

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

JWAY GROUP CTA Case No. 11011
(PHILIPPINES), INC.,

Petitioner, Members:

-versus-

REYES-FAJARDO, Chairperson,
and ANGELES, JJ.

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

Promulgated:

SEP 24 2026

11:28 a.m.

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DECISION

REYES-FAJARDO, J.:

THE CASE

The Petition for Review seeks the cancellation of respondent's deficiency assessments against petitioner for income tax, value-added tax (VAT), expanded withholding tax (EWT), and withholding tax on compensation (WTC) for taxable year (TY) 2017, in the total amount of ₱8,405,378.52, inclusive of increments.¹

THE PARTIES

Petitioner JWAY Group (Philippines), Inc. is a domestic corporation organized and existing under Philippine laws, with principal office at 3006, 30th Floor, One Corporate Center, Julia Vargas Avenue, Ortigas Center, Pasig City.²

¹ Statement of the Case, Pre-Trial Order dated February 20, 2024, Docket – Vol. IV, pp. 1880 to 1881.

² Par. 1, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. 3, p. 1701.



Respondent is the Commissioner of Internal Revenue (CIR), who is vested with the authority to perform the duties of the office, including the power to collect national internal revenue taxes and decide disputed assessments and other matters arising under the National Internal Revenue Code (NIRC) of 1997, as amended.³

PROCEEDINGS AT THE ADMINISTRATIVE LEVEL

On February 6, 2019, petitioner received Letter of Authority (LOA) No. eLA201600053448 dated January 31, 2019, authorizing Revenue Officer (RO) John Denison Jalova and Group Supervisor (GS) Irma Bernardo of Revenue District Office (RDO) No. 43 – Pasig to examine its books of accounts and other accounting records for all internal revenue taxes for the period January 1 to December 31, 2017.⁴

On September 8, 2020, petitioner received, through e-mail, replacement LOA No. eLA201700040109 dated September 3, 2020, authorizing RO Jesse Ferdinand Acenas and GS Josephine Cortuna of RDO No. 43 – Pasig to continue the examination for TY 2017 following the reassignment of Bureau of Internal Revenue (BIR) officers.⁵

On November 17, 2020, the BIR issued a Notice of Discrepancy (NOD), with attached Details of Discrepancy and Annex A.⁶ On November 19, 2020, petitioner received from the BIR examiner an electronic copy of the computation reflected in the NOD.

On December 16, 2021, the BIR issued a Preliminary Assessment Notice (PAN), with attached Details of Discrepancies.⁷

On February 1, 2022, the BIR issued a Formal Letter of Demand and Final Assessment Notices (FLD/FAN),⁸ with attached Details of

³ Par. 2, Stipulation of Facts, JSFI, Docket – Vol. 3, p. 1701.

⁴ Par. 3, Stipulation of Facts, JSFI, Docket – Vol. 3, p. 1702; Exhibit “P-3”, Docket – Vol. II, p. 861; Exhibit “R-1”, Docket – Vol. II, p. 1239.

⁵ Par. 4, Stipulation of Facts, JSFI, Docket – Vol. 3, p. 1702; Exhibit “P-7”, Docket – Vol. II, p. 868; Exhibit “R-5”, Docket – Vol. II, p. 1243, BIR Folder, pp. 114.

⁶ Par. 5, Stipulation of Facts, JSFI, Docket – Vol. 3, p. 1702; Exhibits “P-8” to “P-8-b”, Docket – Vol. II, pp. 870 to 875; Exhibit “R-6”, Docket – Vol. II, pp. 1244 to 1249, BIR Folder, pp. 130 to 137.

⁷ Exhibit “R-12”, Docket – Vol. II, pp. 1256 to 1262.

⁸ Exhibits “R-15” to “R-16-5”, Docket – Vol. II, pp. 1268 to 1282.

Discrepancies, assessing petitioner for deficiency income tax, VAT, EWT, and WTC for TY 2017.

On August 17, 2022, the BIR issued a Warrant of Distrainment and/or Levy (WDL) against petitioner.⁹

On September 15, 2022, the BIR issued Warrants of Garnishment (WOGs) addressed to various banks.¹⁰

On September 27, 2022, Banco de Oro (BDO) informed petitioner that its bank account had been frozen pursuant to a WOG and furnished petitioner, through e-mail, a copy thereof.¹¹

PROCEEDINGS BEFORE THIS COURT

On October 26, 2022, petitioner filed the present Petition for Review, together with an Omnibus Motion to suspend collection of the assessed taxes, dispense with the posting of a bond, and defer the submission of an additional judicial affidavit and certain documents.¹²

On February 1, 2023, within the period granted by the Court,¹³ respondent filed his Answer,¹⁴ interposing the following special and affirmative defenses.

On May 16, 2023, the Philippine Mediation Center–Court of Tax Appeals issued a No Agreement to Mediate.¹⁵

On August 1, 2023, respondent transmitted to the Court the BIR Records for this case, consisting of one (1) folder with 355 pages.¹⁶

⁹ Exhibit “R-21”, Docket – Vol. II, pp. 1298.

¹⁰ Exhibits “P-1” to “P-1-s”, Docket – Vol. II, pp. 817 to 836; Exhibits “R-23” to “R-40”, Docket – Vol. II, pp. 1300 to 1319, BIR Folder, pp. 290 to 314.

¹¹ Exhibit “P-9”, Docket – Vol. II, pp. 877 to 878.

¹² Docket – Vol. I, pp. 6 to 58.

¹³ Respondent’s *Motion for Extension of Time to File Answer* dated January 3, 2023, Docket – Vol. I, pp. 734 to 735; Resolution dated January 12, 2023, Docket – Vol. I, p. 738.

¹⁴ Docket – Vol. II, pp. 1129 to 1142.

¹⁵ No Agreement to Mediate dated May 16, 2023, Docket – Vol. II, p. 1204.

¹⁶ Transmittal Letter dated July 31, 2023, Docket – Vol. II, p. 1222.

On October 12, 2023, the Pre-Trial Conference was held.¹⁷

On November 13, 2023, the parties filed their Joint Stipulation of Facts and Issues (JSFI),¹⁸ which was admitted and approved by the Court in its Minute Resolution dated December 1, 2023,¹⁹ thereby terminating pre-trial.

On February 20, 2024, the Court issued the Pre-Trial Order.²⁰

Trial ensued.

On February 21, 2024, petitioner presented the testimonies of: (1) Ms. Isra Ella O. Calotes,²¹ its accountant; and (2) Mr. Ian Ray Lopez, its Project Manager.²²

On March 12, 2024, petitioner filed its Formal Offer of Documentary Exhibits with Omnibus Motion.²³ On March 22, 2024, respondent filed its Comment thereto.²⁴

On May 31, 2024, the Court granted petitioner's Omnibus Motion (1) to Suspend Collection of Taxes Through Issuance of Writ of Preliminary Injunction; and (2) to Dispense with Requirement of Posting of Bond. Accordingly, the collection of the subject deficiency taxes was suspended and the WOGs dated September 15, 2022 were lifted pending final disposition of the case.

On October 9, 2024, the Court resolved petitioner's formal offer and admitted its documentary exhibits for the main case.²⁵

¹⁷ Minute Resolution dated August 4, 2023, Docket - Vol. II, p. 1323; Minutes of the hearing held on, and Order dated, October 12, 2023, Docket - Vol. 3, pp. 1694, 1698 to 1700, respectively.

¹⁸ Docket - Vol. III, pp. 1701 to 1716.

¹⁹ Docket - Vol. III, p. 1718.

²⁰ Docket - Vol. IV, pp. 1880 to 1891.

²¹ Exhibit "P-26", Docket - Vol. I, pp. 479 to 500; Minutes of hearing held on, and Order dated, February 21, 2024, Docket - Vol. IV, pp. 1892 to 1895.

²² Exhibit "P-27", Docket - Vol. I, pp. 414 to 425; Minutes of hearing held on, and Order dated, February 21, 2024, Docket - Vol. IV, pp. 1892 to 1895.

²³ Docket - Vol. IV, pp. 1897 to 1916.

²⁴ Docket - Vol. IV, pp. 2230 to 2231.

²⁵ Docket - Vol. IV, pp. 2275 to 2277.

On January 23, 2025, respondent presented the testimonies of RO Jesse Ferdinand D. Acenas²⁶ and RO Rasmia S. Diamla.²⁷

On February 12, 2025, respondent filed a Motion to Admit Attached Formal Offer of Evidence, with the attached Formal Offer of Evidence.²⁸ On February 28, 2025, petitioner filed its Comment/Opposition.²⁹

On July 9, 2025,³⁰ the Court granted respondent's Motion to Admit Attached Formal Offer of Evidence and resolved respondent's formal offer in accordance with its findings on admissibility.

On August 20, 2025, petitioner filed its Memorandum.³¹

On September 10, 2025, the Judicial Records Division issued a Records Verification stating that respondent failed to file a memorandum.³²

On September 24, 2025, the case was deemed submitted for decision.³³

THE ISSUE³⁴

Is petitioner liable for the alleged deficiency taxes for taxable year 2017 for a total amount of ₱8,405,378.52, inclusive of increments?

²⁶ Exhibit "R-46", Docket - Vol. II, pp. 1230 to 1238; Minutes of hearing held on, and Order dated, January 23, 2025, Docket - Vol. IV, pp. 2278 to 2280.

²⁷ Exhibit "R-46", Docket - Vol. II, pp. 1290 to 1296; Minutes of hearing held on, and Order dated, January 23, 2025, Docket - Vol. IV, pp. 2278 to 2280.

²⁸ Docket - Vol. IV, pp. 2284 to 2299.

²⁹ Docket - Vol. IV, pp. 2302 to 2315.

³⁰ Docket - Vol. IV, pp. 2324 to 2326.

³¹ Docket - Vol. IV, pp. 2328 to 2399.

³² Records Verification dated September 10, 2025 issued by the Judicial Records Division of this Court, Docket - Vol. IV, p. 2402.

³³ Minute Resolution dated September 24, 2025, Docket - Vol. IV, p. 2403.

³⁴ Issues to be Tried or Resolved, JSFI, Docket - Vol. III, p. 1704.



Petitioner's argument:

Petitioner argues that the Court has jurisdiction over the case; that the PAN and FLD/FAN are void for respondent's failure to comply with the procedural requirements under Revenue Regulations (RR) No. 12-99, as amended by RR Nos. 18-2013 and 7-2018, in violation of its right to administrative due process; that the collection measures arising from the allegedly invalid assessments are likewise void; that respondent's right to assess has prescribed; and that it is not liable for the assessed deficiency income tax, VAT, EWT, and WTC for 2017.

Respondent's counter-arguments:

Respondent counters that petitioner's right to administrative due process was not violated and that his right to assess and collect the subject deficiency taxes has not prescribed.

THE COURT'S RULING

The Petition for Review has merit.

The Court has jurisdiction over the case.

Section 7(a)(1), in relation to Section 11, of Republic Act (RA) No. 1125,³⁵ as amended by RA No. 9282,³⁶ pertinently provides:

SEC. 7. Jurisdiction. - The CTA shall exercise:

(a) **Exclusive appellate jurisdiction to review by appeal, as herein provided:**

(1) **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties in relation

³⁵ An Act Creating the Court of Tax Appeals.

³⁶ 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.

thereto, or **other matters arising under the National Internal Revenue Code** or other laws administered by the Bureau of Internal Revenue;

...

SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal.
- **Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue . . . may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA **within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. . .**³⁷

Based on the foregoing provisions, the Court's appellate jurisdiction is not confined to decisions involving disputed assessments or tax refunds, but extends to other matters arising under the NIRC of 1997, as amended, and other laws administered by the BIR.³⁸

In *Commissioner of Internal Revenue v. Bank of the Philippine Islands*,³⁹ the Supreme Court held that the Court's jurisdiction over "other matters" necessarily includes rules, regulations, and measures relating to the collection of taxes. More specifically, in *Spouses Emmanuel D. Pacquiao and Jinkee J. Pacquiao v. Court of Tax Appeals – First Division and Commissioner of Internal Revenue*,⁴⁰ the Supreme Court recognized the Court's authority to determine whether warrants of distraint and/or levy and garnishment issued by the BIR were validly issued. Accordingly, the validity of the subject WOGs falls within the Court's appellate jurisdiction.

Here, on September 27, 2022, BDO informed petitioner that its bank account had been frozen pursuant to a WOG and furnished

³⁷ Emphases supplied.

³⁸ *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*, G.R. No. 162852, December 16, 2004; *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.*, G.R. No. 169225, November 17, 2010.

³⁹ G.R. No. 227049, September 16, 2020.

⁴⁰ G.R. No. 213394, April 6, 2016.

petitioner, through e-mail, a copy thereof.⁴¹ Counting thirty (30) days therefrom, petitioner had until October 27, 2022 within which to appeal to the Court. On October 26, 2022, petitioner timely filed the present Petition for Review.⁴² Thus, the Court has jurisdiction over this case.

The subject deficiency tax assessments are void for violation of petitioner's right to administrative due process.

Section 228⁴³ of the NIRC of 1997, as amended, requires that the taxpayer be informed in writing of the law and the facts on which an assessment is made; otherwise, the assessment shall be void.⁴⁴ Corollarily, the taxpayer must be afforded a meaningful opportunity, in accordance with law, to respond to the findings of respondent and protest the resulting assessment.⁴⁵

⁴¹ Exhibit "P-9", Docket - Vol. II, pp. 877 to 878.

⁴² Docket - Vol. I, pp. 6 to 58.

⁴³ Section 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 taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.

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

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final. . .

⁴⁴ *Commissioner of Internal Revenue and Perfecto L. Aranas v. Elric Auxiliary Services Corporation/Sacred Heart Gas Station*, G.R. No. 226945, February 19, 2026; *Ortiz Memorial Chapel, Inc. v. Commissioner of Internal Revenue*, G.R. No. 278483, December 3, 2025; *Commissioner of Internal Revenue v. Unioil Corporation*, G.R. No. 204405, August 4, 2021; *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc., et seq.*, G.R. Nos. 201398-99 and 201418-19, October 3, 2018; and *Commissioner of Internal Revenue v. Reyes*, G.R. No. 159694, January 27, 2006.

⁴⁵ *Level Up, Inc. v. Commissioner of Internal Revenue*, G.R. No. 272354, September 29, 2025; *Commissioner of Internal Revenue v. Villanueva, Jr.*, G.R. No. 249540, February 28, 2024.

Section 3.1.7⁴⁶ of RR No. 12-99,⁴⁷ as amended by RR Nos. 18-2013⁴⁸ and 7-2018,⁴⁹ prescribes the modes by which assessment notices, including the PAN and FLD/FAN, may be served.⁵⁰

⁴⁶ As renumbered pursuant to Section 2 of Revenue Regulations (RR) No. 7-2018.

⁴⁷ SUBJECT: 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.

⁴⁸ SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

⁴⁹ SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99, as Amended by Revenue Regulations No. 18-13, Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

⁵⁰ Section 3.1.7, RR No. 12-99, as amended.

3.1.7 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.

(ii) Substituted service can be resorted to when the party is not present at the registered or known address under the following circumstances:

The notice may be left at the party's registered address, with his clerk or with a person having charge thereof.

If the known address is a place where business activities of the party are conducted, the notice may be left with his clerk or with a person having charge thereof.

If the known address is the place of residence, substituted service can be made by leaving the copy with a person of legal age residing therein.

If no person is found in the party's registered or known address, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses to the address so that they may personally observe and attest to such absence. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.

Should the party be found at his registered or known address or any other place but refuse to receive the notice, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses in the presence of the party so that they may personally observe and attest to such act of refusal. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.

'Disinterested witnesses' refers to persons of legal age other than employees of the Bureau of Internal Revenue.

(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

The foregoing provisions establish the following rules on service. Assessment notices such as the PAN, FLD/FAN, *etc.* shall primarily be served **personally** upon the taxpayer at its registered or known address, or wherever it may be found. Only when personal service is not practicable may service be effected through **substituted service** or by **mail**.⁵¹

Of particular relevance here, where no person is found at the taxpayer's registered or known address, substituted service requires the revenue officers concerned to bring a barangay official and two (2) disinterested witnesses to the address. The barangay official and the witnesses must personally observe and attest that no person was found at the address. The notice shall then be given to the barangay official, while the circumstances of service, together with the names, positions, and signatures of the witnesses, shall be reflected on the notice.⁵²

Service by mail, in turn, may be effected through registered mail or a reputable professional courier service. If neither is available in the locality of the addressee, service may be made by ordinary mail. In all cases of service by mail, the server must prepare a written report under oath stating, among others, the manner, place, and date of service, and must attach the prescribed documentary proof of mailing and delivery to the case docket.⁵³ These include the registry or official courier receipt and the corresponding registry return card or proof of delivery.⁵⁴

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. . .

⁵¹ Section 3.1.7(i), RR No. 12-99, as amended.

⁵² Section 3.1.7(ii), RR No. 12-99, as amended.

⁵³ Section 3.1.7(iii), RR No. 12-99, as amended.

⁵⁴ Revenue Memorandum Order (RMO) No. 40-2019, SUBJECT: Prescribing the Procedures for the Proper Service of Assessment Notices in Accordance with the Provisions of Section 3.1.6 of Revenue Regulations (RR) No. 18-2013.

On the service of the PAN.

Respondent claims that the PAN dated December 16, 2021 was served upon petitioner through substituted service on December 17, 2021,⁵⁵ and thereafter sent through LBC courier on December 20, 2021.⁵⁶ RO Jesse Ferdinand D. Acenas testified that substituted service was resorted to after petitioner could no longer be found at its registered business address at Unit 1103, The Taipan Place Building, Ortigas Center, San Antonio, Pasig City.⁵⁷

At the outset, the Court need not resolve petitioner's contention that respondent should have served the PAN at its new address.⁵⁸ Even assuming that service at the Taipan Place address was proper, respondent nevertheless failed to establish compliance with the requirements for substituted service.

The record shows that the Acknowledgment of Receipt of the PAN⁵⁹ identifies Nixon O. Alferez as Barangay Secretary. However, only one person is clearly identified therein as a "witness." While another name appears on the document, the capacity in which such person signed is not indicated. More importantly, the document does not indicate that the barangay official and two (2) disinterested witnesses personally observed and attested that no person was found at the address, as expressly required under RR No. 12-99, as amended. Thus, respondent failed to establish valid substituted service of the PAN.

Respondent likewise failed to establish petitioner's receipt of the PAN through mail or courier.

Petitioner categorically denies having received the PAN. In her Judicial Affidavit, petitioner's accountant, Isra Ella O. Calotes, testified that after petitioner received the NOD and the documents accompanying it, petitioner no longer received any assessment notice from the BIR concerning TY 2017 until it learned of the WOGs from its banks.⁶⁰

⁵⁵ Exhibits "R-13" to "R-13-2", Docket - Vol. II, pp. 1263 to 1265.

⁵⁶ Exhibits "R-14" to "R-14-2", Docket - Vol. II, pp. 1262, 1266 to 1267.

⁵⁷ Exhibit "R-46", Q&A No. 23, Docket - Vol. II, p. 1234.

⁵⁸ Petitioner's Memorandum, pars. 87-90, Docket - Vol. IV, pp. 2351 to 2352.

⁵⁹ Exhibit "R-13-1", Docket - Vol. II, p. 1264.

⁶⁰ Exhibit "P-26", Judicial Affidavit of Isra Ella O. Calotes, Docket - Vol. I, pp. 479 to 500.

In *Commissioner of Internal Revenue v. Villanueva, Jr. ("Villanueva")*,⁶¹ the Supreme Court reiterated that the presumption that a duly mailed letter was received in the ordinary course is merely disputable. When the taxpayer directly denies receipt of an assessment notice, the burden shifts to the CIR to prove that the notice was actually received by the taxpayer.

In the same case, the Supreme Court cited its earlier ruling in *Commissioner of Internal Revenue v. T Shuttle Services, Inc. ("T Shuttle")*,⁶² where it held that the mere presentation of registry receipts, without competent proof that the assessment notices were actually received by the taxpayer or its authorized representative, is insufficient. The Supreme Court ruled:⁶³

Section 3 of Revenue Regulations No. 12-99 authorizes the CIR to serve the assessment notices to the taxpayer either personally or via registered mail. Relatedly, under Section 3 (v), Rule 131 of the Rules of Court, a presumption arises that a letter duly directed and mailed was received in the regular course of mail. **This presumption is however disputable and a direct denial that the mail matter was received shifts the burden to the party favored by the presumption to prove actual receipt by the addressee.**

As applied to issuance of deficiency tax assessments, the Court, in *Barcelon, Roxas Securities, Inc. v. Commissioner of Internal Revenue (Barcelon)*,⁶⁴ ruled that **if the taxpayer denies ever having received an assessment notice from the BIR, it becomes incumbent upon the latter to prove that such notice was, in fact, received by the addressee. To discharge this burden, it is essential for the BIR to present independent evidence, such as the registry receipt issued by the Bureau of Posts, or the registry return card which would have been signed by the taxpayer or the latter's authorized representative, showing that the assessment notice was released, mailed, or sent to the taxpayer. If such document cannot be located, the BIR may submit a certification issued by the Bureau of Posts and other pertinent document which is executed with the latter's intervention. Thus, in *Barcelon*, the Court found the BIR record book showing the name of the taxpayer, the kind of tax assessed, the registry receipt number, and the date of mailing of**

⁶¹ G.R. No. 249540, February 28, 2024.

⁶² G.R. No. 240729, August 24, 2020.

⁶³ *Commissioner of Internal Revenue v. Villanueva, Jr.*, G.R. No. 249540, February 28, 2024, citing *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*, G.R. No. 240729, August 24, 2020.

⁶⁴ *Barcelon, Roxas Securities, Inc. v. Commissioner of Internal Revenue*, G.R. No. 157064, August 7, 2006.

the assessment as incompetent evidence to prove actual receipt by the taxpayer.⁶⁵

Here, respondent presented the Report on Service by Mail/Courier, LBC official receipt, and registry receipt, among others, to establish the alleged mailing of the PAN.⁶⁶ While these documents may show that the PAN was dispatched, they do not establish its actual receipt by petitioner or its duly authorized representative. No registry return card or other competent proof of delivery showing such receipt was presented.

This is significant because, under Section 3.1.1 of RR No. 12-99, as amended, the taxpayer is given fifteen (15) days from receipt of the PAN within which to respond thereto. Yet, respondent's own evidence states that the FLD/FAN was issued because petitioner failed to file a Reply to PAN.⁶⁷

Absent proof that the PAN was validly served upon and received by petitioner, the period within which petitioner was required to respond did not commence. Consequently, petitioner could not have been validly considered in default for failure to reply to the PAN.

On the service of the FLD/FAN

Respondent claims that the FLD/FAN dated February 1, 2022⁶⁸ was sent to petitioner on February 4, 2022 through registered mail and professional courier. RO Acenas identified the Report on Service by Mail/Courier, Affidavit of Service of FAN, Registry Receipt No. RC 416 389 195 ZZ, and LBC Official Receipt No. 1270 8743 7535 as the documents pertaining to such service.⁶⁹

Significantly, however, RO Acenas did not personally effect the purported service of the FLD/FAN. On cross-examination, he testified that he had already been transferred to another district at the time and believed that another revenue officer had been asked to

⁶⁵ Emphasis supplied.

⁶⁶ Exhibits "R-14" to "R-14-2", Docket - Vol. II, pp. 1262, 1266 to 1267.

⁶⁷ Exhibit "R-46", Q&A Nos. 26 & 28, Docket - Vol. II, p. 1235.

⁶⁸ Exhibits "R-17" to "R-17-3", Docket - Vol. II, pp. 1276, 1283 to 1285.

⁶⁹ Exhibits "R-46", Q&A Nos. 26 & 28, Docket - Vol. II, p. 1235.

serve the FAN. More importantly, he expressly admitted that he had no personal knowledge of the service of the FLD/FAN, thus:⁷⁰

ATTY. MANAHAN:

Q: So, in Question 26 of your Judicial Affidavit, you also mentioned that the Formal Letter of Demand and the Assessment Notices were served to the petitioner by registered mail, is that correct?

A: Yes.

Q: So, there were no efforts made to personally serve the FLD and the FAN and you only directly served the FLD and FAN by a registered mail?

A: Sir, during this time, I was already transferred to another district, and, **I believe another Revenue Officer was asked to serve the FAN.**

Q: So, sir, **you do not have any personal knowledge on the service of the FLD and the FAN?**

A: Yes, sir.⁷¹

Under Section 22, Rule 130 of the Rules of Court, a witness may testify only to facts derived from his or her own perception.

In *Spouses Feliciano and Angel Cesa, substituted by their heirs, et al. v. Spouses Elisa Montano Brucelas, et al.*,⁷² the Supreme Court reiterated that testimony concerning a transaction of which the witness admittedly has no personal knowledge is hearsay.

Dra. Leila A. Dela Llana v. Rebecca Biong,⁷³ further instructs that evidence, whether oral or documentary, is hearsay when its probative value rests on the knowledge of another person who is not presented as a witness, and emphasized that the admissibility of evidence is distinct from its evidentiary weight.

Applying these principles, RO Acenas's testimony cannot establish that the FLD/FAN was in fact served upon petitioner. His

⁷⁰ TSN dated January 23, 2025, pp. 8-9.

⁷¹ Emphasis supplied.

⁷² G.R. No. 255564, March 5, 2025.

⁷³ G.R. No. 182356, December 4, 2013.

statement in his Judicial Affidavit that the FLD/FAN was served through registered mail and licensed courier was expressly qualified by the phrase "as borne by the records."⁷⁴ His subsequent identification of the service documents establishes, at most, that these were the records to which he referred; it does not give him personal knowledge of how the FLD/FAN was actually served or whether petitioner received it.

Even considering the documents identified by RO Acenas, respondent's evidence remains insufficient to establish receipt by petitioner or its authorized representative.

Petitioner categorically denies having received the FLD/FAN.⁷⁵ Applying *Villanueva* and *T Shuttle*, such categorical denial placed upon respondent the burden of proving actual receipt by petitioner or its duly authorized representative.⁷⁶

Respondent failed to discharge this burden. Registry Receipt No. RC 416 389 195 ZZ contains no signature acknowledging receipt by petitioner or its representative.⁷⁷ The other documents identified by respondent likewise do not establish that the FLD/FAN was actually delivered to and received by petitioner or by a person authorized to receive it on petitioner's behalf. No registry return card or other proof of delivery establishing such receipt was presented.

Accordingly, respondent failed to establish that the FLD/FAN was validly served upon and actually received by petitioner.

Taken together, the defects in the service of the PAN and the FLD/FAN deprived petitioner of the opportunity afforded under Section 228 of the NIRC of 1997, as amended, and its implementing regulations to respond to the proposed assessment and thereafter protest the final assessment. Thus, the subject deficiency tax assessments for TY 2017 are void and unenforceable.

⁷⁴ Exhibit "R-46", Q&A No. 26, Docket - Vol. II, p. 1235.

⁷⁵ Exhibit "P-26", Docket - Vol. I, pp. 479 to 500.

⁷⁶ *Commissioner of Internal Revenue v. Villanueva, Jr.*, G.R. No. 249540, February 28, 2024; *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*, G.R. No. 240729, August 24, 2020.

⁷⁷ Exhibit "R-17-2", Docket - Vol. II, p. 1276.



Penultimately, as held in *Commissioner of Internal Revenue v. Stradcom Corporation*,⁷⁸ a tax collection effort founded on an invalid assessment has no legal basis; where there is no final and valid assessment, the WDL and WOG issued pursuant thereto are likewise void.

Here, the WDL dated August 17, 2022 and the WOGs dated September 15, 2022 were issued to enforce the subject deficiency tax assessments. Since these assessments are void, the WDL and WOGs must likewise be set aside.

WHEREFORE, in light of the foregoing considerations, the Petition for Review is **GRANTED**.

Accordingly, the deficiency tax assessments for taxable year 2017 embodied in the Formal Letter of Demand and Final Assessment Notices dated February 1, 2022 are **CANCELLED** and **SET ASIDE** for being void.

Consequently, Warrant of Dstraint and/or Levy No. RR7B-WDL-2022-08-03-0253 dated August 17, 2022 and the Warrants of Garnishment dated September 15, 2022 issued pursuant to the subject deficiency tax assessments are likewise **CANCELLED** and **SET ASIDE**. Respondent is **ENJOINED** from collecting the subject deficiency tax assessments against petitioner.

SO ORDERED.

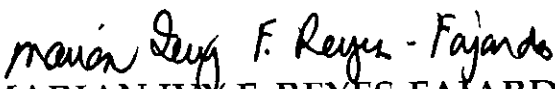

MARIAN IV F. REYES-FAJARDO
Associate Justice

I CONCUR:


HENRY S. ANGELES
Associate Justice

ATTESTATION

I attest 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.


MARIAN IVY F. REYES-FAJARDO
Associate Justice
Chairperson

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