REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

UNITED GRAPHIC PRINTING CORPORATION,
Respondent.

CTA EB No. 3142
(CTA Case No. 10610)

Present:

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and,
ANGELES, *JJ.*

Promulgated:
MAY 26 2026
11:50 a.m.

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DECISION

RINGPIS-LIBAN, J.:

Before the Court *En Banc* is a Petition for Review[1] filed by petitioner Commissioner of Internal Revenue (CIR) against respondent United Graphic Printing Corporation (UGPC) within an extended period[2] granted by the Court,[3] seeking to set aside the Decision[4] dated October 31, 2024 (Assailed Division Decision) and the Resolution[5] dated April 24, 2025 (Assailed Division Resolution) of the Court's Third Division in CTA Case No. 10610.

The dispositive portion of the Assailed Division Decision reads:

> "**WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED.** Accordingly, the PAN dated February 12, 2015, FLD/FAN dated March 31, 2015, FDDA

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[1] *Rollo*, pp. 9-39.
[2] *Id.*, pp. 1-6.
[3] *Id.*, p. 8.
[4] *Id.*, pp. 41-62.
[5] *Id.*, pp. 64-67.

dated February 14, 2017, and Decision dated June 14, 2021 are **CANCELLED** and **SET ASIDE.**

SO ORDERED."[6]

Respondent CIR thereafter filed a Motion for Reconsideration, which the Third Division denied in the Assailed Division Resolution. The dispositive portion thereof reads:

> "**WHEREFORE**, respondent's *Motion for Reconsideration (Re: Decision promulgated on 31 October 2024)* is hereby **DENIED** for lack of merit.
>
> **SO ORDERED."**[7]

The Parties

Petitioner is the Commissioner of Internal Revenue (CIR), the duly appointed head of the Bureau of Internal Revenue (BIR) with authority, among others, to assess and collect all national internal revenue taxes, fees, and charges, and to enforce all forfeitures, penalties, and fines connected therewith, with principal office address at the BIR National Office Building, Senator Miriam P. Defensor-Santiago Avenue (formerly Agham Road), Diliman, Quezon City.[8]

Respondent United Graphic Printing Corporation (UGPC) is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at UGEC Corp. Center, Dasmariñas Technopark, Governor's Drive, Dasmariñas, Cavite.[9]

The Facts

The facts, as found by the Third Division and as culled from the records, are as follows:

On March 27, 2012, Regional Director Jose N. Tan (RD Tan) issued Letter of Authority (LOA) (SN: eLA201000080829 / LOA-54A-2012-00000052), authorizing Revenue Officer (RO) Alfred Amatorio and Group Supervisor Nena Joyce Geston of Revenue District Office (RDO) No. 54A –

[6] *Id.* at p. 55.
[7] *Id.* at p. 66.
[8] *Id.* at p. 10.
[9] Docket, CTA Case No. 10610, Par. 1.a., Facts, Joint Stipulation of Facts and Issues (JSFI), p. 358.

Trece Martires City, South Cavite, to examine UGPC's books of accounts and other accounting records for all internal revenue taxes for the period January 1, 2010 to December 31, 2010.[10]

On April 3, 2015,[11] UGPC received RD Tan's Preliminary Assessment Notice (PAN) dated February 12, 2015, with attached Details of Discrepancies, containing the proposed deficiency Income Tax (IT), Value-Added Tax (VAT), and Expanded Withholding Tax (EWT) assessments against it for Taxable Year (TY) 2010, in the total sum of ₱23,792,025.44.[12]

On April 10, 2015,[13] UGPC received RD Tan's Formal Letter of Demand (FLD) dated March 31, 2015,[14] with Assessment Notices (FLD/FAN),[15] assessing it for deficiency IT, VAT, and EWT, in the total amount of ₱24,030,385.36.[16]

On May 11, 2015, UGPC filed its administrative protest on RD Tan's FLD/FAN through a letter dated May 8, 2015.[17]

On April 6, 2017, UGPC received[18] Regional Director Romulo L. Aguila, Jr. (RD Aguila Jr.)'s Final Decision on Disputed Assessment (FDDA) dated February 14, 2017, denying its administrative protest on the FLD/FAN. Accordingly, the deficiency IT, VAT, and EWT assessments issued against UGPC for TY 2010, in the total sum of ₱24,030,385.36, were upheld.[19]

On May 4, 2017, UGPC filed a Letter dated May 2, 2017, impugning RD Aguila Jr.'s FDDA before the CIR.[20]

On July 9, 2021, UGPC received the CIR's Decision dated June 14, 2021, sustaining the deficiency taxes embodied in RD Aguila Jr.'s FDDA. Additionally, the CIR demanded UGPC to pay said taxes, plus increments that have accrued thereon until the actual date of payment.[21]

On August 9, 2021, UGPC filed through electronic mail its *Petition for Review* docketed as CTA Case No. 10610, followed by a hard copy thereof filed

[10] BIR Records (Exhibit "R-13"), Folder 1, Exhibit "R-1," p. 7.
[11] *Id.* at Note 9, Exhibit "P-1" (Q&A No. 40), p. 227.
[12] *Id.* at Note 10, Exhibit "R-13", Folder 1, Exhibits "P-32," "R-6," and "R-6-1," pp. 118–121.
[13] *Id.* at Note 9, Exhibit "P-1" (Q&A Nos. 42 and 54), pp. 228 and 231, respectively.
[14] *Id.* at Note 10, (Exhibit "R-13"), Folder 1, Exhibits "P-36" and "P-36-1," and "R-7" and "R-7-1," pp. 122–125.
[15] *Id.* at Note 9, Exhibits "P-33," "P-34," and "P-35," pp. 458–460; BIR Records (Exhibit "R-13"), Folder 1, Exhibits "R-8," "R-8-1," and "R-8-2," pp. 126–127 and unpaginated, respectively.
[16] *Id.*
[17] *Id.* at Note 10, (Exhibit "R-13"), Exhibits "P-37" and "P-37-1," Folder 1, pp. 133–140.
[18] *Id.*, per UGPC's Letter dated May 2, 2017, addressed to the CIR, pp. 440–447.
[19] *Id.*, Exhibit "R-9," Folder 1, p. 400 (consisting of 3 pages).
[20] *Supra* note 18.
[21] *Id.* at Note 9, Exhibit "P-45," pp. 47–51.

on October 21, 2021. Said case was initially raffled before the Court's First Division.[22]

On May 6, 2022, the CIR filed his Answer.[23]

On September 8, 2022, pre-trial conference was held. There, the parties were directed to submit their Joint Stipulation of Facts and Issues (JSFI), embodying the following issues: (1) whether the Court has jurisdiction over the case; and (2) whether UGPC is liable for deficiency IT, VAT, and EWT covering TY 2010. Their respective schedule for the marking of documents and presentation of evidence were likewise set.[24]

On October 10, 2022, the parties filed their JSFI,[25] which was approved via Resolution[26] dated October 18, 2022. This led to the issuance[27] of the Pre-Trial Order on December 16, 2022.

Trial followed.

On September 26, 2023, CTA Case No. 10610 was submitted for decision, considering: (1) UGPC's Memorandum filed on August 22, 2023;[28] and (2) the CIR's Manifestation, stating that he is adopting his Answer as Memorandum, filed on September 14, 2023.[29]

On October 31, 2024, the Third Division rendered the Assailed Division Decision granting UGPC's *Petition for Review*, and cancelling and setting aside the PAN dated February 12, 2015, the FLD/FAN dated March 31, 2015, the FDDA dated February 14, 2017, and the CIR Decision dated June 14, 2021.[30]

On November 25, 2024, the CIR filed his Motion for Reconsideration.[31] The Third Division denied the same through the Assailed Division Resolution dated April 24, 2025.[32]

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[22] *Id.* at pp. 6–41.
[23] *Id.* at pp. 257–279.
[24] *Id.* at pp. 341–343, Order dated September 8, 2022.
[25] *Id.* at pp. 358–360.
[26] *Id.* at p. 365.
[27] *Id.* at pp. 471–489.
[28] *Id.* at pp. 564–582.
[29] *Id.* at pp. 584–586.
[30] *Id.* at Note 4.
[31] *Id.* at Note 7.
[32] *Id.* at Note 5.

Proceedings Before the Court *En Banc*

Aggrieved by the Assailed Division Decision and Assailed Division Resolution, the CIR filed a Motion for Extension of Time to File Petition for Review[33] on May 8, 2025. The Court granted the same through a Minute Resolution dated May 9, 2025, giving the CIR a non-extendible period of fifteen (15) days from May 10, 2025, or until May 25, 2025, within which to file his Petition for Review.[34]

On May 23, 2025, the CIR filed the instant Petition for Review[35] before the Court *En Banc*, docketed as CTA EB No. 3142.

Through a Minute Resolution dated June 13, 2025, the Court directed UGPC to file its Comment on the Petition for Review, not a motion to dismiss, within ten (10) days from notice.[36]

On July 7, 2025, UGPC filed its Comment (to CIR Petition for Review).[37]

Through a Minute Resolution dated August 27, 2025, the Court noted UGPC's Comment and referred the case to the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA) for mediation, directing the parties to personally appear before the Mediation Staff Assistant on September 17, 2025.[38]

On September 18, 2025, the PMC-CTA filed a PMC-CTA Form 6 – No Agreement to Mediate, stating that the parties decided not to have their case mediated.[39]

Through a Minute Resolution dated October 14, 2025, the Court noted the No Agreement to Mediate and submitted the instant Petition for Review for decision.[40]

Assignment of Errors

Petitioner CIR claims that the Third Division erred in ruling that it has jurisdiction over the instant case. The CIR maintains that the assessment for

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[33] *Id.* at Note 2.
[34] *Id.* at Note 3.
[35] *Id.* at Note 1.
[36] *Id.*, p. 69.
[37] *Id.*, pp. 71-86, Comment (to CIR Petition for Review) dated July 4, 2025, filed via LBC on July 7, 2025.
[38] *Id.*, p. 89, Minute Resolution dated August 27, 2025.
[39] *Id.*, p. 90, PMC-CTA Form 6 – No Agreement to Mediate dated September 17, 2025, filed September 18, 2025.
[40] *Id.*, p. 91, Minute Resolution dated October 14, 2025.

deficiency taxes against UGPC is already final, executory, and demandable, since UGPC allegedly failed to file a valid administrative protest on the FLD/FAN in accordance with the requirements of Revenue Regulations (RR) No. 18-2013, particularly its failure to specify the newly discovered or additional evidence it intended to present, as required for a request for reinvestigation.

Petitioner CIR further claims that the Third Division erred in ruling that the CIR's right to assess UGPC for deficiency IT, VAT, and EWT for TY 2010 has already prescribed. The CIR insists that the applicable prescriptive period is the ten (10)-year extraordinary period under Section 222(a) of the 1997 National Internal Revenue Code (NIRC), as amended, in view of UGPC's alleged substantial underdeclaration of taxable sales amounting to 48.34% of its declared sales in its VAT returns, which constitutes a false return within the meaning of the law and renders the ordinary three (3)-year prescriptive period inapplicable.

Finally, petitioner CIR claims that the Third Division erred in ruling that UGPC's right to due process was violated by the issuance of the FLD/FAN within the fifteen (15)-day period within which UGPC could have responded to the PAN. The CIR argues that a reply to the PAN is merely optional and not mandatory under Revenue Memorandum Order (RMO) No. 26-2016, and that any overlap in the issuance of the PAN and FLD/FAN does not amount to a denial of due process that would warrant the voiding of the subject deficiency tax assessments, UGPC having been accorded ample opportunity to be heard throughout the entire audit and assessment proceedings.

<u>The Arguments of the Parties</u>

<u>Petitioner CIR's Arguments</u>

On the question of jurisdiction, the CIR argues that UGPC failed to file a valid administrative protest against the FLD/FAN in accordance with the form and manner prescribed by Section 228 of the 1997 NIRC, as amended, in relation to Section 3.1.4 of RR No. 18-2013. The CIR contends that UGPC's protest letter dated May 8, 2015, which merely reserved its right to submit additional documents within sixty (60) days, failed to specify the newly discovered or additional evidence it intended to present, as expressly required for a request for reinvestigation. Invoking *Commissioner of Internal Revenue v. Court of Tax Appeals-Third Division and Citysuper, Incorporated*[41] (*Citysuper*), the CIR submits that without a valid protest, the FLD/FAN never ripened into a disputed assessment, rendering the assessment final, executory, and demandable, and depriving the Court of jurisdiction.

[41] G.R. No. 239464, May 10, 2021.

On the issue of prescription, the CIR maintains that the ordinary three (3)-year prescriptive period under Section 203 of the 1997 NIRC, as amended, does not apply. The CIR insists that UGPC filed false returns within the meaning of Section 222(a) of the same Code, pointing to a discrepancy of 48.34% between UGPC's declared sales in its VAT returns and the sales as determined through computerized matching of data from third-party sources, constituting *prima facie* evidence of a false return under Section 248(B), which triggers the ten (10)-year extraordinary prescriptive period.[42]

On the matter of due process, the CIR argues that UGPC was never deprived of its right to be heard. The CIR points out that under RMO No. 26-2016, a protest against the PAN is merely optional, and that the FLD/FAN may be issued fifteen (15) days from the taxpayer's receipt of the PAN, whether or not the PAN was protested. The CIR further contends that even assuming there was an overlap in the issuance of the PAN and the FLD/FAN, the same did not result in prejudice to UGPC, which was still able to file a protest against the FLD/FAN and avail of all administrative and judicial remedies.[43]

Respondent UGPC's Arguments

UGPC counters that the Third Division correctly ruled that it has jurisdiction over CTA Case No. 10610. UGPC maintains that its protest letter dated May 8, 2015, timely filed on May 11, 2015, constituted a valid administrative protest. Unlike the protest letter in *Citysuper*, UGPC's protest letter expressly referred to the date of issuance and receipt of the FLD/FAN, cited the legal and factual grounds for its protest, and was followed by the actual submission of supporting documents. UGPC also points out that the BIR itself treated the protest as valid by issuing an FDDA thereon.[44]

On prescription, UGPC submits that the Third Division correctly ruled that the CIR's right to assess had already prescribed under the ordinary three (3)-year period. UGPC argues that the CIR's reliance on Section 222(a) is misplaced, as the CIR failed to establish with clear and convincing proof the existence of a false or fraudulent return, as required by *Mcdonald's Philippine Realty Corporation v. Commissioner of Internal Revenue.*[45] The discrepancy was sourced from unsubstantiated computerized matching of third-party data.[46]

Finally, on due process, UGPC maintains that the Third Division correctly ruled that the CIR grossly violated its right to due process. The FLD/FAN dated March 31, 2015 was issued three (3) days before UGPC received the PAN on April 3, 2015, and was served on UGPC on April 10, 2015 — within the fifteen (15)-day period for UGPC to respond to the PAN, in clear violation of RR No.

[42] *Id.* at Note 1.
[43] *Id.* at Note 1, pp. 25-30.
[44] *Id.*at Note 37, pp. 72-76.
[45] G.R. No. 247737, August 8, 2023.
[46] *Id.*at Note 37, pp. 77-80.

12-99, as amended. UGPC invokes *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*,[47] *Commissioner of Internal Revenue v. Yumex Philippines Corporation*,[48] and *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*.[49]

The Ruling of the Court

The Third Division correctly ruled that it has jurisdiction over CTA Case No. 10610; the CIR's arguments before this Court En Banc are a mere rehash of the same grounds already thoroughly considered and correctly rejected by the Court in Division.

The Petition for Review must be **DENIED.**

At the threshold, the Court *En Banc* addresses the CIR's argument that the Third Division lacked jurisdiction over CTA Case No. 10610 on the ground that UGPC allegedly failed to file a valid administrative protest, thereby preventing the FLD/FAN from ripening into a disputed assessment cognizable by this Court.

The CIR's arguments before this Court *En Banc* are a mere rehash of the same grounds already thoroughly considered and correctly rejected by the Court in Division. The Third Division exhaustively passed upon the validity of UGPC's administrative protest and correctly found the same to be a valid request for reinvestigation, sufficient to constitute a disputed assessment within the jurisdiction of this Court.

Well-settled is the rule that for the CTA to acquire jurisdiction over a case involving a disputed assessment, there must be: (1) a decision of the CIR or his duly authorized representative; and (2) the decision must involve a disputed assessment, meaning the taxpayer must have validly protested the assessment in accordance with the requirements of Section 228 of the 1997 NIRC, as amended, and its implementing regulations.[50]

Section 228 of the 1997 NIRC, as amended, provides that an assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment, in such form and manner as may be prescribed by implementing rules and regulations. Section 3.1.4 of RR No. 18-2013 further requires that the taxpayer's protest state:

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[47] G.R. Nos. 201398-99 and 201418-19, October 3, 2018.
[48] G.R. No. 222476, May 5, 2021
[49] G.R. No. 249153, September 12, 2022.
[50] *Commissioner of Internol Revenue v. Liquigoz Philippines Corporotion*, G.R. No. 215534, April 18, 2016.

(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) the date of the assessment notice; and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based.[51]

The CIR's reliance on *Citysuper*[52] is misplaced. The protest therein was void because it utterly failed to state the assessment notice's date, the applicable law, rules and regulations, or jurisprudence on which the protest was based.[53]

The protest letter of UGPC dated May 8, 2015 stands in stark contrast to the deficient protest in *Citysuper*. UGPC's protest letter expressly referred to the date of issuance and receipt of the FLD/FAN, raised specific legal and factual grounds — including the prescription of the assessments and the lack of legal and factual basis for the 50% surcharge — and undertook to submit additional supporting documents within sixty (60) days. Said documents were indeed subsequently submitted under letters dated August 6, 2015, September 22, 2015, October 12, 2015, November 6, 2015, January 27, 2016, and June 9, 2016.[54]

Critically, the BIR itself treated UGPC's protest as valid. RD Tan directed UGPC to submit all relevant documents in support thereof. RD Aguila Jr. issued an FDDA addressing the merits of UGPC's protest. The CIR's own Decision dated June 14, 2021 likewise resolved the case on the merits. It would be the height of incongruity to allow the CIR to now claim, after having entertained and decided the protest on its merits throughout the administrative proceedings, that no valid protest was ever filed.[55]

Basic is the rule that the nature of a pleading is determined not by the label given to it, but by the allegations therein and the relief prayed for. As the Supreme Court held in *Commissioner of Internal Revenue v. Wyeth Suaco Laboratories, Inc. and the Court of Tax Appeals*,[56] protest letters need not categorically use the words "reinvestigation" and "reconsideration" to be treated as such; what matters is the substance of the protest and the conduct of the parties subsequent thereto.

It bears stressing that jurisdiction over the subject matter is determined by the allegations of the complaint or petition and the character of the relief sought.[57] The jurisdictional requirements under Sections 7(a)(1) and 11 of

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[51] Section 3.1.4, Revenue Regulations No. 18-2013.
[52] *Supra.*
[53] *Id.*
[54] *Id.* at Note 9, Vol. 1, Exhibit "AS," p. 156; BIR Records (Exhibit "R-13"), Exhibits "P-39" to "P-44-1," Folder 1, pp. 367–372.
[55] *Id.*, Exhibit "P-45," pp. 47–51.
[56] G.R. No. 76281, September 30, 1991.
[57] *Commissioner of Internal Revenue v. Liquigaz Philippines Corporation, supra* note 50.

Republic Act (RA) No. 1125,[58] as amended by RA No. 9282,[59] are clearly satisfied. The Third Division therefore correctly took cognizance of CTA Case No. 10610.

The Third Division correctly ruled that the CIR's right to assess UGPC for deficiency IT, VAT, and EWT for TY 2010 has already prescribed.

Having upheld the Third Division's ruling on jurisdiction, the Court *En Banc* now resolves the second assigned error — whether the CIR's right to assess UGPC for deficiency IT, VAT, and EWT covering TY 2010 has prescribed.

The Court rules in the affirmative. The CIR's right to assess had already prescribed when the PAN and FLD/FAN were issued in 2015.

Well-settled is the rule that internal revenue taxes must be assessed within three (3) years from the last day prescribed by law for the filing of the return, or from the actual date of filing, whichever is later, pursuant to Section 203 of the 1997 NIRC, as amended.[60]

Applying the foregoing to the instant case, the Annual IT Return for TY 2010 was due on April 15, 2011, placing the last day to assess on April 15, 2014. The Quarterly VAT Returns for TY 2010 were due on April 26, 2010, July 26, 2010, October 26, 2010, and January 25, 2011, placing the corresponding last days to assess on April 26, 2013, July 26, 2013, October 26, 2013, and January 25, 2014, respectively. The EWT Returns for TY 2010 were due on various dates from February 10, 2010 to January 15, 2011, placing the last days to assess from February 10, 2013 to January 17, 2014.[61]

Yet the PAN dated February 12, 2015 and the FLD/FAN dated March 31, 2015 were not received by UGPC until April 3, 2015 and April 10, 2015, respectively — well beyond the three (3)-year prescriptive period for all three tax types.

The CIR seeks refuge in Section 222(a) of the 1997 NIRC, as amended, arguing that UGPC filed false returns evidenced by a 48.34% discrepancy between its declared VAT sales and sales derived from computerized matching

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[58] An Act Creating the Court of Tax Appeals.

[59] 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.

[60] Section 203, National Internal Revenue Code of 1997, as amended.

[61] *Id.* at Note 4, pp. 51-52.

of third-party data, constituting *prima facie* evidence of a false return under Section 248(B) of the same Code.[62]

The Court is not persuaded. It bears stressing that the invocation of the ten (10)-year extraordinary prescriptive period is the exception, not the rule. As the Supreme Court categorically held in *Mcdonald's Philippine Realty Corporation v. Commissioner of Internal Revenue*,[63] the tax authorities bear the burden of establishing, with clear and convincing proof, the existence of grounds warranting the application of the 10-year period.[64]

The CIR failed to discharge this burden. The alleged discrepancy was derived solely from "computerized matching on information/data provided by third party sources,"[65] without any corroborating evidence to establish the accuracy or completeness of the third-party data. The CIR did not adduce independent evidence to substantiate the alleged underdeclaration, nor identify which specific transactions were omitted or misreported. In the absence of clear and convincing proof of falsity or fraud, the discrepancy alone does not suffice to activate the ten (10)-year extraordinary prescriptive period.

The mere imposition of a 50% surcharge in the FLD/FAN likewise does not establish fraud or falsity. The CIR failed to identify which of the three (3) instances under Section 248(B) — willful neglect to file, filing of a false return, or filing of a fraudulent return — was being applied against UGPC.[66]

Tax returns are presumed to have been prepared and filed in good faith, in the ordinary course of business, and in compliance with applicable rules and regulations. Falsity and fraud cannot be presumed; they must be proven with clear and convincing evidence.[67] This the CIR has failed to do.

Consequently, the ordinary three (3)-year prescriptive period under Section 203 of the 1997 NIRC, as amended, applies. Since the PAN and FLD/FAN were received by UGPC only in April 2015, long after the prescriptive periods for deficiency IT, VAT, and EWT for TY 2010 had expired, the subject assessments are void for having been issued beyond the period allowed by law. A void assessment bears no valid fruit.[68]

The Third Division correctly ruled that the CIR violated UGPC's right

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[62] *Id.* at Note 60, Section 222(a), National Internal Revenue Code of 1997, as amended; Section 248(B).
[63] G.R. No. 247737, August 8, 2023.
[64] *Id.*
[65] *Id.* at Note 1, p. 20, citing the Details of Discrepancy appended to the FLD.
[66] *Id.* at Note 4, p. 52.
[67] *Mcdonald's Philippine Realty Corporation v. Commissioner of Internal Revenue*, *supra* note 63.
[68] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

to due process in the issuance of the FLD/FAN.

The Court *En Banc* likewise affirms the Third Division's ruling on the third assigned error. Independently of the finding on prescription, the FLD/FAN is also void for having been issued in violation of UGPC's right to due process.

It is not disputed that the PAN dated February 12, 2015 was received by UGPC only on April 3, 2015. The FLD/FAN dated March 31, 2015 was served upon UGPC on April 10, 2015 — a mere seven (7) days after UGPC received the PAN, and squarely within the fifteen (15)-day period within which UGPC was entitled to respond to the PAN under Paragraph 3.1.1 of RR No. 12-99, as amended by RR No. 18-2013.[69]

Paragraph 3.1.1 of RR No. 12-99, as amended, is unequivocal: the FLD/FAN shall be issued only after the taxpayer fails to respond within fifteen (15) days from receipt of the PAN. The FLD/FAN in this case was issued on March 31, 2015 — three (3) days before UGPC even received the PAN — meaning the CIR had no intention of considering any explanation or response from UGPC before issuing the FLD/FAN.[70]

The CIR's reliance on RMO No. 26-2016 to argue that a reply to the PAN is merely optional is unavailing. While the taxpayer's response to the PAN is not compulsory, this does not license the CIR to issue the FLD/FAN before the taxpayer has even had the opportunity to respond. As the Supreme Court held in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*:[71]

> "'Tax assessments issued in violation of the due process rights of a taxpayer are null and void. While the government has an interest in the swift collection of taxes, the Bureau of Internal Revenue and its officers and agents cannot be overreaching in their efforts, but must perform their duties in accordance with law, with their own rules of procedure, and always with regard to the basic tenets of due process."

This doctrine was reiterated and amplified in *Commissioner of Internal Revenue v. Yumex Philippines Corporation,*[72] where the Supreme Court ruled that the BIR's failure to afford the taxpayer the opportunity to respond to the PAN before issuing the FLD/FAN constitutes a violation of due process that voids the assessment, even where the taxpayer was later able to file a protest against the FLD/FAN.[73]

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[69] Revenue Regulations No. 12-99, as amended by Revenue Regulations No. 18-2013, paragraph 3.1.1.
[70] *Id.* at Note 4, pp. 53-55.
[71] G.R. Nos. 201398-99 and 201418-19, October 3, 2018.
[72] G.R. No. 222476, May 5, 2021.
[73] *Id.*

The same principle was applied in *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue,*[74] where the Supreme Court held that "[w]ell-settled is the rule that an assessment that fails to strictly comply with the due process requirements set forth in Section 228 of the Tax Code and Revenue Regulations No. 12-99 is void and produces no effect."[75]

The CIR's argument that UGPC was accorded due process because it was ultimately able to file a protest and elevate the matter to this Court misses the point entirely. The question is not whether UGPC was ultimately heard, but whether the CIR complied with the prescribed procedure. The CIR's failure to observe the prescribed sequence rendered the FLD/FAN, and all proceedings premised thereon, null and void.[76]

In fine, the Court *En Banc* finds no reversible error in the Assailed Division Decision and Assailed Division Resolution. The subject assessments for deficiency IT, VAT, and EWT for TY 2010 are void on two independent grounds: (1) they were issued beyond the ordinary three (3)-year prescriptive period under Section 203 of the 1997 NIRC, as amended, the CIR having failed to establish with clear and convincing proof the existence of a false or fraudulent return warranting the application of the extraordinary ten (10)-year period; and (2) the FLD/FAN was issued in patent violation of UGPC's right to due process, the CIR having issued the FLD/FAN before UGPC even received the PAN, depriving it of the opportunity to respond thereto. A void assessment bears no valid fruit. The Petition for Review must be denied for lack of merit.

WHEREFORE, premises considered, the Petition for Review filed by petitioner Commissioner of Internal Revenue is hereby **DENIED** for lack of merit. The Decision dated October 31, 2024 and the Resolution dated April 24, 2025 of the Court's Third Division in CTA Case No. 10610 are hereby **AFFIRMED** in toto.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

[74] G.R. No. 249153, September 12, 2022.
[75] *Id.*
[76] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc., supra* note 72.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice