REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

LBC EXPRESS – SCS, INC., *Petitioner,*

-versus-

COMMISSIONER OF INTERNAL REVENUE, *Respondent.*

CTA CASE NO. 12085

Members:

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

Promulgated:

3:02 PM

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RESOLUTION

CUI-DAVID, J.:

For resolution by the Court is petitioner's ***Urgent Motion to Suspend Tax Collection (with Prayer for the Issuance of a Writ of Preliminary Injunction and Dispensing of Bond),*** incorporated in its *Petition for Review* filed on July 29, 2025, together with respondent's ***Comment / Opposition [(On Petitioner's Petition for Review with Urgent Motion to Suspend Tax Collection (with Prayer for the Issuance of a Writ of Preliminary Injunction and Dispensing of Bond)],*** filed on October 17, 2025.

In its *Urgent Motion*, petitioner asserts that civil remedies for the collection of taxes may be resorted to only when the taxes have already become delinquent. Petitioner states that the alleged deficiency taxes in the instant case are not yet delinquent, as it timely filed an appeal against respondent's Final Decision on Disputed Assessment (**FDDA**).

Petitioner further contends that all the requisites for the issuance of a writ of preliminary injunction are present. According to petitioner, the collection of the assessed amount of ₱20,824,314.01 is "more than enough to inflict irreparable injury to petitioner."

In his *Comment/Opposition*, respondent counters that petitioner is not legally entitled to the suspension of the collection of taxes. He asserts that the Bureau of Internal Revenue (**BIR**) has not yet enforced the collection of the assessed deficiency taxes, thus "there is nothing to be enjoined." Thus, according to respondent, the elements of urgency and paramount necessity are lacking. Further, citing resolutions of the Court of Tax Appeals (**CTA**), respondent argues that the failure to pay the amounts assessed in the Final Assessment Notice and Formal Letter of Demand (**FAN/FLD**), notwithstanding the timely filing of protests or appeals, renders the taxes delinquent. Respondent likewise asserts that petitioner failed to prove that the collection would jeopardize its interests.

The Court resolves.

As a general rule, the collection of taxes cannot be restrained by injunction. Section 218 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, provides:

> Section 218. *Injunction not Available to Restrain Collection of Tax.* - No court shall have the authority to grant an injunction to restrain the collection of any national internal revenue tax, fee or charge imposed by this Code.

However, by way of exception, Section 11 of Republic Act (**RA**) No. 1125,[1] as amended by RA No. 9282,[2] empowers the CTA to suspend the collection of taxes when, in its opinion, such collection may jeopardize the interests of the Government and/or the taxpayer, to wit:

> Section 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* –
>
> . . . .
>
> No appeal taken to the CTA from the decision of the Commissioner of Internal Revenue or the Commissioner of Customs or the Regional Trial Court, provincial, city or municipal treasurer or the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture, as the case may be, shall suspend the payment, levy, distraint, and/or sale of any property of the taxpayer for the satisfaction

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1 AN ACT CREATING THE COURT OF TAX APPEALS.

2 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

> of his tax liability as provided by existing law: Provided, however, That **when in the opinion of the Court the collection by the aforementioned government agencies may jeopardize the interest of the Government and/or the taxpayer** the Court [at] any stage of the proceeding may suspend the said collection *and* require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount with the Court. (Emphasis supplied)

Corollary thereto, Rule 10, Sections 1 and 2 of the Revised Rules of the Court of Tax Appeals (**RRCTA**) state:

> *Section 1. No suspension of collection of tax, except as herein prescribed.* – No appeal taken to the Court shall suspend the payment, levy, distraint, or sale of any property of the taxpayer for the satisfaction of tax liability as provided under existing laws, except as hereinafter prescribed.
>
> *Section 2. Who may file.* — Where the collection of the amount of the taxpayer's liability, sought by means of a demand for payment, by levy, distraint or sale of any property of the taxpayer, or by whatever means, as provided under existing laws, **may jeopardize the interest of the Government or the taxpayer**, an interested party may file a motion for the suspension of the collection of the tax liability. (Emphasis supplied)

In essence, when, in the opinion of the CTA, the collection of taxes by the BIR may jeopardize the interests of either the Government or the taxpayer, the CTA may, as an exception to the "no injunction rule" under Section 11 of RA No. 1125, as amended: (1) suspend the collection of the tax; and (2) require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount claimed.

To warrant the suspension of tax collection, the taxpayer bears the burden of proving that continued collection would jeopardize its interests or those of the government. Absent such proof, the motion cannot be granted.

In support of its *Urgent Motion*, petitioner presented its most recent Audited Financial Statements (**AFS**)[3] available at the time of filing. The AFS reflects a cash balance of **₱1,465,397** and current assets of **₱29,615,340**. It likewise reflects current liabilities amounting to **₱54,836,415,** which exceed its current assets of ₱29,615,340.

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[3] Docket, unpaged, Exhibit "P-42".

Meanwhile, the **FDDA** seeks to collect ₱20,824,314.01 from petitioner —an amount equivalent to 14.2 times its cash balance and 70.3% of its total current assets.

Clearly, petitioner's argument that it "would not only be forced to liquidate its other assets and fatally disrupt its operations" is well-founded. Petitioner has sufficiently demonstrated the prejudice it would suffer should respondent's collection proceed. Accordingly, its prayer for the suspension of tax collection is meritorious.

Petitioner likewise invokes Sections 205 and 207 of the NIRC of 1997, as amended, and Revenue Regulations (**RR**) No. 4-2019 to support its contention that the taxes are not yet delinquent.

It bears noting that petitioner timely filed its *Petition for Review* before this Court within the reglementary period. In *Commissioner of Internal Revenue v. Stradcom Corporation* ***(Stradcom)***,[4] the Supreme Court emphasized that the BIR may resort to summary administrative remedies such as distraint, levy, or garnishment, **only when the taxes sought to be collected have become delinquent:**

> [T]he 1997 NIRC provides two types of remedies to enforce the collection of unpaid taxes: (a) *summary administrative remedies*, such as the distraint and/or levy of taxpayer's property; and/or (b) *judicial remedies* ... However, before the CIR can avail of the summary administrative collection remedies, it must first be established that the taxes sought to be collected have become **delinquent**. (Emphasis supplied, citation omitted)

The Supreme Court further explained that a delinquent account arises only from a legally demandable tax liability:

> As to the concept of **delinquent account**, the Court, citing Revenue Regulations (RR) No. 17-86, has held that this refers to the amount of tax due from a taxpayer who failed to pay the same within the time prescribed for its payment, that arises from (1) a self-assessed tax, whether or not a tax return was filed, or (2) **a deficiency assessment issued by the BIR which has become <u>final and executory</u>**.[5] (Emphasis supplied, citations omitted)

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[4] *Commissioner of Internal Revenue v. Stradcom Corporation*, G.R. No. 255520, April 21, 2025 [Per J. Caguioa, Third Division].

[5] *Id.*

Consistent with this principle, the Supreme Court reiterated in *Stradcom*, citing RR No. 4-2019, that delinquency presupposes a final and demandable assessment, explaining that a **delinquent account** pertains to a tax liability arising from an assessment that has become final and executory, such as when the taxpayer fails to protest the assessment or fails to appeal an adverse decision within the prescribed periods:

> Under RR No. 4-2019, a delinquent account is defined as a tax due from an assessment that has **become final and executory**. While this definition is framed within the context of Republic Act No. 11213, or the Tax Amnesty Act, it reflects long-standing and widely accepted principles of tax law, particularly the requirement that delinquency must be based on a final and demandable liability. RR No. 4-2019 provides that a tax becomes delinquent in the following instances:
>
> > Section 2. *Definition of Terms.* — For purposes of these Regulations, the words used herein shall be defined as follows:
> >
> > A. **Delinquent Account — shall pertain to a tax due from a taxpayer arising from the audit of the Bureau of Internal Revenue (BIR) which had been issued <u>Assessment Notices that have become final and executory</u> due to the following instances:**
> >
> > 1. Failure to pay the tax due on the prescribed due date provided in the Final Assessment Notice (FAN)/Formal Letter of Demand (FLD) and for which no valid Protest ... has been filed within thirty (30) days from receipt thereof;
> >
> > 2. Failure to file an appeal to the Court of Tax Appeals (CTA) or an administrative appeal before the Commissioner of Internal Revenue (CIR) within thirty (30) days from receipt of the decision denying the request for reinvestigation or reconsideration; or
> >
> > 3. Failure to file an appeal to the CTA within thirty (30) days from receipt of the Decision of the CIR denying the taxpayer's administrative appeal to the Final Decision on Disputed Assessment (FDDA).

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> Based on the foregoing, without an assessment that has gone through any of the above stages and has become final and executory, a tax cannot be deemed delinquent. [6] (Emphasis supplied)

In *Stradcom*, the Supreme Court cautioned the BIR that summary collection remedies must not be exercised indiscriminately and may be invoked only when taxes sought to be collected have already become delinquent:

> [T]he administrative remedies for tax collection, such as distraint, levy, and garnishment, are not tools to be wielded at will. **They may be invoked only when the taxes sought to be collected have already become delinquent**, whether by the taxpayer's own admission or by virtue of a valid formal assessment.[7] (Emphasis supplied)

Guided by the foregoing pronouncements and considering that the disputed assessments in the present case remain under judicial review, the Court finds sufficient basis to suspend the collection of the alleged tax liabilities pending final determination of this case.

With respect to the prayer for dispensation of bond, the law generally requires the taxpayer to deposit the amount claimed or file a surety bond as a condition for the suspension of tax collection. However, jurisprudence recognizes exceptions.

In *Spouses Pacquiao v. The Court of Tax Appeals – First Division (**Spouses Pacquiao**),*[8] the Supreme Court held that the CTA has ample authority to issue injunctive writs to restrain the collection of taxes and **even dispense with the deposit of the amount claimed or the filing of the required bond** when the method employed by the Commissioner of Internal Revenue (***CIR***) in tax collection jeopardizes the interests of a taxpayer, for being **patently in violation of the law**.

The purpose of the rule is not only to prevent jeopardizing the interest of the taxpayer but, more importantly, to prevent the absurd situation wherein the Court would declare "that the collection by the summary methods of distraint and levy was violative of law, and then, in the same breath require petitioner to deposit or file a bond as a prerequisite for the issuance of a writ of injunction."[9]

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6 *Id.*
7 *Id.*
8 G.R. No. 213394, April 6, 2016 [Per J. Mendoza, Second Division].
9 *Collector of Internal Revenue v. Reyes*, G.R. No. L-8685, January 31, 1957 [Per J. Felix, *En Banc*].

Similarly, in *Privatization and Management Office v. Court of Tax Appeals* (***Privatization and Management Office***),[10] the Supreme Court emphatically ruled that the bond requirement applies only when collection processes are carried out in accordance with law—not when they are patently unlawful:

> [T]he requirement of the bond as a condition precedent to the issuance of the writ of injunction applies only in cases where the processes by which the collection sought to be made by means thereof are carried out in consonance with the law for such cases provided and **<u>not when said processes are obviously in violation of the law to the extreme that they have to be suspended for jeopardizing the interests of taxpayer</u>**. (Emphasis supplied, citation omitted)

Accordingly, the Court must determine whether the collection sought to be made by respondent amounts to a "violation of the law to the extreme."

Petitioner raises two grounds for the supposed invalidity of the assessment: (1) the FAN/FLD merely reiterates the Preliminary Assessment Notice (**PAN**); and (2) the FAN/FLD was issued beyond the three-year prescriptive period.

On the first ground: That the FAN/FLD merely reiterates the PAN.

In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (*Avon*),[11] the Supreme Court emphasized that a taxpayer must not only be given an opportunity to present defenses and evidence but that the Commissioner and his subordinates must also **give due consideration** to these submissions. The right to be heard becomes meaningless if the BIR may simply ignore the taxpayer's reply and supporting evidence without reason, *viz.*:

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

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[10] G.R. No. 211839, March 18, 2019 [Per J. Reyes, Jr., J., Second Division].
[11] G.R. Nos. 201398 *et al.*, October 3, 2018 [Per J. Leonen, Third Division].

The 1997 National Internal Revenue Code, also known as the Tax Code, and revenue regulations allow a taxpayer to file a reply or otherwise to submit comments or arguments with supporting documents at each stage in the assessment process. **Due process requires the Bureau of Internal Revenue to consider the defenses and evidence submitted by the taxpayer and to render a decision based on these submissions. Failure to adhere to these requirements constitutes a denial of due process and taints the administrative proceedings with invalidity.**

. . . .

The Bureau of Internal Revenue is the primary agency tasked to assess and collect proper taxes, and to administer and enforce the Tax Code. ... **The Commissioner and revenue officers must strictly comply with the requirements of the law, with the Bureau of Internal Revenue's own rules, and with due regard to taxpayer's constitutional rights.**

. . . .

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 second to the sixth requirements refer to the party's "inviolable rights applicable at the deliberative stage." **The decision-maker must consider the totality of the evidence presented as he or she decides the case.**

. . . .

Administrative due process is anchored on fairness and equity in procedure. It is satisfied if the party is properly notified of the charge against it and is given a fair and reasonable opportunity to explain or defend itself. Moreover, it demands that the party's defenses be considered by the administrative body in making its conclusions, and **that the party be sufficiently informed of the reasons for its conclusions.**

. . . .

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 Final Assessment Notices, did not even comment or address the defenses and documents submitted by Avon. Thus, Avon was left unaware on how the Commissioner or her authorized representatives appreciated the explanations or defenses raised in connection with the assessments.** There was clear inaction of the Commissioner at every stage of the proceedings.

. . . .

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 conclusion are based, and those facts must appear in the record.**

. . . .

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.** (Emphasis supplied, citations omitted)

A side-by-side comparison of the Details of Discrepancies attached to the PAN[12] and the FAN/FLD[13] reveals that they are identical. However, this alone does not establish invalidity under *Avon*. A more careful perusal of the FAN/FLD further

[12] Exhibit "P-16".
[13] Exhibit "P-19".

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reveals that respondent considered petitioner's Reply to the PAN, as respondent "acknowledge[s] [petitioner's] contentions stated in the said letter." The FAN/FLD even proceeds to respond to each argument of petitioner in the *Reply*.

Preliminarily, therefore, and without prejudging the merits, the Court finds petitioner's reliance on *Avon* to be unfounded.

On the second ground: That the FAN/FLD was issued beyond the three-year prescriptive period.

Petitioner contends that respondent's right to assess has already prescribed, insisting that the ordinary three-year prescriptive period applies. Respondent, in contrast, maintains that the 10-year period governs due to alleged fraud.

The BIR's authority to assess and collect taxes under Section 2 of the NIRC of 1997, as amended,[14] is limited by Section 203,[15] which provides a *three-year period* counted from the last day prescribed by law for filing the return, or from the date of actual filing, whichever is later. Any assessment issued beyond this period is void.

By way of exception, Section 222 allows an extension of the prescriptive period. [16] Section 222(a) provides for a 10-year prescriptive period in cases of a *false or fraudulent return with intent to evade tax,* or *failure to file a return,* while Section 222(b) authorizes an extension of the three-year period through a *valid waiver.*

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[14] SEC. 2. Powers and Duties of the Bureau of Internal Revenue. - The Bureau of Internal Revenue shall be under the supervision and control of the Department of Finance. and its **powers and duties shall comprehend the assessment and collection of all national internal revenue taxes, fees, and charges.** and the enforcement of all forfeitures, penalties. and fines connected therewith. including the execution of judgments in all cases decided in its favor by the Court of Tax Appeals and the ordinary courts. ... (Emphasis supplied)

[15] SEC. 203. Period of Limitation Upon Assessment and Collection. - **Except as provided in Section 222.** internal revenue taxes shall be assessed **within three (3) years** after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: Provided. That in a case where a return is filed beyond the period prescribed by law. the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section. a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day. (Emphasis supplied)

[16] SEC. 222. Exceptions as to Period of Limitation of Assessment and Collection of Taxes.-

(a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return. the tax may be assessed. or a proceeding in court for the collection of such tax may be filed without assessment. at any time within ten (10) years after the discovery of the falsity. fraud or omission: Provided. That in a fraud assessment which has become final and executory. the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.

(b) If before the expiration of the time prescribed in Section 203 for the assessment of the tax. both the Commissioner and the taxpayer have agreed in writing to its assessment after such time. the tax may be assessed within the period agreed upon. ...

Thus, the crux of the controversy here is whether the assessment against petitioner falls within the ordinary **three-year period** or the extraordinary **ten-year period**.

In resolving this issue, the Court finds *McDonald's Philippines Realty Corp. v. Commissioner of Internal Revenue (**McDonald's**)*[17] highly instructive, *viz.:*

> *F. Summary: **Conditions** for a Valid Extension of Assessment Period in Case of a False Return*
>
> *i. **Requisites** under Section 222 (a) of the 1997 Tax Code*
>
> - *General Rule — Proof of False or Fraudulent Return*
>
> Pursuant to Section 222 (a) of the 1997 Tax Code, the extraordinary 10-year assessment period may apply in case the taxpayer: (1) filed a false return, (2) filed a fraudulent return, or (3) failed to file a return.
>
> A fraudulent return "implies intentional or deceitful entry with intent to evade the taxes due," while a false return simply "implies deviation from the truth, whether intentional or not."
>
> It must be stressed, however, that a false return within the meaning of Section 222 (a) does not refer to false returns in general. To be sure, the extraordinary 10-year assessment period applies to a *false return* when:
>
> (1) the return contains an error or misstatement, and
> (2) **such error or misstatement was *deliberate or willful.***
>
> . . . .
>
> It shall be the CIR's burden to establish the existence of the above-enumerated statutory requisites with ***clear and convincing evidence.***
>
> - *Exception — Prima Facie Evidence of a False or Fraudulent Return (30% Threshold)*
>
> The **CIR may be relieved from the above-mentioned burden of proof when there is *prima facie evidence of falsity or fraud,*** as defined under Section 248 (B) of the 1997 Tax Code.

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[17] G.R. No. 247737, August 8, 2023 [Per J. Inting, *En Banc*].

(1) The CIR ascertains that there is a *misstatement/misdeclaration* in the return, in particular,

(a) an *understatement/under declaration* of sales, receipts, or income or

(b) an *overstatement/over declaration* of expenses or other deductions, and

(2) the misstatement is *substantial*, such that exceeds the corresponding amount declared in the return by 30%.

***30% threshold satisfied.* There is *prima facie* evidence of falsity or fraud, and the burden of proof shifts to the taxpayer. If the taxpayer fails to overcome the presumption, the *prima facie* evidence shall be sufficient to justify the application of the 10-year period.**

Taxpayer refutes presumption. If the taxpayer is successful in overturning the presumption (*e.g.*, demonstrating that the misstatement as ascertained by the CIR had been inadvertent or attributable to a mistake or was not deliberate or willful on the part of the taxpayer), the CIR cannot rely on the presumption in proving the taxpayer's *intent to evade.*

ii. ***<u>Due Process Requirements</u>***

(1) First Due Process Requirement. The *assessment notice* issued to the taxpayer must clearly state the following:

(a) that extraordinary prescriptive period (not the basic three-year period) is being applied, and

(b) the bases of allegations of falsity or fraud, *e.g.*, if the CIR seeks to rely on the *presumption of falsity or fraud* particularly, the formal notice to the taxpayer *must set out the computation by which it ascertained that the misdeclaration in the return surpassed the 30% threshold.*

(2) Second Due Process Requirement. The tax authorities have not acted in a manner that is inconsistent with the invocation of the extraordinary prescriptive period or have otherwise misled the taxpayer that the basic period will be applied. (Emphasis supplied, citation omitted)

Under Section 222(a), the ten-year prescriptive period applies when the taxpayer: (1) filed a false return, (2) filed a fraudulent return, or (3) failed to file a return. A fraudulent return implies intentional deceit with intent to evade taxes, while a false return denotes deviation from the truth. However, not every false return justifies the ten-year period. The error or misstatement must be both present and deliberate or willful.

The burden rests on the Commissioner of Internal Revenue (CIR) to establish these requisites by clear and convincing evidence. This burden may be relaxed where ***prima facie evidence of falsity or fraud exists*** under Section 248(B), specifically when there is a substantial misstatement—i.e., an understatement of income or overstatement of deductions exceeding 30% of that declared in the return. In such case, the burden shifts to the taxpayer to rebut the presumption. If successfully rebutted, the CIR cannot rely on such presumption to prove intent to evade tax.

The application of the ten-year period is likewise subject to ***due process requirements***. *First*, the assessment notice must expressly state that the extraordinary period is being applied and specify the factual bases for the allegation of falsity or fraud, including the computation supporting the 30% threshold, if invoked. *Second*, the tax authorities must not have acted inconsistently with such invocation or misled the taxpayer into believing that the ordinary period applies.

Applying these standards, the Court finds that the due process requirements were not satisfied. While both the PAN[18] and the FAN/FLD[19] imposed a 12% penalty, except for the statement on the last page of the Details of Discrepancies attached to the FAN/FLD indicating that a 25% surcharge would be imposed in case petitioner fails to file a valid protest or pay the assessed taxes within the prescribed period. Significantly, the FAN/FLD neither invoked the 10-year prescriptive period, nor provided any computation of the 30% threshold for the *prima facie* presumption of fraud to apply.

Accordingly, for failure to comply with the due process requirements, the Court holds that the extraordinary 10-year prescriptive period **does not** apply. The ordinary three-year prescriptive period therefore governs.

[18] Exhibit "P-16".
[19] Exhibit "P-18" and "P-19".

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The Court now determines whether the assessments were issued within the three-year period under Section 203.

First, the applicable statutory deadlines differ depending on the type of tax involved. In this case, the relevant taxes and their corresponding statutory deadlines are as follows:

Tax	Deadlines
Income tax	15th day of the 4th month following the close of the taxable year[20]
Value-added tax (VAT)	25 days following the close of each quarter[21]
Expanded withholding tax (EWT)	10th day of the following month[22]
Withholding tax on compensation (WTC)	10th day of the following month[23]
Final withholding tax (FWT)	10th day of the following month[24]
Documentary stamp tax (DST)	5th day of the following month[25]

Second, under Section 203, the three-year assessment period is reckoned from the date of actual filing or the deadline, whichever is later.[26]

Third, the Court recognizes that the running of the prescriptive period was suspended during the COVID-19 pandemic.

Section 4(z) of RA No. 11469, otherwise known as the Bayanihan to Heal as One Act, authorized the adjustment of statutory deadlines and timelines for the filing and submission of documents and the payment of taxes.[27] Pursuant thereto, Revenue Regulations (RR) No. 7-2020[28] and related issuances provided for extensions of statutory deadlines and the suspension of prescriptive periods. Section 4 of RR No. 7-2020 provides:

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20 Section 77(B), NIRC of 1997, as amended.
21 Section 114(A), NIRC of 1997, as amended.
22 Section 2.58(A)(2)(a), RR No. 2-1998.
23 Section 2.81, RR No. 2-1998.
24 Section 2.58(A)(2)(a), RR No. 2-1998.
25 Section 5, RR No. 6-2001.
26 Section 203, NIRC of 1997, as amended.
27 SEC. 4. Authorized Powers. – Pursuant to Article VI, Section 23(2) of the Constitution, the President is hereby authorized to exercise powers that are necessary and proper to carry out the declared national policy. The President shall have the power to adopt the following temporary emergency measures to respond to crisis brought by the pandemic:

. . . .

(z) Move statutory deadlines and timelines for the filing and submission of any document, the payment of taxes, fees, and other charges required by law, and the grant of any benefit, in order to ease the burden on individuals under Community Quarantine; (Emphasis supplied)

28 Implementing Section 4(z) of Republic Act No. 11469, otherwise known as Bayanihan to Heal As One Act", particularly on the extension of statutory deadlines and timelines for the filing and submission of any document and the payment of taxes, March 27, 2020.

> **SECTION 4. FURTHER EXTENSION.** – The extension of the statutory deadlines set in these Regulations may be further extended by the Commissioner of Internal Revenue, if the circumstances warrant for such an extension or as may be directed by the Secretary of Finance.

Pursuant to these issuances, the running of the prescriptive periods for assessment and collection under Sections 203 and 222, in relation to Section 223 of the NIRC of 1997, as amended, was suspended beginning March 16, 2020 until sixty (60) days after the lifting of the quarantine. Revenue Memorandum Circular (**RMC**) No. 136-2020,[29] clarified that this initial suspension period **totaled 137 days.**

> Item 32 in the matrix provided under RR No. 11-2020 pertains to the suspension of the statute of limitation provided under Sections 203 and 222 of the Tax Code. The said matrix provided that the suspension shall start from March 16, 2020, when the state of emergency was declared due to COVID-19 virus until sixty days after the lifting of the quarantine. With such suspension, the counting of the three (3)-year prescriptive period for the period to assess and the five (5)-year period to collect, shall exclude the number of days covered by the period of suspension, which is a **total of one hundred thirty-seven (137) days.**
>
> To illustrate:

	Original Prescriptive Date	New Prescriptive Date
Case 1	March 15, 2020	March 15, 2020
Case 2	March 16, 2020	July 31, 2020
Case 3	April 15, 2020	August 30, 2020
Case 4	June 15, 2020	October 30, 2020
Case 5	July 15, 2020	November 29, 2020
Case 6	April 15, 2021	August 30, 2021

Subsequent Enhanced Community Quarantine (**ECQ**) and Modified ECQ (**MECQ**) declarations likewise resulted in additional suspensions, including the corresponding sixty (60)-day extensions after the lifting thereof, as reiterated in later issuances such as RMC No. 93-2021.[30] The said issuance further clarified that the suspension of the statute of limitations applied in affected jurisdictions during the effectivity of the **ECQ** or **MECQ**, including any extensions thereof, and for sixty (60) days thereafter.

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[29] Clarification on the Suspension of the Statute of Limitations Provided Under Revenue Regulations (RR) No. 11-2020.

[30] Suspension of the Running of the Statute of Limitations on Assessment and Collection of Taxes Pursuant to Section 223 of the National Internal Revenue Code of 1997, as Amended, Due to the Declaration of Enhanced Community Quarantine (ECQ) and Modified ECQ(MECQ) in the National Capital Region (NCR) and Other Areas of the Country, August 6, 2021.

Accordingly, the running of the prescriptive periods for assessment and collection was suspended during the implementation of the **ECQ** and **MECQ** in Metro Manila, pursuant to Republic Act No. 11469 (Bayanihan to Heal as One Act), various Inter-Agency Task Force (IATF) Resolutions, and related BIR issuances, which tolled statutory periods for the filing, payment, assessment, and collection of taxes. [31] Depending on the applicable filing date of the return involved, the resulting suspension period ranged from one hundred one (101) to four hundred twenty (420) days, as summarized below:

Quarantine Window	Days in Quarantine	Post-Lifting Tolling	Total Suspension Days	Legal Basis (IATF/BIR)
Mar. 16, 2020 – May 31, 2020 (ECQ/MECQ)	77	60	137	Bayanihan to Heal as One Act; IATF Resos Nos. 12 (Mar. 13, 2020), 29 (May 15, 2020); BIR RMC 34-2020, RMC 136-2020
Aug. 4, 2020 – Aug. 18, 2020 (MECQ)	15	60	75	IATF Reso No. 60-A (Aug. 2, 2020); BIR RMC 79-2020, RMC 136-2020
Mar. 29, 2021 – May 14, 2021 (ECQ/MECQ)	**47**	**60**	**107**	**IATF Resos Nos. 104 (Mar. 27, 2021), 106-B (Apr. 3, 2021), 113-A (May 6, 2021); BIR RMC 52-2021**
Aug. 6, 2021 – Sep. 15, 2021 (ECQ/MECQ)	**41**	**60**	**101**	**IATF Resos Nos. 130-A (Jul. 30, 2021), 134 (Aug. 19, 2021), 135-A (Aug. 26, 2021), 137 (Sep. 7, 2021); BIR RMC 93-2021**
Total suspension days:	180	240	420	

Thereafter, the total suspension period applicable to each return depends on the date the return was filed, as follows:

Applicable Suspension	**Coverage**	**Basis**
Three (3) years + 420 days	Returns filed on or before March 16, 2020	Covered by all four suspension windows (137 + 75 + 107 + 101 = 420 days)
Three (3) years + 283 days	Returns filed after May 31, 2020 until August 4, 2020	Covered only by the 2nd, 3rd, and 4th suspension windows (75 + 107 + 101 = 283 days)

[31] Under Republic Act No. 11469 ("Bayanihan to Heal as One Act"), Section 4(z) grants the President authority to move statutory deadlines (including tax obligations) and suspend deadlines during the period of emergency. Pursuant thereto, the CIR issued Revenue Regulations (RR) No. 7-2020, later amended by RR Nos. 10-2020, 11-2020, and 12-2020, which suspend the running of the statute of limitations for tax assessment and collection beginning March 16, 2020 and extending to 60 days after lifting of quarantine. The BIR further clarified in RMC No. 34-2020 the initial suspension period. Thereafter, RMC No. 136-2020 set out exclusion/tolling computations (e.g. for the period from March 16, 2020 to May 31, 2020 plus 60 days), and subsequent circulars RMC Nos. 74-2020, 52-2021, 80-2021, and 93-2021 similarly suspended the statute of limitations for areas under ECQ or MECQ, plus the 60-day period after quarantine lifting.

Applicable Suspension	Coverage	Basis
Three (3) years + 208 days	Returns filed after August 18, 2020	Covered only by the 3rd and 4th suspension windows (107 + 101 = 208 days)

Applying the foregoing suspension periods, the extended deadlines for issuing a valid assessment against petitioner are as follows:

Return	Actual Date of Filing	Three-year period	Applicable Suspension (n)	Three-year period plus (n) days
IT: FY 2020	March 14, 2021	March 15, 2024	+208 days	October 9, 2024
VAT: Q1 of FY 2020	May 19, 2020	May 19, 2023	+355 days	May 8, 2024
VAT: Q2 of FY 2020	June 19, 2020	June 25, 2023	+283 days	April 3, 2024
VAT: Q3 of FY 2020	September 21, 2020	September 25, 2023	+208 days	April 20, 2024
VAT: Q4 of FY 2020	December 21, 2020	December 25, 2023	+208 days	July 20, 2024
EWT: Q4 of FY 2019	January 26, 2020	January 26, 2023	+420 days	March 21, 2024
EWT: January 2020	February 11, 2020	February 11, 2023	+420 days	April 6, 2024
EWT: February 2020	March 11, 2020	March 11, 2023	+420 days	May 4, 2024
EWT: Q1 of FY 2020	June 9, 2020	June 9, 2023	+283 days	March 18, 2024
EWT: April 2020	June 9, 2020	June 9, 2023	+283 days	March 18, 2024
EWT: May 2020	June 10, 2020	June 10, 2023	+283 days	March 19, 2024
EWT: Q2 of FY 2020	July 28, 2020	July 28, 2023	+283 days	May 6, 2024
EWT: July 2020	August 10, 2020	August 10, 2023	+276 days	May 12, 2024
EWT: August 2020	September 10, 2020	September 10, 2023	+208 days	April 5, 2024
EWT: Q3 of FY 2020	October 27, 2020	October 27, 2023	+208 days	May 22, 2024
EWT: October 2020	November 10, 2020	November 10, 2023	+208 days	June 5, 2024
EWT: November 2020	December 10, 2020	December 10, 2023	+208 days	July 5, 2024
WTC: December 2019	January 10, 2020	January 15, 2023	+420 days	March 10, 2024
WTC: January 2020	February 11, 2020	February 11, 2023	+420 days	April 6, 2024
WTC: February 2020	March 11, 2020	March 11, 2023	+420 days	May 4, 2024
WTC: March 2020	April 13, 2020	April 13, 2023	+391 days	May 8, 2024
WTC: April 2020	May 11, 2020	May 11, 2023	+363 days	May 8, 2024
WTC: May 2020	June 10, 2020	June 10, 2023	+283 days	March 19, 2024
WTC: June 2020	July 9, 2020	July 10, 2023	+283 days	April 18, 2024
WTC: July 2020	August 10, 2020	August 10, 2023	+276 days	May 12, 2024
WTC: August 2020	September 10, 2020	September 10, 2023	+208 days	April 5, 2024
WTC: September 2020	October 9, 2020	October 10, 2023	+208 days	May 5, 2024
WTC: October 2020	November 11, 2020	November 11, 2023	+208 days	June 6, 2024
WTC: November 2020	December 10, 2020	December 10, 2023	+208 days	July 5, 2024

An assessment is deemed made only on the date the assessment notice was **released**, **mailed**, or **sent** to the taxpayer. [32] Moreover, the assessment contemplated under Sections 203 and 222 of the NIRC of 1997, as amended, refers to the valid service of the FAN upon the taxpayer.[33]

In this case, the FAN was issued only on **November 27, 2024**, or beyond the applicable three-year prescriptive period, even after factoring in the allowable suspension periods.

Notably, the issue of prescription was squarely raised in the *Petition for Review* and remained uncontroverted by respondent. Respondent failed to refute petitioner's allegation that the government's right to assess had already prescribed.

Where prescription has clearly set in, and no valid suspension or interruption applies beyond those already considered, further proceedings would serve no useful purpose. **Courts do not adjudicate liabilities that have already been extinguished by operation of law**; thus, to persist in litigating a tax obligation already barred by prescription would be an exercise in futility.

In fine, the Court finds that respondent's right to assess the alleged deficiency taxes for Fiscal Year 2020 has already prescribed. Consequently, the government's corresponding right to collect such taxes has likewise been extinguished by operation of law.

Finally, the Court finds it proper to resolve the *Petition for Review* at this stage pursuant to Section 6, Rule 10 of the RRCTA, which provides:

> SECTION 6. *Hearing of the Motion.* — The movant shall, upon receipt of the opposition, set the motion for hearing at the next available motion day, and the Court shall give preference to the motion over all other cases, except criminal cases. At the hearing, both parties shall submit their respective evidence. If warranted, the Court may grant the motion if the movant shall deposit with the Court an amount in cash equal to the value of the property or goods under dispute or filing with the Court of an acceptable surety bond in an amount not more than double the disputed amount or value. However, **for the sake of expediency, the Court,**

[32] *Commissioner of Internal Revenue v. Pascor Realty & Development Corporation*, G.R. No. 128315, June 29, 1999 [Per J. Panganiban, Third Division].

[33] *Commissioner of Internal Revenue v. Transitions Optical Philippines, Inc.*, G.R. No. 227544, November 22, 2017 [Per J. Leonen, Third Division].

***motu proprio* or upon motion of the parties, may consolidate the hearing of the motion for the suspension of the collection of the tax with the hearing on the merits of the case.** (Emphasis supplied)

In the present case, during the hearing on petitioner's *Urgent Motion to Suspend Tax Collection,* both parties were fully heard and afforded ample opportunity to present their respective evidence. The record, as it now stands, sufficiently establishes that **respondent's right to assess the alleged deficiency taxes for Fiscal Year 2020 has already prescribed.**

Given the dispositive nature of this finding, **no further reception of evidence is necessary.** Prescription completely bars the government's right to assess and, consequently, to collect the alleged tax liabilities. As such, there remains no legal basis upon which the subject assessment and the corresponding collection efforts may be sustained. Accordingly, petitioner is entitled not only to the suspension of tax collection and the waiver of the bond requirement, but also to the outright cancellation of the assessment itself.

Accordingly, in the interest of justice and in adherence to the constitutional mandate on the speedy disposition of cases, the Court deems it proper to resolve the *Petition for Review* based on the evidence already presented. To require the parties to proceed with a full-blown trial despite the clear extinguishment of respondent's right to assess and collect would serve no useful purpose. It would merely prolong the proceedings and delay the resolution of a controversy whose outcome is already evident from the record.

WHEREFORE, premises considered, the Court resolves as follows:

1. The *Petition for Review* filed by petitioner on July 29, 2025, is **GRANTED**;

2. The Final Assessment Notices and Formal Letter of Demand dated November 27, 2024, are **CANCELLED** and **SET ASIDE** for having been issued beyond the prescriptive period;

3. The Final Decision on Disputed Assessment dated June 20, 2025, is **REVERSED** and **SET ASIDE**; and

4. Respondent, his representatives, agents, and all persons acting on his behalf, are **ENJOINED** from enforcing, implementing, or giving effect to any Warrant of Distraint and/or Levy, Warrant of Garnishment, or any administrative collection measure relating to the alleged deficiency taxes subject of this case.

In view of the grant of the *Petition for Review,* petitioner's *Urgent Motion to Suspend Tax Collection (with Prayer for the Issuance of a Writ of Preliminary Injunction and Dispensing of Bond)* is hereby declared **MOOT AND ACADEMIC**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice