REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

JUSTICE MARIA LOURDES P.A. SERENO,
Respondent.

CTA EB No. 2996
(CTA Case No. 10792)

Present:

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

Promulgated:

APR 23 2026 4:15 p.m.

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DECISION

REYES-FAJARDO, *J.*:

For action is the Petition for Review[1] filed by the Commissioner of Internal Revenue (CIR), challenging the Decision[2] dated May 14, 2024 and the Resolution[3] dated August 16, 2024 in CTA Case No. 10792. The Special Second Division of the Court (Court in Division) cancelled and set aside the undated Final Decision on Disputed Assessment (FDDA) as well as the Formal Letter of Demand dated November 5, 2018, together with the accompanying Audit Result/Assessment Notices (FLD/FANs) dated November 5, 2018 issued by petitioner CIR against respondent Justice Maria Lourdes

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1 *Rollo*, pp. 10-41.
2 *Id.* at pp. 50-99.
3 *Id.* at pp. 101-106.

P.A. Sereno. These assessments covered deficiency income taxes, surcharges and interests for taxable years (TYs) 2011 to 2016 in the total amount of ₱8,846,769.12.

PARTIES

Petitioner CIR is vested by law with the authority to carry out the functions, duties, and responsibilities of said office, including the power to assess and collect all national internal revenue taxes.[4]

Respondent Justice Maria Lourdes P.A. Sereno is a former Associate Justice of the Supreme Court of the Philippines.[5]

FACTS

On February 7, 2018, petitioner issued Revenue Special Order (RSO) No. 99-2018, designating Revenue Officers (ROs) Maxima Mones, Nina Diana Federizo, and Ricardo Suba, Jr. under the supervision of Group Supervisor (GS) Grace Marohomsalic, to form a team tasked "to investigate the internal revenue tax liabilities and possible violations of the National Internal Revenue Code (NIRC)" of respondent, as mandated by the House of Representatives Justice Committee in connection with the then ongoing impeachment hearings.[6]

On February 9, 2018, respondent received a Letter of Authority (LOA) No. No. LOA-T00-2018-00000002, issued on the same date by OIC-Deputy Commissioner Operations Group Arnel SD. Guballa (Guballa).[7] The LOA authorized ROs Mones, Federizo, and Suba, under GS Marohomsalic of the Task Force, pursuant to Revenue Special Order (RSO) No. 99-2018 dated February 7, 2018, to examine respondent's books of accounts and other accounting records for all

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4 Par. 1, Stipulation of Facts, JSFI, Docket — Vol. I, p. 431.

5 Pars. 2 and 3, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket — Vol. I, pp. 431-432.

6 Exhibit "P-28," Docket — Vol. I, p. 275.

7 Exhibit "P-2," Docket — Vol. II, p. 521; and Exhibit "R-I," BIR Records, p. 1. Refer also to par. 3. Stipulation of Facts. JSFI, Docket — Vol. I, p. 432. (Justice Maria Lourdes P.A. Sereno v. Commissioner of Internal Revenue, C.T.A. Case No. 10792, [May 14, 2024])

internal revenue taxes including documentary stamp tax, and other taxes, for the period from January 1, 2011 to December 31, 2016.[8]

In a letter dated February 20, 2018, respondent, through counsel, wrote to GS Marohomsalic, urging the Bureau of Internal Revenue (BIR) to observe the prescriptive period for assessment.[9]

On April 13, 2018, petitioner issued a Second and Final Notice for the Presentation of Books of Accounts and Other Accounting Records.[10] On the same date, respondent replied through a Letter addressed to GS Marohomsalic.[11]

On September 27, 2018, respondent received the BIR's Preliminary Assessment Notice (PAN) dated August 8, 2018.[12]

On October 12, 2018, respondent, through counsel, filed a Reply to the PAN.[13]

On November 20, 2018, the BIR issued the FLD with the accompanying FANs[14] finding respondent liable for deficiency income tax in the amount of ₱7,027,847.20, inclusive of 50% surcharge and interest, for taxable years 2011 to 2016.[15]

On December 20, 2018, respondent filed with the BIR her protest in the form of a Request for Reconsideration of the FLD.[16]

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8 Exhibit "P-2," Docket — Vol. II, p. 521; and Exhibit "R-I," BIR Records, p. 1. Refer also to par. 3. Stipulation of Facts. JSFI, Docket — Vol. I, p. 432.

9 BIR Records, p. 5.

10 Exhibit "R-3," BIR Records, p. 18.

11 BIR Records, p. 9.

12 Exhibit "P-4," Docket — Vol. II, pp. 525-528; Exhibits "R-7" and "R-7-a," BIR Records, pp. 263-266.

13 Exhibit "P-5," Docket — Vol. II, pp. 529-534.

14 Exhibit "P-6," Docket — Vol. II, pp. 571-580; Exhibits "R-," "R-9-1," "R-9-2," BIR Records, pp. 401-410.

15 Exhibit "P-6," Docket — Vol. II, pp. 571-580; Exhibits "R-," "R-9-1," "R-9-2," BIR Records, pp. 401-410

16 Exhibit "P-7," Docket — Vol. II, pp. 581-607.

On January 28, 2022, respondent received an undated FDDA, with attached Audit Result/Assessment Notices issued by the BIR.[17]

On February 28, 2022, respondent filed a Petition for Review before the Court in Division, docketed as CTA Case No. 10792,[18] to which petitioner filed his Answer on May 10, 2022.[19]

On May 14, 2024, the Court in Division rendered the challenged Decision, the dispositive portion of which reads:

> **WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED**. Accordingly, the undated FDDA TFS-11-16-22-002 and the FLD/FANs dated November 5, 2018 issued by respondent CIR against petitioner Justice Maria Lourdes P.A. Sereno for deficiency income taxes, surcharges and interests covering taxable years 2011 to 2016, are **CANCELLED** and **SET ASIDE**.
>
> Further, respondent is **ENJOINED and PROHIBITED** from enforcing the collection of the subject deficiency taxes during the pendency of this case.
>
> **SO ORDERED.**

On May 30, 2024, petitioner filed a Motion for Reconsideration (Decision dated May 14, 2024) with the Court in Division.

On August 16, 2024, the Court in Division rendered the equally challenged Resolution, denying petitioner's Motion for Reconsideration, the dispositive portion of which states:

> **WHEREFORE**, in light of the foregoing considerations, respondent's **Motion for Reconsideration (Decision dated May 14, 2024) is DENIED** for lack of merit.
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> **SO ORDERED.**

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17 Exhibits "P-1-A" to "P-1-F," Docket – Vol. II, pp. 515 to 520; Exhibit "R-10-," BIRR Records, pp. 457-462.

18 Docket – Vol. I, pp. 6-67.

19 Docket – Vol. I, pp. 330-361.

On October 3, 2024, petitioner, within the extended period granted,[20] filed a Petition for Review with the Court *En Banc*,[21] to which respondent filed its Comment/Opposition (Re: Petition for Review dated 3 October 2024.[22]

Under Resolution dated April 23, 2025, CTA EB No. 2996 was submitted for decision.[23]

ISSUE

Whether the Court in Division erred in setting aside petitioner's FDDA and the FLD/FANs for deficiency income taxes, surcharges, and interests for taxable years 2011 to 2016, amounting to ₱8,846,769.12?

ARGUMENTS

Petitioner seeks to collect from respondent tax assessments arising from alleged deficiency income taxes on respondent's income from her employment from the Supreme Court for TYs 2011 to 2016. In its PAN, FLD/FAN and FDDA, petitioner faults respondent, as an employee, for failing to provide her employer, the Supreme Court, with accurate documents and information necessary for the filing of correct income tax returns.[24]

On the other hand, respondent asserts in her protest to the PAN that, from 2011 to 2016, she was exclusively employed by the Supreme Court, and that it was the Supreme Court, through its Fiscal Management and Budget Office (FBMO) which determined, prepared, withheld, and remitted her income taxes.[25] She further states that she separately paid additional income taxes for TYs 2012, 2014 and 2015.

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20 *Rollo*, p. 9. Petitioner had fifteen (15) days from receipt of the resolution on September 4, 2024, or until September 19, 2024, within which to file a petition for review. On September 18, 2024, petitioner filed a Motion for Extension of Time to File Petition for Review. On September 25, 2024, the Court *En Banc* issued a Minute Resolution granting petitioner until October 4, 2024, to file its Petition for Review. Petitioner timely filed its Petition for Review within the extended period granted by the Court on October 3, 2024. *Rollo*, pp. 243-244.

21 *Id.* at pp. 10-41

22 *Id.* at pp. 132-958.

23 *Id.* at p. 982.

24 Rollo, Petition for Review, pp. 38-39.

25 Exhibit "P-37," Docket- Vol. I, pp. 287 to 305.

Respondent also claims that petitioner failed to consider her explanations in her protest to petitioner's issuance of the FLD/FAN.

Petitioner further asserts that the assessments for TYs 2011 to 2014, as well as the collection for TYs 2011 to 2016, were made within the ten (10)-year prescriptive period for assessment under Section 222 (a) of the NIRC, as amended and the five (5)- year extraordinary period for collection, respectively. Petitioner invokes respondent's alleged filing of false and fraudulent income tax returns to justify the application of the ten (10)-year prescriptive period for assessment and the five (5)- year extraordinary period for collection. He explains that the imposition of the fifty percent (50%) surcharge in the FLD/FAN and FDDA on respondent's tax liabilities for TYs 2011 to 2016 confirms falsity and fraud in the returns.

Respondent counters that petitioner failed to prove fraud or intent to evade payment of income taxes. She also argues that petitioner's Motion for Reconsideration merely reiterated arguments in violation of Section 2, Rule 37 of the Rules of Court. Consequently, it did not toll the reglementary period to appeal, rendering petitioner's Petition for Review filed out of time. Finally, respondent maintains that the Court in Division properly canceled petitioner's FDDA and FLD/FANs on the grounds of violation of due process and prescription.

RULING

The Petition lacks merit.

To recall, the Court in Division declared that the FLD/FANs dated November 5, 2018 were void for violating respondent's right to due process. Respondent's right to due process requires that, in the issuance of the FLD/FAN, petitioner BIR consider with reasons the respondent's reply to the PAN.[26] Petitioner did not do so.

Section 228 of the NIRC, as amended, requires the CIR to inform the taxpayer in writing of both the law and the facts on which the

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[26] See pages 19- 23 of the assailed Decision dated May 14, 2024. Rollo, pp. 68-72.

assessment is made. Failure to comply with this requirement renders the assessment void:

> 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: ...
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> ....
>
> **The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.**
>
> ...[27]

In *Ang Tibay v. The Court of Industrial Relations and National Labor Union, Inc. (Ang Tibay)*[28] the Supreme Court held that due process requires not only an opportunity to present evidence but also the duty of the tribunal to *consider* such evidence and to render a decision in such a manner that sets out the various issues involved, and the reasons for the decision rendered:

> ...There are primary rights which must be respected even in proceedings of this character:
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> ...
>
> (2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts **but the tribunal *must consider* the evidence presented.** (*Chief Justice Hughes in Morgan v. U.S.* 298 U.S. 468, 56 S. Ct. 906, 80 law. ed. 1288.) **In the language of this court in *Edwards vs. McCoy,* 22 Phil., 598, "the right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration."** ...
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> ...
>
> (7) The Court of Industrial Relations should, in all controversial questions, **render its decision in such a manner that the parties to the proceeding can know the various issues involved, and**

[27] Boldfacing supplied.
[28] G.R. No. L-46496 February 27, 1940

> **the reasons for the decision rendered.** The performance of this duty is inseparable from the authority conferred upon it. ...[29]

Echoing *Ang Tibay*, in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc. (Avon)*,[30] the Supreme Court explained that while the CIR is not obliged to accept a taxpayer's explanations, any rejection must be accompanied by reasons. In particular, the CIR must give the facts on which the conclusions are based, and those facts must appear in the record. Otherwise, the right to be heard, which includes the right to present evidence, becomes meaningless if the CIR can simply ignore the evidence without reason.

In this case, the BIR issued a PAN against respondent, assessing deficiency income taxes in the amount of ₱6,965,856.84, inclusive of surcharges and interests, as follows:[31]

	2011	2012	2013	2014	2015	2016
Basic Deficiency Income Tax	₱631,737.77	₱364,524.79	₱576,545.59	₱584,240.39	₱541,679.63	₱392,320.70
Surcharge (50%)	₱315,868.88	₱182,262.39	₱288,272.79	₱292,120.19	₱270,839.82	₱196,160.35
Interest	(4/15/2012-12/31/2017)-₱722,084.92 (1/1/18-9/30/18)-₱56,492.93	(4/15/2013-12/31/2017)-₱343,751.87 (1/1/18-9/30/18)-₱32,597.50	(4/15/2014-12/31/2017)-₱428,381.27 (1/1/18-9/30/18)-₱51,557.39	(4/15/2015-12/31/2017)-₱317,250.53 (1/1/18-9/30/18)-₱52,245.50	(4/15/2016-12/31/2017)-₱185,506.72 (1/1/18-9/30/18)-₱48,439.52	(4/15/2017-12/31/2017)-₱55,892.26 (1/1/18-9/30/18)-₱35,083.14
Deficiency Income Tax	₱1,726,184.50	₱923,136.55	₱1,344,757.04	₱1,245,856.61	₱1,046,465.69	₱679,456.45
TOTAL	₱6,965,856.84					

DETAILS OF DISCREPANCIES

Deficiency Income Tax (Sec. 24 of the NIRC of 1997) Verification disclosed that there are discrepancies in the reported salaries per your Income Tax Return as against the salaries reported by the Commission on Audit (COA), thereby resulting to a deficiency Income Tax in the amount of P6,965,856.84, inclusive of increments.

Pursuant to Section 32 of the NIRC of 1997 and Revenue Regulations No. 2-98, the total exclusion from gross income representing 13th month pay and other benefits received by officials and employees of public and private entities should not exceed thirty thousand pesos (P30,000.00).

The gross amount of exclusion was increased to eighty-two thousand pesos (P82,000.00) upon implementation of Republic Act (RA)No. 10653 and pursuant to

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29 Boldfacing supplied.
30 G.R. Nos. 201398-99, October 03, 2018.
31 Exhibit "P-8," Docket - Vol. III, pp. 794 to 802; and Exhibit "R-6," BIR Records (BIR Records "R-13"), pp. 667 to 675.

> Revenue Regulations No. 3-2015 dated March 9, 2015. You should have included in your gross income the portion not covered by the above mentioned exclusion.
>
> Under Section 248 of the NIRC of 1997, failure to report sales in amount exceeding thirty percent (30%) shall render the taxpayer liable for substantial under-declaration of sales and shall constitute *prima facie* evidence of a false and fraudulent return. Furthermore, under Section 222 of the Tax Code, that in case of false and fraudulent return, the tax may be assessed at anytime within ten (10) years after discovery of falsity, fraud or omission.

In her reply to the PAN, respondent argued that any liability for deficiency taxes should fall on the withholding agent, namely, the Supreme Court. She emphasized that as a purely compensation income earner for taxable years 2011 to 2016, the duty to withhold and remit taxes on her salaries, allowances, and other emoluments rested with her employer, the Supreme Court, acting as the statutory withholding agent under Section 79(A) in relation to Section 80(A) of the NIRC of 1997, as amended. She also maintained that gross compensation income should be determined based on the alphalists submitted by her employer. Finally, she asserted that the Supreme Court correctly withheld and remitted the income taxes due, as evidenced by her reconciliation using BIR Forms No. 2316, the Supreme Court alphalist, and records from the Presidential Electoral Tribunal (PET).

In this case, petitioner merely reiterated in the FLD/FAN the very same findings and discrepancies previously raised in the PAN, save for a modification in the computation of interests on the deficiency income taxes. In the BIR's FLD/FAN, respondent was assessed a deficiency income tax liability in the amount of ₱7,027,847.20:

	2011	2012	2013	2014	2015	2016
Basic Deficiency Income Tax	₱631,737.77	₱364,524.79	₱576,545.59	₱584,240.39	₱541,679.63	₱392,320.70
Surcharge (50%)	₱315,868.88	₱182,262.39	₱288,272.79	₱292,120.19	₱270,839.82	₱196,160.35
Interest	(4/15/2012-12/31/2017)- ₱722,084.92 (1/1/18-11/30/18)- ₱69,162.30	(4/15/2013-12/31/2017)- ₱343,751.87 (1/1/18-11/30/18)- ₱39,907.97	(4/15/2014-12/31/2017)- ₱428,381.27 (1/1/18-11/30/18)- ₱63,119.89	(4/15/2015-12/31/2017)- ₱317,250.53 (1/1/18-11/30/18)- ₱63,962.32	(4/15/2016-12/31/2017)- ₱185,506.72 (1/1/18-11/30/18)- ₱59,302.79	(4/15/2017-12/31/2017)- ₱55,892.26 (1/1/18-11/30/18)- ₱42,951.06
Deficiency Income Tax	₱1,738,853.87	₱930,447.02	₱1,356,319.54	₱1,257,573.43	₱1,057,328.96	₱687,324.37
TOTAL	₱7,027,847.20					

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DETAILS OF DISCREPANCIES

> **Deficiency Income Tax (Sec. 24 of the NIRC of 1997: RR 7-2018)** Verification disclosed that there are discrepancies in the reported salaries per your Income Tax Return as against the salaries reported by the Commission on Audit (COA), thereby resulting to a total deficiency Income Tax in the amount of P7,027,847.20, inclusive of increments.
>
> Pursuant to Section 32 of the NIRC of 1997 and Revenue Regulations No. 2-98, the total exclusion from gross income representing 13th month pay and other benefits received by officials and employees of public and private entities should not exceed thirty thousand pesos (P30,000.00).
>
> The gross amount of exclusion was increased to eighty-two thousand pesos (P82,000.00) upon implementation of Republic Act (RA)No. 10653 and pursuant to Revenue Regulations No. 3-2015 dated March 9, 2015. You should have included in your gross income the portion not covered by the above-mentioned exclusion.
>
> Under Section 248 of the NIRC of 1997, failure to report sales in amount exceeding thirty percent (30%) shall render the taxpayer liable for substantial under-declaration of sales and shall constitute *prima facie* evidence of a false and fraudulent return. Furthermore, under Section 222 of the Tax Code, that in case of false and fraudulent return, the tax may be assessed at anytime within ten (10) years after discovery of falsity, fraud or omission.

Petitioner failed to address the defenses raised in her Reply to the PAN[32] and offered no explanation for rejecting her arguments. This deficient approach falls short of the standards of fairness established in *Ang Tibay* and *Avon.*

Besides, the BIR already lost its right to collect the assessed deficiency income taxes on respondent. Section 222(a) in relation to Section 222(c) of the NIRC, as amended, is explicit in that the five (5)-year prescriptive period only applies, if the filing of tax returns was attended with intentional or deliberate falsity, [33] to wit:

> 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.

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32 See pages 21- 22 of the assailed Decision dated May 14, 2024. Rollo, pp. 70-71.

33 *Commissioner of Internal Revenue v. Court of Tax Appeals and QL Development, Inc., infra* note 46.

> ...
>
> (c) Any internal revenue tax which has been assessed within the period of limitation as prescribed in **paragraph (a)** hereof may be collected by distraint or levy or by a proceeding in court within five (5) years following the assessment of the tax.[34]

Here, petitioner imputes fraud or intentional falsity in the filing of her Annual Income Tax Returns (AITRs). However, the record shows that respondent earned compensation and other income during her tenure at the Supreme Court. Thus, her act of filing the AITRs, demonstrates good faith in complying with tax laws, rather than a furtive intent to deprive the government of taxes rightfully due. The Court quotes with approval the following discussion of the Court in Division:

> Under the circumstances, We find that the error in petitioner's BIR Form 2316 and AITR, if there was any, was committed without any intent to evade the tax payment on the part of petitioner. **If there were such an intent, petitioner would not have filed AITRs for TYs 2012, 2014, and 2015 and voluntarily paid income taxes in the amounts of ₱253,665.28, ₱50,800.00 and ₱1,600.00, respectively, in addition to the taxes withheld and paid by the Supreme Court. Moreover, as an employee, she reasonably relied on the BIR Form 2316 issued to her by her employer, which served as her AITR during the period, without separately paying additional taxes for TYs 2012, 2014, and 2015.**[35]

Indeed, fraud is defined "... as the deliberate intention to cause damage or prejudice. It is voluntary execution of a wrongful act, or a willful omission, knowing and intending the effects which naturally and necessarily arise from such act or omission."[36] Surely, the supposed errors committed by respondent do not fall within this definition.

As accurately pointed out by Associate Justice Jean Marie A. Bacorro-Villena in her separate concurring opinion, "...[respondent] explained that as a purely compensation income earner for TYs 2011 to 2016, [respondent] qualified for substituted filing (in which case, any deficiency tax assessment must be directed to and addressed by

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34 Boldfacing supplied.

35 See page 40 of the assailed Decision dated May 14, 2024. Rollo, p. 89. Boldfacing supplied.

36 *Commissioner of Internal Revenue v. Arturo E. Villanueva*, G.R. No. 249540, February 28, 2024, citing *Pilipinas Shell Petroleum Corp. v. Commissioner of Customs*, G.R. No. 195876. December 05, 2016.

her employer, the statutory withholding agent). [Respondent] also provided a reconciliation showing that her employer correctly withheld and remitted the income tax due on the payments she received for TYs 2011 to 2016. Again, since [respondent] has overturned the said presumption, [the BIR] cannot rely thereon in proving [respondent]'s intent to evade."[37]

Since there was no intentional or deliberate falsity in the filing of respondent's tax returns, the five (5)-year prescriptive period to collect the taxes invoked by petitioner is inapplicable.

What then is the governing prescriptive period to collect taxes in this case? Three (3) years, counted from the date the formal assessment was made.

True, the 1997 NIRC, as amended, is silent on the prescriptive period for collection of tax, when a tax assessment was made, *sans* presence of intentional falsity, or fraud in the filing of tax returns, or omission to file tax returns on the part of the taxpayer.

Yet, Section 291 of the 1997 NIRC, as amended,[38] only repealed, among others, laws which are contrary or inconsistent with said Code. Conversely, laws which are in conformity, or consistent with the present NIRC still stands. Among these laws effective to date is a fragment of Batas Pambansa Blg. 700,[39] which provides that the prescriptive period to collect the assessed taxes, absent intentional falsity, fraud, or omission to file tax returns is three (3) years, counted from the date when assessment was made.[40] Quoting *CIR v. United*

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[37] See page 4 of the Separate Concurring Opinion of the assailed Decision dated May 14, 2024. Rollo, p. 98.

[38] **Section 291.** *In General.* - All laws, decrees, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Code are hereby repealed, amended or modified accordingly.

[39] An Act Amending Sections 318 and 319 of the National Internal Revenue Code, as Amended, So as to Reduce the Period of Limitation for Assessment of Internal Revenue Taxes from Five (5) to Three (3) Years.

[40] **Section 1.** Section 318 of the National Internal Revenue Code, as amended, is hereby amended to read as follows:
Sec. 318. *Period of limitation upon assessment and collection.* Except as provided in the succeeding section, internal revenue taxes shall be assessed within three 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-year period shall be counted from the day the return was filed. For the purposes

Salvage and Towage (Phils.), Inc.[41] the Supreme Court, in *Commissioner of Internal Revenue v. Court of Tax Appeals and QL Development, Inc. (QLDI)*[42] held:

> The statute of limitations on assessment and collection of national internal revenue taxes was shortened from five (5) years to three (3) years by virtue of Batas Pambansa Blg. 700. Thus, petitioner has three (3) years from the date of actual filing of the tax return to assess a national internal revenue tax or to commence court proceedings for the collection thereof without an assessment. However, when it validly issues an assessment within the three (3)-year period, it has another three (3) years within which to collect the tax due by distraint, levy, or court proceeding. The assessment of the tax is deemed made and the three (3)-year period for collection of the assessed tax begins to run on the date the assessment notice had been released, mailed or sent to the taxpayer.

Guided by the ruling in *QLDI*, petitioner lost the right to *collect* from respondent the deficiency income taxes for TYs 2011 to 2016, under the FLD/FANs dated November 5, 2018. To be precise, the FLD/FAN were served upon respondent, through counsel on November 20, 2018.[43] Counting three (3) years from November 20, 2018, petitioner had until November 20, 2021 to enforce collection of the deficiency income taxes under said FLD/FAN. Thus, as correctly held by the Court in Division, when petitioner initiated the collection on May 10, 2022 by filing an answer to respondent's Petition for Review, *sans* service of Warrant of Distraint and/or Levy, the right to collect the assessed deficiency taxes for TY 2011 to 2016 had already prescribed.

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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.

Section 2. Section 319 of the same Code is hereby amended to read as follows:

Sec. 319. *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 a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within ten 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.

...

(c) Any internal revenue tax which has been assessed within the period of limitation above-prescribed may be collected within three years following the assessment of the tax.

41 G.R. No. 197515, July 2, 2014.

42 G.R. No. 258947, March 29, 2022.

43 Exhibit "P-6," Docket – Vol. II, pp. 571-580; Exhibits "R-9," "R-9-1," "R-9-2," BIR Records, pp. 401-410.

In sum, no reversible error was committed by the Court in Division in invalidating the deficiency income tax assessment issued against respondent for TYs 2011 to 2016.

WHEREFORE, the Petition for Review, filed by the Commissioner of Internal Revenue on October 3, 2024 in CTA EB No. 2996, is **DENIED** for lack of merit. The Decision dated May 14, 2024 and the Resolution dated August 16, 2024 in CTA Case No. 10792 are **AFFIRMED.**

SO ORDERED.

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

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

Inhibited
HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice