Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**G.R. No. 263794**
	Present:
	LEONEN, *Chairperson,* LAZARO-JAVIER, M. LOPEZ, J. LOPEZ, and KHO, JR., *JJ.*
-versus-	
MARILY DEVELOPMENT CORPORATION, Respondent.	Promulgated: APR 02 2025

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D E C I S I O N

M. LOPEZ, *J.*:

The authority of the Court of Tax Appeals (CTA) to rule on issues not raised by the parties either in the petition or during trial but is necessary to achieve the orderly disposition of the case is not unbridled. The resolution of the issue should not require the presentation of additional evidence and must rely solely on factual bases that are already matters of record in the case.[1]

Moreover, prescription of the statute of limitations for assessment and collection of taxes is a matter of defense. The burden is on the taxpayer to prove that the full period of limitation has expired.[2]

Before this Court is a Petition for Review[3] filed by the Commissioner

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1 *Prime Steel Mill, Inc. v. Commissioner of Internal Revenue*, 929 Phil. 644, 651 (2022) [Per J. Dimaampao, Third Division].

2 *Querol v. Collector of Internal Revenue*, 116 Phil. 615, 619 (1962) [Per J. Reyes, J.B.L., *En Banc*]. *See also AFP General Insurance Corp. v. Commissioner of Internal Revenue*, 889 Phil. 171, 200 (2020) [Per J. Inting, Third Division].

3 *Rollo*, pp. 10–30.

of Internal Revenue (CIR) seeking to reverse and set aside the May 31, 2022 Decision[4] and October 12, 2022 Resolution[5] of the CTA *En Banc* in CTA *EB* No. 2450, which affirmed *in toto* the September 10, 2020 Decision[6] and February 11, 2021 Resolution[7] of the CTA Division in CTA Case No. 9756. In the assailed issuances, the CTA cancelled the deficiency tax assessments against Marily Development Corporation (MDC) for the taxable year 2006 for failure of the CIR to prove that it had issued the requisite Letter of Authority (LoA) and on the ground of prescription.

ANTECEDENTS

On June 8, 2011, the CIR issued a Formal Assessment Notice (FAN) assessing MDC for deficiency income tax, Value-Added Tax (VAT), Expanded Withholding Tax (EWT), and Withholding Tax on Compensation (WTC) for calendar year 2006 in the total amount of PHP 8,104,781.30. MDC protested the assessment.[8] On December 29, 2017, MDC received a Preliminary Collection Letter on the alleged deficiency taxes.[9] Thus, on January 25, 2018, MDC filed its Petition for Review with the CTA.

During the trial, the CIR manifested that it would not present any evidence and witnesses in the case.[10]

Ruling of the CTA Second Division

In its September 10, 2020 Decision,[11] the CTA Division cancelled the assessment after finding no evidence to show that the examination of MDC's books was authorized through a LoA. The revenue officers who examined MDC's books and accounting records were not also presented in court. Since there was no indication that the examination and assessment of MDC sprung from a LoA, the CTA ruled that the assessments issued against MDC are void. The CTA further ruled that even assuming a valid LoA exists, the subject assessments have already prescribed. MDC received the FAN only on June

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4 *Id.* at 34–48. The May 31, 2022 Decision in CTA EB. No. 2450 was penned by Associate Justice Ma. Belen M. Ringpis-Liban and concurred in by Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Jean Marie A. Bacorro-Villena and Maria Rowena Modesto-San Pedro. Presiding Justice Roman G. Del Rosario issued his Dissenting Opinion and joined by Associate Justices Catherine T. Manahan, Marian Ivy F. Reyes-Fajardo and Lanee S. Cui-David.

5 *Id.* at 56–60. The October 12, 2022 Resolution in CTA EB No. 2450 was penned by Associate Justice Ma. Belen M. Ringpis-Liban and concurred in by Associate Justices Erlinda P. Uy, Jean Marie A. Bacorro-Villena, Maria Rowena Modesto-San Pedro and Marian Ivy F. Reyes-Fajardo. Presiding Justice Roman G. Del Rosario reiterated his Dissenting Opinion and joined by Associate Justices Catherine T. Manahan and Lanee S. Cui-David.

6 *Id.* at 98–115. The September 10, 2020 Decision in CTA Case No. 9765 was penned by Associate Justice Juanito C. Castañeda, Jr., and concurred in by Associate Justice Jean Marie A. Bacorro-Villena.

7 *Id.* at 127–132. The February 11, 2021 Resolution in CTA Case No. 9756 was penned by Associate Justice Juanito C. Castañeda, Jr., and concurred in by Associate Justice Jean Marie A. Bacorro-Villena.

8 *Id.* at 100.

9 *Id.* at 101. Broken down as follows: (a) income tax deficiency of PHP 2,474,878.35; (b) VAT deficiency of PHP 4,690,771.55; (c) EWT deficiency of PHP 108,879.88; and (d) WTC deficiency of PHP 830,251.52.

10 *Id.* at 105.

11 *Id.* at 98–115.

10, 2011, or more than the three-year period to assess under Section 203[12] of the Tax Code. The CTA held that the 10-year prescriptive period in Section 222[13] will not apply since the CIR failed to adduce evidence of fraud on the part of MDC. The dispositive portion stated:

> **WHEREFORE**, the instant Petition for Review is **GRANTED**. Accordingly, the assessment issued by respondent [CIR] against petitioner [MDC] for its alleged deficiency income tax, VAT, EWT and WTC for calendar year 2006 in the aggregate amount of [PHP] 8,104,781.30 is **CANCELLED and SET ASIDE.**
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> **SO ORDERED**.[14] (Emphasis in the original)

The CIR filed a Motion for Reconsideration and/or New Trial.[15] It argued that the issuance of the LoA was never raised as an issue during trial; hence, it dispensed with the presentation of the LoA as evidence. However, to prove that the 2006 assessment was based on a valid LoA, the CIR attached LOA No. 2000-000158676, which was received by MDC on July 12, 2007, in its motion.[16] The CIR prayed that the September 11, 2020 Decision be set aside, or in the alternative, that the case be re-opened to allow the CIR the opportunity to present the LoA. With respect to the issue of prescription, the CIR argued that the 10-year period should apply because MDC filed a false income tax return and failed to file a VAT return.

On February 11, 2021, the CTA Division issued a Resolution[17] denying the Motion for Reconsideration and/or New Trial. It held that the CIR effectively waived its right to present evidence when it manifested that it would no longer offer any evidence or witness during the trial. At any rate, the LoA sought to be introduced was not identified by a witness or incorporated in the case records. Further, there was no compelling or persuasive reason to reopen the case as the LoA is neither newly discovered nor omitted due to fraud, accident, mistake, or excusable negligence. Finally, concerning prescription, the CTA Division reiterated that the CIR failed to present any evidence of fraud on the part of MDC; hence, the ordinary three-year period shall apply. Thus:

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12 SECTION 203. *Period of Limitation Upon Assessment and Collection.*— Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: Provided, That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

13 SECTION 222. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* —
(a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission: Provided, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.

14 *Rollo*, p. 35.

15 *Id.* at 116–122.

16 *Id.* at 124.

17 *Id.* at 127–132.

WHEREFORE, premises considered, respondent's [CIR] Motion for Reconsideration and/or New Trial is **DENIED** for lack of merit.

SO ORDERED.[18] (Emphasis in the original)

Unperturbed, the CIR elevated the matter to the CTA *En Banc*.[19] The CIR argued that it enjoys the presumption of regularity in the performance of official duties and the presumption of correctness of a tax assessment. MDC did not present any evidence to overcome these presumptions; hence, the validity and correctness of the assessments shall stand. The CIR reiterated that MDC never raised the issue of the lack of a LoA for the taxable year 2006. The nonpresentation of evidence on its part cannot be taken against it because the State cannot be put in estoppel. At any rate, the FAN and Preliminary Collection Letter attached to MDC's Petition for Review before the CTA Division referred to a certain LOA No. 158676 dated July 5, 2007. The BIR records also confirm the issuance of LOA No. 158676 with proof of receipt by MDC's representative, Lourdes Pantola, on July 12, 2007.[20] As regards prescription, the CIR alleged that MDC failed to present and/or offer as evidence its income tax return, VAT returns, and withholding tax returns for 2006; thus, it can be said that MDC failed to file them. Hence, the 10-year prescriptive period under Section 222(a) of the Tax Code shall apply.

Ruling of the CTA En Banc

On May 31, 2022, the CTA *En Banc* rendered the assailed Decision[21] that affirmed the CTA Division. It ruled that the CTA may delve into the issue of the validity of the LoA even though it was never specifically put into issue since this is a matter that goes into the intrinsic validity of the assessment. The CTA held that the presumption of regularity and presumption of correctness of assessments never materialized due to the absence of proof as to the existence of the facts upon which they may be based. The existence of a valid LOA and the revenue officer's possession of the requisite authority to conduct an audit of MDC's books of accounts and records are the basic facts that could give rise to the inference that the assessments were regularly issued and that they are *prima facie* correct.

As to prescription, the 10-year period under Section 222(a) of the Tax Code is an exception to the general rule. It will not apply unless there is a clear and convincing factual basis. All doubts shall be resolved against the application of Section 222(a), and the CIR has the burden to prove its application. Here, the CIR cannot simply equate MDC's failure to present its tax returns as evidence that no returns were filed. It disposed:

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18 *Id.* at 35.
19 *Id.* at 136–145.
20 *Id.* at 141.
21 *Id.* at 33–54.

WHEREFORE, the present Petition for Review is **DENIED** for lack of merit. The Decision dated September 10, 2020 and Resolution dated January 11, 2021 of the CTA's Second Division in CTA Case No. 9756 are both **AFFIRMED**.

SO ORDERED.[22] (Emphasis in the original)

Presiding Justice Roman G. del Rosario dissented.[23] He opined that, in the absence of evidence to the contrary, the disputable presumption that the Bureau of Internal Revenue (BIR) regularly performed its duty in the issuance of deficiency tax assessments against MDC, which includes the issuance of a valid LoA, stands. All presumptions are in favor of the correctness of tax assessments. On the issue of prescription, Presiding Justice del Rosario observed that MDC did not offer in evidence its 2006 Annual Income Tax Return and VAT returns. Therefore, there is no basis for ruling that the period to assess for deficiency income tax and VAT has prescribed. Similarly, there is no basis to determine whether the three-year period to assess MDC for deficiency EWT for February, June, August, October, November, and December 2006 and deficiency WTC for February, March, May, June, September, October, November, and December 2006 because the filing dates were unreadable in the returns. On the other hand, the assessments for deficiency EWT for January, March, April, May, July, and September 2006 and deficiency WTC for January, April, July, and August 2006 are void for having been issued beyond the three-year period to assess.[24]

The CIR sought reconsideration[25] but was denied by the CTA *En Banc* in its Resolution[26] dated October 12, 2022.

Hence, this recourse.

Before this Court, the CIR rehashes the arguments it raised before the CTA. It emphasizes that the existence or non-existence of the LoA was never

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22 *Id.* at 46–47.

23 *Id.* at 49–54. Presiding Justice del Rosario was joined in by Associate Justices Catherine T. Manahan, Marian Ivy F. Reyes-Fajardo, and Lanee S. Cui-David.

24 *Id.* at 54. Details are as follows:

Tax Return/Period	Actual date of filing	Last day of 3-year period to assess
EWT – January	February 9, 2006	February 10, 2009
EWT – March	April 10, 2006	April 10, 2009
EWT – April	May 10, 2006	May 10, 2009
EWT – May	June 5, 2006	June 10, 2009
EWT – July	August 9, 2006	August 10, 2009
EWT – September	October 10, 2006	October 10, 2009
WTC – January	February 9, 2006	February 10, 2009
WTC – April	May 10, 2006	May 10, 2009
WTC – July	August 9, 2006	August 10, 2009
WTC – August	September 7, 2006	September 10, 2009

25 *Rollo*, pp. 61–71.

26 *Id.* at 55–60.

put in issue,[27] and the moment that MDC rested its case without questioning the authority of the revenue officers to conduct an audit amounted to an implied admission that a LoA existed. The CIR also points to the FAN and Preliminary Collection Letter, both reference a certain LOA No. 158676 dated July 6, 2007, appended to MDC's petition before the Division. Besides, the Joint Stipulation of Facts and Issues filed by both parties show the issuance and receipt of both documents were admitted. Thus, the CIR should not be expected or faulted for its non-submission of the LoA as evidence.[28] At any rate, the CIR highlights that it enjoys the presumption of regularity in the discharge of its functions, and it was incumbent upon MDC to provide clear and convincing evidence to the contrary.[29]

As regards prescription, the CIR reiterates that MDC did not file its Income Tax, VAT, and Withholding Tax Returns for 2006. Therefore, the reckoning date of the three-year prescriptive period cannot be determined.[30] Given MDC's failure to prove that it filed the tax returns for 2006, the 10-year prescriptive period shall apply.[31]

RULING

There is merit in the Petition.

Authority of the CTA to pass upon issues not raised in the Petition

Preliminarily, We have long affirmed the CTA's authority to rule upon related issues necessary to achieve the orderly disposition of the case. This authority, however, is not unbridled. In *Prime Steel Mill, Inc. v. Commissioner of Internal Revenue*,[32] the Court set two conditions — one, the issue is necessary to achieve an orderly disposition of the case, and two, its resolution would not require the presentation of additional evidence and must rely solely on factual bases that are already matters of record in the case.[33] In that case, no LoA was offered in evidence by the CIR. But the absence of LoA was pointed out by Prime Steel only in its Supplemental Memorandum before the CTA *En Banc*. The CTA then refused to rule on this issue since it was raised belatedly. Accordingly, the CTA declared that the presumption of regularity in conducting an audit, which includes the issuance of a valid LoA, prevails. When the case reached the Court, We affirmed the CTA, thus.:

> For tax cases before the CTA, the Court pronounced in *Commissioner of Internal Revenue v. Eastern Telecommunications Phils.*,

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27 *Id.* at 15.
28 *Id.* at 16.
29 *Id.* at 17.
30 *Id.* at 22.
31 *Id.* at 24.
32 929 Phil. 644 (2022) [Per J. Dimaampao, Third Division].
33 *Id.* at 651.

Inc. that "[t]he appellate court may, in the interest of justice, properly take into consideration in deciding the case **matters of record** having some bearing on the issue submitted which the parties failed to raise or the lower court ignored, although they have not been specifically raised as issues by the pleadings. This is in consonance with the liberal spirit that pervades the Rules of Court, and the modern trend of procedure which accord the courts broad discretionary power, consistent with the orderly administration of justice, in the decision of cases brought before them."

Conspicuously, it is this same spirit of liberality which impelled the Court to recognize that the CTA may even consider issues not specifically raised by the parties at all in the disposition of tax cases so long as the same is related to the principal issue for its resolution and is necessary to achieve an orderly disposition of the matter at hand.

From the foregoing, the Court so holds that the CTA *En Banc*, or even a Division thereof, may consider arguments raised for the first time on appeal or on motion for reconsideration, respectively, only if two conditions concur: one, these arguments are related to the principal issue to be resolved by the court and is necessary to achieve an orderly disposition of the case; and two, the resolution of these new arguments would not require the presentation of additional evidence, and must rely solely on factual bases that are already matters of record in the case.

It bears stressing that the aforementioned parameters were employed by the CTA *En Banc* when it deigned to pass upon the issue on respondent's supposed lack of authority to conduct the audit investigation in this case. This Court quotes with approbation the following disquisition of the CTA *En Banc* in the assailed *Resolution*:

> It is not the failure of the party to raise the issue during the trial stage that renders it futile to raise it on appeal but the lack of opportunity of the other party to rebut or present evidence to contravene the same during the trial of the case that makes it objectionable for a court to rule on this issue at this stage of appeal. The allegation of lack of an LOA or invalidity thereof conjures up secondary issues and factual matters that need to be adjudicated upon based on evidence or lack thereof.
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> This is the reason why we cannot entertain such issue at this stage, especially so when it was raised for the first time in [petitioner's] *Supplemental Memorandum* at the *En Banc* level. [34] (Boldfacing and italics in the original, underscoring supplied, citations omitted)

Similarly, in this case, the parties never raised the existence of the LoA as an issue in their pleadings and during trial. Thus, We adhere to the principle that tax assessments are presumed correct and made in good faith.[35] Applying *Prime Steel*, the CTA should not have ruled on this matter as it violates the right of the CIR to refute allegations as to its invalidity and "conjures up secondary issues and factual matters that need to be adjudicated upon based

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34 *Id.* at 650–651.

35 *Commissioner of Internal Revenue vs. Hontex Trading Co., Inc.*, 494 Phil. 306, 335 (2005) [Per J. Callejo, Second Division].

on evidence or lack thereof."[36] Presiding Justice del Rosario aptly pointed out that "[i]n the absence of any evidence to the contrary, the disputable presumption of regularity in the performance of duty by petitioner [CIR] or his duly authorized representatives, that is—that the step by step process in the issuance of deficiency tax assessments, which includes the issuance of a LOA, was duly complied with."[37] Accordingly, the CTA Division and *En Banc* erroneously passed upon the validity of the assessment based on the revenue officer's possession of the requisite LoA when the existence of a valid LoA was never put an issue.

At any rate, the CIR submitted LOA No. 2000-000158676, presumably as proof of authority of the revenue officers to conduct the audit investigation, in its Motion for Reconsideration and/or New Trial[38] of the September 11, 2020 Decision of the CTA Division. Rule 30, Section 5 of the Rules of Court permits a party to introduce additional evidence "for good reasons" and "in the furtherance of justice." The remedy of reopening a case was meant to prevent a miscarriage of justice.[39] *Republic v. Sandiganbayan*[40] instructs:

> Under this rule, a party who has the burden of proof must introduce, at the first instance, all the evidence he relies upon and such evidence cannot be given piecemeal. The obvious rationale of the requirement is to avoid injurious surprises to the other party and the consequent delay in the administration of justice.
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> A party's declaration of the completion of the presentation of his evidence prevents him from introducing further evidence; but where the evidence is rebuttal in character, whose necessity, for instance, arose from the shifting of the burden of evidence from one party to the other; or where the evidence sought to be presented is in the nature of newly discovered evidence, the party's right to introduce further evidence must be recognized.[41] (Citations omitted)

The Court has ruled that the CTA is not governed strictly by technical rules of evidence[42] as the prime consideration remains the ascertainment of truth.[43] A liberal interpretation and application of the rules of procedure can be resorted to under justifiable causes and circumstances.[44] Therefore, the CTA Division should have acted on the CIR's Motion for Reconsideration and/or New Trial to allow the CIR to present LOA No. 2000-000158676, subject to the right of MDC to examine the same and raise objections as to its validity and authenticity.

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36 *Prime Steel Mill, Inc. v. Commissioner of Internal Revenue*, 929 Phil. 644, 651 (2022) [Per J. Dimaampao, Third Division].
37 *Rollo*, p. 51.
38 *Id.* at 116–122.
39 *Cabarles v. Maceda*, 545 Phil. 210, 218–219 (2007) [Per J. Quisumbing, Second Division].
40 678 Phil. 358 (2011) [Per J. Brion, *En Banc*].
41 *Id.* at 396–397.
42 *Filinvest Development Corp. v. Commissioner of Internal Revenue*, 556 Phil. 439, 450 (2007) [Per J. Nachura, Third Division].
43 *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*, 851 Phil. 1078, 1090 (2019) [Per J. J.C. Reyes, Jr., Second Division].
44 *Fortich v. Corona*, 359 Phil. 210, 220 (1998) [Per J. Martinez, Second Division].

On the basis of the foregoing, a remand of the case should follow as a matter of course. The CTA Division is directed to proceed with dispatch.

We take this opportunity, however, to caution the CIR for its inadequate handling of the present case.

The power to authorize the examination of a taxpayer is lodged solely with the CIR.[45] This power is not extended to all BIR personnel. Recognizing this statutory limitation on the power of assessment, the Tax Code allows the CIR and the Revenue Regional Director to delegate the authority to assess to Revenue Officers through a LoA. A LoA empowers the revenue officer to examine the books of account and other tax records of a taxpayer to collect the correct amount of tax.[46] **There is, however, no presumption that a Revenue Officer is authorized to issue assessments.** The importance of the LoA cannot be understated.

In cases where the BIR conducts an audit without a valid LoA, or in excess of the authority duly provided therefore, the resulting assessment shall be void and ineffectual.[47] **This is because the issuance of a LoA is part and parcel of the taxpayer's right to due process.** In *Commissioner of Internal Revenue v. Mcdonald's Philippines Realty Corp.*,[48] this Court categorically held that a valid LoA is a jurisdictional requirement for an assessment:

> To comply with due process in the audit or investigation by the BIR, the taxpayer needs to be informed that the revenue officer knocking at his or her door has the proper authority to examine his books of accounts. The only way for the taxpayer to verify the existence of that authority is when, upon reading the LOA, there is a link between the said LOA and the revenue officer who will conduct the examination and assessment; and the only way to make that link is by looking at the names of the revenue officers who are authorized in the said LOA. If any revenue officer other than those named in the LOA conducted the examination and assessment, taxpayers would be in a situation where they cannot verify the existence of the authority of the revenue officer to conduct the examination and assessment. Due process requires that taxpayers must have the right to know that the revenue officers are duly authorized to conduct the examination and assessment, and this requires that the LOAs must contain the names of the authorized revenue officers. **In other words, identifying the authorized revenue officers in**

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45 TAX CODE, sec. 6 states:
Section 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* —
(A) Examination of Return and Determination of Tax Due. — After a return has been filed as required under the provisions of this Code, the **Commissioner or his [or her] duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax**[.] (Emphasis supplied)

46 *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, 808 Phil. 528, 539 (2017) [Per J. Reyes, Third Division].

47 *Id.*

48 902 Phil. 473 (2021) [Per J. J. Lopez, Third Division].

> **the LOA is a jurisdictional requirement of a valid audit or investigation by the BIR, and therefore of a valid assessment.**[49] (Emphasis supplied)

Unfortunately, despite the significance of the LoA in ensuring the legality and legitimacy of tax assessments, the CIR failed to submit the LoA before the tax court in this case. *Worse,* the CIR waived the presentation of evidence and did not provide even a shred of support for its position, only submitting the LoA after the CTA granted MDC's petition. While the Court will not speculate on the reasons for this inadequate handling, We hope this will be the last instance of such negligence. Taxation, though inevitable and indispensable, must be exercised reasonably and following prescribed procedures.[50] We remind the CIR that this Court, as the protector of citizens' rights, will not hesitate to impose limitations on the power of taxation.

Prescription

As to the issue of prescription, the Court quotes with approbation the observations of Presiding Justice Del Rosario in his Dissenting Opinion:[51]

> The Court in Division and the *ponencia* found that the three (3)-year prescriptive period to assess respondent [MDC] for deficiency taxes for taxable year 2006 had prescribed as more than three (3) years from taxable year 2006 had lapsed before the FAN was issued, **without any reference on the dates when the relevant tax returns were filed.**
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> . . . .
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> To determine the commencement and end of the three (3)-year prescriptive period under Section 203 of the NIRC of 1997, as amended, **I submit that the dates of filing respondent's tax returns are relevant and indispensable. *Sans* proof as to the dates of filing thereof, there is no basis for the Court to make a categorical ruling anent the prescription of petitioner's [CIR] right to issue the FAN within the three (3)-year period.**
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> Unlike petitioner [CIR] who enjoys the presumption of regularity in the performance of his official duties, **respondent does not have in his favor the presumption that it filed its tax returns within the deadlines set forth by law**. Respondent [MDC] has to prove by preponderant evidence the date of filing of its tax returns.
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> In the absence of evidence anent the dates of filing of the tax returns, the Court cannot simply make a sweeping conclusion that the tax returns were filed within the deadline set forth by law and simply reckon from the said deadline the running of the three (3)-year prescriptive period to assess.[52] (Emphasis in the original)

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49 *Id.* at 483.

50 *Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc.*, 738 Phil. 335, 357 (2014) [Per J. Peralta, Third Division].

51 *Rollo*, pp. 49–54.

52 *Id.* at 52–53.

Under Section 203 of the Tax Code, the government's right to assess deficiency taxes prescribes in three years from the filing date of the tax return or from the date of actual filing, whichever comes later.[53] However, in Section 222 of the same law, in the case of a false return, fraudulent return with intent to evade tax, or failure to file a return, the assessment may be made within 10 years from discovering the falsity, fraud, or omission.[54]

In *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.*,[55] the Court underscored that the statute of limitations on assessment and collection of taxes was intended for the benefit and protection of taxpayers against unreasonable and protracted investigations, thus:

> It bears stressing that, in a number of cases, this Court has explained that the statute of limitations on the collection of taxes primarily benefits the taxpayer. In these cases, the Court exemplified the detrimental effects that the delay in the assessment and collection of taxes inflicts upon the taxpayers. Thus, in *Commissioner of Internal Revenue v. Philippine Global Communication, Inc.*, this Court echoed Justice Montemayor's disquisition in his dissenting opinion in *Collector of Internal Revenue v. Suyoc Consolidated Mining Company*, regarding the potential loss to the taxpayer if the assessment and collection of taxes are not promptly made, thus:
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> > Prescription in the assessment and in the collection of taxes is provided by the Legislature for the benefit of both the Government and the taxpayer; for the Government for the purpose of expediting the collection of taxes, so that the agency charged with the assessment and collection may not tarry too long or indefinitely to the prejudice of the interests of the Government, which needs taxes to run it; and for the taxpayer so that within a reasonable time after filing his return, he may know the amount of the assessment he is required to pay, whether or not such assessment is well founded and reasonable so that he may either pay the amount of the assessment or contest its validity in court . . . . It would surely be prejudicial to the interest of the taxpayer for the Government collecting agency to unduly delay the assessment and the collection because by the time the collecting agency finally gets around to making the assessment or making the collection, the taxpayer may then have lost his papers and books to support his claim and contest that of the Government, and what is more, the tax is in the meantime accumulating interest which the taxpayer eventually has to pay.
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> Likewise, in *Republic of the Philippines v. Ablaza*, this Court elucidated that the prescriptive period for the filing of actions for collection of taxes is justified by the need to protect law-abiding citizens from possible harassment. Also, in *Bank of the Philippine Islands v. Commissioner of*

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53 *Commissioner of Internal Revenue v. Next Mobile, Inc.*, 774 Phil. 428, 435 (2015) [Per J. Velasco, Jr., Third Division].

54 TAX CODE, sec. 222.

55 748 Phil. 760 (2014) [Per J. Peralta, Third Division].

> *Internal Revenue*, it was held that the statute of limitations on the assessment and collection of taxes is principally intended to afford protection to the taxpayer against unreasonable investigations as the indefinite extension of the period for assessment deprives the taxpayer of the assurance that he will no longer be subjected to further investigation for taxes after the expiration of a reasonable period of time. Thus, in *Commissioner of Internal Revenue v. B.F. Goodrich Phils., Inc.*, this Court ruled that the legal provisions on prescription should be liberally construed to protect taxpayers and that, as a corollary, the exceptions to the rule on prescription should be strictly construed.[56]

Therefore, the ordinary three-year period to assess under Section 203 shall generally apply unless the government proves by clear and convincing evidence that the 10-year period shall apply.[57]

Nevertheless, prescription is a matter of defense. Hence, the burden is on the taxpayer to prove that the full period of limitation has expired. The taxpayer must positively establish the date when the period started running and when the same was fully accomplished.[58]

MDC did not offer in evidence its Annual Income Tax Return and VAT returns for 2006.[59] We can only surmise MDC's reasons for not offering in evidence these tax returns. Thus, MDC cannot avail of the defense of prescription since it failed to present proof of actual filing of these returns. Since there is no presumption that the taxpayer duly filed its returns, the only conclusion is that no such returns were filed. The BIR had 10 years to make the assessment.[60]

Meanwhile, the EWT returns for February, June, August, October, November, and December 2006, and WTC returns for February, March, May, June, September, October, November, and December 2006 show unreadable filing dates.[61] In addition, the assessments for deficiency EWT for January, March, April, May, July, and September 2006 and deficiency WTC for January, April, July, and August 2006 were issued beyond the three-year period to assess, as follows:

Tax Return/Period	Actual date of filing	Last day of the 3-year period to assess
EWT – January	February 9, 2006	February 10, 2009
EWT – March	April 10, 2006	April 10, 2009

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56 *Id.* at 769–771

57 *See McDonald's Philippines Realty Corp. v. Commissioner of Internal Revenue*, 945 Phil. 365, 395 (2023) [Per J. Inting, *En Banc*].

58 *Querol v. Collector of Internal Revenue*, 116 Phil. 615, 619 (1962) [Per J. Reyes, J.B.L., *En Banc*]. *See also AFP General Insurance Corp. v. Commissioner of Internal Revenue*, 889 Phil. 171, 200 (2020) [Per J. Inting, Third Division].

59 *Rollo*, p. 46.

60 *Taligaman Lumber Co., Inc. v. Collector of Internal Revenue*, 114 Phil. 773, 779 (1962) [Per J. Concepcion, *En Banc*].

61 *Rollo*, p. 53.

EWT – April	May 10, 2006	May 10, 2009
EWT – May	June 5, 2006	June 10, 2009
EWT – July	August 9, 2006	August 10, 2009
EWT – September	October 10, 2006	October 10, 2009
WTC – January	February 9, 2006	February 10, 2009
WTC – April	May 10, 2006	May 10, 2009
WTC – July	August 9, 2006	August 10, 2009
WTC – August	September 7, 2006	September 10, 2009[62]

The Court is precluded from entertaining factual questions in a Rule 45 petition. Besides, We are not a trier of facts. Henceforth, the proper remedy is to remand the case to the CTA to determine MDC's liability for deficiency taxes after considering the already prescribed assessments.

ACCORDINGLY, the Petition for Review is **PARTIALLY GRANTED.** The Decision dated May 31, 2022 and Resolution dated October 12, 2022 of the Court of Tax Appeals *En Banc* in CTA *EB* No. 2450 are **REVERSED**. CTA Case No. 9756 is **REMANDED** to the Court of Tax Appeals Second Division to determine Marily Development Corporation's tax liabilities for the calendar year 2006, following this Decision. The Court of Tax Appeals Second Division is **DIRECTED** to conduct the proceedings with reasonable dispatch.

SO ORDERED.

MARIVIC V. LOPEZ
Associate Justice

62 *Id.* at 54.

WE CONCUR:

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

AMY C. LAZARO-JAVIER
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
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.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, I certify 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