



Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

COMMISSIONER OF INTERNAL REVENUE, G.R. No. 255520

Petitioner, Present:

-versus-

CAGUIOA, J., Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.*

STRADCOM CORPORATION,

Respondent.

Promulgated:

APR 21 2025

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DECISION

CAGUIOA, J.:

This Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Rules of Court filed by petitioner Commissioner of Internal Revenue (CIR) seeks the reversal and setting aside of the Decision² dated July 23, 2020 and Resolution³ dated January 27, 2021 of the Court of Tax Appeals *En Banc* (CTA EB) in CTA EB No. 1949. The CTA EB denied CIR's Petition for Review and affirmed the Decision⁴ dated May 29, 2018 and Resolution⁵ dated September 24, 2018 of the CTA Special First Division (CTA Division), which ordered the CIR to refund or issue tax credit certificate (TCC) in favor of

* On leave.

¹ *Rollo*, pp. 12–42.

² *Id.* at 47–63. Penned by Associate Justice Jean Marie A. Bacorro-Villena with Presiding Justice Roman G. Del Rosario, Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Esperanza R. Fabon-Victorino, Ma. Belen M. Ringpis-Liban, and Maria Rowena Modesto-San Pedro, concurring. Presiding Justice Roman G. del Rosario wrote a Concurring Opinion. Associate Justice Catherine T. Manahan wrote a Concurring and Dissenting Opinion.

³ *Id.* at 65–69. Penned by Associate Justice Jean Marie A. Bacorro-Villena with Presiding Justice Roman G. Del Rosario, Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Ma. Belen M. Ringpis-Liban, and Maria Rowena Modesto-San Pedro, concurring. Associate Justice Catherine T. Manahan maintains her Concurring and Dissenting Opinion.

⁴ *Id.* at 93–125. Penned by Associate Justice Erlinda P. Uy with Presiding Justice Roman G. Del Rosario and Associate Justice Cielito N. Mindaro-Grulla, concurring.

⁵ CTA records (CTA EB No. 1949), pp. 64–65. Penned by Associate Justice Erlinda P. Uy with Presiding Justice Roman G. Del Rosario, concurring. Associate Justice Cielito N. Mindaro-Grulla was on official business.

Stradcom Corporation (Stradcom) in the amount of PHP 325,381,412.81, representing illegally collected income tax for taxable year (TY) 2011.

The Facts

In 1998, the National Government, through the Department of Transportation and Communications (DOTC), entered into a Build-Own-Operate Agreement (BOOA) with Stradcom for the construction and operation of the Land Transportation Office Information Technology Project (LTO-IT Project).⁶ Pursuant to the terms of the BOOA, the DOTC shall pay Stradcom within 30 calendar days from receipt of billing based on services actually rendered. The DOTC, in turn, shall collect all fees from end users availing of the IT-based services.⁷

On April 16, 2012, Stradcom filed its Annual Income Tax Return (AITR) for TY 2011 with the Bureau of Internal Revenue (BIR).⁸

On July 19, 2013, Stradcom received a letter dated July 5, 2013 from Assistant Commissioner of Internal Revenue Alfredo V. Misajon, demanding payment of deficiency income taxes for TY 2011 in the amount of PHP 488,377,342.81, inclusive of interest.⁹

Subsequently, on July 31, 2013, the BIR issued a Warrant of Distrainment and/or Levy (WDL) against Stradcom and a Warrant of Garnishment (WOG) over Stradcom's bank account with Land Bank of the Philippines.¹⁰

On August 8, 2013, Stradcom submitted a letter to the BIR seeking the cancellation of the WDL and WOG on the ground that the issuance thereof was against its right to due process, as no Preliminary Assessment Notice (PAN) and a Final Assessment Notice (FAN) were issued for the corporation's supposed tax liabilities for TY 2011.¹¹

Stradcom likewise sent a letter dated August 13, 2013 to the CIR proposing a settlement in an effort to lift the WDL and WOG. The CIR, however, denied the proposal on the ground that Stradcom's income tax liabilities were already due and demandable.¹²

In order to lift and cancel the WDL and WOG, Stradcom paid in cash the amount of PHP 488,377,342.81 on August 29, 2013, which consisted of PHP 385,672,285.00 as the actual income tax liability and PHP 102,705,057.81 as interest, for TY 2011.¹³

⁶ *Rollo*, p. 49, CTA EB Decision.

⁷ *Id.*

⁸ *Id.* at 50.

⁹ *Id.*

¹⁰ *Id.* at 51.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*



As a result of the collection of the afore-stated amounts, on May 15, 2015, Stradcom filed an administrative claim for refund or for the issuance of a TCC with the BIR's Large Taxpayers Audit Division II, in the total amount of PHP 325,381,413.00, representing allegedly erroneously collected basic tax and interest.¹⁴

Due to BIR's inaction on the administrative claim for refund, Stradcom filed a Petition for Review with the CTA Division on August 25, 2015.¹⁵

CTA Division Ruling

In a Decision dated May 29, 2018, the CTA Division granted Stradcom's Petition for Review and ordered the CIR to refund Stradcom the amount of PHP 325,381,412.81, representing erroneously collected income tax for TY 2011.¹⁶

The CTA Division ruled that it has jurisdiction over the case as the two-year prescriptive period for refund claims should be counted from the date of tax payment (August 29, 2013) and not from the filing date of the AITR (April 16, 2012). Stradcom filed its administrative claim on May 15, 2015 and its judicial claim on August 25, 2015, both within the two-year prescriptive period.¹⁷

More importantly, the CTA Division ruled that Stradcom was denied due process. Records show that BIR did not issue a Letter of Authority (LOA), Notice for Informal Conference (NIC),¹⁸ PAN, and FAN prior to the issuance of the WDL and WOG against Stradcom.

Aggrieved, the CIR filed a motion for reconsideration (MR), which the CTA Division denied in a Resolution dated September 24, 2018.

CTA EB Ruling

In the Decision dated July 23, 2020, the CTA EB upheld the CTA Division's ruling. Absent any valid assessment justifying the collection of the taxes deemed illegally collected, the CTA EB granted Stradcom's claim for refund.

In its Resolution dated January 27, 2021, the CTA EB denied the CIR's MR.

Hence, the instant Petition.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 117–124, CTA Division Decision.

¹⁷ *Id.* at 113–117.

¹⁸ Now called Notice of Discrepancy per RR No. 22-2020.



In compliance with the Court's Resolution¹⁹ dated February 15, 2022, Stradcom filed its Comment,²⁰ to which the CIR filed a Reply.²¹

Before the Court, the CIR relies on the Court's ruling in *SMI-Ed Philippines Technology, Inc. v. CIR*²² (*SMI-ED*), which states that "taxes are generally self-assessed. They are initially computed and voluntarily paid by the taxpayer. The government does not have to demand it. If the tax payments are correct, the BIR need not make an assessment."²³ For the CIR, if the amount sought to be collected is the unpaid amount from the self-assessed amount, the CIR is not required to follow the deficiency assessment procedure of issuing an LOA, NIC, PAN, and FAN. The CIR accordingly argues that there is no due process violation as the CIR is merely collecting the self-assessed amount declared by no less than the taxpayer.²⁴

According to the CIR, Stradcom itself had indicated, in its own AITR and in its audited financial statements, that it was obliged to pay its income tax on revenue arising from LTO transactions for TY 2011 when it became due and payable upon the release of funds held under escrow and trust account. As such, the CIR insists that Stradcom did not need to be notified of its income liability through assessment because Stradcom itself had served notice of its own liability.²⁵ The CIR thus concludes that the CTA EB failed to recognize that the claimed amount against Stradcom was a tax delinquency, and the non-payment thereof authorizes the CIR to issue a WDL under Section 205 of the National Internal Revenue Code of 1997,²⁶ as amended (1997 NIRC).²⁷

Stradcom, in its Comment, maintains that the CIR violated its right to due process by not issuing an assessment notice informing it of the amount and the reasons for the alleged income tax liabilities.²⁸ Stradcom points out that its AITR for TY 2011 did not show any tax due. Hence, there was no delinquent tax because there was no amount due on the return filed. Its income tax liability for TY 2011 became due and demandable only upon the LTO's release of the end user fees, which was made only in 2013.²⁹

In its Reply, the CIR restated the arguments raised in its Petition.

¹⁹ *Rollo*, pp. 344–345.

²⁰ *Id.* at 348–379.

²¹ *Id.* at 391–415.

²² 746 Phil. 607 (2014) [Per J. Leonen, Second Division].

²³ *Rollo*, p. 32, Petition.

²⁴ *Id.* at 30–33. *See also* *id.* at 397, Reply.

²⁵ *Id.* at 28–29, Petition.

²⁶ Republic Act No. 8424.

²⁷ *Rollo*, p. 25, Petition.

²⁸ *Id.* at 359–365, Comment.

²⁹ *Id.* at 365–374.



The Issue

Whether the CTA EB erred in holding that Stradcom was denied due process, and in consequently ruling that Stradcom is entitled to a refund or TCC in the amount of PHP 325,381,412.81, representing illegally collected income tax for TY 2011.

The Court's Ruling

The Petition lacks merit. The CTA EB did not err in ordering the CIR to refund Stradcom the amount of PHP 325,381,412.81.

At the outset, it must be emphasized that the Court accords the CTA's factual findings with utmost respect, if not finality, because the Court recognizes that it has necessarily developed an expertise on tax matters.³⁰ Significantly, both the CTA Division and CTA EB found that the amount collected from Stradcom was not subject to proper assessment procedures and that the issuance of the WDL and WOG was in violation of Stradcom's right to due process. The Court shall not disturb their findings without any showing of grave abuse of discretion considering that the members of the tax court are in the best position to analyze the documents presented by the parties.³¹

In any case, after a judicious review of the records, the Court still does not find any reason to deviate from the CTA Division and CTA EB findings. Thus, the Court upholds the CTA's determination that the CIR denied Stradcom its right to due process.

The income tax liability sought to be collected from Stradcom is not delinquent, as there was no tax due declared in its AITR.

The Court finds erroneous the CIR's assertion that Stradcom's income tax obligation constitutes a delinquent account which justifies its collection through WDL and WOG.

The 1997 NIRC requires "delinquency" before the CIR may collect through civil remedies. Section 205 of the 1997 NIRC explicitly states that collection remedies may be pursued only for delinquent taxes, thus:

Section 205. ***Remedies for the Collection of Delinquent Taxes.*** — The **civil remedies for the collection** of internal revenue taxes, fees, or charges, and any increment thereto **resulting from delinquency** shall be:

³⁰ *CIR v. Deutsche Knowledge Services Pte. Ltd.*, 877 Phil. 799, 817 (2020) [Per J. Inting, Second Division], citing *Winebrenner & Iñigo Insurance Brokers, Inc. v. CIR*, 752 Phil. 375 (2015) [Per J. Mendoza, Second Division].

³¹ *CIR v. Deutsche Knowledge Services Pte. Ltd.*, *id.* at 817, citing *Republic v. Team (Phils.) Energy Corp.*, 750 Phil. 700 (2015) [Per J. Bersamin, First Division].



- (a) By distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts, and interest in and rights to personal property, and by levy upon real property and interest in or rights to real property; and
- (b) By civil or criminal action.

Either of these remedies or both simultaneously may be pursued in the discretion of the authorities charged with the collection of such taxes: *Provided, however*, that the remedies of distraint and levy shall not be availed of where the amount of tax involved is not more than One hundred pesos (P100). (Emphasis supplied)

Based on the foregoing provision, the 1997 NIRC provides two types of remedies to enforce the collection of unpaid taxes: (a) summary administrative remedies, such as the distraint and/or levy of taxpayer's property; and/or (b) judicial remedies, such as the filing of a criminal or civil action against the erring taxpayer.³² However, before the CIR can avail of the summary administrative collection remedies, it must first be established that the taxes sought to be collected have become delinquent.

Likewise, Section 207 of the 1997 NIRC outlines the summary remedies of distraint and levy, which, again, can only be executed once the taxes have become delinquent:

Section 207. *Summary Remedies.* —

(A) *Distraint of Personal Property.* — Upon the failure of the **person owing any delinquent tax or delinquent revenue** to pay the same at the time required, the Commissioner or his duly authorized representative, if the amount involved is in excess of One million pesos (P1,000,000), or the Revenue District Officer, if the amount involved is One million pesos (P1,000,000) or less, shall seize and distraint any goods, chattels, or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property of such persons in sufficient quantity to satisfy the tax, or charge, together with any increment thereto **incident to delinquency**, and the expenses of the distraint and the cost of the subsequent sale.

A report on the distraint shall, within ten (10) days from receipt of the warrant, be submitted by the distraining officer to the Revenue District Officer, and to the Revenue Regional Director: *Provided*, That the Commissioner or his duly authorized representative shall, subject to rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner, have the power to lift such order of distraint: *Provided, further*, That a consolidated report by the Revenue Regional Director may be required by the Commissioner as often as necessary.

(B) *Levy on Real Property.* — After the expiration of the time required to **pay the delinquent tax or delinquent revenue** as prescribed in

³² *CIR v. Court of Tax Appeals Second Division*, G.R. No. 258947, March 29, 2022 [Per J. Caguioa, First Division].



this Section, real property may be levied upon, before, simultaneously or after the distraint of personal property belonging to the delinquent. To this end, any internal revenue officer designated by the Commissioner or his duly authorized representative shall prepare a duly authenticated certificate showing the name of the taxpayer and the amounts of the tax and penalty due from him. Said certificate shall operate with the force of a legal execution throughout the Philippines.

....

In case the warrant of levy on real property is not issued before or simultaneously with the warrant of distraint on personal property, and the personal property of the taxpayer is not sufficient to satisfy his **tax delinquency**, the Commissioner or his duly authorized representative shall, within thirty (30) days after execution of the distraint, proceed with the levy on the taxpayer’s real property. (Emphasis supplied)

In *Light Rail Transit Authority v. BIR*,³³ the Court held that the BIR’s issuances, including a WDL, were void and without effect as they stemmed from a non-demandable assessment, given that the assessment was still pending appeal with the CIR.³⁴ Similarly, in *Mannasoft Technology Corp. v. CIR*,³⁵ the Court emphasized that the summary collection remedies under the 1997 NIRC, such as the issuance of a WDL, are premised first and foremost on the existence of “delinquent taxes.”³⁶

As to the concept of delinquent account, the Court, citing Revenue Regulations (RR) No. 17-86,³⁷ has held that this refers to the amount of tax due from a taxpayer who failed to pay the same within the time prescribed for its payment, that arises from (1) a self-assessed tax, whether or not a tax return was filed, or (2) a deficiency assessment issued by the BIR which has become final and executory.³⁸

Neither condition is present in this case.

As to the self-assessed tax, Stradcom’s AITR³⁹ for TY 2011 did not indicate any tax due. On the contrary, the return clearly indicated a net loss, computed as follows:

Sales/Revenues/Receipts/Fees	PHP 621,404,135.00
Less: Cost of Sales/Services	782,544,934.00
Gross Income from Operation	(161,140,799.00)

³³ 923 Phil. 362 (2022) [Per J. Leonen, Second Division].
³⁴ Id. at 379.
³⁵ 943 Phil. 633 (2023) [Per J. Dimaampao, Third Division].
³⁶ Id. at 642.
³⁷ Implementation of Executive Order No. 44 dated September 4, 1986, Authorizing the Bureau of Internal Revenue to Accept Compromise Payments, on Delinquent Accounts or Disputed Assessments Pending as of December 31, 1985 (1986).
³⁸ See *Philippine National Oil Co. v. Court of Appeals*, 496 Phil. 506 (2005) [Per J. Chico-Nazario, *En Banc*].
³⁹ CTA records (CTA Case No. 9125), pp. 1146–1147, Exhibit P-14.



Add: Other Taxable Income Not Subject to Final Tax	1,016,067.00
Total Gross Income	(160,124,732.00)
Less: Deductions	
Optional Standard Deduction	
OR Itemized Deduction	363,877,230.00
Taxable Income	(524,001,962.00)
Tax Rate (except MCIT Rate)	30%
Income Tax Due other than MCIT	(157,200,588.60)⁴⁰

Given the declared loss, there was plainly no tax payable. As such, there exists no basis for classifying any unpaid amount as a self-assessed tax delinquency. A self-assessed delinquency presupposes that the taxpayer has acknowledged a tax obligation in its return and failed to pay it within the prescribed period. Here, Stradcom's AITR reflects no such liability—only a net loss amounting to PHP 157,200,588.60. Without a taxpayer-admitted obligation, there is simply nothing to pay.

Such understanding is consistent with the self-assessment principle recognized in jurisprudence, under which tax liabilities ordinarily arise upon the filing of returns declaring a tax due. As affirmed in *Tupaz v. Hon. Ulep*,⁴¹ internal revenue taxes are self-assessing and no further assessment by the BIR is required to create the tax liability.⁴² This rule applies in situations where the taxpayer files a return showing an amount of tax due but either fails to pay it or pays only a portion thereof. In such instances, the taxpayer is considered delinquent with respect to that portion of unpaid amount of tax after the due date.

However, the operation of the foregoing principle is not absolute. It presupposes that the return actually reflects a legally due and ascertainable tax. When the return reports no tax liability, as in the case of Stradcom, which declared a net operating loss, the principle does not give rise to an enforceable obligation.

Despite this, the CIR appears to have anchored the collection effort solely on the "Provision for Income Tax – Current" reflected in Stradcom's audited financial statements (AFS) to establish its alleged deficiency income tax liability for TY 2011.⁴³ To the Court's mind, this reliance demonstrates that the tax in question was not a self-assessed tax. Rather, the BIR conducted an independent examination of Stradcom's AFS, which extends beyond the scope of its ITR.

The Court also finds misplaced and misleading the CIR's reliance on *SMI-ED*, which states that:

⁴⁰ *Rollo*, p. 360, Comment.

⁴¹ 374 Phil. 474 (1999) [Per J. Pardo, First Division].

⁴² *Id.* at 484.

⁴³ *Rollo*, p. 102, CTA Division Decision.

Taxes are generally self-assessed. They are initially computed and voluntarily paid by the taxpayer. The government does not have to demand it. **If the tax payments are correct, the BIR need not make an assessment.**⁴⁴ (Emphasis supplied)

The foregoing ruling in *SMI-ED* merely states that when a taxpayer correctly declares and pays the taxes, no further assessment is necessary. However, the inverse is also true—if the tax payment is incorrect or disputed, as in this case, an assessment must be made before collection can proceed.

Notably, *SMI-ED* does not dispense with the requirement of assessment in all cases. In fact, an assessment remains necessary where the taxpayer has not admitted any tax liability, or where the BIR seeks to collect amounts not reflected in the taxpayer's return. The statement in *SMI-ED* simply affirms that assessment may be dispensed with only when the taxpayer has correctly declared and paid the tax due. In contrast, when the taxpayer has declared a tax liability in the return but fails to pay it, the amount becomes immediately demandable and may be collected through administrative remedies without the need for further assessment. **However, if the taxpayer's return does not indicate any tax due, or if the BIR disputes the accuracy of the return, as it does in this case, then a valid assessment is a legal prerequisite to collection effort through summary administrative remedies.**

Hence, the BIR cannot rely on the doctrine of self-assessment to justify the resort to summary administrative remedies under Section 205 of the 1997 NIRC. The doctrine presumes a voluntarily declared and unpaid tax obligation, which is clearly absent in this instance.

It must also be emphasized that self-assessed tax returns are presumed correct under the doctrine that they are filed under penalty of perjury.⁴⁵ This presumption is further reinforced by the fact that corporate tax returns, such as those filed by Stradcom, are prepared based on financial statements that have been audited and examined by independent Certified Public Accountants, in compliance with Section 232 of the 1997 NIRC. Such returns must be accompanied by an Account Information Form containing information drawn from certified balance sheets, profit and loss statements, and other relevant schedules.⁴⁶ These statutory requirements underscore the reliability and accuracy of self-assessed returns.

The above presumption continues to apply unless overcome by a duly issued assessment, which, as will be addressed in the succeeding section, is also not present. Accordingly, the foundation for the BIR's claim of a delinquent account based on self-assessment is without merit.

⁴⁴ *SMI-Ed Philippines Technology, Inc. v. CIR*, *supra* note 22, at 622.

⁴⁵ *Id.* at 619.

⁴⁶ NATIONAL INTERNAL REVENUE CODE OF 1997, sec. 232.



The subject WDL and WOG have no assessment to serve as their basis.

The Court agrees with the ruling of both the CTA Division and CTA EB that an assessment without observance of the due process requirements is a patent nullity. As such, the cancellation of the WDL and WOG against Stradcom is proper.

As discussed above, a delinquent tax liability likewise arises from a deficiency assessment that has become final and executory.⁴⁷ In this case, however, there was no LOA that preceded the issuance of the WDL and WOG. Furthermore, the due process requirements for the issuance of a valid tax assessment were not observed.

An LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax.⁴⁸ Further, pursuant to Section 228 of the 1997 NIRC and Section 3, RR No. 12-99, as amended,⁴⁹ the due process requirements for the issuance of a deficiency tax assessment include an NIC, as well as the issuance of a PAN and FAN.

In *CIR v. Fitness by Design, Inc.*,⁵⁰ the Court categorically held that the issuance of a valid formal assessment is a substantive prerequisite for collection of taxes. The Court explained:

A final assessment notice provides for the amount of tax due with a demand for payment. This is to determine the amount of tax due to a taxpayer. However, due process requires that taxpayers be informed in writing of the facts and law on which the assessment is based in order to aid the taxpayer in making a reasonable protest. **To immediately ensue with tax collection without initially substantiating a valid assessment contravenes the principle in administrative investigations “that taxpayers should be able to present their case and adduce supporting evidence.”**

....

⁴⁷ See *Philippine National Oil Co. v. Court of Appeals*, *supra* note 38.

⁴⁸ *Medicard Philippines, Inc. v. CIR*, 808 Phil. 528, 539 (2017) [Per J. Reyes, Third Division].

⁴⁹ 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 (1999). See also RR No. 18-2013, Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment (2013); RR No. 7-2018, 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 (2018); and RR No. 22-2020, Amending Certain Sections of Revenue Regulations No. 12-99, as Amended by Revenue Regulations No. 18-2013 and Revenue Regulations No. 7-2018, Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment (2020).

⁵⁰ 799 Phil. 391 (2016) [Per J. Leonen, Second Division].



Compliance with Section 228 of the National Internal Revenue Code is a substantive requirement. It is not a mere formality. **Providing the taxpayer with the factual and legal bases for the assessment is crucial before proceeding with tax collection. Tax collection should be premised on a valid assessment, which would allow the taxpayer to present his or her case and produce evidence for substantiation.**⁵¹ (Emphasis supplied, citations omitted)

The same conclusion has been reached in *CIR v. Pilipinas Shell Petroleum Corp.*,⁵² in which the Court declared the following:

Absent a previously issued assessment supporting the 1998 and 2002 Collection Letters, it is clear that [the CIR's] attempts to collect through said collection letters as well as the subsequent Warrants of Garnishment and Dstraint and/or Levy are void and ineffectual. If an invalid assessment bears no valid fruit, with more reason will no such fruit arise if there was no assessment in the first place.⁵³ (Emphasis supplied)

Furthermore, the CIR's reliance on the supposed delinquency of the tax liability in justifying the issuance of the WDL and WOG is misplaced and directly contradicts its own issuance outlined in Revenue Memorandum Order (RMO) No. 39-07⁵⁴ dated December 12, 2007. It states:

II. SCOPE

This Memorandum Order covers the following:

1. Disputed assessments finally decided by the Commissioner or Regional Director, as the case may be, against the taxpayer.
2. Assessments upheld by the CTA in Division whether or not appealed to the CTA En Banc, or upheld by the CTA En Banc whether or not appealed to the Supreme Court.

III. ISSUANCE AND SERVICE OF WARRANTS OF DISTRRAINT AND GARNISHMENT, AND/OR LEVY

Upon issuance by the Commissioner or Regional Director of the final decision on the disputed assessment against the taxpayer or upon issuance by the CTA in Division or En Banc of its decision upholding the assessment, Warrants of Dstraint and Garnishment, and/or Levy shall forthwith be immediately issued and served. (Emphasis supplied)

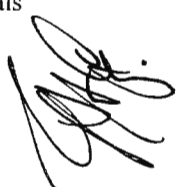
RMO No. 39-07 provides that a WDL and WOG can be issued only if the CIR or Regional Director has issued a final decision on the disputed assessment, or the CTA has upheld the assessment. Since neither of these

⁵¹ *Id.* at 412-419.

⁵² 835 Phil. 875 (2018) [Per J. Leonardo-De Castro, First Division].

⁵³ *Id.* at 907.

⁵⁴ Issuance of Warrants of Dstraint and Garnishment, and/or Levy on Disputed Assessments Finally Decided by the Bureau Against the Taxpayer on Assessments Upheld by the Court of Tax Appeals (2007).



conditions was satisfied, the issuance of the WDL and WOG was premature and unlawful.

Likewise, RR No. 4-2019⁵⁵ dated April 5, 2019, finds relevance in this case notwithstanding that it had not yet been issued when the WDL and WOG were issued against Stradcom.

Under RR No. 4-2019, a delinquent account is defined as a tax due from an assessment that has become final and executory. While this definition is framed within the context of Republic Act No. 11213, or the Tax Amnesty Act, it reflects long-standing and widely accepted principles of tax law, particularly the requirement that delinquency must be based on a final and demandable liability. RR No. 4-2019 provides that a tax becomes delinquent in the following instances:

Section 2. *Definition of Terms.* For purposes of these Regulations, the words used herein shall be defined as follows:

A. Delinquent Account - shall pertain to a tax due from a taxpayer arising from the audit of the Bureau of Internal Revenue (BIR) which had been issued Assessment Notices that have become final and executory due to the following instances:

1. Failure to pay the tax due on the prescribed due date provided in the Final Assessment Notice (FAN)/Formal Letter of Demand (FLD) and for which no valid Protest, whether a request for reconsideration or reinvestigation, has been filed within thirty (30) days from receipt thereof;
2. Failure to file an appeal to the Court of Tax Appeals (CTA) or an administrative appeal before the Commissioner of Internal Revenue (CIR) within thirty (30) days from receipt of the decision denying the request for reinvestigation or reconsideration; or
3. Failure to file an appeal to the CTA within thirty (30) days from receipt of the Decision of the CIR denying the taxpayer's administrative appeal to the Final Decision on Disputed Assessment (FDDA). (Emphasis supplied)

Based on the foregoing, without an assessment that has gone through any of the above stages and has become final and executory, a tax cannot be deemed delinquent. None of the circumstances in RR No. 4-2019 are present here.

As found by the CTA Division and CTA EB, the CIR did not issue an LOA, NIC, PAN, and FAN prior to Stradcom's receipt of the WDL and WOG. It follows, therefore, that Stradcom had not been informed of the basis of its

⁵⁵ Implementing Rules and Regulations of Republic Act No. 11213, Otherwise Known as the "Tax Amnesty Act," Providing for the Guidelines on the Processing of Tax Amnesty Application on Tax Delinquencies (2019).



income tax liability. 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.⁵⁶ The CIR may summarily enforce collection only when it has accorded the taxpayer administrative due process, which vitally includes the issuance of a valid assessment.⁵⁷

Thus, the CIR's attempt to collect the alleged income tax from Stradcom without issuing a valid assessment was in clear violation of the due process requirements mandated under the 1997 NIRC and RR No. 12-99, as amended. A tax collection effort that stems from an invalid assessment holds no legal weight. Even more so, if no assessment was issued at all, then there is absolutely no foundation for any collection to stand on. Without a proper assessment, there exists no enforceable tax liability, making any attempt to collect through summary remedies entirely void. Thus, the CIR cannot claim a right to collect taxes that were never properly assessed in the first place.

There being no final and valid assessment to begin with, the WDL and WOG issued against Stradcom are void and have been correctly cancelled and set aside by the CTA Division and CTA EB.

With the foregoing conclusion, the Court finds no compelling reason to resolve the other matters raised by the parties, as it is well established that "[a] void assessment bears no valid fruit."⁵⁸

A final word. The Court takes this opportunity to firmly remind the BIR that the administrative remedies for tax collection, such as distraint, levy, and garnishment, are not tools to be wielded at will. They may be invoked only when the taxes sought to be collected have already become delinquent, whether by the taxpayer's own admission or by virtue of a valid formal assessment.

While the Court recognizes the vital role of tax collection in ensuring the government's continued operations, this commitment must never come at the expense of legality. The failure to adhere to due process not only jeopardizes the integrity of tax administration but also erodes public trust in the government's authority.

Before any collection action may be undertaken for supposed unpaid taxes, especially where no amount is admitted as due by the taxpayer in the tax returns, the 1997 NIRC requires the prior issuance of a formal assessment. This ensures that the taxpayer is afforded an opportunity to dispute the BIR's claim. To allow the BIR to enforce tax collection through summary administrative remedies without a valid assessment violates the taxpayer's right to due process. It would render the assessment process meaningless, as

⁵⁶ *CIR v. Fitness by Design, Inc.*, *supra* note 50, at 409.

⁵⁷ *CIR v. Pilipinas Shell Petroleum Corp.*, *supra* note 52, at 904.

⁵⁸ *CIR v. Reyes*, 516 Phil. 176, 189 (2006) [Per C.J. Pangniban, First Division].



the BIR could simply declare a tax delinquency at will and initiate collection without giving the taxpayer an opportunity to contest the alleged liability. Thus, the BIR is cautioned to strictly observe the safeguards prescribed by law to prevent a recurrence of similar violations in the future.

As the Court emphatically held in *CIR v. Algue, Inc.*:⁵⁹

Taxes are the lifeblood of the government and so should be collected without unnecessary hindrance. **On the other hand, such collection should be made in accordance with law as any arbitrariness will negate the very reason for government itself.** It is therefore necessary to reconcile the apparently conflicting interests of the authorities and the taxpayers so that the real purpose of taxation, which is the promotion of the common good, may be achieved.

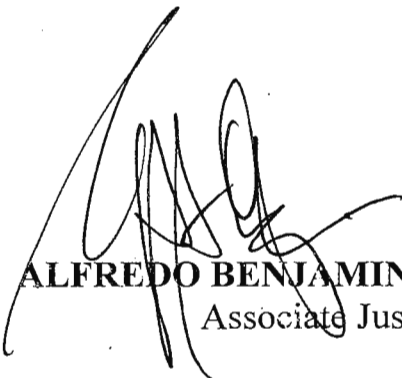
....

But even as we concede the inevitability and indispensability of taxation, it is a requirement in all democratic regimes that it be exercised reasonably and in accordance with the prescribed procedure. If it is not, then the taxpayer has a right to complain and the courts will then come to his succor. For all the awesome power of the tax collector, he may still be stopped in his tracks if the taxpayer can demonstrate, as it has here, that the law has not been observed.⁶⁰ (Emphasis supplied)

The Court trusts that this warning will not go unheeded.

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated July 23, 2020 and Resolution dated January 27, 2021 of the Court of Tax Appeals *En Banc* in CTA EB No. 1949, are **AFFIRMED**.


SO ORDERED.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

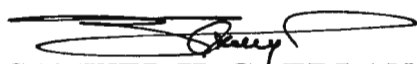
⁵⁹ 241 Phil. 829 (1988) [Per J. Cruz, First Division].

⁶⁰ *Id.* at 830–836.

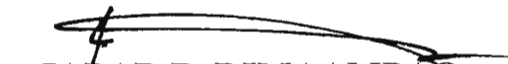
WE CONCUR:



HENRI JEAN PAUL B. INTING
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

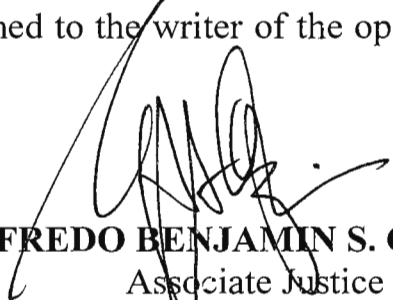


JAPAR B. DIMAAMPAO
Associate Justice

(On Leave)
MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

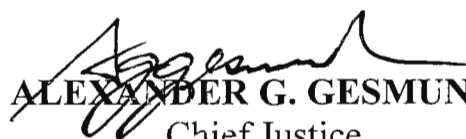
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice