REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

MELVIN CALATA, *Petitioner,*	**CTA CASE NO. 11200**
-versus-	Members: **RINGPIS-LIBAN,** *PJ, Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 14 2026 4:00 p.m.

x -- x

DECISION

MODESTO-SAN PEDRO, J.:

The Case

This is a Petition for Review ("Petition")[1] filed on June 21, 2023, under *Section 7 of Republic Act ("RA") No. 1125,[2] as amended by R.A. No. 9282,[3]* praying the court to issue a judgment declaring the subject assessment herein void, and to quash, cancel and/or lift the Warrant of Distraint and/or Levy ("WDL") No. ARMD-WDL-2022-040,[4] dated November 11, 2022, including any garnishment that may have been issued pursuant thereto.

In the said WDL, respondent directed the Accounts Receivable Monitoring Division ("ARMD") of the Bureau of Internal Revenue ("BIR") to distrain the goods, chattels, or effects, and other personal property of petitioner and to levy upon the latter's real property and interest in/or rights to real property, in relation to an alleged tax due from petitioner in total amount of Php11,511,122.52, for taxable year 2011.

---

1 Petition for Review, Docket, pp. 6-1256 with annexes.
2 An Act Creating the Court of Tax Appeals, June 16, 1954.
3 An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections or Republic Act No. 1125, As Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes; March 30, 2004.
4 Exhibit "P-1", BIR Records, 270.

The Parties

Melvin Calata ("Calata" or "petitioner") is a Filipino, of legal age, and with postal address at 176 Garcia St. Banga I, Plaridel, Bulacan.[5]

Respondent Commissioner of Internal Revenue ("CIR" or "respondent") is tasked to assess and collect all national internal revenue taxes, fees and charges, and enforce all forfeitures, penalties and fines connected therewith. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.[6]

The Facts

On February 11, 2014, respondent issued against petitioner a Letter of Authority ("LOA") No. 211-2014-00000035, SN: eLA201100060800.[7] The same was revalidated by LOA No. 211-2019-00000069, SN: eLA201700015529,[8] dated August 7, 2019, received by a certain Donard Necia on September 2, 2019.[9]

As per the new LOA, respondent authorized Revenue Officers ("RO") Ronna Marasigan, Joeman Cris Corrado, Lady Dianne Palogan, and Group Supervisor ("GS") Romeo Jr Ebdane of the National Investigation Division ("NID") to examine the books of accounts and other accounting records of petitioner, for all internal revenue taxes, for the taxable years 2009 to 2011.

On January 28, 2022, the BIR, through the NID, issued a Notice of Discrepancy ("NOD"),[10] served through substituted service to Jovencio De Leon. A handwritten note in the NOD states that the substituted service was implemented by giving a copy of the NOD with Details of Discrepancies to the barangay official who signed said copy because petitioner or any of his authorized representative could not be found in Calata's registered or known address.

On March 21, 2022, respondent issued Preliminary Assessment Notice ("PAN"),[11] which was again signed received by Jovencio De Leon on April 1, 2022.

---

[5] Joint Stipulation of Facts and Issues (JSFI), par. 1, Docket, p. 90.

[6] JSFI, par. 2, *id.*

[7] Exhibit "R-1", BIR Records, p. 255.

[8] Exhibit "R-2", *id.* at p. 256

[9] *Id.*

[10] Exhibits "R-5", "P-2", *id.* at 232-233; see also Petition for Review, Facts of the Case, par. 11, where petitioner admitted to having received the NOD on February 16, 2022.

[11] Exhibit "P-3", *id.* at 243-244.

Afterwards, respondent issued the undated Formal Letter of Demand ("FLD") and Final Assessment Notice ("FAN")[12] related to the foregoing tax investigation. In the FLD/FAN, petitioner is assessed of deficiency income tax and value added tax for a total amount of Php11,511,122.52 broken down as follows:

(Amounts in Php)	**Basic**	**Surcharge**	**Interest**	**Total**
Income Tax	2,611,249.64	1,305,624.82	4,392,050.36	8,308,924.82
VAT	992,343.62	496,171.81	1,713,682.27	3,202,197.69[13]

Petitioner, however, denies having received the FLD/FAN. He asserts that after the PAN, the next document he received, on May 22, 2023, was WDL No. ARMD-WDL-2021-040,[14] dated November 11, 2022.

Aggrieved, Calata filed the instant Petition[15] on June 21, 2023, to which respondent filed his Answer[16] on September 5, 2023.

On October 25, 2023, the Philippine Mediation Center Unit of the Court of Tax Appeals informed the Court that the parties have decided not to have their case mediated by PMCU.[17]

Petitioner and respondent then filed their respective Pre-Trial Briefs on January 26, 2024[18] and January 29, 2024.[19] On February 1, 2024, the Pre-Trial Conference was held.

Thereafter, the parties submitted their Joint Stipulation of Facts and Issues ("JSFI")[20] on March 4, 2024.

The Court then issued its Pre-Trial Order[21] on April 3, 2024.

To support his case, Calata served as his own sole witness by testifying through a judicial affidavit dated June 21, 2023.[22] He appeared before the Court on April 4, 2024.[23]

---

12 Exhibit "R-7", *id.* at 246-251.
13 Difference of Php0.01 from calculated total of Php3,202,197.70, due to rounding off.
14 *Supra* note 4.
15 *Supra* note 1.
16 Answer, Docket, pp. 35-43.
17 See No Agreement to Mediate, *id.* at p. 48.
18 See Pre-trial brief, dated January 26, 2024, *id.* at 59-64.
19 See Pre-trial brief, dated January 29, 2024, *id.* at 65-69.
20 JSFI, *id.* at 90-95.
21 Pre-Trial Order, *id.* at 99-103.
22 Exhibit "P-4", *id.* at 22-25
23 See Minutes of hearing, dated April 4, 2024, *id.* at 104.

On the other hand, respondent presented as witness RO Ronna Marasigan who executed judicial affidavit dated June 28, 2024,[24] and appeared before the Court on July 4, 2024.[25]

On April 16, 2024, petitioner filed his Formal Offer of Evidence[26] against which respondent filed his Comment[27] on April 22, 2024. All evidence offered were admitted by the Court in its Resolution[28] dated June 25, 2024.

Meanwhile, respondent formally offered evidence on July 18, 2024.[29] Petitioner then filed his Comment/Objection[30] thereto on August 6, 2024. On October 3, 2024, the Court admitted respondent's evidence.[31]

On November 8, 2024 and February 19, 2025, petitioner filed his Memorandum and Supplemental Memorandum, respectively.

As for respondent, the Court noted though Records Verification dated January 7, 2025[32] that no memorandum was filed. Hence, the submission of the instant case for decision on January 14, 2025.

The Issue

The lone issue submitted by the parties is:

> WHETHER PETITIONER IS LIABLE TO PAY THE AMOUNT OF PHP11,511,122.52, REPRESENTING ALLEGED DEFICIENCY INCOME TAX AND VALUE ADDED TAX, INCLUSIVE OF SURCHARGE AND INTEREST FOR TAXABLE YEAR 2011.[33]

---

24 Exhibit "R-10", *id.* at 121-149, with annexes.
25 See Minutes of hearing, dated July 4, 2024, *id.* at 150.
26 *Id.* at 106-109.
27 *Id.* at 110-112,
28 *Id.* at 115-116.
29 See Formal Offer of Evidence, *id.* at 154-159.
30 *Id.* at 161-167.
31 See Resolution dated October 3, 2024, *id.* at 171.
32 *Id.* at 190.
33 See Pre-Trial Order, dated April 3, 2024, *id.* at 100.

Arguments of the Parties

Petitioner's Arguments[34]

Calata argues that the tax assessment issued against him for taxable year 2011 should be declared void due to violation of petitioner's right to due process. Specifically, petitioner advances that the LOA and notices to submit requested documents were served to unauthorized persons. Petitioner also highlights that the NOD was served by substituted service while the records are bereft of proof that a barangay official and two disinterested witnesses were brought to the registered address to personally attest to such absence. Petitioner likewise argues that the PAN was served to an unauthorized person. Finally, petitioner submits that a copy of the FLD/FAN was not served to him.

Respondents' Counter-Arguments[35]

On the other hand, respondent advances that the Court has no jurisdiction over the present case, as such the same must be dismissed outright. According to respondent, the assessment herein has become final and executory due to petitioner's failure to file a protest against the FLD/FAN. He insists that the mere statement of petitioner that he did not receive the FLD/FAN without evidence to support his claim is just self-serving and deserves no merit. As such, respondent posits that petitioner can no longer contest the issued WDL unless the document itself has infirmity that would enable its invalidity.

Respondent also highlights that Calata filed to assail the assessment in his Petition, hence, the correctness of the tax assessment must stand.

The Ruling of the Court

The Court has jurisdiction over the instant Petition.

In his Answer, respondent argues that the assessment against petitioner has already become final, executory and demandable due to the latter's failure to file a protest against the FLD/FAN; thus, the Court lacks jurisdiction over the instant Petition. For such purpose, respondent cited the case of *Marcos II vs. Court of Appeals, et al.*[36] where the Supreme Court emphasized the effect of failure to protest under *Section 229 of the National Internal Revenue Code* ("Tax Code").

[34] See Memorandum, *id.* at 178-186; see also Supplemental Memorandum dated February 18, 2025.
[35] See Answer, Special and Affirmative Defenses, *id.*, pp. 287-295.
[36] G.R. No. 120880, June 5, 1997.

Petitioner, on the other hand, categorically denies the receipt of the FLD/FAN. He thus reckons the 30-day period to appeal from the receipt of the WDL on May 22, 2023, highlighting the Court's jurisdiction on cases involving "other matters" arising under the Tax Code.[37]

We find merit in petitioner's argument.

First, on the issue on whether the receipt of the WDL can be properly considered as the reckoning point of the 30-day period within which to file an appeal before the Court, We find guidance from *Section 7 (a)(1)*, in relation to *Section 11 of RA No. 1125, as amended by RA No. 9282.* It is provided therein that the appellate jurisdiction of the CTA is not limited to the cases involving decisions related to matters of assessments and refunds. The law also provides the Court's appellate jurisdiction over any case that could arise from the Tax Code, as amended, or any other related laws that the BIR administers. In addition, an aggrieved party by such action must appeal the same to the Court, within 30 days from receipt thereof. These provisions respectively read:

> SEC. 7. *Jurisdiction.* - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, ***or other matters arising under the National Internal Revenue Code*** or other laws administered by the Bureau of Internal Revenue;
>
> . . . .
>
> ***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,*** the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts 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.
>
> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA ***within thirty (30) days from the receipt of the decision or ruling*** or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. . . .

[37] See Petition, Jurisdiction of the Honorable Court and Timeliness of the Petition, Docket, pp. 7-8.

(Emphasis and italics supplied)

Based on the foregoing and as found by the Supreme Court in the case of *Philippine Journalist, Inc., vs. Commissioner of Internal Revenue,*[38] the CTA has jurisdiction not just on decisions of the CIR but also on other matters arising from the Tax Code, thus:

> 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.
> (Emphasis and italics supplied; citations omitted.)

A similar conclusion was reached in the case of *Commissioner of Internal Revenue vs. Manila Medical Services, Inc. (Manila Doctors Hospital)*,[39] citing *Commissioner of Internal Revenue vs. Court of Tax Appeals Second Division*.[40] The CIR argued therein that the reliance on the WDL as the basis of the taxpayer's petition for review was misplaced since the FDDA should be the basis of the action in the CTA. However, the Supreme Court ruled that due to the clear and simple wording of the above-cited *Section 7 of the Tax Code, amended*, the CTA is given the jurisdiction to determine the validity of the WDL which is considered "other matter" arising out of the Tax Code.

In the case at hand, petitioner received a copy of the WDL on March 22, 2023. Counting 30 days therefrom, petitioner had until June 21, 2023 within which to file an appeal before the Court; hence, the Petition was timely filed on even date.

Secondly, on the issue on whether the Court can rule on the validity of the assessment considering the alleged finality of the same, We rule in the affirmative.

---

[38] G.R. No. 162852, December 16, 2004
[39] G.R. No. 255473, February 13, 2023.
[40] G.R. No. 258947, March 29, 2022.

Critical in the case at hand is Calata's categorical and direct denial of the receipt of FLD/FAN issued respondent. Based on the Court's review of the records, We find that there is indeed no valid assessment issued to petitioner. Thus, as the taxpayer cannot be expected to file a valid protest and avail the proper administrative remedies, the assessment cannot be deemed to have attained finality.

Here, respondent claims to have served the subject FLD/FAN through registered mail which is one of the modes of service of notices provided under *Section 3.1.6 of RR No. 18-2013* which states:

> ***3.1.6 Modes of Service.*** — The notice (PAN/FLD/FAN/FDDA) to the taxpayer herein required may be served by the Commissioner or his duly authorized representative through the following modes:
>
> (i) The notice shall be served ***through personal service*** by delivering personally a copy thereof to the party at his registered or known address or wherever he may be found. A known address shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.
>
> In case personal service is not practicable, the notice shall be served by substituted service or by mail.
>
> (ii) ***Substituted service*** can be resorted to when the party is not present at the registered or known address under the following circumstances:
>
> The notice may be left at the party's registered address, with his clerk or with a person having charge thereof.
>
> If the known address is a place where business activities of the party are conducted, the notice may be left with his clerk or with a person having charge thereof.
>
> If the known address is the place of residence, substituted service can be made by leaving the copy with a person of legal age residing therein.
>
> If no person is found in the party's registered or known address, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses to the address so that they may personally observe and attest to such absence. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.
>
> Should the party be found at his registered or known address or any other place but refuse to receive the notice, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses in the presence of the party so that they may personally observe and attest to such act of refusal. The notice shall then be given to said barangay official. Such

facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.

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

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

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

Service to the tax agent/practitioner, who is appointed by the taxpayer under circumstances prescribed in the pertinent regulations on accreditation of tax agents, shall be deemed service to the taxpayer.

However, pursuant to a well-settled rule in jurisprudence, if a taxpayer denies receipt of the BIR's notice, it becomes incumbent upon respondent to prove by competent evidence that the same was indeed duly received by the taxpayer.

This rule has been elucidated by the Supreme Court in the case of *Barcelon, Roxas Securities, Inc. (now known as UBP Securities Inc.) vs Commissioner of Internal Revenue,*[41] as cited in *Commissioner of Internal Revenue v. Metro Star Superama, Inc. ("Metro Star case"),*[42] to wit:

Jurisprudence is replete with cases holding that **if the taxpayer denies ever having received an assessment from the BIR, it is incumbent upon the latter to prove by competent evidence that such notice was indeed received by the addressee. The onus probandi was shifted to respondent to prove by contrary evidence that the Petitioner received the assessment in the due course of mail.** The Supreme Court has consistently held that while a mailed letter is deemed received by the addressee in the course of mail, this is merely a disputable presumption subject to controversion and a direct denial thereof shifts the burden to the party favored by the presumption to prove that the mailed letter was indeed

---

[41] G.R. No. 157064, August 7, 2006.
[42] G.R. No. 185371, December 8, 2010.

received by the addressee (Republic vs. Court of Appeals, 149 SCRA 351). Thus as held by the Supreme Court in Gonzalo P. Nava vs. Commissioner of Internal Revenue, 13 SCRA 104, January 30, 1965:

> **"The facts to be proved to raise this presumption are (a) that the letter was properly addressed with postage prepaid, and (b) that it was mailed.** Once these facts are proved, the presumption is that the letter was received by the addressee as soon as it could have been transmitted to him in the ordinary course of the mail. But if one of the said facts fails to appear, the presumption does not lie. (VI, Moran, Comments on the Rules of Court, 1963 ed, 56-57 citing Enriquez vs. Sunlife Assurance of Canada, 41 Phil. 269)."

.... **What is essential to prove the fact of mailing is the registry receipt issued by the Bureau of Posts or the Registry return card which would have been signed by the Petitioner or its authorized representative. And if said documents cannot be located, Respondent at the very least, should have submitted to the Court a certification issued by the Bureau of Posts and any other pertinent document which is executed with the intervention of the Bureau of Posts.** This Court does not put much credence to the self serving documentations made by the BIR personnel especially if they are unsupported by substantial evidence establishing the fact of mailing. Thus:

> "While we have held that an assessment is made when sent within the prescribed period, even if received by the taxpayer after its expiration (Coll. of Int. Rev. vs. Bautista, L-12250 and L-12259, May 27, 1959), this ruling makes it the more imperative that the release, mailing or sending of the notice be clearly and satisfactorily proved. Mere notations made without the taxpayer's intervention, notice or control, without adequate supporting evidence cannot suffice; otherwise, the taxpayer would be at the mercy of the revenue offices, without adequate protection or defense." (Nava vs. CIR, 13 SCRA 104, January 30, 1965).

. . . ..

The failure of the respondent to prove receipt of the assessment by the Petitioner leads to the conclusion that no assessment was issued. Consequently, the government's right to issue an assessment for the said period has already prescribed. (Industrial Textile Manufacturing Co. of the Phils., Inc. vs. CIR, CTA Case 4885, August 22, 1996).
(Emphasis included.)

Gleaning from the foregoing, the presumption in favor of receipt of mail by the addressee can be disputed and overturned by sufficient evidence to the contrary by the party against whom the presumption is made. If this occurs, the party who enjoys the presumption must prove that the mailed letter was indeed received by the addressee.

Applying this rule to the case at hand, it is now incumbent upon respondent to prove that the mailed FLD/FAN was indeed received by Calata following the latter's categorical denial of the alleged receipt thereof.

To support its claim, respondent presented RO Marasigan who testified to have issued and served the FLD/FAN to petitioner via registered mail. During the hearing,[43] RO Marasigan highlighted that the registry return receipt[44] attached to the FLD/FAN shows that the notice was duly addressed to the latter's registered address.

However, the presentation of registry return receipt is not sufficient to prove that petitioner actually received the FLD/FAN. It must be signed by the addressee or the recipient, and must be authenticated that the person who signed the registry return receipt was the duly authorized representative of respondent. The ruling of the Supreme Court in the case of *Ting vs. Court of Appeals*[45] is instructive, to wit:

> Given petitioners' denial of receipt of the demand letter, it behooved the prosecution to present proof that the demand letter was indeed sent through registered mail and that the same was received by petitioners. This, the prosecution miserably failed to do. Instead, it merely presented the demand letter and registry return receipt as if mere presentation of the same was equivalent to proof that some sort of mail matter was received by petitioners. ***Receipts for registered letters and return receipts do not prove themselves; they must be properly authenticated in order to serve as proof of receipt of the letters*** (Central Trust Co. v. City of Des Moines, 218 NW 580).
>
> Likewise, ***for notice by mail, it must appear that the same was served on the addressee or a duly authorized agent of the addressee***. In fact, the registry return receipt itself provides that "[a] registered article must not be delivered to anyone but the addressee, or upon the addressee's written order, in which case the authorized agent must write the addressee's name on the proper space and then affix legibly his own signature below it." In the case at bar, no effort was made to show that the demand letter was received by petitioners or their agent. *All that we have on record is an illegible signature on the registry receipt as evidence that someone received the letter. As to whether this signature is that of one of the petitioners or of their authorized agent remains a mystery.* From the registry receipt alone, it is possible that petitioners or their authorized agent did receive the demand letter. . . .
> (Emphasis and italics supplied)

In the case at hand, the registry return signed by a nearly illegible name which appears to the Court as "San Isnacio", and RO Marasigan's testimony, are insufficient to prove that respondent was able to strictly comply with the requirements set forth in *RR No. 18-2013* in serving the FLD/FAN. RO

[43] Transcript of Stenographic Notes ("TSN"), Hearing date July 4, 2024, p. 10.
[44] BIR Records, p. 246.
[45] G.R. No. 140665, November 13, 2000.

Marasigan has no personal knowledge on whether the subject mail was actually received by the addressee or by the latter's duly authorized representative. Further, no affidavit was submitted to the Court explaining the relation of the signatory (San Isnacio) to Calata. Needless to state, RO Marasigan was in no position to testify on such fact since she merely sent the notice to the post office, and the position of signatory was not stated in the registry return receipt, as propounded during the hearing:

> Atty. Abuyan:
> Q: Ms. Witness in Question No. 27, you mentioned that the FLD was served via registered mail.
>
> RO Marasigan:
> A: Yes.
>
> Q: And who received it?
> A: San (Isnacio). There is a registry return receipt. It is written, San Isnacio.
>
> Q: What is his position?
> A: It is not written here.
>
> Q: So, is Mr. (Isnacio) authorized to receive this?
> A: Actually, it was sent through to mail and was addressed to his registered address, And that is one of the allowed by rules and regulations to send it by mail through registered address.
>
> Q: So, do we have evidence like the Affidavit of Service?
> A: There's a registered return receipt here.
>
> Q: But there is no affidavit
> A: I have an affidavit signed by me that I send it through registered mail and the Philpost number is also written.

In addition, We agree with petitioner that such service by registered mail was done in violation *RR 18-2013* which prescribes that service by mail may only be availed if it can be shown that personal service is not practicable.

Here, respondent did not provide any reason why personal service was not practicable. Rather, it appears to the Court that it resorted to service through registered mail at the first instance, a clear failure to comply with the procedures for properly effecting a valid service.

Therefore, having duly established that the assessment notices were not received, petitioner cannot reasonably be expected to file a protest thereto. There is accordingly no merit to respondent's position that the assessment attained its finality due to being unprotested.

All told, the Court finds that the jurisdiction over the present Petition, specifically on the assailed validity of the assessment and the WDL, has been duly acquired.

The assessment is void due to (a) failure to prove due service of FLD/FAN to petitioner; and (b) failure to serve the LOA, NOD and PAN to authorized representatives

(a) Failure to prove due service of FLD/FAN to petitioner

As discussed above, We find that the CIR failed to establish compliance with the requirements of proper service of FLD/FAN under *Section 3.1.6 of RR No. 18-2013.* It now bears emphasis that this necessarily results to a violation of a petitioner's due process rights. Following the pronouncement of the Supreme Court in the case of *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.,*[46] such denial of due process renders an assessment void. In ruling as such, the High Court found guidance from *Commissioner of Internal Revenue vs. Dominador Menguito*[47] and the *Metro Star Case*, and held that:

> ...[T]he Court holds that insofar as the proper service of the formal letter of demand and assessment notice is part of the due process requirement in the issuance of a deficiency tax assessment under Sec. 3 of RR No. 12-99, the absence of such service renders nugatory any assessment made by the tax authorities.
>
> In line with Metro Star, the Court similarly rules that the word "shall" in subsection 3.1.4 of RR No. 12-99 likewise describes the mandatory nature of the service of the formal letter of demand and assessment notice. ***In view of the ruling therein that the persuasiveness of the right to due process reaches both substantial and procedural rights, and that the failure of the CIR to strictly comply with the requirements laid down by law and its own rules is a denial of the taxpayer's right to due process, the Court declares that the CIR's failure to prove that the FLD-DDAN was properly served on SEGI by registered mail renders void the deficiency assessment issued by the CIR***.
>
> It bears emphasis that despite the inevitability and indispensability of taxation, it is required in all democratic regimes that it be exercised reasonably and in accordance with the prescribed procedure; otherwise, the taxpayer has a right to complain and the courts will then come to its succor. For all the awesome power of the tax collector, it may still be stopped in its tracks if the taxpayer can demonstrate that the law has not been observed.
> (Emphasis and italics supplied.)

[46] G.R. No. 223767, 24 April 2023.
[47] G.R. No. 167560, 17 September 2008.

Considering the foregoing, the lack of proper service of FAN can by itself invalidate the subject assessment. However, We shall proceed to discuss below the other matters raised by petitioner which, based on our analysis, bolsters petitioner's position on the nullity of the assessment.

(b) Failure to serve the LOA, NOD and PAN to petitioner or a duly authorized representative

Records show that the second LOA issued by respondent was received by a certain Donard Necia who signed as petitioner's IT-MIS. We, however, note that there was no proof that the signatory was an authorized representative by Calata.

At the time of the issuance of the LOA[48] on August 7, 2019, the same modes of service prescribed for assessment notices under *RR No. 18-2013*, as cited above, apply to the service of an eLA.[49] To reiterate, *RR No. 18-2013* provides that substituted services may be resorted to when the party is not present at the registered address. In such case, the notice may be left at the taxpayer's address, with his clerk or with a person having charge thereof.

Here, no evidence was adduced to prove that Donard Necia was petitioner's clerk or a person having charge to receive the LOA. Necia also signed his position, IT-MIS, and respondent failed to prove that such job position includes the authority to receive LOA or any mails on behalf of petitioner.

From the foregoing, the Court finds that the LOA is invalid as it was improperly served on an unauthorized person. Inevitably, the examiners were deemed stripped of authority to conduct the audit investigation for the subject covered years.

Defects in service were also found by the Court in relation to the NOD[50] and PAN.[51]

Upon review of the NOD and PAN, the documents were both signed received by a certain Jovencio De Leon. The Court found a handwritten note in the NOD which states that:

> This Notice of Discrepancies (NOD & Details of Discrepancies) was served through substituted services by giving the copy of NOD & Details of Discrepancies to the below signed barangay official because the subject

---

48 *Supra* note 9.
49 See Revenue Memorandum Circular No. 110-2020, confirming applicability of the modes of service under RR No. 18-2013 to service of eLA, dated September 24, 2020.
50 *Supra* note 10.
51 *Supra* note 11.

> taxpayer or any of its authorized representative is not found in the taxpayer's registered or known address.
>
> The undersigned barangay official attest to the absence of the concerned party and to the substituted service.

Interestingly, however, Jovencio De Leon signed as clerk or authorized representative of petitioner in the Details of Discrepancies attached to the NOD.[52] No signature was attached under the portion pertaining to the barangay official and the required two witnesses. Moreover, in the PAN, no such allegation as regards service to barangay official was propounded by respondent. It thus appears that the Jovencio De Leon also signed the PAN as an authorized representative of petitioner. Such inconsistency alone casts doubt on the truthfulness of what has actually transpired during the service of the notices, and on the compliance of respondent to the mandates of *RR No. 18-2013.*

In any case, regardless of whether Jovencio De Leon is a barangay official or a clerk of petitioner, We still found failure on the part of the BIR to properly serve the NOD and PAN.

As to the service to barangay official, the rules on substituted service of notices under *RR No. 18-2013* cited above prescribes that if no person is found in taxpayer's registered address, the ROs shall bring a barangay official and two disinterested witnesses to the address so that they may personally observe and attest to such absence. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.

Here, while Jovencio De Leon was claimed by RO Marasigan as a barangay official, the former did not sign in the NOD as such, but as an authorized representative. Moreover, there was failure to comply with the requirement to bring two disinterested witnesses to petitioner's address to attest to the absence of the taxpayer.

Meanwhile, as regards substituted service to an alleged clerk, respondent again failed to show proof that Jovencio De Leon is duly authorized by petitioner to receive notices on his behalf. It appears that no efforts were made by the RO serving the notices, to verify the identity, position and authority of the person who received the documents.

Thus, having been served to one who is not deemed an employee or authorized representative of petitioner, or having been served to a barangay official but without the two required disinterested witnesses the service of the

---

[52] See Acknowledgment of Receipt portion of the Details of Discrepancies, BIR Records, p. 230.

NOD and PAN to Jovencio De Leon does not constitute as valid service to petitioner.

Further, the fact that petitioner, in its Petition and during the hearing,[53] acknowledged having eventually received the NOD and PAN cannot be considered cure to the defects in the requirement of due process under *RR No. 18-2013*. It bears emphasis that the BIR was negligent in complying with its own rules; hence, it should not be allowed to benefit from the doctrine of estoppel.[54]

The WDL is void for having been issued pursuant to an invalid assessment, and for not having been properly served.

Settled is the rule that void assessments bear no valid fruit. Thus, the government is barred from collecting any tax liabilities based on such void assessments. As such, any WDL issued on the basis thereof must necessarily be deemed invalid.

In *Commissioner of Internal Revenue vs. Pilipins Shell Petroleum Corporation*,[55] the Supreme Court emphasized that an assessment is essential for the issuance of a warrant of distraint, to wit:

> Verily, pursuant to the lifeblood doctrine, the Court has allowed tax authorities ample discretion to avail themselves of the most expeditious way to collect the taxes, ***including summary processes,*** with as little interference as possible. However, the Court, at the same time, has not hesitated to strike down these processes in cases wherein tax authorities disregarded due process. The BIR's power to collect taxes must yield to the fundamental rule that no person shall be deprived of his/her property without due process of law. ***The rule is that taxes must be collected reasonably and in accordance with the prescribed procedure.***
>
> In the normal course of tax administration and enforcement, the BIR must first make an ***assessment*** then enforce the collection of the amounts so assessed. 'An assessment is not an action or proceeding for the collection of taxes. x x x It is ***a step preliminary***, but essential to warrant distraint, if still feasible, and, also, to establish a cause for judicial action.' The BIR may summarily enforce collection only when it has accorded the taxpayer ***administrative due process***, which vitally includes the issuance of a valid assessment. A valid assessment sufficiently informs the taxpayer in writing of the legal and factual bases of the said assessment, thereby allowing the taxpayer to effectively protest the assessment and adduce supporting evidence in its behalf.

53 See TSN, Hearing dated April 4, 2024, p. 13.
54 See Commissioner of Internal Revenue vs. Fort 1 Global City Center, Inc., G.R. No. 263811, November 26, 2024.
55 G.R. Nos. 197945 & 204119, July 9, 2018.

> In *Commissioner of Internal Revenue v. Reyes (Reyes Case)*, the petitioner issued an assessment notice and a demand letter for alleged deficiency estate tax against the taxpayer estate. The assessment notice and demand letter simply notified the taxpayer estate of petitioner's findings, without stating the factual and legal bases for said assessment. *The Court, absent a valid assessment, refused to accord validity and effect to petitioner's collection efforts — which involved, among other things, the successive issuances of a collection letter, a final notice before seizure, and a warrant of distraint and/or levy against the taxpayer estate. . . .*
> (Emphasis in the original; italics supplied)

Similarly, in *Commissioner of Internal Revenue vs. BASF Coating + Inks Phils., Inc.,*[56] the High Court explained that the issuance of WDL without valid notice of assessment is violative of a taxpayer's right to due process, *viz*:

> It might not also be amiss to point out that petitioner's issuance of the First Notice Before Issuance of Warrant of Distraint and Levy violated respondent's right to due process because no valid notice of assessment was sent to it. An invalid assessment bears no valid fruit. The law imposes a substantive, not merely a formal, requirement. ***To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations: that taxpayers should be able to present their case and adduce supporting evidence***. In the instant case, respondent has not properly been informed of the basis of its tax liabilities. Without complying with the unequivocal mandate of first informing the taxpayer of the government's claim, there can be no deprivation of property, because no effective protest can be made.
> (Emphasis and italics supplied)

Based on the foregoing, tax collection must be preceded by a valid assessment to allow taxpayer to raise protest and/or provide evidence for defenses, if any, against the alleged liabilities. Hence, based on the Court's finding that the subject assessment notices are void, the resulting WDL must likewise necessarily be deemed invalid and cannot be executed.

On another note, the Court found that there was no proper service of the WDL to petitioner.

The parties made no mention on the circumstances surrounding the service of the WDL. However, a perusal of the back portion of the WDL indicates that the warrant was "served constructively because the taxpayer or his representative refused to acknowledge the service of the warrant, or was not in the premises." Two signatures appear thereon – Earl John B. Dionisio and Francis Aser B. Amata – both of which do not indicate the respective position or capacity upon which the "Service of Warrant" portion of the WDL was signed.

---

[56] G.R. No. 198677, November 26, 2014.

To recall, *RR No. 18-2013* requires two witnesses if the substituted service will be done through a barangay official. Here, if Dionisio and Amata signed as witnesses, their signatures remain insufficient since there was no indication that they observed the service of WDL through a barangay official due to the absence of petitioner in the registered address. Moreover, the name of the barangay official himself/herself was not alleged and shown in the WDL.

All told, considering that the WDL springs from an invalid assessment, and that the same was improperly served upon petitioner, such warrant must necessarily be declared void and cannot be validly enforced against petitioner.

At this juncture, the Court reiterates and emphasizes the rule enshrined in the 1987 Constitution that no person shall be deprived of property without due process of law. In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side, and the constitutional rights of a citizen on the other, the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution.[57]

ACCORDINGLY, the foregoing premises considered, the instant Petition for Review, filed on June 21, 2023, by petitioner Melvin H. Calata is hereby **GRANTED**. For being void, the undated Assessment Notice Nos. IT-2017700015529 and VT-2017700015529, assessing petitioner for deficiency income tax and VAT in 2011, in the aggregate amount of Php11,511,122.52, as well as the WDL No. ARMD-WDL-2022-040, dated November 11, 2022, directed against petitioner, are **CANCELLED** and **SET ASIDE**.

Consequently, respondent is **ENJOINED** and **PROHIBITED** from collecting or taking further action on the subject alleged tax liabilities against petitioner.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

---

[57] Commissioner of Internal Revenue vs. BASF Coating + Inks Phils., Inc., G.R. No. 198677, November 26, 2014, citing Commissioner of Internal Revenue vs. Metro Star Superama, Inc., G.R. No. 185371, December 8, 2010.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CORAZON G. FERRER-FLORES
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