

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF
INTERNAL REVENUE,
Petitioner,

CTA EB No. 2974
(CTA Case No. 10255)

Present:

- versus -

RINGPIS-LIBAN, P.L.,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES,
ANGELES,
TESTON, and
CENTENO-DIJAMCO, II.

KONICA MINOLTA
MARKETING SERVICES
(PHILIPPINES), INC.,
Respondent.

Promulgated:

SEP 11 2026

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DECISION

BACORRO-VILLENA, J.:

Pursuant to Section 2(a)(1),¹ Rule 4, in relation to Section 3(b),² Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), petitioner Commissioner of Internal Revenue

¹ SEC. 2. *Cases within the jurisdiction of the Court en banc.* – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:

1. Cases arising from administrative agencies - Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry and Department of Agriculture[.]

² SEC. 3. *Who may appeal; period to file petition.* —

...
(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution.

(**petitioner/CIR**) filed this present Petition for Review³ before the Court *En Banc* to seek the reversal of the Special Third Division’s Decision⁴ promulgated on 01 March 2024 (**assailed Decision**) and its Resolution⁵ issued on 30 July 2024 (**assailed Resolution**).

In the assailed Decision and Resolution, the Special Third Division granted respondent Konica Minolta Marketing Services (Philippines), Inc.’s (**respondent’s**) prior “Petition for Review [with Extremely Urgent Omnibus Motion 1. To Suspend Collection of Tax; 2. To Lift Warrant of Dstraint and/or Levy; & 3. To Lift Warrant of Garnishment]”⁶ (**prior petition**) initially filed with the Second Division and cancelled the Formal Assessment Notice (FAN) Part I and Part II⁷ and the related assessment notices⁸ (ANs), all dated 14 December 2018. The FAN assessed respondent for deficiency income tax (IT), value-added tax (VAT), withholding tax on compensation (WTC), final withholding tax (FWT), improperly accumulated earnings tax (IAET) and compromise penalty in the total amount of ₱ 98,447,592.01 for taxable year (TY) 2015. The breakdown of the alleged deficiency taxes is as follows:

IT	₱ 46,120,289.59
VAT	45,455,993.84
WTC	198,963.76
FWT	3,311,034.66
IAET	3,321,310.16
Compromise Penalty	40,000.00
Total	₱ 98,447,592.01

As the case records bear, petitioner is the duly appointed CIR, head of the Bureau of Internal Revenue (**BIR**), who is tasked to decide disputed assessments, refunds of internal revenue taxes, fees or charges, and penalties imposed in relation thereto. He or she may be served with notices, pleadings, resolutions, orders, decisions, and other legal processes at the BIR National Office Bldg., Agham Road, Diliman, Quezon City.⁹

³ Filed on 05 September 2024, *rollo*, pp. 5-22.
⁴ Division Docket, Volume III, pp. 1118-1138. Penned by Associate Justice (now Presiding Justice) Ma. Belen M. Ringpis-Liban with the concurrence of Associate Justice Maria Rowena Modesto-San Pedro and Associate Justice Corazon G. Ferrer-Flores.
⁵ Id., pp. 1168-1174.
⁶ Id., Volume I, pp. 6-22.
⁷ Exhibit “R-7”, BIR Records, pp. 736-741.
⁸ Exhibits “R-7-b”, “R-7-b”, “R-7-c”, “R-7-d”, “R-7-e”, “R-7-f” and “R-7-g”, id., pp. 742-747.
⁹ See par. 2, Summary of Admitted Facts, Joint Stipulation of Facts and Issues (**JSFI**), Division Docket, Volume II, p. 706.

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Respondent, on the other hand, is a corporation duly organized and existing under the laws of the Philippines, with address at 28th Floor, Tower 2, The Enterprise Center, 6766 Ayala Avenue, corner Paseo de Roxas Avenue, Makati City (**registered address**).¹⁰ It is registered with the Securities and Exchange Commission (SEC) with Company Registration No. CS201122096¹¹ and the BIR with Taxpayer Identification Number (TIN) 008-183-464-0000.¹²

The antecedent facts follow.

On 02 November 2016, respondent, through Minard F. Edanos (**Edanos**),¹³ received Letter of Authority (LOA) No. AUDR01/008103/2016 (eLA201200033077) dated 19 October 2016,¹⁴ which authorized Revenue Officer (RO) Melissa Baes (**Baes**) and Group Supervisor (GS) Rebecca Pandapatan (**Pandapatan**) of Revenue District Office (RDO) No. 047-East Makati, to examine the former's books of account and accounting records for all internal revenue taxes for the period of 01 January 2015 to 31 December 2015, or TY 2015. The LOA reflected respondent's previous name of "E. Work Flow Solutions, Inc." (**E. Work Flow**) and was personally served at respondent's registered address.

During the audit, respondent received the First Notice for Presentation of Records¹⁵ (**First Notice**) and Second and Final Notice for Presentation of Records¹⁶ (**Final Notice**) on 12 December 2016 and 15 May 2017, respectively. Similarly, these were personally served and received at respondent's registered address.¹⁷

Subsequently, after respondent submitted the requested documents to the BIR, it received the Notice of Informal Conference (NIC) dated 09 July 2018¹⁸ on 11 July 2018. The BIR made an initial assessment of respondent's alleged tax liabilities of ₱93,156,576.10, comprised of IT, VAT, expanded withholding tax (EWT), WTC, FWT 

¹⁰ See par. 1, Summary of Admitted Facts, JSFI, id.

¹¹ Exhibit "P-2", id., Volume I, pp. 98, 101-104.

¹² Exhibit "P-3", id., pp. 105-107.

¹³ Exhibit "R-1-6", BIR Records, p. 3.

¹⁴ Exhibit "R-1", id.

¹⁵ Exhibit "R-2", id., p. 240.

¹⁶ Exhibit "R-3", id., p. 287.

¹⁷ See Exhibits "R-2-b", id., p. 240; "R-3-b", id.

¹⁸ Exhibit "R-4", id., pp. 340-342.

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and IAET. The NIC was personally served and received at respondent registered address.¹⁹ On 16 August 2018, respondent filed its Reply to the NIC²⁰ and answered each assessment findings. Consequently, it prayed for petitioner to re-evaluate the disputed issues.²¹

Later, petitioner issued the Preliminary Assessment Notice (PAN) dated 16 November 2018²² with the Details of Discrepancies.²³ There, petitioner removed the EWT assessment but maintained the other tax findings. At the time, respondent was assessed with deficiency taxes in the amount of ₱97,501,658.19. The PAN was personally served and received at respondent's registered address on 26 November 2018.²⁴ In response to the PAN, on 11 December 2018, respondent filed its Reply to the PAN²⁵ to contest the deficiency tax assessments.

Three (3) days after the filing of respondent's Reply to the PAN, on 14 December 2018, petitioner issued the FAN Part I and Part II,²⁶ Details of Discrepancies²⁷ and ANs²⁸ that maintained the deficiency tax assessments against respondent but added the compromise penalty of ₱40,000.00. Further, it demanded the payment of the said tax liabilities on or before 14 January 2019.²⁹ The said notices reflected respondent's previous name of "E. Work Flow" and its registered address.

Thereafter, petitioner issued to respondent a letter dated 16 January 2019³⁰ where he or she acknowledged the Reply to the PAN. Nonetheless, as the FAN and ANs were already issued, it instead directed respondent to file its protest within thirty (30) days from receipt thereof. Based on the Written Report on Personal Service or Substituted Service (**WRPSSS**), the said notices remained unserved through personal service.³¹

¹⁹ Exhibit "R-4-b", id., p. 342.

²⁰ Id., pp. 424-440.

²¹ See Part V: Our Summary Prayer, id., p. 424.

²² Exhibit "R-6", id., pp. 508-509

²³ Id., pp. 504-507.

²⁴ Exhibit "R-6-b", id., p. 508.

²⁵ Id., pp. 699-718.

²⁶ Supra at note 7.

²⁷ Id.

²⁸ Supra at note 8.

²⁹ Id.

³⁰ BIR Records, p. 719.

³¹ Id., p. 734.

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On 07 January 2020, respondent received the undated Warrant of Distraint and/or Levy (**WDL**) No. RR8A-WDL-2019-10-0084³² which sought the collection of the alleged deficiency taxes of ₱98,447,592.01. Similarly, the WDL was personally served and received at respondent's registered address.

Still later, petitioner also issued Warrant of Garnishment (**WOG**) No. RR8a-WG-2019-10-0093³³ to respondent's banks to apprise them of the latter's tax liabilities and to garnish any bank accounts which respondent maintained in their respective companies.

On 27 January 2020, respondent filed a Reply to the WDL³⁴ where it contended that it did not receive the FAN and ANs as required under Section 228³⁵ of the National Internal Revenue Code (**NIRC**) of 1997, as amended. It also underscored that petitioner's right to assess had already prescribed under Section 203³⁶ of the same law that provides a window period of only three (3) years to assess (counted from the filing of its tax return).

On 06 February 2020, respondent (then petitioner) filed its prior petition³⁷ with the Court. The case was docketed as CTA Case No. 10255 entitled "*Konica Minolta Marketing Services (Philippines), Inc. v. Commissioner of Internal Revenue*". It was raffled to the Second Division.³⁸ Thereafter, Summonses³⁹ were issued. The Second Division also scheduled the hearing for petitioner's "Extremely Urgent Omnibus Motion 1. To Suspend Collection of Tax; 2. To Lift Warrant of Distraint and/or Levy; & 3. To Lift Warrant of Garnishment" (**Urgent Omnibus Motion**) incorporated in its prior petition, on 27 February 2020.⁴⁰

During the hearing of the Urgent Omnibus Motion, respondent presented Marites V. Corona (**Corona**), its Head Accountant. By way of 

³² Id., p. 766.

³³ See Warrants of Garnishment in the BIR Records.

³⁴ BIR Records, pp. 817-822.

³⁵ **SEC. 228. *Protesting of Assessment.***

³⁶ **SEC. 203. *Period of Limitation Upon Assessment and Collection.***

³⁷ Supra at note 6.

³⁸ Then composed of Associate Justice Juanito C. Castañeda, Jr. (Ret.) as Chairperson, Associate Justice Cielito N. Mindaro-Grulla (Ret.) and Associate Justice Jean Marie A. Bacorro-Villena, as Members.

³⁹ Division Docket, Volume I, p. 82.

⁴⁰ See Resolution dated 14 February 2020, id., pp. 84-85.

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Judicial Affidavit,⁴¹ she testified that: (1) respondent’s previous business name was “E. Work Flow” as evidenced by its original Certificate of Incorporation; (2) in the course of the audit, respondent received the LOA, First Notice, Final Notice, NIC and PAN; (3) instead of the FAN, respondent received the WDL; (4) respondent’s banks also received the WOG, hence, its account, particularly in MUFG, was garnished;⁴² (5) with the strained bank account, respondent’s business operations were hampered especially the payment of its obligations and the employees’ salaries; and (6) as of hearing date, respondent’s account was still frozen, thus, compelling the filing of the Urgent Omnibus Motion.

On cross-examination, Corona stressed that respondent could not pay its taxes using the electronic Filing and Payment System (eFPS) as the enrolled bank account was garnished. Moreover, it borrows fund from its parent company to settle its obligation and run its daily operations.⁴³

No redirect examination was conducted.⁴⁴

Subsequently, respondent verbally offered the exhibits attached to Corona’s Judicial Affidavit. Without objection from petitioner, the Second Division had admitted them.⁴⁵ Further, after petitioner 

⁴¹ Exhibit “P-65”, Judicial Affidavit of Marites V. Corona dated 27 February 2020, id., pp. 86-95.
⁴² See Letter dated 24 January 2020, BIR Records, p. 834.
⁴³ TSN dated 27 February 2020, pp. 11-13.
⁴⁴ Id., p. 14.
⁴⁵ Id., pp. 14-15.
The exhibits identified and attached in the Judicial Affidavit of Marites V. Corona are the following:

Exhibits	Description
“P-1”	Secretary’s Certificate dated 5 February 2020
“P-2”	SEC Certificate of Filing of Amended Articles of Incorporation dated 28 November 2017
“P-3”	Certificate of Registration (BIR Form No. 2303) issued to Konica Minolta Marketing Services (Philippines), Inc. (Formerly: E. Work Flow Solutions, Inc.)
“P-4”	SEC Certificate of Incorporation dated 11 January 2012
“P-5”	Certificate of Registration (BIR Form No. 2303) issued to E. Work Flow Solutions Inc.
“P-6”	Letter of Authority AUDR01/008103/2016 (SN: eLA201200033077) (LOA) dated 19 October 2016
“P-7”	List of Requirements
“P-8”	First Notice for Presentation of Records (“First Notice”)
“P-9”	Letter dated 18 November 2016
“P-10”	Letter dated 22 November 2016
“P-11”	Second and Final Notice for Presentation of Records (“Final Notice”)
“P-12”	Notice of Informal Conference dated 9 July 2018 (“NIC”)
“P-13”	Reply Letter dated 10 August 2018

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manifested no witnesses will be presented, the Second Division directed the parties to file their respective memoranda.⁴⁶ On 03 March 2020, the parties filed their separate Memorandum.⁴⁷

In the Resolution of 02 July 2020,⁴⁸ the Second Division denied the Urgent Omnibus Motion for respondent's failure to prove that the collection of the alleged tax liabilities would jeopardize its business operations.

On 06 July 2020, petitioner filed his or her Answer.⁴⁹ There, petitioner alleged that: (1) contrary to respondent's claim, the FAN was sent through registered mail to respondent's registered address; (2) the service of the FAN and ANs through registered mail is a valid mode of service; and (3) the Court lacks jurisdiction over the case as respondent failed to file a protest against the FAN, hence, making the tax assessments final and demandable.

Prior to the conduct of the pre-trial set initially on 02 September 2020,⁵⁰ the parties filed their respective Pre-Trial Briefs.⁵¹ Petitioner also elevated the BIR Records of the case to this Court.⁵² However, on 18 August 2020, respondent filed its "Motion for Reconsideration [To the Resolution dated 02 July 2020]"⁵³ (MR). Thus, the scheduled pre-trial conference was cancelled and petitioner was directed to comment on the said motion, after which it will be deemed submitted for resolution.⁵⁴

"P-14"	Preliminary Assessment Notice dated 16 November 2018 ("PAN")
"P-15"	Protest Letter dated 11 December 2018 ("PAN Protest")
"P-16"	Warrant of Dstraint and/or Levy ("WDL")
"P-17"	Warrant of Garnishment dated 23 January 2020 ("WG")
"P-18"	Letter dated 24 January 2020 from Bank of Tokyo-Mitsubishi (MUFG) ("MUFG Bank Letter")
"P-19"	Letter dated 24 January 2020

⁴⁶ See Order dated 27 February 2020, Division Docket, Volume I, p. 179.

⁴⁷ See Respondent's Memorandum, id., pp. 184-199; [Petitioner's] Memorandum (To the [Respondent's] Extremely Urgent Omnibus Motion to Suspend Collection of Taxes, to Lift Warrant of Dstraint and/or Levy, and to Lift Warrant of Garnishment), id., pp. 224-231.

⁴⁸ Id., pp. 244-251.

⁴⁹ Id., pp. 252-264.

⁵⁰ See Notice of Pre-Trial Conference dated 10 July 2020, id., pp. 354-355.

⁵¹ See [Petitioner's] Pre-Trial Brief filed on 27 August 2020, id., pp. 369-379; [Respondent's] Pre-Trial Brief filed 28 August 2020, id., pp. 516-527.

⁵² See Compliance filed on 09 July 2020, id. p. 356; Minute Resolution dated 17 July 2020, id., p. 357.

⁵³ Id., pp. 359-367.

⁵⁴ See Resolution dated 01 September 2020, id., p. 530.

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After petitioner filed his or her “Comment/Opposition (To [Respondent’s MR]),⁵⁵ the Second Division proceeded to deny the said MR on the ground that respondent still failed to submit competent evidence to prove its alleged jeopardy.⁵⁶

The Pre-Trial Conference was later reset to 10 March 2021.⁵⁷ Prior to the said hearing, respondent filed a motion for the appointment of Renjay L. Santiago (**Santiago**) as an Independent Certified Public Accountant (**ICPA**) for the case.⁵⁸ Consequently, respondent filed its Amended Pre-Trial Brief on 05 March 2021.⁵⁹ On 10 March 2021, the parties were directed to appear before the Philippine Mediation Center of the Court of Tax Appeals (**PMC-CTA**) for the possibility of an amicable settlement.⁶⁰ However, the parties have agreed not to have the case mediated.⁶¹ In the *interim*, a new counsel entered its appearance on respondent’s behalf.⁶²

After several resetting due to COVID 19 restrictions,⁶³ the Pre-Trial Conference proceeded on 27 October 2021. There, the parties agreed to submit their Joint Stipulation of Facts and Issues (**JSFI**) within twenty (20) days from the hearing date.⁶⁴ In compliance thereto, on 16 November 2021, the parties filed their JSFI.⁶⁵ Later, the Pre-Trial Order was issued on 10 December 2021.⁶⁶

When the trial proper ensued, respondent decided to present Corona as its lone witness. Based on her Judicial Affidavit of 27 February 2020,⁶⁷ Supplemental Judicial Affidavits of 04 March 2021⁶⁸ and 30 March 2022,⁶⁹ Corona testified that there is a WRPSSS for the FAN - executed by RO Maomin A. Racmat (**Racmat**) which stated that the

⁵⁵ Filed on 02 October 2020 through registered mail, id., Volume II, pp. 536-542.

⁵⁶ See Resolution dated 10 November 2020, id., pp. 546-551.

⁵⁷ See Notice of Resetting, id., p. 556.

⁵⁸ See Motion for Appointment of Independent Certified Public Accountant filed on 20 January 2021, id., pp. 557-561.

⁵⁹ Id., pp. 578-594.

⁶⁰ See Order dated 10 March 2021, id., p. 649.

⁶¹ See No Agreement to Mediate dated 14 June 2021, id., p. 673.

⁶² See Entry of Appearance as Counsel for Petitioner filed on 24 March 2021, id., pp. 666-668.

⁶³ See Notice of Resetting dated 29 September 2021, id., p. 676; Notice of Resetting dated 13 October 2021, id., p. 678.

⁶⁴ See Order dated 27 October 2021,

⁶⁵ Id., pp. 706-713.

⁶⁶ Id., pp. 715-722.

⁶⁷ Supra at note 41.

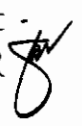
⁶⁸ Exhibit “P-67”, Division Docket, Volume II, pp. 596-606.

⁶⁹ Exhibit “P-68”, id., pp. 759-767.

FAN was “unserved” through personal service.⁷⁰ She also pointed out that while the FAN was allegedly served through registered mail, a “Proof of Delivery” for a mail with tracking no. AC749971915ZZ was attached to the BIR Records stating rather that it was returned to sender (or RTS) after the addressee allegedly “Moved”.⁷¹ Corroborating her claim, Corona also identified a “Certification” from the Makati Central Post Office which verified that the registered mail with tracking no. AC749971915ZZ was returned to sender on 15 January 2019 since respondent moved out or transferred from the address of “28/F, Tower 2, The Enterprise Center, 6766 Ayala corner Paseo de Roxas, San Lorenzo, Makati City.”⁷²

Moreover, Corona explained that respondent’s previous corporate name was “E. Work Flow” and it has been occupying the registered address since June 2016 up to present. To support her statement, she identified the Amended Articles of Incorporation,⁷³ BIR Certificate of Registration,⁷⁴ Online Office Agreement dated 01 June 2018,⁷⁵ KSA Realty Certification dated 10 June 2019,⁷⁶ KSA Realty Certification dated 23 May 2018,⁷⁷ Regus Certificate of Occupancy dated 29 January 2020,⁷⁸ Business Permits dated 21 February 2018,⁷⁹ 24 January 2019⁸⁰ and 03 February 2020,⁸¹ showing respondent’s registered address. Corona also said that the NIC, PAN and WDL were all delivered at respondent’s registered address and its employees duly received them.

Lastly, Corona also declared that petitioner’s right to assess had already prescribed since three (3) years had lapsed from the time the tax returns were filed and paid through eFPS. She identified the electronic copies of the said tax returns which she had generated from the centralized file drive.

During cross-examination, Corona answered that respondent authorized her to discuss the subject tax assessments with the BIR 

⁷⁰ Supra at note 31.

⁷¹ See Proof of Delivery, BIR Records, p. 748.

⁷² Exhibit “P-27”, Division Docket, Volume II, p. 621.

⁷³ Exhibit “P-2”, supra at note 11.

⁷⁴ Exhibit “P-3”, supra at note 12.

⁷⁵ Exhibit “P-28”, Division Docket, Volume II, pp. 622-633.

⁷⁶ Exhibit “P-29”, id., p. 634.

⁷⁷ Exhibit “P-30”, id., p. 635.

⁷⁸ Exhibit “P-31”, id., p. 636.

⁷⁹ Exhibit “P-32”, id., p. 637.

⁸⁰ Exhibit “P-33”, id., p. 638.

⁸¹ Exhibit “P-34”, id., p. 639.

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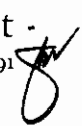
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personnel. She also said that respondent is not the sole tenant on the 28th Floor of The Enterprise Center. As for the centralized file drive, Corona said that the accountants and signatories to the contracts have access to the electronic files.⁸²

No redirect examination was conducted.⁸³

On 25 April 2022, respondent filed its Formal Offer of Evidence (FOE), consisting of Exhibits “P-1” to “P-68”, with sub-markings.⁸⁴ Prior to the FOE resolution, the case was transferred to the Third Division.⁸⁵ After petitioner filed his or her objections,⁸⁶ the Third Division admitted the offered exhibits.⁸⁷

For petitioner’s part, RO Baes took the witness stand to debunk respondent’s claims. Based on her Judicial Affidavit,⁸⁸ she testified that: (1) she was authorized (through a valid LOA) to conduct an audit on respondent’s books; (2) she personally served the LOA, First Notice, Final Notice and NIC on respondent; (3) after her investigation, she recommended for the issuance of the PAN which assessed respondent for deficiency taxes; (4) the PAN was duly served and received at respondent’s registered address; (5) despite respondent’s Reply to the PAN, it was still found liable for the deficiency taxes, thus the FAN and ANs were issued; and (6) the FAN and ANs were mailed to respondent’s registered address, the latter being indicated on the BIR’s Integrated Tax System (BIR-ITS).⁸⁹

No cross-examination was conducted.⁹⁰ When the Court inquired as to the existence of a registry return card, Baes said that she did not find any in the BIR Records. She only found the registry receipt therein.⁹¹ 

⁸² TSN dated 06 April 2022, pp. 8-9.

⁸³ Id., p. 9.

⁸⁴ See Formal Offer of Evidence for [Respondent] Konica Minolta Marketing Services (Philippines), Inc., Division Docket, Volume II, pp. 897-912.

⁸⁵ See Order dated 29 June 2022, id., p. 1014.

⁸⁶ See Comment and Opposition (To [Respondent’s] Formal Offer of Evidence dated April 25, 2022), id., pp. 1008-1011.

⁸⁷ See Resolution dated 20 July 2022, id., pp. 1017-1018.

⁸⁸ See Exhibit “R-9”, Judicial Affidavit of Revenue Officer Melissa Carla R. Baes, id., Volume I, pp. 306-318.

⁸⁹ Exhibit “R-8”, BIR Records, p. 832.

⁹⁰ TSN dated 08 November 2022, p. 4.

⁹¹ Id., pp. 5-6.

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Thereafter, petitioner filed his or her FOE,⁹² consisting of Exhibits “R-1” to “R-9”, with sub-markings.⁹³ Acting on the pending incident, in a Resolution dated 03 February 2023,⁹⁴ the Third Division admitted petitioner’s evidence (over respondent’s objections).⁹⁵ Following the

⁹² See Formal Offer of Evidence received on 23 November 2022, Division Docket, Volume II, pp. 1038-1045.

⁹³

Exhibit	Description
“R-1”	Letter of Authority (LOA) No. SN: eLA 201200033077 (AudR01/008103/2016) dated 19 October 2016
“R-1-a”	Name and signature of then Regional Director of Revenue Region No. 8 – Makati, Jonas DP. Amora
“R-1-b”	Name and signature of Minard F. Edanos dated November 02, 2016
“R-2”	First Notice for Presentation of Records dated November 15, 2016
“R-2-a”	Name and signature of Revenue Officer Melissa Carla Baes
“R-2-b”	Name and signature of Ann Reyes dated December 12, 2016
“R-3”	Second and Final Notice for Presentation of Records dated January 09, 2017
“R-3-a”	Name and signature of then Assistant Revenue District Officer of Revenue District Office No. 47-East Makati, Atty. Michael Remir H. Macatangay
“R-3-b”	Name and signature of Minard Edanos dated May 15, 2017
“R-4”	Notice of Informal Conference dated July 09, 2018
“R-4-a”	Name and signature of Mahinardo G. Mailig, Revenue District Officer of Revenue District Office No. 47-East Makati
“R-4-b”	Name and signature of Marites V. Corona dated July 11, 2018
“R-5”	Memorandum Report dated June 7, 2018 recommending the issuance of Preliminary Assessment Notice (PAN)
“R-5-a”	Name and signature of Revenue Officer Melissa Carla R. Baes
“R-5-b”	Name and signature of Group Supervisor Rebecca Pandapatan
“R-5-c”	Name and signature of Mahinardo G. Mailig, Revenue District Officer of Revenue District Office No. 47-East Makati
“R-6”	Preliminary Assessment Notice (PAN) with Details of Discrepancies dated November 16, 2018
“R-6-a”	Name and signature of then Regional Director of Revenue Region No. 8 Makati, Glen A. Geraldino
“R-6-b”	Rubber Stamp Receipt dated November 26, 2018
“R-7”	Formal Assessment Notice (FAN) with Details of Discrepancies dated December 14, 2018
“R-7-a”	Name and signature of then Regional Director of Revenue Region No. 8 Makati, Glen A. Geraldino
“R-7-b”	Assessment Notice covering deficiency Income Tax of Php46,120,289.59 dated December 14, 2018
“R-7-c”	Assessment Notice covering deficiency Value-Added Tax (VAT) of Php45,455,993.84 dated December 14, 2018
“R-7-d”	Assessment Notice covering deficiency Withholding Tax on Compensation (WTC) of Php198,963.76 dated December 14, 2018
“R-7-e”	Assessment Notice covering deficiency Final Withholding Tax (FWT) of Php3,311,034.66 dated December 14, 2018
“R-7-f”	Assessment Notice covering deficiency Improperly Accumulated Earnings Tax (IAET) of Php3,321,310.16 dated December 14, 2018
“R-7-g”	Assessment Notice covering deficiency Compromise Penalty (CP) of Php40,000.00 dated December 14, 2018
“R-8”	Print-out Copy of Integrated Tax System (ITS) of the BIR
“R-8-a”	Registered address of Petitioner per Integrated Tax System (ITS) of the BIR
“R-9”	Judicial Affidavit of Revenue Officer Melissa Carla R. Baes
“R-9-a”	Name and signature of Revenue Officer Melissa [Carla R.] Baes

⁹⁴ See Resolution dated 02 February 2023, Division Docket, Volume II, pp. 1060-1061.

⁹⁵ See Comment/Opposition to [Petitioner’s FOE] filed on 02 December 2022, id., pp. 1050-1053.

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termination of the presentation of evidence for both parties, they filed their respective Memoranda.⁹⁶ Thereafter, the case was submitted for decision.⁹⁷

On 01 March 2024, the Special Third Division promulgated the now assailed Decision⁹⁸ which granted respondent's prior petition. In so ruling, the Special Third Division found that petitioner failed to prove that respondent actually received the FAN and ANs. Moreso, while petitioner averred that the said notices were served through registered mail, he or she failed to adduce competent evidence to support it, particularly the registry return card. Thus, finding that respondent's due process was violated, the subject tax assessments were invalidated. The dispositive portion of the assailed Decision reads –

...

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED**. For being void, the FAN with *Details of Discrepancies and Assessment Notices*, all dated December 14, 2018, assessing [respondent] for deficiency income tax, VAT, EWT, WTC, FWT, IAET, and compromise penalty, for taxable year 2015, in the aggregate amount of ₱98,447,592.01, inclusive of surcharge and legal interest, as well as the undated WDL and WG dated January 23, 2020, directed against [respondent], are **CANCELLED** and **SET ASIDE**.

Accordingly, [petitioner] is **ENJOINED** and **PROHIBITED** from collecting the amount sought by the void assessment.

SO ORDERED.

...

On 04 April 2024, petitioner filed his or her Motion for Reconsideration (MR)⁹⁹ reiterating two (2) arguments in the bid to have the assailed Decision reversed. *First*, the Court lacks jurisdiction over the case as the subject tax assessments had attained finality since respondent failed to protest against the FAN. *Second*, the FAN and ANs were duly served through registered mail at respondent's registered address.

⁹⁶ See Memorandum for [Respondent] Konica Minolta Marketing Services (Philippines), Inc. filed on 10 March 2023, id., pp. 1066-1098; [Petitioner's] Memorandum filed on 17 March 2023, id., Volume III, pp. 1103-1112.

⁹⁷ See Minute Resolution dated 11 April 2023, id., p. 1115.

⁹⁸ Supra at note 4.

⁹⁹ See Motion for Reconsideration [Re: Decision dated 01 March 2024], Division Docket, Volume III, pp. 1139-1147.

The Special Third Division was unconvinced. On 30 July 2024, it issued the assailed Resolution which denied the MR for lack of merit.¹⁰⁰ Petitioner, through the Office of the Solicitor General (OSG), received the assailed Resolution on 08 August 2024.¹⁰¹

Unsatisfied with the Special Third Division's actions, on 20 August 2024, petitioner filed a "Motion for Extension to File Petition for Review"¹⁰² (**Motion for Extension**) requesting for an additional fifteen (15) days from 21 August 2024, or until 05 September 2024 to file the petition. Thereafter, petitioner filed the Petition for Review before the Court *En Banc* on 05 September 2024.¹⁰³ With the filing of respondent's Comment on the petition,¹⁰⁴ the Court *En Banc* submitted the case for decision.¹⁰⁵

In the *interim*, respondent filed a "Motion for Issuance of Order to Lift Warrant of Dstraint and/or Levy and Warrant of Garnishment dated 23 January 2020 pursuant to the Decision date [o]1 March 2024 and Resolution dated 30 July 2024"¹⁰⁶ (**Motion to Lift**). After petitioner's comment against the Motion to Lift,¹⁰⁷ the Court *En Banc* granted the same and ordered the subject WDL and WOG be immediately lifted in view of the determinations made in the Special Third Division's assailed Decision and assailed Resolution.¹⁰⁸

Before the Court *En Banc*, petitioner assigns the following errors to the Special Third Division's actions —

I.

WHETHER THE SPECIAL THIRD DIVISION ERRED IN ASSUMING JURISDICTION OVER RESPONDENT KONICA MINOLTA MARKETING SERVICES (PHILIPPINES), INC.'S PRIOR PETITION FOR REVIEW.



¹⁰⁰ Supra at note 5.
¹⁰¹ See Notice of Resolution dated 31 July 2024, Division Docket, Volume III, p. 1167.
¹⁰² *Rollo*, pp. 1-3.
¹⁰³ Supra at note 3.
¹⁰⁴ See Comment/Opposition (To the Commissioner of Internal Revenue's Petition for Review dated 2 September 2024) filed on 07 November 2024, *rollo*, pp. 166-174.
¹⁰⁵ See Notice of Resolution dated 10 September 2025, *id.*, p. 197.
¹⁰⁶ Filed on 14 October 2024, *rollo*, pp. 61-70.
¹⁰⁷ Filed on 10 November 2024, *id.*, pp. 180-183.
¹⁰⁸ See Resolution dated 08 April 2025, *id.*, pp. 191-196.

II.

WHETHER THE SPECIAL THIRD DIVISION ERRED IN DECLARING THAT THE FORMAL ASSESSMENT NOTICE PART I AND PART II, ASSESSMENT NOTICES, WARRANT OF DISTRRAINT AND/OR LEVY AND WARRANT OF GARNISHMENT ARE NULL AND VOID.¹⁰⁹

In support of the instant petition, petitioner substantially reiterates the arguments in his or her prior MR. Citing Revenue Memorandum Order (RMO) No. 26-2016,¹¹⁰ petitioner insists that the subject tax assessments are already final and collectible since the FAN and ANs were duly served to respondent's registered address as indicated in the BIR-ITS, that is, 28th Floor, Tower 2, The Enterprise Center, 6766 Ayala Avenue, corner Paseo de Roxas Avenue, Makati City. He or she could not be blamed when the said notices were not received for the sole reason that respondent had allegedly moved out from its registered address without notifying the BIR of its change of office location.

Petitioner further adds that respondent failed to proffer sufficient evidence to show that it was actually and physically occupying the registered address. While it was able to present the Online Office Agreement, KSA Realty Certifications and Regus Certificates of Occupancy, these merely show that the space is being occupied or leased to tenants and that respondent is only maintaining an online office thereon. Hence, without its physical presence at the registered address, the FAN and ANs were deemed delivered through registered mail pursuant to RMO No. 26-2016.

Relying on the Supreme Court's rulings in *Republic of the Philippines v. The Court of Appeals and Nielson & Company, Inc.*¹¹¹ (Nielson) and *Gonzalo P. Nava v. Commissioner of Internal Revenue*¹¹² (Nava), petitioner contends that a mailed letter is presumed received by the addressee in the ordinary course of mail. Such presumption is applicable when the letter was properly addressed with the postage prepaid, and that it was mailed. Here, it is clear that the mail with tracking no. AC749971915ZZ was sent to respondent's registered address - (as established by the supposed registry receipt). With the foregoing,

¹⁰⁹ See Issues for Resolution, Petition for Review, *supra* at note 3, p. 10.

¹¹⁰ Policies and Guidelines in Handling Disputed Assessments.

¹¹¹ G.R. No. L-38540, 30 April 1987.

¹¹² G.R. No. L-19470, 30 January 30, 1965.

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petitioner maintains that there exists a valid service of FAN and ANs to respondent through registered mail.

Consequently, applying the procedures in protesting an assessment under Section 228 of the NIRC of 1997, as amended, as implemented by Revenue Regulations (RR) No. 18-2013,¹¹³ petitioner asserts that respondent should have filed a protest against the FAN within 30 days from the receipt thereof. However, as respondent failed to file a timely protest against the tax assessments, these became final, executory and demandable. Thus, it is already outside of the Court's jurisdiction to rule on the said matter.

Finally, in view of the above circumstances, petitioner avers that the subject taxes are deemed delinquent pursuant to RR No. 04-2019.¹¹⁴ Therefore, the issuance of the WDL and WOG to collect respondent's tax liabilities are valid and in accordance with the provisions of the tax code.

On the other hand, respondent alleges that the Court has jurisdiction over the prior petition as it was filed within 30 days from the WDL's receipt. Respondent adds that the same falls under the CTA's jurisdiction on "other matters" as determined in the assailed Decision.

As to the alleged receipt of the FAN and ANs, respondent emphasizes that petitioner failed to proffer evidence to prove the following: (1) respondent's actual receipt of the FAN and ANs; (2) petitioner's reason to resort to service by registered mail when personal service appears to be available; and (3) petitioner's subsequent action when he or she was informed through the "Proof of Delivery" that the mailed document was returned to sender. Absent the said sufficient and competent evidence, there is no basis to reverse the assailed Decision and assailed Resolution.

We resolve. 

¹¹³ Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

¹¹⁴ Implementing Rules and Regulations of Republic Act No. 11213, Otherwise Known as the "Tax Amnesty Act," Providing for the Guidelines on the Processing of Tax Amnesty Application on Tax Delinquencies.

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Before We proceed to resolve the merits of the case, We deem it propitious to first determine whether this Court has jurisdiction over the instant petition.

THE INSTANT PETITION FOR REVIEW
WAS TIMELY FILED.

Section 18 of Republic Act (RA) No. 1125,¹¹⁵ as amended by RA 9282,¹¹⁶ provides that a party adversely affected by a resolution of a Division of the CTA on MR or new trial, may file a Petition for Review with the Court *En Banc*.

Section 3(b)¹¹⁷, Rule 8 of the RRCTA states that the party affected should file the Petition for Review within 15 days from receipt of a copy of the questioned decision or resolution. Applying the foregoing, petitioner (through the OSG) received the assailed Resolution on 08 August 2024.¹¹⁸ Counting 15 days therefrom, petitioner had until 23 August 2024 to file the present Petition for Review. Nonetheless, on 20 August 2024, petitioner filed a Motion for Extension¹¹⁹ requesting for an additional 15 days (or until 05 September 2024) to file the petition, which the Court *En Banc* had approved.¹²⁰

Accordingly, the instant petition was filed on 05 September 2024.¹²¹ Thus, the Court *En Banc* has successfully acquired jurisdiction over the instant case.

We, thus, proceed to discuss petitioner's arguments in support of this instant petition.

¹¹⁵ AN ACT CREATING THE COURT OF TAX APPEALS.

¹¹⁶ 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.

¹¹⁷ Supra at note 2.

¹¹⁸ Supra at note 101.

¹¹⁹ Supra at note 102.

¹²⁰ See Minute Resolution dated 27 August 2024, *rollo*, p. 4.

¹²¹ Supra at note 3.

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PETITIONER FAILED TO PROVE THAT
RESPONDENT RECEIVED THE
FORMAL ASSESMENT NOTICE (FAN)
AND THE ASSESMENT NOTICES
(ANs).

The Supreme Court in the case of *Alliance for the Family Foundation, Philippines, Inc. (ALFI), et al. v. Hon. Janette L. Garin, et al.*,¹²² declared emphatically:

...

Due process of law has two aspects: substantive and procedural due process. In order that a particular act may not be impugned as violative of the due process clause, **there must be compliance with both the substantive and the procedural requirements** thereof.

Substantive due process refers to the intrinsic validity of a law that interferes with the rights of a person to his property. **Procedural due process**, on the other hand, **means compliance with the procedures or steps, even periods, prescribed by the statute**, in conformity with the standard of fair play and without arbitrariness on the part of those who are called upon to administer it.

Although administrative procedural rules are less stringent and often applied more liberally, administrative proceedings are not exempt from basic and fundamental procedural principles, such as the right to due process in investigations and hearings.

...

Section 228 of the NIRC of 1997, as amended, lays down the due process requirements that must be met in the issuance of a deficiency tax assessment, to wit:

...

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...

...

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.



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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.¹²³

...

To implement the procedural and substantive rules on the assessment of national internal revenue taxes, the BIR has issued RR No. 12-99,¹²⁴ which provides:

...

SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —

...

3.1.4 *Formal Letter of Demand and Assessment Notice.* — The formal letter of demand and assessment notice shall be issued by the Commissioner or his duly authorized representative. The letter of demand calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based, *otherwise, the formal letter of demand and assessment notice shall be void* (see illustration in ANNEX B hereof). **The same shall be sent to the taxpayer only by registered mail or by personal delivery.** If sent by personal delivery, the taxpayer or his duly authorized representative shall acknowledge receipt thereof in the duplicate copy of the letter of demand, showing the following: (a) His name; (b) signature; (c) designation and authority to act for and in behalf of the taxpayer, if acknowledged received by a person other than the taxpayer himself; and (d) date of receipt thereof.¹²⁵

...

Subsequently, RR No. 18-2013 amended the said section. Further, Section 3.1.6 of the same issuance enumerates the proper modes of service for the notices. The relevant provisions state:¹²⁶

...

SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* — 

...

¹²³ Emphasis supplied and italics in the original text.

¹²⁴ Implementing the Provisions of the National Internal Revenue Code of 1997 Governing 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.

¹²⁵ Emphasis supplied and italics in the original text.

¹²⁶ Supra at note 113.

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3.1.3 *Formal Letter of Demand and Final Assessment Notice (FLD/FAN)*. — The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued by the Commissioner or his duly authorized representative. The FLD/FAN calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based; otherwise, the assessment shall be void (see illustration in ANNEX "B" hereof).

...

3.1.6 *Modes of Service*. — The notice (PAN/FLD/FAN/FDDA) to the taxpayer herein required may be served by the Commissioner or his duly authorized representative through the following modes:

- (i) The notice shall be served through personal service by delivering personally a copy thereof to the party at his registered or known address or wherever he may be found. A *known address* shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.

In case personal service is not practicable, the notice shall be served by substituted service or by mail.

...

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

The server shall accomplish the bottom portion of the notice. He shall also make a written report under oath before a Notary Public or any person authorized to administer oath under Section 14 of the NIRC, as amended, setting forth the manner, place and date of service, the name of the person/barangay official/professional courier service company who received the same and such other relevant information. The registry receipt issued by the post office or the official receipt issued by the professional courier company containing sufficiently identifiable details of the transaction shall constitute sufficient proof of mailing and shall be attached to the case docket.¹²⁷

...

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From the foregoing, the CIR may opt to send the FAN to the taxpayer through registered mail when personal service is not practicable.

Here, petitioner maintains that the FAN and ANs were validly served at respondent's registered address through registered mail. Petitioner further contends that under RMO No. 26-2016, the subject tax assessments became final and demandable since the documents were not mailed because respondent allegedly moved out from the registered address.

We disagree.

The rule is that once a taxpayer denies receipt of the BIR's issuances, the burden of proof rests upon the latter to prove that these issuances have been actually received. In the case of *Barcelon, Roxas Securities Inc. (now known as UBP Securities, Inc.) v. Commissioner of Internal Revenue*¹²⁸ (**Barcelon**), citing the case of *Nava*,¹²⁹ the Supreme Court emphasized that it is imperative for the BIR to satisfactorily prove the release, mailing or sending of the assessment, viz:

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

"While we have held that an assessment is made when sent within the prescribed period, even if received by the taxpayer after its expiration, . . . this ruling makes it the more imperative that the **release, mailing or sending of the notice be clearly and satisfactorily**

¹²⁸ G.R. No. 157064, 07 August 2006; Citations omitted and emphasis supplied.

¹²⁹ Supra at note 112.

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proved. Mere notations made without the taxpayer's intervention, notice or control, **without adequate supporting evidence cannot suffice**; otherwise, the taxpayer would be at the mercy of the revenue offices, without adequate protection or defense."

...

In the case of *Nielson*¹³⁰ and in *Barcelon*,¹³¹ the Supreme Court also held that a party favored by the presumption has the burden of proving that the addressee received the mailed letter in cases when there is a direct denial of the receipt of the mail. Consistently, the Supreme Court has held that it is a due process requirement that the taxpayer actually receives the assessment, to wit:

...

It must be noted, however, that the foregoing rule requires that the notice be sent to the taxpayer, and not merely to a disinterested party. Although there is no specific requirement that the taxpayer should receive the notice within the said period, due process requires at the very least that such notice actually be received. In *Commissioner of Internal Revenue v. Pascor Realty and Development Corporation*, we had occasion to say:

An assessment contains not only a computation of tax liabilities, but also a demand for payment within a prescribed period. It also signals the time when penalties and interests begin to accrue against the taxpayer. To enable the taxpayer to determine his remedies thereon, due process requires that it must be served on and received by the taxpayer.¹³²

...

It bears noting that a "letter duly directed and mailed" is presumed received in the regular course of mail, but the presumption arises *only* after proof that: (a) it was properly addressed with postage prepaid and (b) it was mailed; and it may be overcome by evidence, including a direct denial of receipt.¹³³ 

¹³⁰ Supra at note 111.

¹³¹ Supra at note 128.

¹³² *Estate of the Late Juliana Diez Vda. De Gabriel v. Commissioner of Internal Revenue*, G.R. No. 155541, 27 January 2004; Citations omitted, italics and underscoring in the original text.

¹³³ See *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*, G.R. No. 225809, 17 March 2021.

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In *Barcelon*,¹³⁴ the Supreme Court stated that “independent evidence, such as the registry receipt of the assessment notice, or a certification from the Bureau of Posts,” should have been presented to prove that the assessment notice was released, mailed and sent to the taxpayer.

Verily, in the case of *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*,¹³⁵ the Supreme Court has ruled that the requirements of Section 3(v)¹³⁶ of Rule 131 of the Rules of Court were adequately shown by taxpayer when:

...

BIR Administrative Aide VI Ronnie SJ Ocampo testified that: (a) he was the one who actually placed the Formal Letter of Demand and Final Assessment Notice No. 021-R-0604112007 dated April 2, 2008 into the sealed envelope and actually delivered the said mail matter to the Post Office of San Fernando, Pampanga. **The Final Assessment Notice was sent through registered mail under Registry Receipt No. 853, addressed to respondent at 3F SM City San Fernando Pampanga, on April 10, 2008; and (b) that Registry Receipt No. 853 was received by Brian David on April 14, 2008, as shown in the Registry Return Card. Hence, there was a valid and effective issuance or release of the Formal Letter of Demand and Final Assessment Notice on April 10, 2008, through registered mail.**

...

Unfortunately, in the case at bar, petitioner failed to discharge his or her burden of proof. While notably, petitioner’s lone witness, RO Baes, testified that the FAN and ANs were served through registered mail; she however, failed to explain why personal service was not practicable under the circumstances. This omission is significant considering that the other BIR issuances and notices — including the LOA, First Notice, Final Notice, NIC, PAN, and even the WDL — were all personally served on respondent at its registered address.

Nonetheless, assuming that petitioner was able to proffer reasonable ground to resort to service by registered mail, the records 

¹³⁴ Supra at note 128.

¹³⁵ Supra at note 133; Citations omitted and emphasis supplied.

¹³⁶ **Sec. 3 Disputable presumptions.** – The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

...

v. That a letter duly directed and mailed was received in the regular course of the mail[.]

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remain devoid of competent and independent evidence establishing that respondent actually received the FAN and ANs. Although RO Baes testified that the FAN and ANs were mailed and there is a registry receipt to prove the mailing thereof, the same is not found in the records of the case. On the contrary, the documentary evidence on record affirmatively shows that service of the FAN and ANs was “unsuccessful” both through personal service and by registered mail.

As petitioner had submitted, the WRPSSS that RO Racmat executed categorically states that the FAN was “unserved” through personal service.¹³⁷ Moreso, the records contain a “Proof of Delivery” showing that the mail matter bearing Tracking No. AC749971915ZZ, addressed to “E. Work Flow at 28th Floor, Tower 2, The Enterprise Center, 6766 Ayala Avenue corner Paseo de Roxas Avenue, Makati City”, was “returned to the sender” on the ground that the recipient had moved out.¹³⁸ These documents negate, rather than support, petitioner’s claim that the FAN and ANs were duly served upon respondent.

Petitioner’s assertion that respondent no longer physically occupied its registered address appears to be a mere afterthought. This claim is inconsistent with the testimony of petitioner’s own witness, who expressly stated that the LOA, First Notice, Final Notice, NIC and PAN were all personally served and received at respondent’s registered address. Significantly, the WDL, a subsequent issuance released after the FAN and ANs, was likewise personally served and received at respondent’s registered address. Accordingly, petitioner’s present assertion is contradicted by its own evidence on record.

Critically, petitioner also failed to present the registry return card which constitutes the primary evidence of actual delivery or receipt in service by registered mail. Neither did petitioner submit any certification from the Bureau of Posts, or any equivalent postal documentation, to explain or account for the absence of the registry return card.

RO Baes testified as follows during cross-examination: 

¹³⁷ Supra at note 31.
¹³⁸ Supra at note 71.

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...

JUSTICE LIBAN:

I just have one question regarding the Formal Assessment Notice or FAN, this is in question no. 48, you said it was mailed. Was there a return card ... because I did not find any in the records.

...

MS. BAES:

A. Your Honor, the one that I saw in the docket during the time that I executed the judicial affidavit was a registry receipt.

JUSTICE LIBAN:

So, there is no return card?

MS. BAES:

[A] I cannot find any in the BIR Record.¹³⁹

...

This omission is fatal, especially given the direct denial of receipt. Jurisprudence squarely requires petitioner to prove actual receipt through such independent evidence and self-serving internal notations or incomplete mailing documents do not suffice.¹⁴⁰

This dovetails with the Rules of Civil Procedure (RCP), as amended, on proof of service: for registered mail, the registry return card should be filed upon receipt, or, in *lieu* thereof, the unclaimed letter together with the certified/sworn copy of the postmaster's notice to the addressee.¹⁴¹ However, as discussed above, petitioner's evidence falls short of these standards.

Accordingly, petitioner failed to establish that the FAN and ANs were duly released, mailed and actually received by respondent. Inarguably, petitioner's FAN and ANs could only be rendered void and without any legal effect, and did not attain finality. As a result, the assessments against respondent bear no valid fruit.¹⁴² Thus, the

¹³⁹ TSN dated 08 November 2022, pp. 5-6; Emphasis supplied.

¹⁴⁰ See *Commissioner of Internal Revenue v. Arturo E. Villanueva, Jr.*, G.R. No. 249540, 28 February 2024.

¹⁴¹ Section 17, Rule 13 of the Rules of Civil Procedure, as amended.

¹⁴² *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.*, G.R. No. 198677, 26 November 2014.

Court in Division correctly assumed jurisdiction over respondent's prior petition. In turn, the collection efforts made through the WDL and WOG are also properly cancelled as previously determined in the Court *En Banc* Resolution of 08 April 2025.¹⁴³

WHEREFORE, the instant Petition for Review filed by petitioner Commissioner of Internal Revenue on 05 September 2024 is **DENIED** for lack of merit. Consequently, the assailed Decision dated 01 March 2024, and the assailed Resolution dated 30 July 2024, of the Special Third Division in CTA Case No. 10255, are hereby **AFFIRMED**.

SO ORDERED.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ON OFFICIAL BUSINESS

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

ON OFFICIAL BUSINESS

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice

¹⁴³ Supra at note 108.

X-----X


CORAZON G. FERRER-FLORES
Associate Justice


HENRY S. ANGELES
Associate Justice


PAOLO S. TESTON
Associate Justice


DEBBIE JEAN I. CENTENO-DIJAMCO
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.


JEAN MARIE A. BACORRO-VILLENA
Acting Presiding Justice