

**REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY**

**SPECIAL THIRD DIVISION**

**BAY AREA HOLDINGS, CTA Case No. 11006  
INC.,**

*Petitioner,*

Present:

**REYES-FAJARDO, Chairperson,  
and  
ANGELES, JJ.**

*- versus -*

**COMMISSIONER OF  
INTERNAL REVENUE,**  
*Respondent.*

Promulgated:

AUG 04 2026

3:48 p.m.

X ----- X

**DECISION**

**ANGELES, J.:**

Before this Court is the *Petition for Review with Urgent Motion to Suspend Collection of Tax and Dispense with Payment of Bond*<sup>1</sup> filed by petitioner Bay Area Holdings, Inc. on October 20, 2022, seeking the cancellation and setting aside of the deficiency tax assessment for taxable year (TY) 2018 and two Warrants of Garnishment (WOGs) dated July 18, 2022.<sup>2</sup> The WOGs seek to collect ₱3,950,989.42, inclusive of increments, allegedly representing deficiency income tax (IT), value-added tax (VAT), documentary stamp tax (DST), and miscellaneous tax.

**THE PARTIES**

Petitioner is a domestic corporation duly organized and existing under Philippine laws with principal office address at 15<sup>th</sup> Floor Aseana 3 Bldg., D. Macapagal Blvd., cor. Asean Avenue, Brgy. Tambo, Parañaque City,<sup>3</sup> established with the following primary purpose:

<sup>1</sup> Docket, pp. 6 to 54.

<sup>2</sup> Exhibits "P-11" and "P-12," pp. 116 to 117.

<sup>3</sup> Docket, p. 7, par. 1.

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To purchase, subscribe for, or otherwise acquire and own, hold, use, sell, assign, transfer, mortgage, pledge, exchange, or otherwise dispose of, subject to limitations imposed by law, real and personal property of every kind and description, including but not limited to, land buildings, condominiums, shares of stock, bonds, debentures, notes, evidences of indebtedness, and other securities, contracts, or obligations of any corporation or corporations, association or associations, domestic or foreign, and to pay therefor, in whole or in part, in case or by exchanging therefor stocks, bonds, or other evidences of indebtedness or securities of any other corporation, and while the owner or holder of any such real or personal property, stocks bonds, debenture, notes, evidences of indebtedness or other securities, contracts, or obligations, to receive, collect, and dispose of the interest, dividends and income arising from such property and to possess and exercise, in respect thereof, all the rights, powers and privileges of ownership, including all voting power on any stocks so owned; provided, however, that nothing herein shall be construed to authorize the Corporation to engage in business as an investment company, an investment house, and a dealer or broker in securities, or to engage in the management of funds, portfolios, or similar assets of the managed firm, person or entity.<sup>4</sup>

Respondent Commissioner of Internal Revenue (CIR) is the chief of the Bureau of Internal Revenue (BIR), the government agency vested with the authority to administer and enforce national internal revenue taxes, including, among others, the assessment and collection of all internal revenue taxes, fees and charges. He holds office at the BIR National Office Building, Diliman, Quezon City, and is represented by the Legal Division of Revenue Region No. 8A, with office address at the 36<sup>th</sup> Floor Export Bank Plaza Building, Sen. Gil Puyat Ave. cor. Chino Roces Ave., Makati City.<sup>5</sup>

## FACTS OF THE CASE

On December 06, 2019, respondent issued a Letter of Authority (LOA) No. LOA-047-2019-00001155 SN: eLA20170031541 authorizing Revenue Officer Christian Garcia (RO Garcia) and Group Supervisor Gigette Ventura (GS Ventura) to audit petitioner's books of accounts and other accounting records for TY 2018.<sup>6</sup>

BIR alleges that failing to locate petitioner at its **registered address** in Perea Street located in Makati City, it called petitioner at its nearby **office** informing them of the LOA dated December 06 2019, thus:

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<sup>4</sup> Memorandum, Docket, p. 538, par. 2.

<sup>5</sup> Joint Stipulation of Facts and Issues (JSFI), Docket, p. 433, par. 1.

<sup>6</sup> Exhibit "R-1," p. 315.

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ATTY. MACARANAS

Good morning, Mr. Witness.

Q In your answer to question number 16 of your Judicial Affidavit, where did you serve the Letter of Authority?

MR. GARCIA

A I visited the petitioner's office at their **registered address**. However, I found that their **office** was close, so I called their office, so they visited the BIR's office at Gil Puyat that time. So, they received the Letter of Authority at the BIR's Office.<sup>7</sup> (*Emphases and underscoring supplied*)

X X X

JUSTICE MANAHAN

**Okay and what is the registered office address of the petitioner?**

MR. GARCIA

**6<sup>th</sup> Floor LTA Bldg. 118 Perea St. is the registered address.**

JUSTICE MANAHAN

Registered, meaning the one appearing in the Certificate of Registration of the petitioner?

MR. GARCIA

Yes, Your Honor.

JUSTICE MANAHAN

No more questions, thank you so much, Mr. Garcia. You may go back to your seat.<sup>8</sup> (*Emphases and underscoring supplied*)

On December 20, 2019, petitioner personally received the LOA through its general accountant and representative Liesl A. Bellen (Ms. Bellen).<sup>9</sup>

Thereafter, in a letter dated January 07, 2020, petitioner informed the BIR that its controller, Gloria C. Manansala (Ms. Manansala), was authorized to represent, communicate, and submit documents and accounting records in connection with the audit. The

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<sup>7</sup> *Transcript of Stenographic Notes (TSN)*, Christian Garcia, July 30, 2024, p. 8.

<sup>8</sup> TSN, Christian Garcia, July 30, 2024, pp. 19 to 20.

<sup>9</sup> Exhibit "P-4," p. 230.

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letter expressly identified the controller's office is at 15/F Aseana Bldg., D. Macapagal Blvd., cor. Aseana Ave., Parañaque City, thus:

This is to authorize Gloria C. Manansala, with **office address** at **15/F Aseana Bldg., D. Macapagal Blvd., cor. Aseana Ave., Paranaque City**, to represent, communicate and submit documents & accounting records that [sic] requested by Revenue Officer in order to expedite the examination pursuant to LOA No. 047-2019-00001155/ eLA20170031541 December 6, 2019.<sup>10</sup> (*Emphases and underscoring supplied*)

On September 04, 2020, petitioner personally received the Notice of Informal Conference (NIC) dated August 20, 2020 at its **known address in Aseana Avenue**, assessing it of deficiency taxes of ₱71,476,885.67, received again by petitioner's general accountant Ms. Bellen.<sup>11</sup>

On September 11, 2020, petitioner responded to the NIC<sup>12</sup> and submitted supporting documents on October 09, 2020.<sup>13</sup>

On October 19, 2020, petitioner received from respondent a revised NIC **via email**.<sup>14</sup> Respondent addressed the communication to Ms. Bellen, who acknowledged the same via email on October 20, 2020.<sup>15</sup>

On one hand, petitioner alleges that after it responded to the revised NIC, it did not receive a Preliminary Assessment Notice (PAN) nor Formal Letter of Demand (FLD) with Final Assessment Notices (FANs) from respondent.<sup>16</sup>

On the other hand, respondent alleges that the following assessment notices were served by **substituted service at petitioner's registered address on Perea Street**:

- (1) the PAN dated September 23, 2021,<sup>17</sup> with attached Details of Discrepancies, which respondent alleges was constructively received on October 27, 2021;<sup>18</sup> and

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<sup>10</sup> Exhibit "P-5," p. 231.

<sup>11</sup> Exhibit "P-6," p. 232.

<sup>12</sup> Exhibit "P-7," p. 236.

<sup>13</sup> Exhibit "P-8," p. 247.

<sup>14</sup> Exhibit "P-9," p. 248.

<sup>15</sup> *Ibid.*

<sup>16</sup> Docket, p. 10, par. 14.

<sup>17</sup> Exhibit "R-4," p. 323.

<sup>18</sup> Exhibit "R-6," p. 329.

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- (2) the FLD<sup>19</sup> with FANs<sup>20</sup> dated November 22, 2021, which respondent alleges was constructively received on March 16, 2022.<sup>21</sup>

Records<sup>22</sup> show that on the above dates provided, the assessments were served by Revenue Officer Esmail G. Carim, and received by the barangay officer Kagawad Recto with two witnesses.

Petitioner alleges that the BIR did not serve it with copies of the WOGs, and that it first became aware thereof only through its banks. Specifically, the Bank of the Philippine Islands informed petitioner of the WOG through a letter<sup>23</sup> received on September 21, 2022, while Security Bank transmitted a copy of the WOG<sup>24</sup> by email<sup>25</sup> on September 26, 2022. The WOGs directed the garnishment of petitioner's bank accounts to satisfy its alleged tax liabilities totaling ₱3,950,989.42.

**PROCEEDINGS BEFORE THE COURT**

On October 20, 2022, petitioner instituted the instant *Petition for Review with Urgent Motion to Suspend Collection of Tax and Dispense with Payment of Bond* before this Court, assailing the issuance of the WOGs dated July 18, 2022. Petitioner prays that the Court cancel and set aside respondent's assessments and WOGs issued against it for TY 2018, contending they are void and of no force and effect.<sup>26</sup>

On November 18, 2022, the Court issued summons,<sup>27</sup> directing respondent to file its Answer within 30 days from receipt thereof. On the same date, the Court also issued a Notice of Hearing on the *Urgent Motion to Suspend Collection of Tax (Urgent Motion)*, which was scheduled on November 29, 2022.

On November 29, 2022, the Court conducted the hearing on the *Urgent Motion*, during which petitioner presented its controller Ms. Manansala.<sup>28</sup>

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<sup>19</sup> Exhibit "R-12," p. 335.

<sup>20</sup> Exhibits "R-7" to "R-11," pp. 330 to 334.

<sup>21</sup> Exhibit "R-14," p. 341.

<sup>22</sup> Exhibits "R-6" and "R-14," pp. 329 and 341.

<sup>23</sup> Exhibit "P-13," p. 118.

<sup>24</sup> Exhibit "P-12," p. 117.

<sup>25</sup> Exhibit "P-14," p. 119.

<sup>26</sup> Docket, pp. 6 to 33.

<sup>27</sup> Docket, p. 136.

<sup>28</sup> Docket, p. 150.

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On December 09, 2022, petitioner filed its *Formal Offer of Evidence (with Motion to Correct Description of Documentary Exhibits)*,<sup>29</sup> which respondent filed *Comment and Opposition*<sup>30</sup> thereto on December 19, 2022. Both parties filed their Memoranda on the *Urgent Motion* on December 09 and 20, 2022, respectively.<sup>31</sup>

On December 16, 2022, respondent, through registered mail, filed a *Motion for Extension of Time to File Answer*,<sup>32</sup> which the Court received on December 28, 2022. The Court granted the motion on its Resolution dated January 12, 2023,<sup>33</sup> extending the deadline for filing the Answer to January 20, 2023. In the same Resolution, the Court likewise directed respondent to certify and elevate the complete BIR records within ten (10) days from the filing of its Answer.

Respondent filed the *Answer*<sup>34</sup> on January 20, 2023 through registered mail, and personally filed the complete BIR records<sup>35</sup> on January 27, 2023. On February 08, 2023, petitioner filed a *Reply*<sup>36</sup> thereto.

On February 01, 2023, the Court issued a Resolution<sup>37</sup> which partially granted its *Urgent Motion*. It prohibited respondent from enforcing the WOGs or collecting based on the assessments until further orders. It also directed petitioner to post bond and submit the required documents as specified in Supreme Court A.M. No. 04-7-02-SC, dated July 20, 2004, which petitioner complied with on February 22, 2023.<sup>38</sup>

On February 09, 2023, the Court referred the case to mediation before the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA).<sup>39</sup> Considering that the parties decided not to have their case mediated per the *No Agreement to Mediate*,<sup>40</sup> the Court set the case for Pre-Trial Conference.<sup>41</sup>

Pursuant to Administrative Circular No. 01-2023 (Reorganizing the Divisions of the Court) dated May 23, 2023, the Court issued a

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<sup>29</sup> Docket, p. 206.

<sup>30</sup> Docket, p. 152.

<sup>31</sup> Docket, pp. 156 to 200. Petitioner posted its *Memorandum* on December 09, 2022, and respondent filed its *Memorandum* on December 19, 2022.

<sup>32</sup> Docket, p. 279.

<sup>33</sup> Docket, p. 284.

<sup>34</sup> Docket, p. 285.

<sup>35</sup> Docket, p. 385.

<sup>36</sup> Docket, p. 360.

<sup>37</sup> Docket, p. 348.

<sup>38</sup> Docket, p. 374.

<sup>39</sup> Docket, p. 372.

<sup>40</sup> Docket, p. 384.

<sup>41</sup> Docket, p. 384.

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Notice on May 29, 2023,<sup>42</sup> informing the parties of the transfer of the case to the Third Division.

On May 26, 2023, petitioner filed its *Pre-Trial Brief*<sup>43</sup> with one (1) USB. Respondent thereafter filed its *Pre-Trial Brief*<sup>44</sup> on August 11, 2023. Both were noted on August 17, 2023.<sup>45</sup>

The pre-trial conference was thereafter conducted on November 08, 2023.<sup>46</sup>

Both parties filed their *Joint Stipulation of Facts and Issues*<sup>47</sup> on December 05, 2023, which the Court, through its Minute Resolution dated December 19, 2023,<sup>48</sup> duly admitted and approved.

The *Pre-Trial Order*<sup>49</sup> was issued on January 31, 2024.

Trial commenced, with petitioner presenting its sole witness, its controller Ms. Manansala on March 21, 2024.<sup>50</sup> Respondent, in turn, presented its only witness, RO Garcia on July 30, 2024.<sup>51</sup>

After the parties filed their respective Formal Offer of Evidence<sup>52</sup> and their Comments<sup>53</sup> thereto, the Court by Resolution dated July 29, 2024<sup>54</sup> and February 19, 2025,<sup>55</sup> admitted the parties' documentary exhibits, subject to the Court's appreciation of their probative value to the issues involved in the case. In the same Resolution dated February 19, 2025, the Court gave the parties 30 days from receipt thereof within which to file their respective memoranda.

Petitioner filed its *Memorandum*<sup>56</sup> on March 24, 2025, while respondent filed its *Memorandum*<sup>57</sup> on March 17, 2025. Both

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<sup>42</sup> Docket, p. 414.

<sup>43</sup> Docket, p. 398.

<sup>44</sup> Docket, p. 416.

<sup>45</sup> Docket, p. 423.

<sup>46</sup> Docket, p. 424.

<sup>47</sup> Docket, p. 433.

<sup>48</sup> Docket, p. 446.

<sup>49</sup> Docket, p. 448.

<sup>50</sup> Docket, p. 463.

<sup>51</sup> Docket, p. 448.

<sup>52</sup> Petitioner's *Formal Offer of Evidence* was filed on April 18, 2024, *Docket*, pp. 467 to 477; Respondent's *Formal Offer of Evidence* was filed on August 05, 2024, *Docket*, pp. 492 to 496.

<sup>53</sup> Respondent's *Comment (To Petitioner's Formal Offer of Evidence Dated April 18, 2024)* was filed on April 23, 2024, *Docket*, pp. 478 to 480; Petitioner's *Comment (to Respondent's Formal Offer of Evidence dated August 05, 2024)* was filed on August 14, 2024, *Docket*, pp. 503 to 507.

<sup>54</sup> *Docket*, pp. 486 to 487.

<sup>55</sup> *Docket*, pp. 517 to 518.

<sup>56</sup> *Docket*, p. 519.

<sup>57</sup> *Docket*, p. 537.

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memoranda were duly noted by the Court in its Minute Resolutions dated March 27, 2025<sup>58</sup> and April 03, 2025.<sup>59</sup> On June 20, 2025, the Court issued a Minute Resolution<sup>60</sup> submitting the case for decision.

## ISSUES BEFORE THE COURT

The issue submitted for the Court's resolution is as follows:

Whether petitioner is liable for alleged deficiency income tax, value-added tax, documentary stamp tax, and miscellaneous tax for taxable year 2018 in the total amount of Three Million Nine Hundred Fifty Thousand Nine Hundred Eighty-Nine and 42/100 Pesos (P3,950,989.42), including increments.<sup>61</sup>

## ARGUMENTS OF THE PARTIES

### *On jurisdiction*

Petitioner asserts that the Court has jurisdiction under Section 11 of Republic Act (R.A.) No. 1125, as amended by R.A. No. 9282,<sup>62</sup> in relation to Section 3(a) of Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA),<sup>63</sup> because it filed the *Petition for Review* within 30 days from learning of the WOGs.

Respondent contends that the Court has no jurisdiction over the case.<sup>64</sup> It argues that petitioner constructively received the FLD dated November 22, 2021 on March 16, 2022 through substituted service at its Perea address, yet petitioner failed to file protest within the prescribed 30-day period as annunciated in Section 228 of the NIRC of

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<sup>58</sup> Docket, p. 577.

<sup>59</sup> Docket, p. 581.

<sup>60</sup> Docket, p. 591.

<sup>61</sup> *Joint Stipulation of Facts and Issues*, Docket, pp. 434 to 435.

<sup>62</sup> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

<sup>63</sup> SEC. 3. *Who may appeal; period to file petition.* — (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

<sup>64</sup> *Memorandum*, Docket, pp 524, par. 12.

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1997, as amended. Hence, according to respondent, petitioner's assessment became final, executory, and demandable, thereby precluding petitioner from challenging its correctness.

### *On violation of due process*

Petitioner argues that the assessment were issued in violation of its right to due process because the PAN, FLD, and FANs were never served. According to petitioner, respondent failed to serve the assessment notices at its **known address** in Aseana, Parañaque City, despite having previously served the NIC there and despite RO Garcia's alleged knowledge of that address.<sup>65</sup>

As a result, petitioner was allegedly deprived not only of the opportunity to file a timely protest, but also of sufficient notice of the factual and legal bases of the assessments and the reasons why respondent rejected petitioner's response to the revised NIC.<sup>66</sup> Petitioner also maintains that the details stated in the revised NIC were insufficient to satisfy these due process requirements.<sup>67</sup>

Respondent counters that the PAN, FLD, and FANs were properly served through substituted service at petitioner's **registered address** at Perea Street, Makati City.<sup>68</sup> It argues that petitioner never formally updated its registered address through BIR Form No. 1905; hence, notices served at the address appearing in the BIR's records remained valid and binding.<sup>69</sup>

Respondent further questions Ms. Manansala's authority to act for petitioner. Citing Section 23 of the Revised Corporation Code, it contends that petitioner failed to present proof that its board of directors authorized her to transact with the BIR or receive assessments notices on the corporation's behalf.<sup>70</sup>

### *On prescription of period to assess*

Petitioner contends that respondent's right to assess the IT and VAT had already prescribed.<sup>71</sup> Based on the dates of the filing of its returns, petitioner identifies the following deadlines:

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<sup>65</sup> Memorandum, Docket, pp. 554 to 559.

<sup>66</sup> Memorandum, Docket, pp. 554 to 559.

<sup>67</sup> Memorandum, Docket pp. 564 to 565, par. 92.

<sup>68</sup> Memorandum, Docket, pp 521 to 523, pars. 5 to 8.

<sup>69</sup> Memorandum, Docket, pp 530 to 531, pars. 29 to 30.

<sup>70</sup> Memorandum, Docket, pp 529 to 530, pars. 26 to 28.

<sup>71</sup> Memorandum, Docket, pp. 559 to 561.

| Return                           | Last Day to Assess<br>Per Petitioner <sup>72</sup> |
|----------------------------------|----------------------------------------------------|
| 1 <sup>st</sup> Quarter 2018 VAT | April 25, 2021                                     |
| 2 <sup>nd</sup> Quarter 2018 VAT | July 25, 2021                                      |
| 3 <sup>rd</sup> Quarter 2018 VAT | October 25, 2021                                   |
| 4 <sup>th</sup> Quarter 2018 VAT | January 25, 2022                                   |
| 2018 Annual Income Tax Return    | April 22, 2022                                     |

Respondent counters that the three-year assessment period was suspended by COVID-19 related revenue issuances. Thus, the PAN dated September 23, 2021 and the FLD and FANs dated November 22, 2021 were timely issued.<sup>73</sup>

Petitioner further argues that the audit was not completed within the 120-day (now, 180-day) period prescribed under the BIR’s General Audit Procedures and Documentation<sup>74</sup> and that the LOA should therefore have been revalidated.<sup>75</sup> Respondent maintains, however, that failure to revalidate the LOA does not invalidate the assessment, but merely subjects the revenue officer concerned to administrative sanctions.<sup>76</sup>

*On the valid issuance of the WOGs*

Petitioner contends that the WOGs were prematurely issued. Petitioner maintains that the alleged deficiency taxes had *not* become final, executory, and demandable when respondent issued the warrants. Considering it had not been given the opportunity to protest a final assessment, petitioner argues that it could not be considered a delinquent taxpayer against whom summary collection remedies could validly be enforced.<sup>77</sup>

Respondent, on its part, maintains that the WOGs were validly issued.<sup>78</sup>

**RULING OF THE COURT EN BANC**

*The Petition for Review is meritorious.*

<sup>72</sup> Memorandum, p. 561.  
<sup>73</sup> Memorandum, Docket, pp 525 to 528, pars. 14 to 23.  
<sup>74</sup> Revenue Memorandum Order No. 019-15, September 15, 2015.  
<sup>75</sup> Memorandum, Docket, pp. 568.  
<sup>76</sup> Memorandum, Docket, p. 528.  
<sup>77</sup> Memorandum, Docket, p. 547.  
<sup>78</sup> Memorandum, Docket, p. 519.

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*The Court has jurisdiction over the Petition for Review, which was timely filed*

At the outset, the Court must determine whether it has jurisdiction over the present controversy. Jurisdiction is conferred by law and determined based on the allegations in the petition.<sup>79</sup>

As held by the Supreme Court in *Commissioner of Internal Revenue vs. Court of Tax Appeals Second Division and QL Development, Inc.*,<sup>80</sup> Section 7 of Republic Act (RA) No. 1125, as amended by RA No. 9282, confers upon the CTA the jurisdiction to decide not only cases involving disputed assessments and refunds of internal revenue taxes, but also “other matters” arising under the NIRC. Thus:

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

It was further explained therein, that “*the exclusive appellate jurisdiction of the CTA Division is not limited to cases involving decisions of the CIR or matters relating to assessments or refunds.*”<sup>81</sup>

Indeed, the Supreme Court has held that “*within the judicial system, the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems.*”<sup>82</sup>

Consequently, in *CIR v. Hambrecht & Quist Philippines, Inc.*,<sup>83</sup> the issue of whether the BIR had the right to enforce collection of taxes was considered as falling under the “other matters” arising under the NIRC of 1997, as amended, or other laws administered by the BIR over which this Court has exclusive appellate jurisdiction.

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<sup>79</sup> *Editha Padlan vs. Elenita Dinglasan and Felicisimo Dinglasan*, G.R. No. 180321, March 20, 2013 [Per J. Peralta, Third Division].

<sup>80</sup> G.R. No. 258947, March 29, 2022 [Per J. Caguioa, First Division].

<sup>81</sup> *Ibid.*

<sup>82</sup> *Commissioner of Internal Revenue v. Court of Tax Appeals (Second Division)*, G.R. No. 207843, July 15, 2015 [Per Perlas Bernabe, First Division].

<sup>83</sup> G.R. No. 169225, November 17, 2010 [Per J. Leonardo De Castro, First Division].

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Similarly, in *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*,<sup>84</sup> the Supreme Court recognized that this Court's appellate jurisdiction is not limited to decisions involving disputed assessments or refunds but extends to "other matters" arising under the NIRC of 1997, as amended. Consistent with this principle, the Court held therein that CTA possesses the authority to determine the validity of a Warrant of Distraint and/or Levy (WDL) issued by the BIR.

Furthermore, in *Commissioner of Internal Revenue v. Pacific Hub Corp.*,<sup>85</sup> where the Supreme Court explained the breadth of the CTA's "other matters" jurisdiction:

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

Here, petitioner directly assails the WOGs issued by respondent to enforce the collection of deficiency taxes arising from assessments which, according to petitioner, were never validly served upon it. The present controversy, therefore, concerns the legality of respondent's exercise of its collection authority under the NIRC of 1997, as amended.

Hence, the present *Petition for Review* falls squarely within the CTA's jurisdiction over "other matters" under Section 7(a)(1) of R.A. No. 1125, as amended.

It has been held that "*the timeliness of filing a pleading is a jurisdictional caveat that even this Court cannot trifle with.*"<sup>86</sup> Thus,

<sup>84</sup> G.R. No. 162852, December 16, 2004 [Per J. Ynares Santiago, First Division].

<sup>85</sup> G.R. No. 252944, November 27, 2024 [Per J. Dimaampao, Third Division].

<sup>86</sup> *Le Soleil Int'l. Logistics Co., Inc., and/or Beth Umali, Reynante Malabanan, and Eugenio S. Ynion, Jr. vs. Vicente Sanchez, David R. Conde, and National Labor Relations Commission, Respondents.*, G.R. No. 199384, September 09, 2015 [Per J. Perez, First Division].

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Section 11 of RA No. 1125, as amended by RA No. 9282 provides for the period within which an appeal must be made before this Court. Thus:

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

xxx

In the instant *Petition*, it is alleged that while the WOG was served on Bank of the Philippine Islands and Security Bank on September 19 and 22, 2022, respectively, petitioner only learned of their existence and obtained a copy of the WOG only through correspondence from the banks, received on **September 21<sup>87</sup> and 26, 2022,<sup>88</sup>** respectively.

Moreover, on October 07, 2022, petitioner narrates that it requested from the BIR a certified true copy of the WOG, and received a certified photocopy thereof.<sup>89</sup>

The instant *Petition* was filed on **October 20, 2022**, well within the 30-day period from petitioner's receipt of the correspondence from its banks, and a copy of the WOG.

Hence, petitioner timely filed its *Petition* insofar as it seeks judicial review of the WOGs allegedly issued without a valid and enforceable assessment.

*Respondent failed to prove valid service of the PAN, and the FLD and FANs, in violation of petitioner's due process; hence, the assessments are void.*

Petitioner's attack on the validity of the WOG is premised on the supposed invalidity of the assessment due to its non-receipt of the PAN, and FLD with FANs.

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<sup>87</sup> Exhibit "P-13," p. 118.

<sup>88</sup> Exhibit "P-14," p. 119.

<sup>89</sup> Exhibits "P-11" and "P-12," pp. 116 to 117.

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On the other hand, respondent insists that the assessment notices were validly served to petitioner through substituted service at its registered address, and that the assessment had become final, due, and demandable. Hence, its collection efforts are justified.

Upon careful review of the records and the parties' submissions, this Court rules for petitioner.

At this juncture, it is imperative to revisit the modes by which service may be made, as prescribed under Section 3.1.6 of Revenue Regulations (R.R.) No. 18-2013, which pertinently provides:

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.

(ii) Substituted service can be resorted to when the party is not present at the registered or known address. If no person is found in the party's registered or known address, the revenue officers concerned shall bring a barangay official and two disinterested witnesses to the address so that they may personally observe and attest to such absence.

X X X

*(Emphasis and underscoring supplied)*

Revenue Memorandum Order (RMO) No. 40-2019 further elaborates the procedures for the proper service of assessment notices:

**II. Guidelines and Procedures**

1. **The assessment notice shall be served to the taxpayer through personal service** by delivering personally a copy of the assessment notice 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.

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**2. In case personal service is not possible, the assessment notice shall be served either by substituted service or by mail. However, substituted service can only be resorted to when the party is not present at the registered or known address.**

2.1 Substituted service shall be done as follows:

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

2.1.2 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.

2.1.3 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.

2.1.4 **If no person is found in the party's registered or known address**, the Revenue Officers (ROs) 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 assessment notice shall be given to said barangay official. Such facts shall be contained in the bottom portion of the assessment notice, as well as the names, official positions and signatures of the witnesses.

2.1.5 **Should the party be found at his registered or known address or any other place** but refuses to receive the assessment notice, the ROs 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 assessment notice shall be given to said barangay official. Such facts shall be contained in the bottom portion of the assessment notice, as well as the names, official positions and signatures of the witnesses.

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

2.2 Service by mail shall be done by sending a copy of the assessment notice through —

2.2.1 Registered mail with an instruction to the Postmaster to return the mail to the sender after ten (10) days, if undelivered; or

2.2.2 Reputable professional courier service; or

2.2.3 Ordinary mail, if no registry or reputable courier is available in the locality of the taxpayer.

x x x

From the foregoing, it is clear that RR No. 18-2013 and RMO No. No. 40-2019 establishes a hierarchy of service modes for the PAN, FLD, and FANs. The primary mode of service is (1) personal delivery

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to the taxpayer ***at its registered or known address or wherever he may be found***. When personal service is not practicable, respondent may resort to: (2) substituted service; or (3) service by mail, but respondent must prove that service was made ***at taxpayer's registered or known address***, and in accordance with the procedure applicable to that mode.

Where respondent claims substituted service on the ground that the taxpayer was absent or refused to receive the notices, it must establish compliance with the specific safeguards prescribed by RR No. 18-2013 and RMO No. 40-2019. Depending on the circumstances, these include:

1. That the taxpayer must be absent *or* must have refused receipt ***at the registered or known address or wherever he may be found***;
2. That a barangay official and two (2) disinterested witnesses personally observed and attested to the absence or refusal, when the circumstances required their presence;
3. That the notices must be handed to the barangay official; and
4. That the fact of absence or refusal, together with the names and signatures of the disinterested witnesses of legal age other than employees of the BIR, were recorded on the notice.

The above are not empty formalities. They provide objective proof that the notice was brought to the proper address, that genuine efforts at service were made, and that the taxpayer's absence or refusal prevented actual delivery.

It is worth reiterating, RR No. 18-2013 does not confine valid service to the taxpayer's registered address. It expressly recognizes three possible points of personal service: the taxpayer's (1) registered address; (2) known address; or (3) wherever he may be found.

A **registered address** is the address appearing in the taxpayer's registration records with the BIR. A **known address**, as expressly defined in RR No. 18-2013, is a place other than the registered address where the taxpayer conducts business activities or, in the case of an individual, resides.

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Noteworthy is the regulation's intent to distinguish the two. BIR's internal circular, Revenue Memorandum Circular (RMC) No. 11-2014, also confirms this distinction when it provides:

The notice (PAN/FLD/FAN/FDDA) shall first be served to the taxpayer's registered known address before the same may be served to the taxpayer's known address, or in the alternative, may be served to the taxpayer's registered address and known address simultaneously.

**All the regulation thus gives legal significance to a taxpayer's known address, independent of the taxpayer's registered address.** RMC No. 11-2014 further contemplates service at the known address after service at the registered address has proven ineffective and, alternatively, permits simultaneous service at both addresses. The evident purpose is to ensure that assessment notices actually reach the taxpayer and that the statutory periods for responding and protesting are not triggered by service at an address which the BIR itself knows is no longer effective.

That being said, respondent violated petitioner's due process rights.

Respondent's failure to even attempt service at petitioner's known address, despite its actual knowledge that petitioner was conducting business there, deprived petitioner of the notice necessary to contest the assessments.

In this case, the **Aseana address** may properly be considered petitioner's "**known address**" within the contemplation of R.R. No. 18-2013, RMO No. 40-2019, and RMC No. 11-2014. The records<sup>90</sup> show that petitioner informed respondent of its transfer to the Aseana address and that its business activities were being conducted there.

In its January 07, 2020 letter,<sup>91</sup> petitioner expressly identified the Aseana address as the office of its controller, Ms. Manansala, whom it authorized to represent it and submit documents in connection with the examination. Respondent thereafter used the same address to serve the NIC and continued to communicate with petitioner through its representative Ms. Bellen by emailing her the revised NIC.

Excerpts of the NIC is reproduced below:

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<sup>90</sup> *Supra* note 10.

<sup>91</sup> *Ibid.*

Aug 20 2020

**NOTICE OF INFORMAL CONFERENCE**

**The President**  
**BAY AREA HOLDINGS INC**  
3rd Flr., Aseana Powerstation Bldg., Macapagal Bldv., Bradco Ave.  
Paranaque City  
TIN: 203-373-260-000

Sir/Madam:

Please be advised that the report of investigation on your all internal revenue taxes for taxable year ending **December 31, 2018** under **Letter of Authority No. el201700031541** dated Dec. 6, 2019 assigned to **Revenue Officer CHRISTIAN B. GARCIA** under **Group Supervisor GIGETTE T. VENTURA** was already submitted for appropriate action. The report shows deficiency taxes that are still due and demandable from you.<sup>92</sup>

*(Emphasis in the original; underscoring supplied)*

Likewise, the correspondence of respondent and petitioner's representative Ms. Bellen for service of the revised NIC is reproduced below:

**Re: BAY AREA HOLDINGS INC TY 2018**

Liesl Bellen <labellen@dmwai.com>  
Tue 10/20/2020 4:29 PM  
To: Christian B. Garcia <christian.garcia@bir.gov.ph>  
Cc: gloria manansala <gloriamanansala@yahoo.com>

Hi Sir Christian,

Good day.

This is to acknowledge the receipt of your email.  
I apologize for the late reply. I did not notice it as it was in my junk email.

Regards,

**Liesl A. Bellen**  
General Accountant  
D.M. Wenceslao and Associates, Inc.  
15th Floor, Aseana 3 Bldg.  
President Diosdado Macapagal Blvd. corner Asean Ave.  
Aseana City, Parañaque City  
Tel No: 854-5711 loc. 128

---

**From:** Christian B. Garcia <christian.garcia@bir.gov.ph>

---

<sup>92</sup> Exhibit "R-2;" p. 316.

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**Sent:** Monday, October 19, 2020 1:22 PM

**To:** Liesl Bellen <labellen@dmwai.com>

**Subject:** BAY AREA HOLDINGS INC TY 2018

Good day Ma'am,

Please see attached evaluation of your protest letter. If you are amenable to pay, please inform us within three (3) days from receipt of this email. Otherwise, your case docket will be forwarded to the Assessment Division for issuance of Preliminary Assessment Notice (PAN).

Please acknowledge receipt thereof.

Thanks,  
Christian<sup>93</sup>

*(Emphasis in the original; underscoring supplied)*

RO Garcia's testimony likewise confirms respondent's knowledge that petitioner and its representatives could be reached through the Aseana address, thus:

ATTY. MACARANAS

Q Based on this letter, Mr. Witness, you were notified that petitioner authorized Gloria C. Manansala with office address at 15<sup>th</sup> Floor, Aseana 3 Building D. Macapagal Boulevard Corner, Parañaque City, to represent, communicate, and submit documents and accounting records that are requested by the revenue officer in order to expedite the examination pursuant to Letter of Authority dated December 6, 2019, correct?

MR. GARCIA

A Yes, sir.

ATTY. MACARANAS

Q Mr. Witness, in your answers to questions no. 17 to 22 of your Judicial Affidavit, you mentioned and identified a Notice of Informal Conference dated August 20, 2020 marked as Exhibit R-2 found on page 234 of the BIR records?

MR. GARCIA

A Yes, sir.

ATTY. MACARANAS

**Q That the Notice of Informal Conference was served to and received by petitioner on 3rd floor Aseana**

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<sup>93</sup> Exhibit "P-9," p. 248.

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**Powerestation Bldg. Macapagal Blvd. Bradco Avenue,  
Paranaque City, correct?**

**MR. GARCIA**

**A Yes, sir.**

**ATTY. MACARANAS**

**Q** Based on this, you were then aware and you acknowledged the address of petitioner when you served the notice of informal conference at 3rd floor Aseana Powerestation Bldg. Macapagal Blvd. Bradco Avenue, Paranaque City, correct?

**MR. GARCIA**

**A** I'm sorry, what is the question again?

**ATTY. MACARANAS**

**Q** Based on this, you were then aware and you acknowledged the address of petitioner when you served the notice of informal conference at 3rd floor Aseana Powerestation Bldg. Macapagal Blvd. Bradco Avenue, Paranaque City, correct?

**MR. GARCIA**

**A** Yes, sir, this is the alternative address of the authorized representative then by the BIR . . .<sup>94</sup>

*(Emphases and underscoring supplied)*

These circumstances establish more than respondent's incidental awareness of another address. They show that respondent had actual and documented knowledge that the Aseana address was being used by petitioner in connection with the audit and that petitioner's authorized representatives conducted business there.

Yet, despite this knowledge, respondent presented no competent evidence that it served, or even attempted to serve, the PAN and the FLD with FANs at petitioner's known address in Aseana. Neither did respondent prove that the notices were simultaneously sent to petitioner's registered address, as contemplated by RMC No. 11-2014.

Section 228 of the NIRC of 1997, as amended, requires the taxpayer to be informed in writing of the facts and the law upon which an assessment is made; otherwise, the assessment is void.

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<sup>94</sup> TSN, Christian Garcia, July 30, 2024, pp. 12 to 13.

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This requirement is substantive, not merely procedural. Due process requires that the assessment notice be validly served in the manner prescribed by law, so that the taxpayer is afforded a meaningful opportunity to understand, dispute, and contest the government's demand.<sup>95</sup> Thus, a formal assessment does more than state a computation, it demands payment within a prescribed period, triggers the taxpayers' remedies, and becomes the foundation for the government's summary collection powers.

The Court cannot therefore sustain an assessment where the taxpayer was not shown to have received the very notices that would trigger its right to protest. Without valid service of the assessment notices, petitioner could not have been expected to avail itself of the administrative remedies under Section 228 of the NIRC of 1997, as amended. Correspondingly, the assessments could not have become final, executory, and demandable based on petitioner's supposed failure to protest within 30 days from receipt, because the commencement of that period was never established.

To be clear, respondent's argument that petitioner's failure to file BIR Form No. 1905 does not cure the fact it failed to serve petitioner at its known address. A failure to update the registered address may carry consequences under applicable tax rules, but it does not erase BIR's actual knowledge of a distinct known address such that it will excuse non-compliance with service at the known address as contemplated by the BIR regulations.

Moreover, respondent was not confronted with a newly asserted address of which it had no prior knowledge. Rather, respondent was directly informed by petitioner of its Aseana address and respondent had successfully communicated with petitioner's representatives there. Thus, even if petitioner had yet to update its registration through BIR Form No. 1905, respondent cannot close its eyes to the address it had already recognized and used for the purposes of the tax audit.

Likewise, respondent's challenge to Ms. Manansala's authority is unavailing. Even assuming that the January 07, 2020 letter was insufficient to authorize her to receive a formal assessment on behalf of the corporation, the letter and respondent's subsequent conduct remain competent evidence that the Aseana address was a place where petitioner's audit-related business was conducted and where it could be found.

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<sup>95</sup> *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, G.R. No. 185371, December 08, 2010 [Per J. Mendoza, Second Division].

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The controlling issue is not whether service upon Ms. Manansala would necessarily bind petitioner, but whether respondent could ignore the known address altogether. It could not.

Ultimately, respondent and the BIR is bound by the procedures prescribed in its own regulations. Those procedures are designed not merely to facilitate collection but to ensure that the taxpayer is actually afforded the opportunity to respond before the government invokes finality of an assessment and exercises its coercive collection powers.

Consequently, petitioner was deprived of its opportunity to reply to the PAN, and to protest the FLD with FANs within the periods prescribed by law. The resulting violation of petitioner's right to due process renders the deficiency tax assessments void.

*The Warrants of Garnishment are  
without legal basis and  
unenforceable*

Given the nullity of the assessments, it is therefore no longer necessary to pass upon petitioner's contentions that respondent's right to assess had prescribed.<sup>96</sup> Thus, we shall now rule on the validity of the WOGs.

Sections 205 and 207 of the NIRC of 1997, as amended, authorize the remedies of distraint, levy, and garnishment for the collection of delinquent taxes. The collection remedies, however, presuppose the existence of a valid and enforceable delinquency.

As a general rule, the issuance of a WDL (or WOGs, as in this case) constitutes evidence that the assessment has become *final, executory, and demandable*. It may likewise be treated as an effective rejection of the taxpayer's protest.<sup>97</sup> Thus, that rule cannot apply, as in this case, where the assessments from which the warrants arose were never validly served upon the taxpayer.

However, the recent case of *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.*<sup>98</sup> is instructive. The Supreme Court emphasized thus:

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<sup>96</sup> *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*, G.R. No. 223767, April 24, 2023 [Per C.J. Gesmundo, First Division].

<sup>97</sup> *Commissioner of Internal Revenue v. Algue, Inc.*, G.R. No. L-28896, February 17, 1988 [Per J. Cruz, First Division].

<sup>98</sup> *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.*, G.R. No. 198677, November 26, 2014 [Per J. Peralta, Third Division].

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**An invalid assessment bears no valid fruit.** The law imposes a substantive, not merely a formal, requirement. **To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations: that taxpayers should be able to present their case and adduce supporting evidence.** In the instant case, respondent has not properly been informed of the basis of its tax liabilities. **Without complying with the unequivocal mandate of first informing the taxpayer of the government's claim, there can be no deprivation of property, because no effective protest can be made.**

*(Emphasis and underscoring supplied)*

All told, when the taxpayer was not validly informed of the deficiency tax assessments underlying the WDL, it was deprived of the opportunity to file an effective protest and present evidence in its defense. Such denial of due process renders the assessment as invalid and consequently, leaves the corresponding WDL without legal basis and unenforceable.

The same conclusion follows here. As exhaustively discussed above, respondent failed to prove the valid service of the PAN, and the FLD with FANs upon petitioner. Consequently, petitioner was denied due process for not having been validly informed of the assessments against it. Thus, the alleged deficiency tax assessments did not become final, executory, and demandable.

Accordingly, the entire assessment process is null and void, and the WOGs dated July 18, 2022, having been issued without valid and demandable assessments, likewise have no legal basis and must be cancelled.

Time and time again, taxes are indispensable to the operations of the government, but their collection must be pursued through the means and subject to the safeguards established by law. Garnishment cannot substitute for the valid assessment and notice thereof that due process requires.

**WHEREFORE**, premises considered, the *Petition for Review* filed on October 20, 2022 is **GRANTED**. The Warrants of Garnishments dated July 18, 2022 are **CANCELLED** and **SET ASIDE**; and the assessments upon which it is based for taxable year 2018 in the total amount of Three Million Nine Hundred Fifty Thousand Nine Hundred Eighty-Nine and 42/100 Pesos

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*Bay Area Holdings, Inc. v. Commissioner of Internal Revenue*

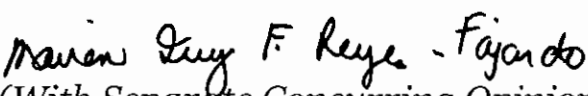
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(P3,950,989.42) are **NULL** and **VOID** for violating petitioner's due process. Respondent, his representatives, agents, or any person on his behalf are **ENJOINED** from collecting the subject deficiency taxes on the basis of the void assessments.

**SO ORDERED.**

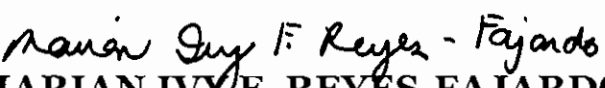
  
**HENRY S. ANGELES**  
Associate Justice

**I CONCUR:**

  
(With Separate Concurring Opinion)  
**MARIAN IVY F. REYES-FAJARDO**  
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's Division.

  
**MARIAN IVY F. REYES-FAJARDO**  
Associate Justice  
Chairperson

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**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

REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY

SPECIAL THIRD DIVISION

BAY AREA HOLDINGS, INC., CTA Case No. 11006  
*Petitioner,*

- versus -

Members:

REYES-FAJARDO, *Chairperson,*  
ANGELES, *II.*

COMMISSIONER OF  
INTERNAL REVENUE,  
*Respondent.*

Promulgated:

AUG 04 2026

x ----- C        3:48 P.M. ----- x

CONCURRING OPINION

REYES-FAJARDO, J.:

I agree with the *ponencia's* finding that the 2018 deficiency internal revenue tax assessment, as well as collection measures enforcing the same should be voided, because the Bureau of Internal Revenue (BIR) violated petitioner's right to due process on assessment. I pen this to relay the reason for my agreement.

Petitioner denied receipt of the BIR's Preliminary Assessment Notice (PAN), and Formal Letter of Demand and Final Assessment Notice (FLD/FAN).<sup>1</sup> On the other hand, respondent said that based on record, said PAN<sup>2</sup> and FLD/FAN<sup>3</sup> were served upon petitioner.

*Ei incumbit probatio qui dicit, non que negat.* He [or she] who asserts, not he [or she] who denies, must prove,<sup>4</sup> since, by the nature

<sup>1</sup> Answer to Question No. 81, Exhibit "P-20." Docket, p. 69.

<sup>2</sup> Answer to Question No. 32, Exhibit "R-15." *Id.* at p. 309.

<sup>3</sup> Answer to Question No. 39, Exhibit "R-15." *Id.* at pp. 310-311.

<sup>4</sup> See *Franco v. People of the Philippines*, G.R. No. 191185, February 1, 2016, citing *People of the Philippines v. Masalihit*, G.R. No. 124329, December 14, 1998.

gan

of things, he [or she] who denies a fact cannot produce any proof of it.<sup>5</sup> Considering that respondent is asserting proper service of the BIR's PAN and FLD/FAN to petitioner, respondent must produce proof of such assertion.

Respondent failed in this regard.

Specifically, respondent's sole witness Revenue Officer Christian Garcia (RO Garcia) admitted in open court that he was *not* the person who served the PAN and FLD/FAN:

ATTY. MACARINAS

So based on all the documents shown to you, respondent has knowledge of the Parañaque address of petitioner, but despite knowing petitioner's Parañaque address, respondent still chose to serve the [PAN], and [FLD] to [the] Barangay Officials of Makati, correct?

MR. GARCIA

A I was not the one who served the Assessment Notice, sir.<sup>6</sup>

In turn, the following documents attest that the BIR employee who served the PAN and FLD/FAN to petitioner was indeed *not* RO Garcia, but RO Esmail Carim. Consider the following presentation:

| Document                                                                                                      | Person who served      | Exhibit Reference                                                                                           |
|---------------------------------------------------------------------------------------------------------------|------------------------|-------------------------------------------------------------------------------------------------------------|
| Acknowledgement of Receipt for FLD/FAN                                                                        | <u>RO Esmail Carim</u> | "R-14" <sup>7</sup>                                                                                         |
| Bottom portion of FAN for Income Tax, Value-Added Tax, Documentary Stamp Tax, penalty, and compromise penalty |                        | "R-7," <sup>8</sup> "R-8," <sup>9</sup> "R-9," <sup>10</sup> "R-10," <sup>11</sup> and "R-11" <sup>12</sup> |
| Acknowledgment of Receipt for PAN                                                                             |                        | "R-6" <sup>13</sup>                                                                                         |

<sup>5</sup> See *MOF Company, Inc. v. Shin Yang Brokerage Corporation*, G.R. No. 172822, December 18, 2009.  
<sup>6</sup> Page 15, Transcript of Stenographic Notes (TSN) – Hearing held on July 30, 2024.  
<sup>7</sup> BIR Records, p. 503.  
<sup>8</sup> BIR Records, p. 502.  
<sup>9</sup> BIR Records, p. 501.  
<sup>10</sup> BIR Records, p. 500.  
<sup>11</sup> BIR Records, p. 499.  
<sup>12</sup> BIR Records, p. 498.  
<sup>13</sup> BIR Records, p. 489.

It means that RO Garcia lacks personal knowledge on the circumstances regarding the service of PAN and FLD/FAN to petitioner. *A fortiori*, his testimony, side by side with the documentary evidence mentioned in the immediately preceding table are hearsay. As ruled in *Dela Llana v. Biong*:<sup>14</sup>

However, even if we consider the medical certificate in the disposition of this case, the medical certificate has no probative value for being hearsay. **It is a basic rule that evidence, whether oral or documentary, is hearsay if its probative value is not based on the personal knowledge of the witness but on the knowledge of another person who is not on the witness stand....**<sup>15</sup>

Being hearsay, respondent's evidence, though admitted, has no credence for it has no probative value.<sup>16</sup> Evidence, to establish a fact in issue, must not only be admissible—it must be able to convince.<sup>17</sup> In view thereof, respondent's evidence lacks the requisite weight to show that there was valid service of the PAN and FLD/FAN for Taxable Year 2018 to petitioner. Simply put, there was no valid proof that said BIR notices was served to, let alone, received by petitioner, transgressive of the latter's right to due process.

In *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*,<sup>18</sup> the tax assessments issued by the BIR against therein respondent were nullified because the latter disclaimed receipt of the PAN and FAN, and the BIR lacked proof of service thereof upon therein respondent, violative of the latter's right to due process.

So must it be here.

All said, I **CONCUR** with the *ponencia solely* based on the foregoing discussion.

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

<sup>14</sup> G.R. No. 182356, December 4, 2013.

<sup>15</sup> Boldfacing mine.

<sup>16</sup> *Republic v. Galeno*, G.R. No. 215009, January 23, 2017.

<sup>17</sup> *People v. Ansano*, G.R. No. 232455, December 2, 2020.

<sup>18</sup> G.R. No. 240729, August 24, 2020.