instant Petition for Review filed on 16 November 2023 by petitioner In.Corp Corporate Services Philippines, Inc. (formerly Kittelson & Carpo Consulting, Inc.) is hereby **GRANTED**.

Accordingly, the Warrant of Distrainment and/or Levy dated 13 October 2023, the Final Decision on Disputed Assessment dated 10 October 2022, and the Formal Letter of Demand and Assessment Notices dated 10 February 2021, all issued against petitioner for calendar year 2017, covering deficiency income tax, value-added tax, expanded withholding tax, withholding tax on compensation and documentary stamp tax in the aggregate amount of ₱24,614,662.71, inclusive of increments, are hereby declared **VOID** and are **CANCELLED** and **SET ASIDE**. 

173*Mannasoft Technology Corporation v. Commissioner of Internal Revenue*, supra at note 144.

174

See *Romeo P. Gerochi, et al. v. Department of Energy (DOE), et al.*, G.R. No. 159796, 17 July 2007.

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

SO ORDERED.

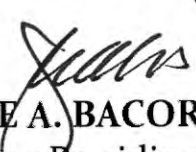

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:


LANEE S. CUI-DAVID
Associate Justice

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.


JEAN MARIE A. BACORRO-VILLENA
Acting Presiding Justice