REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES, *Petitioner,*	**CTA EB CRIM. NO. 086** (CTA Crim. Case Nos. O-602 and O-605)
	Present:
	Del Rosario, *P.J.*, Castañeda, Jr., Uy, Ringpis-Liban, Manahan, Bacorro-Villena, Modesto-San Pedro, Reyes-Fajardo, and Cui-David, *JJ.*
- versus -	
REBECCA S. TIOTANGCO, *Respondent.*	Promulgated: JUN 09 2022 2:20

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DECISION

RINGPIS-LIBAN, *J.:*

Before the Court *En Banc* is a Petition for Review[1] filed by the People of the Philippines under Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA). It seeks the partial reconsideration of the Decision dated February 26, 2020,[2] (Assailed Decision) as well as the Resolution dated

[1] Court *En Banc's* Docket, pp. 1-13.
[2] *Id.*, pp. 22-40.

December 9, 2020[3] (Assailed Resolution) of the First Division (Court in Division)[4] of this Court in CTA Crim. Case Nos. O-602 and O-605.

The respective dispositive portions of the Assailed Decision and Resolution are quoted hereunder:

Assailed Decision:

> "**WHEREFORE**, the Court finds accused Rebecca S. Tiotangco **GUILTY BEYOND REASONABLE DOUBT** on two (2) counts of violation of Section 255 of the National Internal Revenue Code of 1997, as amended, and sentences her **for each offense charged** in CTA Criminal Case No. O-602 and CTA Criminal Case No. O-605, to suffer an indeterminate penalty of one (1) year, as minimum, to two (2) years as maximum term of imprisonment, and is **ORDERED TO PAY** a fine in the amount of Php10,000.00, with subsidiary imprisonment in case she has no property with which to meet such fine pursuant to Section 280 of the NIRC of 1997, as amended.
>
> **SO ORDERED.**"

Assailed Resolution:

> "**WHEREFORE**, accused's *Motion for Reconsideration* posted on March 10, 2020 and plaintiff's *Motion for Partial Reconsideration* posted on March 12, 2020 are **DENIED** for lack of merit.
>
> In the meantime, accused Rebecca S. Tiotangco shall continue to enjoy her provisional liberty under the same bond.
>
> **SO ORDERED.**"

THE FACTS

Respondent Rebecca S. Tiotangco was charged with violation of Section 255 of the National Internal Revenue Code of 1997, as amended (1997 NIRC), in the two (2) Informations filed before this Court on August 17, 2016.[5] CTA

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[3] *Id.*, pp. 60-66.
[4] Composed of Presiding Justice Roman G. Del Rosario, Associate Justice Catherine T. Manahan *(ponente)* and Associate Justice Jean Marie A. Bacorro-Villena.
[5] Assailed Decision, Court *En Banc's* Docket, pp. 22-28 (Citations omitted).

Crim. Case No. O-602 was raffled to the Third Division while CTA Crim. Case No. O-605 was raffled to the First Division.[6]

Both Divisions found probable cause for the issuance of warrant of arrest against the respondent.[7] Upon arraignment, the respondent pleaded "not guilty" to both cases.[8]

Upon respondent's motion, the two criminal cases were consolidated. Trial thereafter ensued.

On February 26, 2020, the Court in Division rendered the Assailed Decision finding the respondent guilty beyond reasonable doubt on two (2) counts of violation of Section 255 of the 1997 NIRC.

Respondent filed her Motion for Reconsideration on March 10, 2020 while petitioner filed its Motion for Partial Consideration on March 12, 2020. Both motions were denied for lack of merit in the Assailed Resolution.

On January 4, 2021, petitioner filed the present Petition for Review.

In a Resolution dated February 4, 2021, this Court required respondent to file her Comment to the Petition for Review within ten (10) days from receipt thereof.[9]

On March 19, 2021, respondent filed via registered mail her Comment (To the Petition for Review under Rule 8, Sec. 3(b) of the Revised Rules of the Court of Tax Appeals).[10]

In a Resolution dated September 16, 2021, this Court gave due course to the present Petition for Review and submitted the same for decision.[11]

THE ISSUE

Petitioner submits a lone issue for this Court's resolution, as stated below:[12]

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[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*, pp. 70-71.
[10] *Id.*, pp. 74-76.
[11] *Id.*, pp. 119-120.
[12] *Id.*, pp. 5.

The Honorable CTA First Division erred in holding that a tax deficiency cannot be collected in a criminal proceeding in court without an assessment.

THE COURT *EN BANC*'S RULING

The Petition for Review lacks merit.

The Petition for Review is timely filed.

A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may file a petition for review with the Court *En Banc* within fifteen (15) days from receipt of the questioned decision or resolution.[13]

Records show that the Assailed Resolution dated December 9, 2020 denying both the Motion for Reconsideration filed by respondent and the Motion for Partial Reconsideration filed by petitioner, was received by the petitioner on December 17, 2020.[14]

On January 4, 2021, petitioner filed the present Petition for Review. Given the foregoing, the present Petition for Review was timely filed.

The collection of deficiency tax cannot be made in the criminal case without formal assessment.

Petitioner asserts that the Court erred in holding that a tax deficiency cannot be collected in a criminal proceeding in court without an assessment. It postulates that while as a general rule, collection of taxes by a proceeding in court cannot be done without an assessment, an exception is nonetheless provided by law in cases of false or fraudulent returns with intent to evade tax, where a proceeding in court for the collection of such tax may be filed without an assessment.[15]

Petitioner likewise contends that Section 7(b)(1) of Republic Act (RA) No. 9282, as amended, which provides that the filing of criminal action necessarily carries with it the filing of the civil action, is consistent with the abovementioned exception.[16] Petitioner also posits that the claim of tax deficiency in the criminal

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[13] Sec. 18, RA 1125, as amended; Sec. 3(b), Rule 8, RRCTA.
[14] Court *En Banc*'s Docket, p. 60.
[15] *Id.*, pp. 7-11.
[16] *Id.*

case against the taxpayer comprises the civil liability that may be collected therein.[17]

The merit of petitioner's assertions is more apparent than real.

Section 205 of the 1997 NIRC provides the requisites for the award of civil liability in criminal cases, to wit:

> "SEC. 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:
>
> (a) x x x
>
> (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).
>
> **The judgment in the criminal case shall not only impose the penalty but shall also order payment of the taxes subject of the criminal case <u>as finally decided by the Commissioner.</u>** x x x *(Emphasis and underscoring supplied)*

While the above provision explicitly mandates the inclusion of civil liability for the payment of taxes in the judgment in the criminal case, it is also clear that there must first be a *final determination* of such civil liability by the Commissioner of Internal Revenue (CIR) before they may be included in the judgment. This determination of civil liability for the payment of internal revenue taxes by the CIR refers to a formal assessment, the procedure for the issuance thereof is governed by Section 228 of the 1997 NIRC as implemented by Revenue Regulations (RR) No. 12-99, as amended.

Petitioner cannot invoke Sections 203 and 222 of the 1997 NIRC to support its theory that a tax deficiency can be collected in a criminal proceeding even without an assessment. A plain reading of these provisions readily reveals that they essentially deal with the *period of limitation* of assessment and collection of internal revenue taxes. These provisions have nothing to do with the question of whether a deficiency tax liability can be collected in a *criminal* proceeding with or without assessment.

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[17] *Id.*

Section 203 lays down, as a general rule, the 3-year prescriptive period for assessment of internal revenue taxes. On the other hand, Section 222 supplies the exceptions to the general rule laid down under Section 203. It also states the *prescriptive periods* for the *collection* of internal revenue taxes. For proper frame of reference, Sections 203 and 222 of the 1997 NIRC are quoted below:

> "SEC. 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.
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> SEC. 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.
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> (b) If before the expiration of the time prescribed in Section 203 for the assessment of the tax, both the Commissioner and the taxpayer have agreed in writing to its assessment after such time, the tax may be assessed within the period agreed upon. The period so agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon.
>
> (c) Any internal revenue tax which has been assessed within the period of limitation as prescribed in paragraph (a) hereof may be collected by distraint or levy or by a proceeding in court within five (5) years following the assessment of the tax.
>
> (d) Any internal revenue tax, which has been assessed within the period agreed upon as provided in paragraph (b) hereinabove, may be collected by distraint or levy or by a

> proceeding in court within the period agreed upon in writing before the expiration of the five (5)-year period. The period so agreed upon may be extended by subsequent written agreements made before the expiration of the period previously agreed upon.
>
> (e) Provided, however, That nothing in the immediately preceding Section and paragraph (a) hereof shall be construed to authorize the examination and investigation or inquiry into any tax return filed in accordance with the provisions of any tax amnesty law or decree." *(Emphasis supplied)*

It bears stressing that the clause "no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period" in Section 203 clearly refers to the *3-year prescriptive period* for the assessment of taxes while the phrase "or a proceeding in court for the collection of such tax may be filed without assessment" in Section 222 refers to the *10-year prescriptive period* for assessment of taxes in cases of false or fraudulent returns, or when there is failure to file returns. The quoted portions of these statutory provisions surely cannot, and should not, be taken out of context in order to support the view as erroneously advanced by petitioner.

It is a rule of statutory construction that every part of the statute must be interpreted with reference to the context, *i.e.*, that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment.[18] The law must not be read in truncated parts and its provisions must be read in relation to the whole law.[19] The statute's clauses and phrases must not, consequently, be taken as detached and isolated expressions, but the whole and every part thereof must be considered in fixing the meaning of any of its parts in order to produce a harmonious whole.[20] All the words in the statute must be taken into consideration in order to ascertain its meaning.[21]

Petitioner is likewise mistaken in assuming that the civil liability for the payment of taxes and penalties is already deemed instituted upon the filing of the criminal action for tax evasion. In *Lim Gaw, Jr. v. Commissioner of Internal Revenue*,[22] the Supreme Court already clarified that a taxpayer's liability to pay tax is an obligation created *by law* and, as such, it is not deemed instituted with the filing of the criminal action for tax evasion. Only those actions that seek to recover civil liability arising from *crime* are deemed instituted with the criminal case. The Supreme Court also explained that:

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[18] *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. No. 192398, September 29, 2014.
[19] *Fort Bonifacio Development Corp. v. Commissioner of Internal Revenue*, G.R. Nos. 158885 & 170680, October 2, 2009.
[20] *Commissioner of Internal Revenue v. Philippine Airlines, Inc.*, G.R. No. 180043, July 14, 2009.
[21] *Smart Communications, Inc. v. City of Davao*, G.R. No. 155491, September 16, 2008.
[22] G.R. No. 222837, July 23, 2018.

> "Under Sections 254 and 255 of the NIRC, the government can file a criminal case for tax evasion against any taxpayer who willfully attempts in any manner to evade or defeat any tax imposed in the tax code or the payment thereof. **The crime of tax evasion is committed by the mere fact that the taxpayer knowingly and willfully filed a fraudulent return with intent to evade and defeat a part or all of the tax.** It is therefore not required that a tax deficiency assessment must first be issued for a criminal prosecution for tax evasion to prosper.
>
> **While the tax evasion case is pending, the BIR is not precluded from issuing a final decision on a disputed assessment, such as what happened in this case. In order to prevent the assessment from becoming final, executory and demandable, Section 9 of R.A. No. 9282 allows the taxpayer to file with the CTA, a Petition for Review within 30 days from receipt of the decision or the inaction of the respondent.**
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> <u>The tax evasion case filed by the government against the erring taxpayer has, for its purpose, the imposition of criminal liability on the latter.</u> **While the Petition for Review filed by the petitioner was aimed to question the FDDA and to prevent it from becoming final.** The stark difference between them is glaringly apparent. As such, the Petition for Review *Ad Cautelam* is not deemed instituted with the criminal case for tax evasion." *(Emphasis supplied)*

Considering the limited purpose of the criminal action for tax evasion, all the more reason why there must be a final determination of the deficiency tax liabilities by the Commissioner through a formal assessment before it may be included in the judgment in the criminal case, as duly mandated by Section 205 of the 1997 NIRC. Without such final determination, there will no basis for this Court to rule on the civil liability of the respondent in this case.

The burden to prove the taxpayer's actual receipt of the assessment notices lies with the CIR.

Petitioner insists that respondent received the Preliminary Assessment Notice (PAN) and the Formal Letter of Demand/Final Assessment Notice (FLD/FAN) that were duly mailed to her.[23] To support this position, petitioner invokes the presumption of regularity in the performance of official duties as well as the presumption that mail matter sent by registered mail is deemed received by the addressee in the regular course of mail when the sender proved

[23] Court *En Banc*'s Docket, pp. 5-6.

that: (a) the letter was properly addressed with postage prepaid; and (b) the letter was mailed.[24] Petitioner maintains that both of these conditions are met in this case.

Petitioner also posits that respondent denied having received the assessment notices during the preliminary investigation stage before the Department of Justice (DOJ) at a time when the assessments were yet to be served.[25]

Petitioner likewise claims that the assessment notices were also sent to respondent through a private courier.[26]

Petitioner's contention is untenable.

Section 228 of the 1997 NIRC prescribes the procedure to be observed in the issuance of tax deficiency assessments. The said provision, in relevant part, provides:

> "SEC. 228. *Protesting of Assessment.* — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: *Provided, however,* That a preassessment notice shall not be required in the following cases:
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> xxx xxx xxx
>
> **The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.**
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice." *(Emphasis supplied)*

To implement the foregoing provisions, RR No. 12-99, as amended,[27] specifies the due process requirement to be observed in issuing deficiency tax assessments. The relevant portion of the said issuance reads:

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

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[24] *Id.*
[25] *Id.*
[26] *Id.*
[27] As amended by RR No. 18-2013 dated November 28, 2013.

3.1 Mode of procedures in the issuance of a deficiency tax assessment:

3.1.1 ***Preliminary Assessment Notice (PAN).*** — If after review and evaluation by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer a Preliminary Assessment Notice (PAN) for the proposed assessment. It shall show in detail the facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based (see illustration in 'ANNEX A' hereof).

If the taxpayer fails to respond within fifteen (15) days from date of receipt of the PAN, he shall be considered in default, in which case, a Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.

If the taxpayer, within fifteen (15) days from date of receipt of the PAN, responds that he/it disagrees with the findings of deficiency tax or taxes, an FLD/FAN shall be issued within fifteen (15) days from filing/submission of the taxpayer's response, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.

xxx xxx xxx

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

xxx xxx xxx

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

(i) The notice shall be served through personal service by delivering personally a copy thereof to the party at his registered or known address or wherever he may be

found. A *known* address shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.

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

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

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

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

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

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

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

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

(iii) Service by mail is done by sending a copy of the notice by registered mail to the registered or known address of the party with instruction to the Postmaster to return the

> mail to the sender after ten (10) days, if undelivered. A copy of the notice may also be sent through reputable professional courier service. If no registry or reputable professional courier service is available in the locality of the addressee, service may be done by ordinary mail.
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> The server shall accomplish the bottom portion of the notice. He shall also make a written report under oath before a Notary Public or any person authorized to administer oath under Section 14 of the NIRC, as amended, setting forth the manner, place and date of service, the name of the person/barangay official/professional courier service company who received the same and such other relevant information. The registry receipt issued by the post office or the official receipt issued by the professional courier company containing sufficiently identifiable details of the transaction shall constitute sufficient proof of mailing and shall be attached to the case docket.

Service to the tax agent/practitioner, who is appointed by the taxpayer under circumstances prescribed in the pertinent regulations on accreditation of tax agents, shall be deemed service to the taxpayer."

In *Commissioner of Internal Revenue vs. Metro Star Superama, Inc.,*[28] the Supreme Court categorically held that failure to strictly comply with the notice requirements prescribed under Section 228 of the 1997 NIRC and RR No. 12-99, as amended, is tantamount to denial of due process. The Supreme Court further stressed that the absence of PAN will render nugatory any assessment made by the tax authorities. As aptly explained by the Supreme Court:

> "**Indeed, Section 228 of the Tax Code clearly requires that the taxpayer must first be informed that he is liable for deficiency taxes through the sending of a PAN. He must be informed of the facts and the law upon which the assessment is made.** 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.
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> xxx xxx xxx
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> **From the provision quoted above, it is clear that the sending of a PAN to taxpayer to inform him of the assessment**

[28] G.R. No. 185371, December 8, 2010, 637 SCRA 644, 646.

> **made is but part of the 'due process requirement in the issuance of a deficiency tax assessment,' the absence of which renders nugatory any assessment made by the tax authorities.** The use of the word *'shall'* in subsection 3.1.2 describes the mandatory nature of the service of a PAN. The persuasiveness of the right to due process reaches both substantial and procedural rights and the failure of the CIR to strictly comply with the requirements laid down by law and its own rules is a denial of Metro Star's right to due process. **Thus, for its failure to send the PAN stating the facts and the law on which the assessment was made as required by Section 228 of R.A. No. 8424, the assessment made by the CIR is void.**" *(Emphasis supplied and citations omitted)*

In the case of *Estate of the Late Juliana Diez Vda. De Gabriel vs. Commissioner of Internal Revenue*,[29] the Supreme Court held that it is a requirement of due process that the taxpayer must **actually receive the assessment**, to wit:

> "x x x It must be noted, however, that the foregoing rule requires that the notice be sent to *the taxpayer*, and not merely to a disinterested party. Although there is no specific requirement that the taxpayer should receive the notice within the said period, due process requires at the very least that such notice actually be received. In *Commissioner of Internal Revenue v. Pascor Realty and Development Corporation*, we had occasion to say:
>
> > An assessment contains not only a computation of tax liabilities, but also a demand for payment within a prescribed period. It also signals the time when penalties and interests begin to accrue against the taxpayer. To enable the taxpayer to determine his remedies thereon, **due process requires that it must be served on and received by the taxpayer.**" *(Emphasis supplied)*

Thus, it is not simply a question of whether the assessment notices were sent to respondent by petitioner. It is imperative that the taxpayer *actually* received such tax assessment notices.

Meanwhile, in the case of *Commissioner of Internal Revenue v. GJM Philippines Manufacturing, Inc.*,[30] the Supreme Court enunciated the rule to be observed in cases where the taxpayer denies the receipt of assessment notices. The Supreme Court held:

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[29] G.R. No. 155541, January 27, 2004, 421 SCRA 275.
[30] G.R. No. 202695, February 29, 2016, 785 SCRA 258-259.

> "If the taxpayer denies having received an assessment from the BIR, it then becomes incumbent upon the latter to prove by competent evidence that such notice was indeed received by the addressee. Here, the *onus probandi* has shifted to the BIR to show by contrary evidence that [the taxpayer] indeed received the assessment in the due course of mail. It has been settled that while a mailed letter is deemed received by the addressee in the course of mail, this is merely a disputable presumption subject to controversion, the direct denial of which shifts the burden to the sender to prove that the mailed letter was, in fact, received by the addressee."

Based from the foregoing, the rule is that in case the taxpayer denies receipt of the assessment notices from the BIR, the latter has the burden to prove by competent evidence that the required notices were *actually* received by the taxpayer.

Here, petitioner was only able to prove that the assessment notices were mailed as evidenced by registry receipts. There was no proof that these notices were *actually received* by respondent.

Petitioner cannot seek refuge under the presumption that mail matter sent by registered mail is deemed received by the addressee in the regular course of mail precisely because there was a direct denial by the respondent of its receipt of the assessment notices. In *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*,[31] the Supreme Court pertinently held as follows:

> "x x x Under Section 3 (v), Rule 131 of the Rules of Court, there is a disputable presumption that 'a letter duly directed and mailed was received in the regular course of the mail.' **However, the presumption is subject to controversion and direct denial, in which case the burden is shifted to the party favored by the presumption to establish that the subject mailed letter was actually received by the addressee.**" *(Emphasis and underscoring supplied)*

The same holds true with respect to the presumption of regularity in the performance of official duty. The said presumption is not applicable in the present case as the same only applies where there is no clear deviation from the regular performance of duty. In the present case, the presumption was amply overthrown by the fact that respondent's right to due process was violated as there was failure to show that the assessment notices were actually received by respondent.

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[31] G.R. No. 240729, August 24, 2020.

WHEREFORE, the present Petition for Review is **DENIED.** Accordingly, the Assailed Decision and Resolution of the CTA First Division in CTA Crim. Case Nos. O-602 and O-605 are both **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

(I concur in the result)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice