REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

TARLAC I ELECTRIC COOPERATIVE INC. (TARELCO I) *Petitioner,*	**CTA CASE NO. 10633** Members: **RINGPIS-LIBAN,** *PJ, Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 18 2026 4:05 pm

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

This is a Petition for Review,[1] electronically filed on September 7, 2021,[2] pursuant to *Section 228 of the National Internal Revenue Code ("Tax Code"),* in relation to *Section 7 (1) of Republic Act ("RA") No. 1125,*[3] *as amended by RA No. 9282,*[4] praying for the cancellation and nullification of the (i) Warrant of Distraint and/or Levy ("WDL") No. WDL-2021-RR4-AMS-000102[5] dated July 2, 2021, and (ii) the assessments sought to be collected by the subject WDL, alleging deficiency income tax ("IT"), value-added tax ("VAT"), and administrative fines and penalties for the taxable year ("TY") 2016 in the total amount of Php107,333,488.57.[6]

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1 Docket Vol. 1, pp. 1-47.
2 Electronic copy filed with the Court on September 7, 2021, *id.,* at 56; hard copies submitted, and docket fees paid on October 26, 2021.
3 An Act Creating the Court of Tax Appeals, June 16, 1954.
4 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.
5 Exhibit "P-36", Docket Vol. 1, p. 385.
6 See Prayer, Petition for Review, *id.* at 45.

The Parties

Petitioner Tarlac I Electric Cooperative Inc. ("petitioner" or "TARELCO") is domestic corporation duly organized and existing under the laws of the Philippines, with principal office address at Municipality of Paniqui, Province of Tarlac.[7] It is a non-stock, non-profit electric cooperative registered with the National Electrification Administration with Registration No. 57 dated January 24, 1975.[8] Likewise, it is registered with the BIR as shown in its Certificate of Registration with OCN No. 4RC0000679012[9] dated December 10, 1999 with Tax Identification Number No. 000-543-781-000.

On the other hand, respondent Commissioner of Internal Revenue ("respondent" or "CIR") is the chief of the Bureau of Internal Revenue ("BIR"), the government agency vested with the authority to administer and enforce national internal revenue taxes, including, among others, the assessment and collection of all internal revenue taxes, fees, and charges. He may be served with summons, notices, and other court processes at his office at the BIR National Office Building, Diliman, Quezon City.[10]

The Facts

On October 2, 2018, Petitioner received a Letter of Authority ("LOA") No. 17B-2018-00000120 (SN: eLA201500074013),[11] dated September 27, 2018, authorizing Revenue Officers ("RO") Angelina C. Soriano and Group Supervisor ("GS") Teresita Y. Lumayag of Revenue District Office ("RDO") No. 17B – Paniqui, Tarlac to examine petitioner's books of accounts and other accounting records covering TY2016.

Pursuant to said LOA, petitioner received a Notice for Informal Conference,[12] on February 12, 2020, assessing petitioner of deficiency taxes in the amount of Php374,498,508.70, inclusive of statutory penalties for TY2016. Petitioner filed its reply[13] thereto on July 2, 2020.

On September 23, 2020, petitioner received a copy of the Preliminary Assessment Notice ("PAN"),[14] dated September 22, 2020, issued by Regional Director ("RD") Edgar B. Tolentino of BIR Revenue Region No. 4, assessing

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7 See Exhibit "P-2", Articles of Incorporation, dated January 24, 1975, Docket Vol. 4, p. 1449.
8 Exhibit "P-1", Docket Vol. 1, p. 260.
9 Exhibit "P-4", *id.* at 262.
10 Joint Stipulation of Facts and Issues ("JSFI"), Docket Vol. 3, p. 1099-1100.
11 Exhibit "P-11", Docket Vol. 1, p. 277.
12 Exhibit "P-12" *id.* at 278-290.
13 Exhibit "P-14", *id* at 291-312.
14 Exhibit "P-15", *id.* at 313-319.

petitioner for alleged deficiency internal revenue taxes for TY2016 in the total amount of Php288,804,109.06 broken down as follows:

Income Tax	Php145,661,410.16
Value Added Tax	75,455,653.69
Expanded Withholding Tax	7,682,045.21
Administrative Fines and Penalties	5,000.00
TOTAL	**Php228,804,109.06**

Thereafter, on October 8, 2020, petitioner submitted its reply[15] to PAN. Nonetheless, respondent continued to assess petitioner of deficiency taxes through the issuance of a Formal Letter of Demand ("FLD") with Assessment Notices ("FAN"),[16] dated October 12, 2020, received by petitioner on October 20, 2020. The same was also issued by RD Tolentino. In the FLD/FAN, petitioner is assessed for alleged deficiency IT, VAT, EWT and administrative fines and penalties, in the total amount of Php229,822,398.91, broken down as follows:

Income Tax	Php146,630,333.06
Value Added Tax	75,455,653.69
Expanded Withholding Tax	7,731,412.16
Administrative Fines and Penalties	5,000.00
TOTAL	**Php229,822,398.91**

Petitioner then filed its protest[17] to FLD/FAN addressed to RD Tolentino on November 19, 2020.

On November 27, 2020, Petitioner partially paid through BIR Forms 0605 the alleged deficiency taxes in the amount of Php17,753,546.29, broken down as follows:

Income Tax	Php 7,766,246.57[18]
Value Added Tax	2,264,600.60[19]
Expanded Withholding Tax	7,717,699.12[20]
Administrative Penalty	5,000.00[21]
TOTAL	**Php 17,753,546.29**

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15 Exhibit "P-16", *id.* at 320-334.
16 Exhibit "P-17", Docket Vol. 2, pp. 821-831.
17 Exhibit "P-18", Docket Vol. 1, pp. 346-365.
18 Exhibit "P-19", USB submitted by ICPA.
19 Exhibit "P-22", *id.*
20 Exhibit "P-25", *id.*
21 See FDDA, Exhibit "P-34", where the BIR acknowledged petitioner's payment of administrative penalties in the amount of Php5,000, Docket Vol. 1, p. 366,.

On January 6, 2021, petitioner received a letter[22] dated November 26, 2020, signed by RD Tolentino in reference to petitioner's protest dated November 19, 2020, informing petitioner that the letter-protest and the docket of the case were referred to Revenue District Office No. 17B – Paniqui, Tarlac for the reinvestigation of the case. Petitioner was required to submit all the relevant supporting documents within 60 days from the date of filing of the protest/request for reinvestigation. Thus, on January 18, 2021, petitioner submitted such additional supporting documents.[23]

On March 24, 2021, petitioner received the Final Decision on Disputed Assessment ("FDDA"),[24] dated March 2, 2021, together with details of discrepancies, signed by RD Tolentino. In the FDDA, respondent assessed petitioner for alleged deficiency taxes, penalties, and interests for TY2016, in the total amount of Php107,333,488.56, broken down as follows:

Income Tax	Php 31,747,271.22
Value Added Tax	75,586,217.34
TOTAL	**Php107,333,488.56**

On April 22, 2021, petitioner filed an administrative appeal[25] in the form of a request for reconsideration.

However, without action by respondent on said appeal, the subject WDL[26] was issued by respondent on July 2, 2021 and received by petitioner on August 9, 2021.

Aggrieved, petitioner filed the instant Petition for Review[27] on September 7, 2021, via electronic filing.[28] Hard copies of the same were submitted to the Court on October 26, 2021, together with the proof of payment of filing fee.[29]

Thereafter, according to petitioner, it was informed by its depositary banks, on October 29, 2021, that the BIR issued Warrants of Garnishment ("WoGs"). Petitioner claims that copies of the WoGs listed below, relative to the TY2016 tax investigation, were provided by respondent upon request.

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22 Exhibit "P-32", Docket Vol. 4, p. 1453.
23 See Exhibit "P-33", External hard drive of exhibits.
24 Exhibit "P-34", Docket Vol. 1, pp. 366—368.
25 Exhibit "P-35", *id.* at 369-384.
26 *Supra* note 5.
27 *Supra* note 1.
28 *Supra* note 2.
29 See official receipts issued by the Court, Docket Vol. 1, pp. 4-5.

Exhibit No.	Description
P-88[30]	Warrant of Garnishment issued to Bank of Philippine Islands with Warrant of Garnishment No. WG-2021-RR4-AMS-002466
P-89[31]	Warrant of Garnishment issued to Banco De Oro Universal Bank with Warrant of Garnishment No. WG-2021-RR4-AMS-002467
P-90[32]	Warrant of Garnishment issued to Metropolitan Bank & Trust Company with Warrant of Garnishment No. WG-2021-RR4-AMS-002468
P-91[33]	Warrant of Garnishment issued to China Banking Corporation with Warrant of Garnishment No. WG-2021-RR4-AMS-002469
P-92[34]	Warrant of Garnishment issued to United Coconut Planters Bank with Warrant of Garnishment No. WG-2021-RR4-AMS-002470
P-93[35]	Warrant of Garnishment issued to Security Bank with Warrant of Garnishment No. WG-2021-RR4-AMS-002471
P-94[36]	Warrant of Garnishment issued to Philippine Savings Bank with Warrant of Garnishment No. WG-2021-RR4-AMS-002472
P-95[37]	Warrant of Garnishment issued to Philippine National Bank with Warrant of Garnishment No. WG-2021-RR4-AMS-002473
P-96[38]	Warrant of Garnishment issued to Land Bank of the Philippines with Warrant of Garnishment No. WG-2021-RR4-AMS-002474
P-97[39]	Warrant of Garnishment issued to Bank of Commerce with Warrant of Garnishment No. WG-2021-RR4-AMS-002475
P-98[40]	Warrant of Garnishment issued to Maybank with Warrant of Garnishment No. WG-2021-RR4-AMS-002476
P-99[41]	Warrant of Garnishment issued to Rizal Commercial Banking Corporation with Warrant of Garnishment No. WG-2021-RR4-AMS-002477
P-100[42]	Warrant of Garnishment issued to Eastwest Banking Corporation with Warrant of Garnishment No. WG-2021-RR4-AMS-002478

[30] *Id.* at 154.
[31] *Id.* at 155.
[32] *Id.* at 156.
[33] *Id.* at 157.
[34] *Id.* at 158.
[35] *Id.* at 159.
[36] *Id.* at 160.
[37] *Id.* at 161.
[38] *Id.* at 162.
[39] *Id.* at 163.
[40] *Id.* at 164.
[41] *Id.* at 165.
[42] *Id.* at 166.

P-101[43]	Warrant of Garnishment issued to Development Bank of the Philippines with Warrant of Garnishment No. WG-2021-RR4-AMS-002479
P-102[44]	Warrant of Garnishment issued to Philippine Bank of Communications with Warrant of Garnishment No. WG-2021-RR4-AMS-002480
P-103[45]	Warrant of Garnishment issued to Union Bank of the Philippines with Warrant of Garnishment No. WG-2021-RR4-AMS-002481

On November 29, 2021, petitioner filed its Urgent Motion to Lift Warrant of Garnishment, Suspend the Collection of Taxes and Dispense with Payment of Bond ("Urgent Motion"),[46] dated November 26, 2021.

Meantime, respondent filed his Answer[47] on March 4, 2022.

The Urgent Motion was thereafter heard on March 17, 2022,[48] during which petitioner presented its witness, Mayvellene M. De Aquino, who testified on direct examination by way of her Judicial Affidavit,[49] dated September 7, 2021, and Supplemental Judicial Affidavit,[50] dated November 26, 2021.

On April 4, 2022, petitioner filed its Formal Offer of Evidence ("FOE") (with Motion to Set Additional Commissioner's Hearing), relative to the Urgent Motion.[51] Respondent, on the other hand, filed his Comment (Re: Petitioner's Formal Offer of Evidence),[52] on April 21, 2022.

On April 27, 2022, petitioner filed a Motion to Recall Mayvellene M. De Aquino and to Defer the Resolution of Petitioner's Formal Offer of Evidence,[53] and a Motion for Leave to File Supplemental Judicial Affidavit of Mayvellene M. De Aquino.[54] Both motions were granted by the Court on September 27, 2022.[55]

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[43] *Id.* at 167.
[44] *Id.* at 168.
[45] *Id.* at 169.
[46] *Id.* at108-132.
[47] *Id.* at 196-210.
[48] See Minutes of hearing, dated March 17, 2022, *id.* at 221.
[49] Exhibit "P-86", *id.* at 62-107.
[50] Exhibit "P-104", *id.* at 139-153.
[51] *Id.* at 245-259.
[52] *Id.* at 403-406.
[53] *Id.* at 409-415.
[54] *Id.* at 416-425.
[55] See Resolution, dated September 27, 2022, Docket Vol. 2, pp. 760-764.

During the continuation of the hearing on the Urgent Motion on October 20, 2022,[56] petitioner recalled witness De Aquino who again testified on direct examination by way of Supplemental Judicial Affidavit, dated April 26, 2022.[57]

On November 2, 2022, petitioner filed its Supplemental FOE, [58] while respondent's comment[59] thereon was submitted on November 14, 2022. Petitioner likewise submitted a Memorandum in support of its Urgent Motion, on December 5, 2022.[60]

Meanwhile, petitioner[61] and respondent[62] submitted their respective pre-trial briefs on August 5, 2022 and September 3, 2022. The pre-trial conference thereafter ensued on February 23, 2023.[63]

The parties submitted their Joint Stipulation of Facts and Issues[64] ("JSFI"), on March 27, 2023, which was approved by the Court through the Pre-Trial Order[65] promulgated on May 26, 2023.

Petitioner then moved for the commissioning of Independent Certified Public Accountant ("ICPA") Marco Fernando L. Ng.[66] The same was approved by the Court during the hearing held on July 25, 2023.[67]

In the same hearing, petitioner presented the testimony of witness De Aquino, who testified on direct examination by way of her Amended Judicial Affidavit dated March 27, 2023.[68]

On January 11, 2024, the Court issued a Resolution[69] granting petitioner's Urgent Motion. Accordingly, the subject WoGs served upon petitioner's various bank deposits and such other summary collection remedies employed by respondent to collect the alleged deficiency taxes for TY2016 were declared null and void. Respondent moved for reconsideration[70] on the said resolution but the same was denied on April 19, 2024.[71]

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56 See Minutes of hearing, dated October 20, 2022, *id.* at 787.
57 Docket Vol. 1, pp. 432-447.
58 Docket Vol. 2, pp. 810-820.
59 *Id.* at1007-1009.
60 Docket Vol. 3, pp. 1018-1083.
61 See Petitioner's Pre-Trial Brief, Docket Vol. 2, pp. 726-749.
62 See Respondent's Pre-Trial Brief, *id.* at 751-756.
63 See Minutes of hearing, dated February 23, 2023, Docket Vol. 3, p. 1088.
64 JSFI, *id.* at 1099-1021.
65 Pre-Trial Order dated May 26, 2023, *id.* at 1242-1260.
66 See Submission (With Attached Judicial Affidavit of Marco Fernando L. Ng dated March 27, 2023), *id.* at 1194-1198.
67 See Minutes of hearing, dated July 25, 2023, *id.* at 1264.
68 *Id.* at 1132-1193.
69 Resolution, dated January 11, 2024, *id.* at 1332-1339.
70 See Motion for Reconsideration (Re: Resolution dated 11 January 2024), *id.* at 1340-1349.
71 See Resolution, dated April 19, 20224, *id.* at 1402-1403.

On April 30, 2024, petitioner presented ICPA Ng[72] before the Court who testified on direct examination through his Judicial Affidavit[73] dated September 27, 2023.

There being no other witnesses to be presented, petitioner proceeded to file its FOE[74] on the main case on May 29, 2024. After noting respondent's comment[75] filed on June 3, 2024, the Court resolved petitioner's FOE, on July 11, 2024, admitting the evidence offered except Exhibits "P-39", "P-40-1" to "P-40-12", "P-41", "P-43-1" to "P-43-14", "P-44", "P-45-1" to "P-45-53", "P-46-1" to "P-46-47", "P-47-1" to "P-47-3", "P-48-1" to "P-48-18", "P-72", "P-73", "P-74", "P-75", "P-76-1" to "P-76-50", "P-77", "P-78-1" to "P-78-16", "P-79", "P-80", "P-81", and "P-82-1" to "P-82-25", for failure to have these compared and marked during a Commissioner's Hearing.[76]

Petitioner filed a motion for reconsideration[77] on the resolution of the FOE, July 26, 2024; thus, the Court admitted Exhibit "P-72" on November 29, 2024.[78]

On the other hand, respondent presented his witness RO Soriano, who testified on direct examination by way of Judicial Affidavit,[79] dated September 27, 2022, during the hearing held on July 11, 2024.[80]

Respondent submitted his FOE[81] on July 31, 2024. All exhibits offered therein were admitted by the Court through the resolution dated November 29, 2024.[82]

On February 3, 2025, petitioner filed its memorandum.[83] After noting such submission, as well as respondent's failure to file his memorandum, the Court submitted the instant Petition for Review for decision on February 18, 2025.

The Issues[84]

I. WHETHER THE COURT HAS JURISDICTION OVER THE INSTANT PETITION FOR REVIEW;

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72 See Minutes of hearing, dated April 30, 2024, *id.* at 1407.
73 Exhibit "P-132", *Id.* at 1283-1329.
74 Docket Vol 4, pp. 1413-1448.
75 *Id.* 1772-1774.
76 See Resolution, dated July 11, 2024, *id.* at 1832-1834.
77 *Id.* at 1837-1845.
78 See Resolution, dated November 29, 2024, Docket Vol. 5, pp. 1876-1877.
79 Docket Vol. 1, pp. 773-782.
80 See Minutes of hearing, dated July 11, 2024, Docket Vol. 4, p. 1835.
81 *Id.* at 1862-1872.
82 *Supra* note 78.
83 Docket Vol. 5, pp. 1879-1943.
84 See JSFI, Docket Vol. 3, pp. 1101; see also Pre-trial Order, Docket Vol. 3, p. 1245.

II. WHETHER PETITIONER IS LIABLE FOR PAYMENT OF DEFICIENCY INCOME TAX AND VAT PLUS PENALTIES, INTEREST AND SURCHARGES, IN THE AGGREGATE AMOUNT OF PHP107,333,488.57, FOR TY2016;

A. WHETHER THE MEMBER'S CAPITAL CONTRIBUTION ("MCC") /REINVESTMENT FUND FOR SUSTAINABLE CAPEX ("RFC") ACCOUNT OF PETITIONER IS SUBJECT TO INCOME TAX AND VAT;

B. WHETHER PETITIONER'S EXEMPT SALES COMPOSED OF (1) PASSED-ON GENERATION AND TRANSMITTION CHARGES WITH THE CORRESPONDING VAT COMPONENT; (2) MCC/RFSC; (3) UNIVERSAL CHARGES; (4) FEED-IN TARIFF ALLOWANCE CHARGES; (5) LATE PAYMENT SURCHARGES, ARE SUBJECT TO VAT;

C. WHETHER PETITIONER'S RIGHT TO DUE PROCESS WAS VIOLATED; AND

D. WHETHER THE PERIOD TO ASSESS PETITIONER'S VAT FOR THE 1ST AND 2ND QUARTERS OF TY2016 HAD ALREADY PRESCRIBED.

Arguments of the Parties

Petitioner's Arguments[85]

Foremost, petitioner argues that the Court has jurisdiction to take cognizance of the instant Petition for Review. It highlights that the WDL constitutes an act of the CIR on "other matters" arising under the Tax Code which may be subject of an appeal with the CTA within 30 days from receipt of the WDL.

[85] See Memorandum, dated January 31, 2025, Docket Vol 5, pp. 1893-1939.

Petitioner also argues that it is not liable for payment of the assessed deficiency income tax and VAT plus penalties, interest and surcharges for TY2016. It alleges violations to its right to due process which, according to petitioner, must necessarily nullify the subject assessments. First, it insists that respondent did not render a decision on defenses and evidence presented by petitioner in its reply to PAN and protest to FLD. Next, it highlights that the group supervisor who conducted the audit of petitioner's books of accounts was not authorized to do so. Also, petitioner posits that the assessments are void for respondent's failure to comply with its General Audit Procedure and Documentation ("GAPD") which mandates that the RO is allowed only 120 (now 180)[86] days from the date of receipt of the LOA to conduct the audit and submit the required report of investigation, If he/she failed to do so within such period, a progress report must be submitted to the head office, and the LOA must be surrendered for revalidation. According to petitioner, lacking such revalidation on the LOA nullifies any examination on petitioner's books.

Furthermore, petitioner raises the issue on prescription of the CIR's right to assess deficiency VAT for the 1st and 2nd quarters of TY2016. In addition, petitioner argues that as an electric cooperative, it is permanently exempt from income tax. It also advances that the Member's Capital Contribution ("MCC")/Reinvestment Fund of Sustainable CAPEX ("RFSC") are not subject to both income tax and VAT as they are in the nature of capital.

Finally, petitioner argues that its exempt sales composed of: (1) passed-on generation and transmission charges with the corresponding VAT component; (2) MCC/RFSC; (3) Universal Charges; (4) FIT-All Charges; and (5) late payment surcharges, are not subject to VAT. It insists that these do not form part of petitioner's gross receipts and revenue, thus, non-VATable.

Respondent's Counter-Arguments[87]

The CIR, on the other hand, counters that the FLD/FAN was issued within the authorized period as provided by law, and in accordance with prevailing laws and rules. He insists that the PAN, FLD, and FDDA show that it has complied with the minimum requirements specified under *Section 228 of the Tax Code*. He further highlights that there were neither facts nor laws that were not disclosed to petitioner so as to warrant the avoidance of the assessment.

As regards the merits of the assessment items, respondent explains that by virtue *Fiscal Incentives Review Board ("FIRB") Resolution No. 24-87*, the tax exemption and privileges of electric cooperatives pursuant to *Section 39 (a) of Presidential Decree ("PD") No. 269* was restored effective July 1,

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[86] Revenue Memorandum Order ("RMO") No. 19-15, September 15, 2015.

[87] See Memorandum (For Respondent), dated November 14, 2024, Docket Vol 5, pp. 1250-1261.

1987. However, the same is subject to the condition that income from their electric service operations and other sources including the interest income from bank deposits and yield or any other monetary benefit from bank deposits and yield or any other similar arrangements shall remain taxable. Hence, according to respondent, petitioner's income from its electric service operations is subject to income tax.

Meanwhile, in relation to the MCC/RFSC, respondent argues that this cannot be patterned with the tax treatment of patronage capital as the latter is an equity investment that must be accounted for and could be withdrawn by the member-consumers upon termination of their contract. On the other hand, according to respondent, the MCC/RFSC is not withdrawable, not identifiable on per member-individual basis, without acknowledgement of being a patronage capital and without benefit of a fair return of members' investments. Hence, respondent insists that he is correct in subjecting the same to income tax.

Lastly, respondent highlights that the burden of proof is on the taxpayer contesting the validity or correctness of an assessment to prove not only that the CIR is wrong but the taxpayer is right. Otherwise, according to respondent, the presumption of correctness of tax assessment stands.

The Ruling of the Court

The Court has jurisdiction over the instant Petition for Review – both as regards the WDL and the subject assessment

In arguing that the Court has jurisdiction over the present case, petitioner highlights that the appeal herein was filed before the CTA based on "other matters" arising under the Tax Code. It insists that the WDL issued by respondent is clearly a collection effort covered by "other matters" jurisdiction of the CTA.

However, a review of petitioner's Prayer herein shows that it is not just seeking for cancellation of the WDL, but also the IT and VAT assessments sought to be satisfied by the same WDL.

Accordingly, in order to ascertain whether the Court in Division can fully rule on the case based on what petitioner has prayed for, it becomes crucial to determine whether the Court has jurisdiction, *first,* over the WDL, and, *second,* over the assessment. For such purpose, We must refer to *Section 7(1) of RA No. 1125,* as amended by *RA No. 9282*, which provides for the jurisdiction of that the CTA as follows:

> SEC. 7. *Jurisdiction.* — The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided —
>
> 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 imposed in relation thereto, or ***other matters arising under the National Internal Revenue Code*** or other laws or part of law administered by the Bureau of Internal Revenue;
> (Emphasis and italics supplied)

In relation thereto, *Section 11* of the same law prescribes the period (i.e., 30 days) within which a taxpayer may seek judicial recourse from receipt an adverse decision or inaction of the CIR, thus:

> 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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> . . .
>
> (Emphasis and italics supplied)

i. Jurisdiction over the WDL

Section 7(1) of RA No. 1125, as amended by *RA No. 9282,* as cited above, clearly vests jurisdiction to the CTA over "other matters" arising under the Tax Code. In the landmark case of *Philippine Journalists, Inc. v. Commissioner of Internal Revenue (Philippine Journalists case)*,[88] the Supreme Court explained how a WDL falls within such phrase, to wit:

> The appellate jurisdiction of the CTA is not limited to cases which involve decisions of the Commissioner of Internal Revenue on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the Bureau of Internal Revenue. The wording of the provision is clear and simple. ***It gives the CTA the jurisdiction to determine if the warrant of distraint and levy issued by the BIR is valid and to rule if the Waiver of Statute of Limitations was validly effected.***
> (Emphasis and italics supplied)

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

Consistent thereto, the Supreme Court has upheld the same stance in the later cases of *Commissioner of Internal Revenue vs. Manila Medical Services, Inc.*,[89] *Commissioner of Internal Revenue vs. Court of Tax Appeals Second Division and QL Development, Inc. (QL Development case)*,[90] and *La Flor Dela Isabel, Inc. vs. Commissioner of Internal Revenue.*[91]

In the *QL Development case*, the High Court elucidated that the validity of the assessment is a separate and distinct issue from the determination of the propriety of the CIR's collection, specifically the alleged prescription thereof, to wit:

> . . . (T)he fact that an assessment has become final for failure of the taxpayer to file a protest within the time allowed only means that the validity or correctness of the assessment may no longer be questioned on appeal. However, ***the validity of the assessment itself is a separate and distinct issue from the issue of whether the right of the CIR to collect the validly assessed tax has prescribed.*** This issue of prescription, being a matter provided for by the NIRC, is well within the jurisdiction of the CTA to decide.
> (Emphasis and italics supplied)

Further, in the more recent case of *Commissioner of Internal Revenue vs. Pacific Hub Corp.,*[92] the Supreme Court reaffirmed and clarified the scope of the CTA's "other matters" jurisdiction, emphasizing that such jurisdiction is not limited to issues arising or incidental to tax assessments or jurisdiction, but extends to matters arising from the application of the Tax Code, *viz:*

> In *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.*, the Court had occasion to elucidate that the term "other matters" is virtually unbridled save for the qualifying phrase that immediately follows:
>
>> Plainly, the assailed CTA En Banc Decision was correct in declaring that there was nothing in the foregoing provision upon which petitioner's theory with regard to the parameters of the term "other matters" can be supported or even deduced. **What is rather clearly apparent, however, is that the term "other matters" is limited only by the qualifying phrase that follows it.**
>>
>> Thus, on the strength of such observation, we have previously ruled that the appellate jurisdiction of the CTA is not limited to cases which involve decisions of the CIR on matters relating to assessments or refunds. **The second part of the provision covers other cases that arise out of the National Internal Revenue Code (NIRC) or related laws administered by the Bureau of Internal Revenue (BIR).**

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[89] G.R. No. 255473, February 13, 2023.
[90] G.R. No. 258947, March 29, 2022.
[91] G.R. No. 202105, April 28, 2021.
[92] G.R. No. 252944, November 27, 2024.

> Indeed, a plain reading of the provision yields the inevitable conclusion that ***the CTA has the power to review not only matters arising or incidental to tax assessments or refunds, but also to any case arising from the application of the provisions of the Tax Code or other tax laws that are administered by the BIR.*** In fact, the Court has affirmed the CTA's "other matters" jurisdiction over cases involving: (a) the determination of whether the right of the CIR to collect the validly assessed tax has prescribed; (b) ***cases seeking the cancellation and withdrawal of a warrant of distraint and/or levy***; (c) cases seeking a determination of the validity of waivers of the statute of limitations as well as the proper availment of tax amnesty; and (d) cases on the proper exercise of the CIR's power to compromise delinquent accounts and to grant an informer's reward. (Emphasis and italics supplied)

Clearly, the remedy of appeal to this Court is available to petitioner provided that it is made within 30 days from the receipt of the WDL, pursuant *Section 11 of RA No. 1125*, as amended by *RA No. 9282.*

Here, the WDL was received by petitioner on August 9, 2021. Counting 30 days therefrom, petitioner had until September 8, 2021 within which to file an appeal; thus, the timely electronic submission of the Petition for Review on September 7, 2021, pursuant to *CTA En Banc Resolution No. 4-2021*[93] which prescribes for the electronic filing of pleadings, motions and other court submissions through the Court's official email address. Hard copies of the same Petition for Review as well as the proof of payment of the filing and other legal fees, as required by the same *En Banc* resolution, were submitted on October 26, 2021.[94]

Hence, the Court has duly acquired jurisdiction over the WDL.

ii. Jurisdiction over the assessment

To recall, *Section 7(1) of RA No. 1125,* as amended by *RA No. 9282* provides that the CTA shall have jurisdiction over decisions of the CIR in cases involving disputed assessments. In relation thereto, *Section 228 of the Tax Code* provides that if a protest or administrative appeal is denied, in whole or in part, by the Commissioner, the taxpayer adversely affected by the decision may appeal to the CTA within thirty days from the receipt of the adverse decision. The provision states:

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[93] Dated February 24, 2021.

[94] *En Banc Resolution No. 4-2021* requires that hard copies of the pleadings, and the proof of payment of filing fees must be submitted within five days from filing through email. However, pursuant to several Supreme Court circulars (*Administrative Circular No. 56-2021, July 30, 2021; OCA Circular No. 114-2021, August 20, 2021; OCA Circular No. 117-2021, August 28, 2021; OCA Circular No. 119-2021, September 7, 2021; OCA Circular No. 120-2021, September 8, 2021; Administrative Circular No. 72-2021, September 15, 2021; OCA Circular No. 123-2021, October 1, 2021; Administrative Circular No. 83-2021, October 18, 2021*), due to the physical closure of the Court beginning August 2, 2021, in view of the declaration of community quarantines in the National Capital Region, all court filings and submissions with the CTA falling due from August 2, 2021 until October 19, 2021 were suspended. The time for filing and submission resumed after seven days from the physical reopening of the Court on October 20, 2021.

SEC. 228. *Protesting of Assessment.* — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings:

. . .

Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.

Such 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....

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

To implement the foregoing, *RR No. 18-2013* provides:

3.1.4 Disputed Assessment.
— The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN within thirty (30) days from date of receipt thereof. The taxpayer protesting an assessment may file a written request for reconsideration orreinvestigation defined as follows:

. . .

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

. . .

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

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> administrative appeal, as the case may be, shall not toll the thirty (30)-day period to appeal to the CTA.
>
> If the protest or administrative appeal is not acted upon by the Commissioner within one hundred eighty (180) days counted from the date of filing of the protest, the taxpayer may either: (i) appeal to the CTA within thirty (30) days from after the expiration of the one hundred eighty (180)-day period; or (ii) await the final decision of the Commissioner on the disputed assessment and appeal such final decision to the CTA within thirty (30) days after the receipt of a copy of such decision.
>
> It must be emphasized, however, that in case of inaction on protested assessment within the 180-day period, the option of the taxpayer to either: (1) file a petition for review with the CTA within 30 days after the expiration of the 180-day period; or (2) await the final decision of the Commissioner or his duly authorized representative on the disputed assessment and appeal such final decision to the CTA within 30 days after the receipt of a copy of such decision, are mutually exclusive and the resort to one bars the application of the other.
>
> . . .

In this case, the FLD/FAN[95] and FDDA[96] were issued by the CIR's authorized representative, RD Tolentino. The FDDA was thereafter administratively appealed to the CIR in the form of a request for reconsideration.[97]

However, instead of a decision, petitioner received the subject WDL seeking to collect the alleged deficiency taxes for TY2016. Thus, for purposes of determining jurisdiction over the assessment, We must refer to the relevant periods of judicial appeal applicable to inaction of the CIR. This is clearly elucidated by the Supreme Court in the case of *Rizal Commercial Banking Corporation vs. Commissioner of Internal Revenue*[98] wherein it was held that:

> From the foregoing, it is clear that the jurisdiction of the Court of Tax Appeals has been expanded to include not only decisions or rulings but inaction as well of the Commissioner of Internal Revenue. The decisions, rulings or inaction of the Commissioner are necessary in order to vest the Court of Tax Appeals with jurisdiction to entertain the appeal, provided it is filed within 30 days after the receipt of such decision or ruling, or within 30 days after the expiration of the 180-day period fixed by law for the Commissioner to act on the disputed assessments. This 30-day period within which to file an appeal is jurisdictional and failure to comply therewith would bar the appeal and deprive the Court of Tax Appeals of its jurisdiction to entertain and determine the correctness of the assessments. Such period is not merely directory but mandatory and it is beyond the power of the courts to extend the same.

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95 *Supra* note 16.
96 *Supra* note 24.
97 *Supra* note 25.
98 G.R. No. 168498 (Resolution), April 24, 2007.

> In case the Commissioner failed to act on the disputed assessment within the 180-day period from date of submission of documents, a taxpayer can either: 1) file a petition for review with the Court of Tax Appeals within 30 days after the expiration of the 180-day period; or 2) await the final decision of the Commissioner on the disputed assessments and appeal such final decision to the Court of Tax Appeals within 30 days after receipt of a copy of such decision. However, these options are mutually exclusive, and resort to one bars the application of the other.

Clearly, in case of inaction of the CIR, the Court shall acquire jurisdiction if:

a. The appeal was filed within 30 days from the expiration of the CIR"s 180-day period to decide; or
b. The appeal was filed within 30 days after the receipt of the CIR's decision, even if issued beyond the said 180 days.

The foregoing pronouncement is consistent with previously cited *Section 11 of RA No. 1125,* as amended by *RA No. 9282*, which permits the an aggrieved party to appeal a ***decision*** or ***inaction*** of the CIR, within 30 days from receipt of the decision or from the lapse of the period required by law.

Here, petitioner cannot be deemed to be appealing the case to the Court based on a ***decision***. The Supreme Court, in the case of *Light Rail Transit Authority v. Bureau of Internal Revenue*[99] ("*LRTA case*") held in no uncertain terms that a WDL cannot be considered as a final decision by the CIR on a taxpayer's administrative appeal.

> *Neither can the 30-day period for filing a petition for review be reckoned from petitioner's receipt of any of the following issuances*: the Preliminary Collection Letter, the Final Notice Before Seizure, the ***Warrant of Distraint and/or Levy,*** the April 4, 2013 Letter reconsidering the issuance of the Warrant of Distraint and/or Levy, and the June 9, 2014 Letter dropping the request for reconsideration of the Warrant of Distraint and/or Levy. Like the Final Decision on Disputed Assessment, ***all of these were not final decisions on the appeal by the Commissioner of Internal Revenue.*** They remained tentative given the pendency of the petitioner's appeal with the Office of the Commissioner.
> (Emphasis and italics supplied)

The same ruling was upheld in the case of *Mannasoft Technology Corporation vs. Commissioner of Internal Revenue*[100] wherein it was explained why the *Philippine Journalists case* was abandoned in so far as it ruled that the WDL constitutes constructive and final denial to a taxpayer's protest, to wit:

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99 G.R. No. 231238, June 20, 2022.
100 G.R. No. 244202, July 10, 2023.

The Court is mindful of certain cases where it held that the issuance of the WDL constitutes constructive and final denial to the taxpayer's protest, which would trigger the running of the 30-day period to elevate the case to the CTA. This is the doctrine laid down in *Philippine Journalists, Inc. v. Commissioner of Internal Revenue (PJI case)*, which was cited by both the CTA Third Division and En Banc. However, as will be explained below, the ruling in the said case rests on different grounds.

The *LRTA case* is particularly instructive:

> *Commissioner of Internal Revenue v. Isabela Cultural Corporation* cannot be made basis to claim that the Final Notice Before Seizure is the final decision on the protest appealable to the Court of Tax Appeals. ***When Isabela was promulgated in 2001, Section 7 of Republic Act No. 1125 had yet to be amended by Republic Act No. 9282 to add inactions of the Commissioner as appealable to the Court of Tax Appeals. Moreover, this Court had yet to promulgate Rizal Commercial Banking Corporation and Lascona, where it was clarified that taxpayers have the option to await the decision of the Commissioner in protests of disputed assessments before they file an appeal with the Court of Tax Appeals.*** In other words, in *Isabela*, the taxpayer still had no choice of awaiting the decision of the Commissioner on its protest. This is why in Isabela, this Court considered the Final Notice Before Seizure as the Commissioner's decision on the protest. More so because it was the only response *Isabela* Cultural Corporation received from the Commissioner after it had filed its protest.

Appositely, the PJI case was also promulgated prior to the passage of RA No. 9282, which recognized inactions of the respondent as appealable to the CTA. Thus, the CTA En Banc erred in relying on this particular jurisprudence to buttress its dismissal of petitioner's case.
(Emphasis and italics in the original)

Accordingly, since the WDL cannot be considered a decision on the assessment appealable to this Court, We shall proceed to look into the mandates of the law pertinent to ***inaction*** of the CIR on administrative appeals within the 180-day period.

A review of the records show that at the time of electronic filing of the instant Petition for Review, the 180-day period within which the CIR can decide on the administrative appeal had already lapsed by one day, as shown in the table below:

	Action of Parties	Relevant period or number of days
October 20, 2020	Receipt of FLD/FAN[101] by petitioner	
November 19, 2020	Filing of protest against the FLD/FAN[102]	
January 18, 2021	Filing of documents to support the protest[103]	
March 2, 2021	Issuance of the FDDA[104] signed by RD Tolentino	43 days has lapsed from the time of submission of documents in support of the protest
April 22, 2021	Filing of the administrative appeal[105] to the CIR	
August 9, 2021	Petitioner's receipt of the WDL[106]	
September 6, 2021		137 days from the date of filing the administrative appeal; end of the 180-day period within which the CIR may act on petitioner's appeal
September 7, 2021	Filing of the instant Petition for Review with the CTA[107]	One day after the lapse of the 180-day period

Foremost, it must be emphasized that the 180-day period within which the CIR or his duly authorized representative must act on the protest or administrative appeal is counted from the date of filing the protest or the filing of the required documents within 60 days from the date of filing the protest. It is interrupted by the BIR's issuance of the FDDA, and resumes at the time of filing of the administrative appeal to the CIR. As such, the 180-period in this case lapsed on September 6, 2021. Petitioner then had 30 days or until October 6, 2021 within which to elevate an appeal to the Court.

Notably, the filing of the instant Petition for Review was made on September 7, 2021 which is clearly within the 30-day period to appeal. And while petitioner did not discuss anything regarding elevating the case to the CTA based on inaction of the CIR within the 180-day period to decide, it must be emphasized that what determines jurisdiction is the allegations in the

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[101] *Supra* note 16.
[102] *Supra* note 17.
[103] *Supra* note 23.
[104] *Supra* note 24.
[105] *Supra* note 25.
[106] *Supra* note 26.
[107] *Supra* note 1.

petition and the reliefs prayed for.[108] Here, petitioner has sufficiently established through the Petition for Review and the evidence submitted that there was indeed inaction on the part of the CIR to decide within the 180-period granted by the law, and that petitioner is praying for the Court to review the subject assessments for TY2016 instead of just limiting the appeal on the validity of the issued WDL.

Since the case was filed with the CTA in compliance with the 180+30-day rule, We hereby find that this Court also has jurisdiction to rule on the assessments issued by respondent to petitioner for TY2016.

The subject assessment is void for being issued in violation of petitioner's right to due process: (i) respondent failed to address the defenses and evidence raised by petitioner in the its reply to PAN and protest to FLD/FAN; and (ii) the group supervisor who conducted the audit was not duly authorized by the CIR

i. Respondent failed to address the defenses and evidence presented by petitioner in the latter's reply to PAN and protest to FLD/FAN

Section 228 of the Tax Code provides certain procedures to ensure that the right of the taxpayer to procedural due process is observed in tax assessments. It mandates that a "taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise the assessment shall be void."

Moreover, to implement the government's and taxpayer's remedies under the Tax Code, *Section 3 of RR No. 12-99*,[109] as amended by *RR No. 18-13*,[110] prescribes the due process requirement for the four stages of the assessment process: (i) NIC; (ii) PAN; (iii) FLD/FAN; and (iv) FDDA. At every stage, a taxpayer is explicitly given the opportunity to explain or present his or her side throughout the process, from tax investigation through tax assessments. In simplified terms, this includes being afforded 15 days to file a reply from the receipt of the NIC; 15 days to reply from receipt of the PAN; 30 days to file a protest from the receipt of the FLD/FAN; and 30 days to appeal the final decision of the CIR to the CTA. γ

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[108] Glynna Foronda-Crystal vs. Aniana Lawas Son, G.R. No. 221815, November 29, 2017.

[109] Implementing the Provisions of the National Internal Revenue Code of 1997 Government the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty, dated September 6, 1999.

[110] Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, dated November 28, 2013.

The due process requirement is, however, not limited to giving the taxpayer the opportunity to present its defenses. Such justifications and explanations must be considered by the administrative tribunal, and in case found insufficient, the explanations must be provided as to why they were set aside. This is consistent with the ruling of the Supreme Court in *Commissioner of Internal Revenue vs. Avon Products Manufacturing,*[111] wherein it was clearly found that Avon was deprived of due process when it was not fully apprised of the legal and factual bases of the assessments issued against it, including the reasons for the BIR's denial of the explanations and justifications against the assessment, to wit:

> In Ang Tibay v. The Court of Industrial Relations, this Court observed that although quasi-judicial agencies "may be said to be free from the rigidity of certain procedural requirements[, it] does not mean that it can, in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirements of due process in trials and investigations of an administrative character." It then enumerated the fundamental requirements of due process that must be respected in administrative proceedings:
>
> (1) The party interested or affected must be able to present his or her own case and submit evidence in support of it.
>
> (2) *The administrative tribunal or body must consider the evidence presented.*
>
> (3) There must be evidence supporting the tribunal's decision.
>
> (4) The evidence must be substantial or "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."
>
> (5) The administrative tribunal's decision must be rendered on the evidence presented, or at least contained in the record and disclosed to the parties affected.
>
> (6) The administrative tribunal's decision must be based on the deciding authority's own independent consideration of the law and facts governing the case.
>
> (7) *The administrative tribunal's decision is rendered in a manner that the parties may know the various issues involved and the reasons for the decision.*
>
> . . .
>
> The facts demonstrate that Avon was deprived of due process. It was not fully apprised of the legal and factual bases of the assessments issued against it. The Details of Discrepancy attached to the Preliminary Assessment Notice, as well as the Formal Letter of Demand with the Final Assessment Notices, did not even comment or address the defenses and documents submitted by Avon. Thus, Avon was left unaware on how the Commissioner or her authorized representatives appreciated the

[111] G.R. No. 201398-99, October 3, 2018.

> explanations or defenses raised in connection with the assessments. There was clear inaction of the Commissioner at every stage of the proceedings.
>
> . . .
>
> It is true that the Commissioner is not obliged to accept the taxpayer's explanations, as explained by the Court of Tax Appeals. However, ***when he or she rejects these explanations, he or she must give some reason for doing so. He or she must give the particular facts upon which his or her conclusions are based, and those facts must appear in the record.***
>
> Indeed, ***the Commissioner's inaction and omission to give due consideration to the arguments and evidence submitted before her by Avon are deplorable transgressions of Avon's right to due process. The right to be heard, which includes the right to present evidence, is meaningless if the Commissioner can simply ignore the evidence without reason.***
>
> . . .
>
> The Commissioner's *total disregard of due process rendered the identical Preliminary Assessment Notice, Final Assessment Notices, and Collection Letter* **null and void, and of no force and effect.**
>
> This Court has, in several cases, declared void any assessment that failed to strictly comply with the due process requirements set forth in Section 228 of the Tax Code and Revenue Regulation No. 12-99. (Emphasis and italics supplied)

Based on the foregoing, respondent or his duly authorized representative is mandated to perform its assessment functions in accordance with, and strict adherence to, the law, with due regard to the basic tenets of due process. A significant part of the due process requirement is apprising the taxpayer of the law and facts on which the assessment is made. Further, the concerned taxpayer must also not be left unaware on how the respondent or his duly authorized representatives appreciated the explanations and defenses raised. In case of failure to do so, the deficiency tax assessment must necessarily be rendered void, and of no force and effect.

In this case, petitioner filed its reply to the NIC,[112] reply to the PAN,[113] and protest against the FLD/FAN.[114] However, it now highlights that despite the explanations, justifications, and supporting documents presented by petitioner, the assessments of respondent stayed the same all throughout the assessment process without providing any reason on why the said explanations, justifications and supporting documents were not appreciated; thus, violating petitioner's right to due process. r

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112 *Supra* note 13.
113 *Supra* note 15.
114 *Supra* note 17.

The foregoing argument is well-founded.

A perusal of the PAN, FLD/FAN, and FDDA shows that the BIR's findings were left unchanged, except for interest calculations and certain adjustments discussed below:[115]

	PAN	**FLD/FAN**	**FDDA**
Basic Deficiency IT	**98,238,016.83**	**98,238,016.83**	**98,238,016.83**
Less:			
IT on the expenses previously disallowed due to non-withholding[116]			72,317,284.81
Partial payment on November 27, 2020			5,203,157.12[117]
Adjusted Basic Deficiency IT			**20,717,574.90**
Basic Deficiency VAT	**49,428,057.42**	**49,428,057.42**	**49,428,057.42**
Less: Partial payment on November 27, 2020			1,473,928.71[118]
Adjusted Basic Deficiency VAT			**47,954,128.71**
Basic Deficiency EWT	**5,005,259.73**	**5,005,259.73**	**0**[119]
Administrative Fines and Penalties	**5,000.00**	**5,000.00**	**0**[120]

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115 *Supra* notes 18-21.
116 Removed due to payment of EWT.
117 *Supra* note 18.
118 *Supra* note 19.
119 Fully paid on November 27, 2020, *supra* note 20
120 Fully paid on November 27, 2020, *supra* note 21.

From the issuance of PAN to FLD/FAN, the assessment items were all retained. The FLD/FAN merely reproduced word-for-word all the explanations in the details of discrepancies provided by the BIR. Even more important to note is that respondent failed to mention in the FLD/FAN that it received petitioner's reply to PAN and reviewed the defenses stated therein, much more failed to provide explanations or counter-arguments why the defenses in the reply to PAN were deemed insufficient.

Meanwhile, in the FDDA, the BIR enumerated the results of the reinvestigation as follows:

> . . . (P)lease be informed that reinvestigation of your case resulted in the following:
>
> 1. ***Deficiency income tax was reduced as you were able to pay the expanded withholding tax due on income payments t**hat were disallowed due to non-withholding amounting to P241,057,616.02, thus, allowed as deduction pursuant to Section 34(K) of the NIRC, as implemented by Revenue Regulation No. 6-2018. Moreover, you were able to pay the assessment on the taxable income per return of P5,802,592.00 (0% income tax rate per ITR filed), Operational Discount of P20,391,306.49 and Input Tax closed to income of P4,160,459.73 on November 27, 2020.
> 2. ***Deficiency Value Added Tax was reduced because you were able to pay the assessment*** on Other Income P9,537,289.00, Undeclared purchases per TPI of P1,951,769.33, Undeclared source of cash from undeclared expenses of P1,301,301.36, and unsupported tax credits of P764,107.19 on November 27, 2020; and
> 3. ***Undisputed assessment on expanded withholding tax and administrative fines and penalties amounting to P7,717,699.12 and P5,000.00, respectively, were paid on November 27, 2020*** at the rate of 20% and 12% per annum.
>
> (Emphasis and italics supplied)

Clearly, all the adjustments made in the deficiency tax calculations in the FDDA pertain to the payments made by petitioner on November 27, 2020. Nowhere in the recalculations is it shown that adjustments were imputed relative to merits, if any, on the protest against the FLD/FAN. Similarly, nothing was offered by respondent to explain the reason for the BIR's denial of the justifications raised in the protest.

Effectively, without addressing the said justifications and explanations in the issued FLD/FAN and FDDA, the BIR did not give petitioner the particular facts upon which the assessment is based. Consequently, petitioner was left unaware on how respondent appreciated these defenses, in clear violation of petitioner's right to due process, thereby rendering the subject tax assessment void.

ii. The group supervisor who conducted the audit was not duly authorized by the CIR as per LOA issued

Due process requires that the revenue officers assigned to an investigation has the authority to conduct the audit on a taxpayer's books, pursuant to a LOA. This is embodied in Section 13 of the Tax Code which states:

> SEC. 13. Authority of a Revenue Officer. - Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself.

In the case of *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue (Medicard case),*[121] citing *Commissioner of Internal Revenue vs. Sony Philippines, Inc.,*[122] the Supreme Court had the opportunity to rule on the effect of the lack or absence of authority in a tax assessment, to wit:

> Clearly, there must be a grant of authority before any revenue officer can conduct an examination or assessment. Equally important is that the revenue officer so authorized must not go beyond the authority given. **In the absence of such an authority, the assessment or examination is a nullity.** (Emphasis and underscoring in the original)

Later, in the case of *Commissioner of Internal Revenue vs. McDonald's Philippines Realty Corporation (McDonald's case),*[123] the High Court explained that identifying the authorized revenue officers in the LOA is a jurisdictional requirement of a valid audit, and consequently of a valid assessment, *viz:*

> To comply with due process in the audit or investigation by the BIR, the taxpayer needs to be informed that the revenue officer knocking at his or her door has the proper authority to examine his books of accounts. The only way for the taxpayer to verify the existence of that authority is when, upon reading the LOA, there is a link between the said LOA and the revenue officer who will conduct the examination and assessment; and the only way to make that link is by looking at the names of the revenue officers who are authorized in the said LOA. ***If any revenue officer other than those named in the LOA conducted the examination and assessment, taxpayers would be in a situation where they cannot verify the existence of the authority of the revenue officer to conduct the examination and assessment.*** Due

[121] G.R. No. 222742, April 5, 2017
[122] G.R. No. 178697, November 17, 2010.
[123] G.R. No. 242670, May 10, 2021.

> process requires that taxpayers must have the right to know that the revenue officers are duly authorized to conduct the examination and assessment, and this requires that the LOAs must contain the names of the authorized revenue officers. In other words, ***identifying the authorized revenue officers in the LOA is a jurisdictional requirement of a valid audit or investigation by the BIR, and therefore of a valid assessment.***
> (Emphasis and italics supplied)

In the instant case, the LOA issued by respondent on September 27, 2018 relative to the audit of petitioner's books for TY2016 authorizes RO Angelina Soriano and GS Teresita Lumayag. However, a perusal of the two Memoranda[124] and two Revenue Officer's Audit Reports and Docket Locator Forms[125] reveals that another revenue officer not expressly identified in said LOA participated in the investigation and recommended the issuance of the PAN and FDDA. This active participation is evidenced by the fact that a signature was affixed above the name of the related revenue official with designation as "Group Supervisor" – Emma L. Rodriguez. GS Rodriguez is not included among those authorized to conduct an audit in petitioner's books for TY2016.

In fact, respondent's witness, RO Soriano, during the cross examination held on July 11, 2024, confirmed that Emma L. Rodriguez affixed her signature to the above-mentioned documents and that she was not the GS authorized under the LOA to conduct the audit, to wit:

> Q: May I refer you to Memorandum found on pages 432 to 4442, can you read the name on top of word Group Supervisor?
> A: Emma L. Rodriguez.
>
> Q: May I refer you to the Revenue Officer Audit Report in the docket locator found on page 455 to 465 of the BIR record. For the record, can you read the name on the top of the word Group Supervisor?
> A: Emma L. Rodriquez, Attorney.
>
> Q: May I refer you to Revenue Officer Audit Report and docket locator found on page 600 to 606 of the BIR record. For the record, can you read the name on top of the word group supervisor?
> A: Emma L. Rodriguez, Attorney.
>
> Q: And this Emma L. Rodriguez was not the Group Supervisor authorized under the Letter of Authority to conduct the audit, correct?
> A: Yes, Attorney. [126]

During the redirect examination in the same hearing, RO Soriano even explained the reason for the change in the group supervisor:

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[124] Memorandum stating a recommendation for the issuance of BIR Records, pp. 469-475; Memorandum stating a recommendation for the issuance of FDDA, BIR Records, pp. 605-611

[125] *Id.* at pp. 455-461, 600-606.

[126] Transcript of Stenographic Notes ("TSN") dated July 11, 2024, pp. 7-9.

> Q: Alright. Let me go to another point. You were also asked by the counsel for the petitioner regarding the change of the group supervisor from the original Letter of Authority to another, could you please explain the reason why the group supervisor was replaced?
> A: During the conduct of the audit examination, Ms. Teresita Lumayag, our RDO was transferred to another district. So, Mam Emma Rodriguez became the group supervisor. She was also transferred from another district to Paniqui, Tarlac. [127]

Clearly, there was unauthorized participation and supervision in the audit investigation by GS Emma L. Rodriguez. Consequently, such unauthorized examination renders the ensuing assessment void.

This remains true regardless of the official's designation as "group supervisor," and not a "revenue officer" which is the usual subject of controversy in the earlier cited *Medicard case* and *McDonald's case.*

Under *Revenue Administrative Order ("RAO") No. 02-90,*[128] a GS is a Revenue Officer II, III or IV tasked with supervising and reviewing the work and audit reports of the subordinate ROs, thus:

> In the Revenue District Offices, Sector Operations Service and other audit units, all Revenue Officers I who are appointed to positions below the aforementioned supervisory positions shall be regrouped in such a way that they should be assigned under one Revenue Officer II or Revenue Officer III or Revenue Officer IV who will function as Group Supervisor or Section Chief.
>
> It does not matter whether a group supervisor or section chief in the audit unit will have only one Revenue Officer I under him. Under this set up, it is expected that the work of Revenue Officers I will be closely supervised and reviewed by their group supervisors or section chiefs.
>
> All group supervisors and section chiefs shall henceforth be responsible for the work performance of their subordinates and it shall be their responsibility to closely supervise and review their work and audit reports (Assignment of All Revenue Officers Holding Supervisory Positions to Perform Actual Supervisory Functions, Revenue Administrative Order No. 02-90, [March 28, 1990])

As such, group supervisors are revenue officers themselves and are not exempt from the requirement of a valid LOA when participating in audit activities. Their assignment as such merely gives them additional responsibility of overseeing and supervising their subordinate ROs. Accordingly, any audit investigation undertaken by a GS without a valid LOA is considered void.

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127 *Id.* at 17.
128 Assignment of All Revenue Officers Holding Supervisory Positions to Perform Actual Supervisory Functions, March 28, 1990.

Further, it must be emphasized that the fact of transfer of GS Lumayag to another district is not an excuse to avoid compliance with the required LOA. In the *McDonald's case*, the Supreme Court also had the occasion to rule that the issuance of a new LOA is required if the originally assigned ROs were reassigned or transferred, to wit:

> C. ***Revenue Memorandum Order No. 43-90 dated September 20, 1990 Expressly and Specifically Requires the Issuance of a New LOA if Revenue Officers are Reassigned or Transferred***
>
> Section D(5) of RMO No. 43-90 dated September 20, 1990 provides:
>
>> Any re-assignment/transfer of cases to another RO(s)64, and revalidation of L/As65 which have already expired, shall require the issuance of a new L/A, with the corresponding notation thereto, including the previous L/A number and date of issue of said L/As.
>
> The above provision expressly and specifically ***requires the issuance of a new LOA if revenue officers are reassigned or transferred to other cases.*** The provision involves the following two separate phrases: "re-assignment/transfer of cases to another RO(s)", on the one hand, and "revalidation of LIAs which have already expired", on the other hand. The occurrence of one, independently of the other, requires the issuance of a new LOA. The new LOA must then have a corresponding relevant notation, including the previous LOA number and date of issue of the said LOAs. (Emphasis and italics supplied)

All told, the Court agrees with petitioner that respondent failed to comply with the due process requirements of the law in the process of issuing the tax assessment for TY2016; thus, the same must be deemed void and without effect.

As such, We hereby find it unnecessary to discuss the other issues raised by the parties in this case.

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.[129] Thus, even as we concede the inevitability and indispensability of taxation, it is a requirement in all democratic regimes

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[129] 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.

that it be exercised reasonably and in accordance with the prescribed procedure.[130]

An invalid assessment bears no valid fruit, thus, the subject WDL and WoGs must be rendered void

Settled is the rule that a void assessment bears no fruit. Correspondingly, the government is barred from collecting any tax liabilities based on such void assessment. Hence, any WDL issued to satisfy the alleged tax liability contained in the same void assessment must be pronounced void and cannot be executed.

In the *Mannasoft case*, the Supreme Court succinctly held that when an assessment is void, the related WDL is likewise invalid, thus:

> Well-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. ***Consequently, given that the assessment notices were void, the resulting WDL is likewise invalid and without effect.***
> (Emphasis and italics supplied)

Similarly, in the fairly recent case of *Commissioner of Internal Revenue vs. Stradcom Corporation*,[131] the Supreme Court upheld the CTA's cancellation of the WDL and WoGs issued against taxpayer therein, there being no valid assessment, to wit:

> Thus, the CIR's attempt to collect the alleged income tax from Stradcom without issuing a valid assessment was in clear violation of the due process requirements mandated under the 1997 NIRC and RR No. 12-99, as amended. A tax collection effort that stems from an invalid assessment holds no legal weight. Even more so, if no assessment was issued at all, then there is absolutely no foundation for any collection to stand on. Without a proper assessment, there exists no enforceable tax liability, making any attempt to collect through summary remedies entirely void. Thus, the CIR cannot claim a right to collect taxes that were never properly assessed in the first place.
>
> ***There being no final and valid assessment to begin with, the WDL and WOG issued against Stradcom are void and have been correctly cancelled and set aside by the CTA Division and CTA EB.***
> (Emphasis and italics supplied)

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[130] Commissioner of Internal Revenue vs. United Salvage and Towage (Phils.), Inc., G.R. No. 197515, July 2, 2014.
[131] G.R. No. 255520, April 21, 2025.

Inevitably, given the above-discussed invalidity of the subject assessment, the WDL and the WoGs issued by respondent in order to satisfy the same void assessment must be cancelled and considered without effect.

ACCORDINGLY, premises considered, the present Petition for Review is hereby **GRANTED**.

Assessment/Demand No. 17B-E1704019577 assessing petitioner for deficiency income tax and value added tax, amounting to Php107,333,488.57, for taxable year 2016 are **DECLARED VOID** and, consequently, **CANCELLED** and **SET ASIDE**.

The Warrant of Distraint and/or Levy, dated July 2, 2021, with reference number WDL-2021-RR4-AMS-000102, and the Warrants of Garnishment, all dated October 20, 2021, enforcing the collection of the same alleged delinquent taxes for taxable year 2016, are likewise **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

WE CONCUR:

On official business
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.

MARIA ROWENA MODESTO-SAN PEDRO
Acting Presiding Justice