REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL, REVENUE,
Petitioner,

CTA EB No. 1226
(CTA Case No. 8264)

-versus-

Present:
Del Rosario, *PJ*,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas, and
Ringpis-Liban, *JJ*.

COOLMATE CORPORATION,
Respondent.

Promulgated:

JUN 08 2016 10:30 a.m.

x---x

DECISION

CASTAÑEDA, JR., *J.*:

Before the CTA *En Banc* is the petition for review of petitioner Commissioner of Internal Revenue ("CIR", respondent in the division case) filed on October 3, 2014 seeking to reverse and set aside the Decision[1] and the Resolution[2] promulgated on May 19, 2014 and on August 28, 2014, respectively, by the CTA First Division in the case entitled *"Coolmate Corporation v. Commissioner of Internal Revenue, Bureau of Internal Revenue, Revenue District Office No. 48, West Makati, Makati City, Bureau of Internal Revenue, Revenue District Office No. 51, Pasay City, and the Metropolitan Bank and Trust Company"* docketed as CTA Case No. 8264.

[1] *Rollo*, pp.19-48; Penned by Associate Justice Cielito N. Mindaro-Grulla and concurred in by Presiding Justice Roman G. Del Rosario. Associate Justice Erlinda P. Uy was on leave.
[2] *Rollo*, pp. 50-51; Penned by Associate Justice Cielito N. Mindaro-Grulla and concurred in by Associate Justice Erlinda P. Uy. Presiding Justice Roman G. Del Rosario was on official leave.

The CTA First Division (CTA 1st Division) granted the Petition for Review of Coolmate Corporation ("Coolmate" for brevity). The Final Assessment Notice against Coolmate for deficiency income tax for taxable year 2006 in the amount of P17,577,070.63 was declared null and void, and the Warrants of Garnishment were cancelled and deemed withdrawn.

The dispositive portion of the assailed Decision states:

> **WHEREFORE,** in view of the foregoing, the Petition for Review is hereby **GRANTED.** Accordingly, the subject Final Assessment Notice against petitioner for alleged deficiency income tax for the taxable year 2006 in the amount of P17,577,070.63 is declared null and void, and the Warrants of Garnishment dated January 1, 2011 and March 31, 2011 are cancelled and deemed withdrawn.
>
> **SO ORDERED.**

The dispositive portion of the assailed Resolution reads:

> **WHEREFORE,** the instant *Motion for Reconsideration* is **DENIED** for lack of merit.
>
> **SO ORDERED.**

THE FACTS

The facts of the case as found by the CTA 1st Division as stated in the assailed Decision:[3]

> "Petitioner [Respondent in the CTA *En Banc* case, "Coolmate" for brevity] seeks the nullification of the Final Assessment Notice that assessed petitioner for alleged deficiency income tax in the amount of P17,577,070.63 for taxable year 2006.
>
> Petitioner Coolmate Corporation is a corporation duly organized and existing under the laws of the Philippines.

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[3] *Rollo*, pp. 20-40; Petitioner refers to Coolmate Corporation, which is the respondent in the CTA *En Banc* case; Respondent, except Metrobank is now petitioner in the CTA *En Banc* case.

xxx xxx xxx

Respondent RDO No. 48 issued Letter of Authority (LOA) No. 15793 on June 25, 2007, for the examination of petitioner's [Coolmate's] books of account and other accounting records for all internal revenue taxes covering the taxable year 2006. To comply with the said Letter of Authority, petitioner [Coolmate] submitted pertinent documents to RDO No. 48 on September 28, 2007.

Petitioner [Coolmate] updated its registration information with respondent [CIR] on September 12, 2007, transferring its home RDO from RDO No. 48 to RDO No. 49. Consequently, BIR Revenue Region No. 8, RDO No. 49 issued a new Certificate of Registration showing petitioner's [Coolmate's] new business address at 3005 V. Cruz Extension, Brgy. Sta. Cruz, Makati City. On August 28, 2008, petitioner [Coolmate] already moved out from its old office building where it used to maintain its service center and formally turned over its possession to the owner.

Respondent RDO No. 48 sent a letter dated May 5, 2009 to petitioner [Coolmate], which was addressed to Ms. Zeny Maravillas of Coolmate Corp. at 3005 Vito Cruz Extension, Makati City, requiring the latter to submit additional documents for the audit of petitioner's [Coolmate's] books of accounts. Petitioner [Coolmate] sent a Letter-Reply on May 21, 2009, stating that it had submitted the voluminous material requirements and invoking that the Letter of Authority had lost its enforceability after the lapse of more than 120 days from the date of its receipt.

Due to the supposed failure of petitioner [Coolmate] to complete the submission of the required documents after the third and final notice to submit the same was sent, Revenue Examiner Leonita L. Dimagiba recommended the issuance of a subpoena duces tecum to compel petitioner [Coolmate] to do so.

On October 29, 2009, petitioner [Coolmate] received a subpoena duces tecum from respondent RDO No. 48. Petitioner [Coolmate] sent a letter to said respondent through the BIR Office of the Chief Legal Division on November 9, 2009 in response to the said subpoena duces tecum. On November 13, 2009, the BIR Legal Division issued a Certification stating that petitioner had complied substantially with the said subpoena.

Respondent [CIR] RDO No. 48 issued Reassignment Notice dated October 27, 2009, which petitioner [Coolmate] received on November 17, 2009. Post Reporting Notice dated December 15, 2009 was likewise sent to petitioner [Coolmate] by respondent RDO No. 48. Petitioner [Coolmate] replied thereto through a letter dated January 15, 2010.

Revenue Officer Arsenio Tadeo Leachon recommended to the Regional Director of Revenue Region No. 8, RDO No. 48-West Makati the issuance of a Formal Assessment Notice against petitioner [Coolmate] via Memorandum dated February 15, 2010.

On April 8, 2010, petitioner [Coolmate] received a Preliminary Assessment Notice (PAN) dated March 24, 2010 with Details of Discrepancies from respondent RDO No. 48 via registered mail for deficiency income tax for the taxable year 2006 in the amount of P17,409,327.62. The said assessment was addressed to petitioner's president, with business address at Bldg. 8, La Fuerza Compound, 2241 Chino Roces Avenue, Makati City.

Respondent [CIR] issued a Formal Assessment Notice (FAN) with Details of Discrepancies and Assessment Notice on April 13, 2010. However, a Certification from the Makati Central Post Office indicated that Registered Letter No. 234-10, posted on April 13, 2010, addressed to petitioner [Coolmate] at Bldg. 8, La Fuerza Compound, 2241 Chino Roces Ave., Makati City was returned to sender on the ground that the addressee had moved out.

On February 3, 2011, petitioner [Coolmate] received a copy of Warrant of Garnishment No. 2-11-018-0010, dated January 1, 2011, from respondent Metrobank on account of tax dues in the amount of P17,577,070.63 allegedly per Final Assessment Notice No. IT-LA 15793-06-10-0223 dated April 13, 2010.

Petitioner [Coolmate] filed a letter dated February 16, 2011, requesting the reconsideration of the alleged FAN dated April 13, 2010, the quashing of the Warrant of Garnishment, and to refrain from garnishing the personal property of petitioner [Coolmate] in respondent Metrobank or any bank. Petitioner [Coolmate] likewise sent a letter dated February 16, 2011 to respondent Metrobank, demanding that Metrobank must refrain from allowing the garnishment of its account in Metrobank.

Respondent CIR, through Regional Director Jaime Santiago, denied petitioner's [Coolmate] letter dated February 16, 2011 for lack of merit via Memorandum dated March 24, 2011.

Respondent RDO No. 51 sent a Collection Letter to respondent Metrobank on March 31, 2011.

On April 8, 2011, petitioner [Coolmate] filed this Petition for Review with an application for a temporary restraining order and/or writ of preliminary injunction.

During the hearing of petitioner's [Coolmate] Application for Temporary Restraining Order and/or Writ of Preliminary Injunction, petitioner [Coolmate] presented Eufrasio P. Estreras, Jr. as its sole witness.

On May 9, 2011, the Court granted petitioner's [Coolmate] motion, which was treated as a Motion for the Suspension of the Collection of the Tax Liability. Accordingly, petitioner [Coolmate] was ordered to post a surety bond in the amount of P26,365,605.95.

On May 5, 2011, petitioner [Coolmate] filed a Manifestation with attached Amended Petition for Review.

Respondent Metrobank filed its Answer on May 13, 2011, interposing special and affirmative defenses, xxx xxx xxx.

Petitioner [Coolmate] submitted its Reply (To Respondent Metrobank's Answer) on May 23, 2011 through a courier, which was received by this Court on June 8, 2011.

On May 27, 2011, respondent CIR filed a Motion to Defer Filing of Answer and a Motion to Dismiss.

On July 15, 2011, the Court approved petitioner's [Coolmate] surety bond and enjoined respondent CIR and all persons acting in her behalf from undertaking any and all remedies to collect the subject deficiency taxes, including the enforcement, execution and/or implementation of the Warrant of Garnishment.

In its Resolution dated September 13, 2011, the Court noted petitioner's [Coolmate] Manifestation with attached Amended Petition for Review, granted respondent CIR's motion to defer filing of Answer, and denied respondent's Motion to Dismiss.

Respondent CIR filed her Answer on October 21, 2011, through registered mail and received by this Court on November 15, 2011, xxx xxx xxx.

Petitioner's [Coolmate] Pre-Trial Brief, respondent Metrobank's Pre-Trial Brief and respondent CIR's Pre-Trial Brief were filed on December 2, 2011, December 6, 2011 and December 8, 2011, respectively.

On December 16, 2011, petitioner [Coolmate] asked the Court to expunge public respondents' Pre-Trial Brief from the records and/or show cause why they should not be cited for indirect contempt. Public respondents filed their Opposition/Comment on December 21, 2011 by registered mail and received by this Court on December 29, 2011. The Court denied petitioner's [Coolmate] motion on January 16, 2012.

In a Resolution dated March 21, 2012, the Court approved the parties' Joint Stipulation as to the Facts, Issues and some of Petitioner's Documentary Exhibits, and terminated the pre-trial.

The Court dropped respondent Metrobank as a party respondent, after considering the Motion (For Hearing on Respondent Metrobank's Affirmative Defenses) and petitioner's [Coolmate] Comment (On Respondent Metrobank's Motion) in a Resolution dated March 23, 2012.

After completion of the presentation and formal offer of evidence for the petitioner [Coolmate], this Court admitted petitioner's [Coolmate] Exhibits "A" to "W-1" as per this

> Court's Resolution dated July 9, 2012 and the Minutes of the Hearing on April 1, 2013. With the admission thereof, petitioner [Coolmate] formally rested its case.
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> xxx xxx xxx
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> Respondents [CIR] presented their lone witness in the person of Josalyn E. Tan who testified by way of her Judicial Affidavit. Thereafter, respondent [CIR] formally offered Exhibits "1" to "12' which were admitted in the Resolutions dated January 30, 2013 and March 14, 2013. Hence, respondents [CIR] formally rested their case.
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> xxx xxx xxx
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> Petitioner [Coolmate] presented its rebuttal witness in the person of Zenaida O. Maravillas who testified by way of her Judicial Affidavit and Supplemental Judicial Affidavit. Thereafter, petitioner [Coolmate] thru counsel verbally offered exhibits on rebuttal: xxx xxx xxx.
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> On July 10, 2013, the instant Petition for Review was submitted for decision, after the filing of petitioner's [Coolmate] Memorandum on April 30, 2013 and respondents' [CIR] Memorandum on May 31, 2013."

On May 19, 2014, the CTA 1st Division granted the Petition for Review. The subject Final Assessment Notice (FAN) was declared null and void, and the Warrants of Garnishment were cancelled and withdrawn.

On August 28, 2014, the CTA 1st Division denied CIR's Motion for Reconsideration.

On October 3, 2014, the CTA *En Banc* granted CIR's "Motion for Extension of Time to File Petition for Review" filed on September 18, 2014. CIR was given until October 4, 2014 within which to file the Petition for Review.

On October 3, 2014, the CIR filed the Petition for Review.

On November 13, 2014, the CTA *En Banc* ordered CIR to furnish this Court, in the form of compliance, a certified true copy of Revenue Delegation Authority (RDAO) No. 2-2007.

On January 9, 2015, the Court *En Banc* noted CIR's "Compliance."

On February 10, 2015, the CTA *En Banc* ordered Coolmate to file its Comment. On March 17, 2015, the CTA *En Banc* granted Coolmate's "Motion for Extension of Time To File Comment." On March 30, 2015, Coolmate filed its Comment/Opposition.

On April 22, 2015, the parties were ordered by the Court to file Memoranda. Coolmate filed its Memorandum on June 18, 2015. CIR failed to file Memorandum.

On August 4, 2015, this case was submitted for decision.

Hence, this decision.

ISSUES

In this case, CIR raised the following arguments/discussion:[4]

1. The Court of Tax Appeal[s] has no jurisdiction over the instant Petition for Review for failure of the respondent to file the appeal within the mandatory period.
2. Evidence [Exhibit "R"] not properly identified/authenticated.
3. No proper update of change of business address.
4. Coolmate still filed its income tax returns for 2007 and 2008 with RDO No. 48 in West Makati.
5. In order to have valid update the application for change of business address should be filed both with the old and new RDO pursuant to BIR Regulations.
6. Coolmate has not abandoned its business address at "Bldg. 8, La Fuerza Cpd. 2241 Chino Roces Ave., Makati City" even after the alleged application for update of business address.

Based on the CIR's arguments/discussion, the issues in this *en banc* case are the following:

1. Is Coolmate's Petition for Review filed on time?

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[4] *Rollo*, pp. 8- 14.

2. **Is it correct to give credence to Exhibit "R" or BIR Form No. 1905 (Application for Registration Update)?**

3. **Is there a proper update of change of business address of Coolmate?**

Coolmate opposed CIR's Petition for Review based on the following grounds: (1) respondent's Petition for Review filed with the CTA 1st Division was timely filed since the 30-day period should commence from the denial of its request for reconsideration; (2) respondent's BIR Form No. 1905, or Exhibit "R", is self-authenticating and was properly identified by the witness; (3) respondent's transfer to its address at Vito Cruz Extension, Barangay Sta. Cruz, Makati was processed and accepted by BIR RDO No. 49 and remains valid up to this day; and as early as 2008, respondent had completely moved out of its old address at the La Fuerza compound.

THIS COURT'S RULING

The petition is denied.

Coolmate's Petition for Review is timely filed

There is no dispute that the CTA has appellate jurisdiction over other cases arising under the NIRC or related laws administered by the BIR, which include the determination of whether a Warrant of Garnishment issued by the BIR is valid or void.[5] What is disputed in this case is the timeliness of the filing of the case with the CTA.

CIR argues that the CTA has no jurisdiction over the instant petition for review for failure of Coolmate to file the appeal within the mandatory

[5] *San Francisco Water District, represented by its General Manager Engr. Elmer T. Luzon v. Bureau of Internal Revenue of the Department of Finance et al.*, CTA AC No. 83, July 10, 2013, as affirmed in CTA EB No. 1107, June 30, 2015; see also Section 7 (a) (1) of Republic Act No. 1125, as amended, which states that:

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;**

xxx xxx xxx

30-day period from February 3, 2011, which is the date of the receipt of the Warrant of Garnishment. CIR alleges that the Petition should have been filed on March 5, 2011, the 30th day. CIR also alleges that Coolmate erroneously reckoned the filing of the Petition for Review from March 31, 2011, the date it received an alleged "Second Warrant of Garnishment" which was a mere letter dated March 31, 2011. Moreover, CIR alleges that the Amended Petition filed by Coolmate on May 5, 2011 did not extend the 30-day period within which to file the appeal.

Coolmate argues that its Petition for Review was timely filed since the 30-day period should commence from the denial of its request for reconsideration.

CIR's contentions lack merit.

"Time and again, it has been held that the perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. At the risk of being repetitious, the Court declares that the right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law."[6]

Pertinent to this is Section 11 of R.A. 1125, as amended, which states:

> **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.
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> **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**

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[6] *China Banking Corp. v. City Treasurer of Manila*, G.R. No. 204117, July 1, 2015 citing *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*, G.R. No. 167606, August 11, 2010, 628 SCRA 96, 103.

> **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.** A Division of the CTA shall hear the appeal: *Provided, however,* That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case en banc. (Emphases supplied).
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> xxx xxx xxx

Based on the foregoing provision, a person adversely affected by a decision of the CIR has 30 days within which to file a petition for review with the CTA.

In *Commissioner of Internal Revenue v. Metro Star Superama, Inc.,*[7] the case was brought to the CTA by Metro Star Superama, Inc. within thirty (30) days after receipt of the CIR's decision on the motion for reconsideration [a motion filed to the BIR after receipt of the Warrant of Distraint and/or Levy].

Similarly, in the instant case, Coolmate reckoned the 30-day mandatory period to file an appeal with the CTA from the time it was informed by Metrobank of the Collection Letter dated March 31, 2011, which is deemed a denial of its motion for reconsideration on the Warrant of Garnishment, which was sent to Metrobank. The filing of the Petition for Review with an application for a temporary restraining order and/or writ of preliminary injunction on April 8, 2011 with the CTA is within the 30-day period to file an appeal from March 31, 2011. Coolmate's Petition for Review is, therefore, timely filed with the CTA.

BIR Form No. 1905 can be taken at face value without need for the person who prepared the same to testify

CIR alleges that Exhibit "R" or the BIR Form No. 1905 (Application for Registration Information Update) cannot be given any credence because

[7] G.R. No. 185371, December 8, 2010, 637 SCRA 639.

it has not been properly authenticated by the proper witness. CIR argues that Mr. Eufrasio P. Estreras, Jr. is incompetent to testify on the materiality and relevancy of said exhibit considering that a certain Mr. Rolando Dulay appears to be the one who made the application.

On the other hand, Coolmate avers that BIR Form No. 1905, or Exhibit "R", is self-authenticating and was properly identified by the witness.

CIR's allegations deserve a scant consideration.

In *Commissioner of Internal Revenue vs. Philippine National Bank*,[8] the Supreme Court held that the Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) is the competent proof to establish the fact that taxes are withheld. It is not necessary for the person who executed and prepared the certificate of creditable tax withheld at source to be presented and to testify personally to prove the authenticity of the certificates. Pertinent portions of the said case provide:

> **The certificate of creditable tax withheld at source is the competent proof to establish the fact that taxes are withheld. It is not necessary for the person who executed and prepared the certificate of creditable tax withheld at source to be presented and to testify personally to prove the authenticity of the certificates.**
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> xxx xxx xxx
>
> Moreover, as correctly held by the Court of Tax Appeals *En Banc*, **the figures appearing in the withholding tax certificates can be taken at face value since these documents were executed under the penalties of perjury**, pursuant to Section 267 of the 1997 National Internal Revenue Code, as amended, which reads:
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>> **SEC. 267.** *Declaration under Penalties of Perjury.* — Any declaration, return and other statements required under this Code, shall, in lieu of an oath, contain a written statement that they are made under the penalties of perjury. Any person who willfully files a declaration, return or statement containing information which is not true and correct as to every material matter shall, upon conviction, be

[8] G.R. No. 180290, September 29, 2014, 736 SCRA 618.

subject to the penalties prescribed for perjury under the Revised Penal Code.

Thus, **upon presentation of a withholding tax certificate complete in its relevant details and with a written statement that it was made under the penalties of perjury, the burden of evidence then shifts to the Commissioner of Internal Revenue to prove that (1) the certificate is not complete; (2) it is false; or (3) it was not issued regularly.** (Emphases Supplied).

Applying by analogy the PNB case, this Court finds that BIR Form No. 1905 (Application for Registration Information Update) can be taken at face value and without need for the person who prepared the same to testify in Court because BIR Form No. 1905 is executed under the penalties of perjury. Indeed, BIR Form No. 1905 (Exhibit "R")[9] is a competent proof to establish that Coolmate informed the CIR of any update in its registration information. In addition, the CIR never assailed the genuineness and authenticity of the said BIR form. What it merely attacked is the competency of the witness to testify.

As regards the competency of witness Mr. Estreras to testify on the materiality and relevancy of Exhibit "R" or the BIR Form No. 1905 (Application for Registration Information Update), this Court finds the witness competent to testify because of his position as Coolmate's VP for Finance, he has personal knowledge on "areas of xxx taxation xxx and was directly involved in the matters that are subject to this present litigation."[10]

Coolmate notified BIR of its new address

CIR avers that there is no valid update in the change of business address pursuant to Section 11 of Revenue Regulation No. 12-85[11] because the old RDO was not notified.

We disagree. *Jr*

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[9] Division Docket, Vol. II, p. 541.
[10] *Rollo*, pp. 209-210.
[11] Section 11 of BIR Revenue Regulation No. 12-85 states:

Sec. 11. *Change of Address.* — In case of change of address, the taxpayer must give a written notice thereof to the Revenue District Officer or the district having jurisdiction over his former legal residence and/or place of business, copy furnished the Revenue District Officer having jurisdiction over his new legal residence or place of business, the Revenue Computer Center and the Receivable Accounts Division, BIR, National Office, Quezon City, and in case of failure to do so, any communication referred to in these regulations previously sent to his former legal residence or business address as appearing in his tax return for the period involved shall be considered valid and binding for purposes of the period within which to reply.

In *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.,*[12] the Supreme Court ruled that despite the absence of a formal written notice of taxpayer's change of address, the fact remains that the CIR became aware of taxpayer's new address as shown by documents, thus, the three-year period to assess respondent was not suspended and has already prescribed. Pertinent portions of the said case[13] provides:

> "Hence, **despite the absence of a formal written notice of respondent's change of address, the fact remains that petitioner became aware of respondent's new address as shown by documents replete in its records. As a consequence, the running of the three-year period to assess respondent was not suspended and has already prescribed.**
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> It bears stressing that, in a number of cases, this Court has explained that the statute of limitations on the collection of taxes primarily benefits the taxpayer. In these cases, the Court exemplified the detrimental effects that the delay in the assessment and collection of taxes inflicts upon the taxpayers. Thus, in *Commissioner of Internal Revenue v. Philippine Global Communication, Inc.,* this Court echoed Justice Montemayor's disquisition in his dissenting opinion in *Collector of Internal Revenue v. Suyoc Consolidated Mining Company,* regarding the potential loss to the taxpayer if the assessment and collection of taxes are not promptly made, thus:
>
> > 'Prescription in the assessment and in the collection of taxes is provided by the Legislature for the benefit of both the Government and the taxpayer; for the Government for the purpose of expediting the collection of taxes, so that the agency charged with the assessment and collection may not tarry too long or indefinitely to the prejudice of the interests of the Government, which needs taxes to run it; and for the taxpayer so that within a reasonable time after filing his return, he may know the amount of the assessment he is required to pay, whether or not such assessment is well founded and reasonable so that he may either pay the amount of the assessment or contest its validity in court . . . . It would surely be prejudicial to the interest of the taxpayer for the Government collecting agency to unduly delay the assessment and the collection because by the time the collecting agency finally gets around to making the assessment or making the collection, the taxpayer may then have lost his papers and books to

[12] G.R. No. 198677, November 26, 2014, 743 SCRA 124.
[13] *Id.*

> support his claim and contest that of the Government, and what is more, the tax is in the meantime accumulating interest which the taxpayer eventually has to pay.'
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> Likewise, in *Republic of the Philippines v. Ablaza*, this Court elucidated that the prescriptive period for the filing of actions for collection of taxes is justified by the need to protect law-abiding citizens from possible harassment. Also, in *Bank of the Philippine Islands v. Commissioner of Internal Revenue,* it was held that the statute of limitations on the assessment and collection of taxes is principally intended to afford protection to the taxpayer against unreasonable investigations as the indefinite extension of the period for assessment deprives the taxpayer of the assurance that he will no longer be subjected to further investigation for taxes after the expiration of a reasonable period of time. Thus, in *Commissioner of Internal Revenue v. B.F. Goodrich Phils., Inc.,* this Court ruled that the legal provisions on prescription should be liberally construed to protect taxpayers and that, as a corollary, the exceptions to the rule on prescription should be strictly construed." (Emphasis Supplied; Citations Omitted)

Based on the foregoing case, notice to the BIR of taxpayer's change in address need not be formal. What is important is that the BIR is notified and becomes aware of the taxpayer's new address so that the running of the prescription in the assessment and collection of taxes are not suspended. In this case, although the update in change in business address was received by RDO No. 49, it is already a sufficient notice to notify the entire BIR, including the old RDO No. 48.

We reiterate with approval the findings of the CTA 1st Division that the CIR is aware of Coolmate's new address, as discussed in the assailed Decision[14] as follows:

> The Court opines that [CIR] was well informed of [Coolmate]'s transfer of business address from Bldg. 8, La Fuerza Compound, 2241 Chino Roces Ave., Makati City to 3005 Vito Cruz Extension, Makati City. The pieces of evidence establishing the same are numerous. There are documents proving that [Coolmate] updated its registration information, such as BIR Form No. 1905 and Certificate of Registration OCN 9RC0000214970 issued by RDO No. 49, reflecting the new address of [Coolmate]. Similarly, on May 5, 2009, [CIR]

[14] *Rollo,* p. 46.

> sent a letter to [Coolmate] in its new address through Ms. Zeny Maravillas, asking for the submission of pertinent documents. Moreover, [Coolmate] sent letters to [CIR] with their new address indicated therein.

Moreover, contrary to the assertion of CIR, Coolmate already filed its BIR Form No. 1702 (Annual Income Tax Return) for fiscal years 2007 (Exhibit "12")[15], and 2008 (Exhibit "11")[16] with RDO No. 49 (new RDO) and not with RDO No. 48 (old RDO). These pieces of evidence are conclusive proof that Coolmate's change of business address to RDO No. 49 was already recorded in the BIR prior to the issuance of the PAN and FAN on March 24, 2010 and April 13, 2010, respectively, because the date of receipt stated in Exhibits "11" and "12" are April 13, 2009 and April 15, 2008.

We also find the contentions of CIR untenable that Coolmate never abandoned its business address at Bldg. 8, La Fuerza Cpd. 2241 Chino Roces Ave., Makati City and that the letter dated May 21, 2009 (Exhibit "1") of Mr. Vincent M. Tagle, President of Coolmate Corporation, has represented and still represents that respondent is still using and maintaining its address at "Bldg., #15 La Fuerza Compound 2241 Don Chino Roces Ave., Makati City" as its **"Pasong Tamo Service Center."**

A scrutiny of the letter of Mr. Vincent M. Tagle, President of Coolmate Corporation, (Exhibit "1")[17] reveals that both the new and old addresses of Coolmate were indicated therein. The new address was written with bigger fonts and it immediately followed the name of Coolmate. On the other hand, the old address was written in smaller fonts with indication that it is a service center. Common sense dictates that the address which immediately followed the name of the taxpayer should be considered as the main address. Prudence dictates that in case of doubt, the address of Coolmate should have been verified by the CIR before issuance of the PAN and FAN.

Invalid assessment bears no valid fruit

In *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.,*[18] the Supreme Court ruled that "petitioner's issuance of the First Notice Before Issuance of Warrant of Distraint and Levy, violated *Je*

[15] Division Docket, Vol. II, p. 689.
[16] Division Docket, Vol. II, p. 688.
[17] Division Docket, Vol. II, p. 663.
[18] G.R. No. 198677, November 26, 2014, 743 SCRA 126.

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."[19]

We emphasize that Coolmate was not served with the said Warrant of Garnishment.[20] In addition, Coolmate consistently denied the receipt of the Final Assessment Notice (FAN).

In *Commissioner of Internal Revenue v. GJM Philippines Manufacturing, Inc.,*[21] citing *CIR v. Metro Star Superama, Inc.,*[22] the Supreme Court ruled that, "If the taxpayer denies having received an assessment from the BIR, it then becomes incumbent upon the latter to prove by competent evidence that such notice was indeed received by the addressee. xxx xxx xxx It has been settled that while a mailed letter is deemed received by the addressee in the course of mail, this is merely a disputable presumption subject to controversion, the direct denial of which shifts the burden to the sender to prove that the mailed letter was, in fact, received by the addressee."

In this case, the CIR was able to prove that the FAN was sent through registered mail and was returned to sender (CIR). Coolmate, therefore, did not receive the FAN. We reiterate with approval the pertinent portions of the assailed Decision, as follows:

> Records reveal that [Coolmate] did not receive the FAN, although [CIR] sent it through registered mail. A Certification from the Makati Central Post Office proves that [CIR] mailed the assessment notice, but it also establishes that the FAN sent through registered mail was returned to [CIR] because the addressee [Coolmate] had already moved out.
>
> It is noteworthy that the PAN and the FAN were both mailed to petitioner's [Coolmate] address at Bldg. 8, La Fuerza Compound, 2241 Chino Roces Ave., Makati City, notwithstanding the fact that petitioner [Coolmate] already transferred to another business address. xxx xxx xxx

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[19] *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.,* G.R. No. 198677, November 26, 2014, 743 SCRA 126 citing *Commissioner of Internal Revenue v. Reyes/Reyes v. Commissioner of Internal Revenue*, G.R. Nos. 159694/163581, January 27, 2006, 480 SCRA 382, 396.
[20] Division Docket, Vol. I, p. 141.
[21] G.R. No. 202695, February 29, 2016.
[22] 652 Phil. 172, 181 (2010).

It is clear from the foregoing that the assessment notice was not properly addressed to petitioner [Coolmate].

"It is an elementary 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 to due process of law and the equal protection of the laws 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."[23]

Considering that due process was not observed in this case, the CTA 1st Division correctly declared as null and void the FAN for alleged deficiency income tax for the taxable year 2006, which resulted in the cancellation of the Warrant of Garnishment dated January 1, 2011 and the Collection Letter dated March 31, 2011.

WHEREFORE, premises considered, the Petition for Review is **DENIED** for lack of merit. Accordingly, the May 19, 2014 Decision and the August 28, 2014 Resolution of the CTA 1st Division are **AFFIRMED**. The Final Assessment Notice against respondent for alleged deficiency income tax for the taxable year 2006 in the amount of P17,577,070.63 is declared null and void, and the Warrant of Garnishment dated January 1, 2011 and the Collection Letter dated March 31, 2011 are cancelled and deemed withdrawn.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

[23] *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.*, G.R. No. 198677, November 26, 2014, citing *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, G.R. No. 185371, December 8, 2010, 637 SCRA 633, 647.

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *en banc* before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice