CTA Form No. 8

22-000327-0057

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10912

TRANSNATIONAL E-BUSINESS SOLUTIONS, INC.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. FRANCIS GIDEON G. NAPUTO
ATTY. APRILYN T. POBAR
Bureau of Internal Revenue
Legal Division, Revenue Region 8B
2nd Floor, BIR Revenue Regional Office Building
No. 313 Gil Puyat Ave., Makati City

THE LAW FIRM OF QUIASON MAKALINTAL
21st Floor, Robinsons Equitable Tower 4
ADB Avenue, Ortigas Center, Pasig City 1605

GREETINGS:

You are hereby notified by these presents that on **April 23, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 27, 2026.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

TRANSNATIONAL E-BUSINESS SOLUTIONS, INC., Petitioner,	CTA Case No. **10912**
	Members:
	BACORRO-VILLENA, *Acting Chairperson and* **CUI-DAVID,** *JJ.*
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: APR 2 3 2026 ; 4:10 PM

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DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Transnational E-Business Solutions, Inc. (**petitioner**) on 11 July 2022, pursuant to Section 3(a),[2] Rule 8 in relation to Section 3(a)(1),[3] Rule 4 of the Revised

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1 Division Docket, pp. 7-172, with annexes.

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

3 **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto,

Rules of the Court of Tax Appeals (**RRCTA**). It assails respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) Decision dated 25 May 2022[4] denying petitioner's request for reconsideration (**Denial**) and received by petitioner on 09 June 2022.[5] In respondent's Denial, he or she affirmed the Final Decision on Disputed Assessment (**FDDA**) dated 17 March 2017[6] where petitioner was found to be liable for deficiency income tax, value-added tax (**VAT**), and final withholding tax (**FWT**), inclusive of corresponding penalties and interests, for taxable year (**TY**) 2011, as follows:

Tax Type/Fee	Total
Income Tax	₱ 10,184,938.35
VAT	5,380,056.63
FWT	69,028.77
Compromise Penalty	9,500.00
Total	**₱ 15,643,523.75**

PARTIES OF THE CASE

Petitioner is a corporation duly organized and existing under the laws of the Republic of the Philippines with principal office at the Penthouse, Net Quad Building, 4th Ave., corner 30th St., E-Square Crescent Park West, Bonifacio Global City, Taguig City.[7] It may be served with orders, notices, and other processes through counsel with address at the 21st Floor Robinsons Equitable Tower, 4 ADB Avenue, corner Poveda Street, Ortigas Center, Pasig City.[8] It is registered with the Philippine Economic Zone Authority (**PEZA**) as an Ecozone Information Technology (**IT**) Enterprise.[9]

Respondent, on the other hand, is the duly appointed CIR with authority, among others, to collect all national internal revenue taxes and to decide disputed assessments and refunds of internal revenue taxes, fees, or other charges in relation thereto, as provided by law.[10] He

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or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

4 Exhibits "P-7"/"R-3", BIR Records, Folder 3, pp. 2524-2533.

5 See Paragraph 6, I. Summary of Admitted and Stipulated Facts, Joint Stipulation of Facts & Issues (JSFI), Division Docket, p. 231.

6 Exhibits "P-6-A"/"R-2", BIR Records, Folder 3, pp. 2407-2410.

7 See Par. 2, I. Summary of Admitted and Stipulated Facts, JSFI, Division Docket, pp. 230-231.

8 Id.

9 Exhibit "P-14", id., p. 317.

10 See Par. 3, Summary of Admitted and Stipulated Facts, JSFI, id., p. 231.

or she may be served with all notices, pleadings, resolutions, orders, decisions, and other legal processes of this Court through his or her counsel at 2nd floor, Bureau of Internal Revenue (**BIR**) Regional Office Building, 313 Gil Puyat Avenue, Makati City.[11]

FACTS OF THE CASE

On 10 August 2012, petitioner received Letter of Authority (**LOA**) No. LOA-044-2012-00000126/eLA201000052815,[12] dated 30 July 2012 issued by Nestor S. Valeroso (**Valeroso**), Regional Director (**RD**) of BIR Revenue Region (**RevReg**) No. 8, Makati City. The LOA authorized Revenue Officer (**RO**) Rio Virgo Cruz (**Cruz**) and Group Supervisor (**GS**) Frederico Pilarca (**Pilarca**) to examine petitioner's books of accounts and other accounting records for all internal revenue taxes for the period of 01 January 2011 to 31 December 2011.

On 03 April 2013, Revenue District Officer (**RDOr**) Maridur V. Rosario (**Rosario**) issued a Notice of Informal Conference[13] informing petitioner of the recommended deficiency taxes and inviting the latter to an informal conference on 23 April 2013 to present its side of the case.

On 13 January 2015, respondent issued a Preliminary Assessment Notice (**PAN**) for TY 2011.[14] Subsequently, on 23 January 2015, respondent issued a Final Assessment Notice with Formal Letter of Demand (**FLD/FAN**) and Details of Discrepancies for the same TY which petitioner received on even date.[15] Petitioner alleged that it only received the PAN on 06 February 2015.[16]

On 20 February 2015, unable to agree with respondent's findings, petitioner, by way of a request for reinvestigation, filed its Protest against the FLD/FAN.[17]

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[11] Id.
[12] Exhibit "P-3", id., p. 77.
[13] Exhibit "P-4", id., p. 78.
[14] See Commissioner of Internal Revenue's (CIR's) Decision denying petitioner's request for reconsideration dated 25 May 2022, supra at note 4, p. 2532; Par. 8, Petition for Review, supra at note 1, p. 9.
[15] See Par. 4, I. Summary of Admitted and Stipulated Facts, JSFI, Division Docket, p. 231.
[16] See Par. 10, Memorandum of Petitioner filed on 13 March 2025, id., p. 10.
[17] See CIR's Decision denying petitioner's request for reconsideration dated 25 May 2022, supra at note 4, p. 2532; Par. 10, Petition for Review, supra at note 1, p. 9.

On 04 April 2017, petitioner received the FDDA dated 17 March 2017[18] reiterating the findings of deficiency income tax, VAT, and FWT in the FLD/FAN, but with a recalculation of interest. Undeterred, petitioner filed a request for reconsideration with the CIR on 04 May 2017.[19]

On 25 May 2022, respondent issued his or her Denial which petitioner received on 09 June 2022.[20] In the Denial, respondent upheld the FDDA issued to petitioner and ordered it to pay the total amount of ₱15,643,523.75 representing deficiency income tax, VAT, FWT, and compromise penalty for TY 2011.[21]

PROCEEDINGS BEFORE THE COURT

Aggrieved, petitioner elevated the matter to this Court by filing the instant Petition for Review[22] on 11 July 2022. The case was docketed as CTA Case No. 10912 and was initially raffled to the Second Division.[23]

In its petition, petitioner argued that: (1) it was deprived of due process because it was not given an opportunity to dispute the PAN before respondent issued the FLD/FAN; (2) the RO and GS who conducted the audit of its books of accounts for TY 2011 had no authority to do so; (3) the period to assess its VAT returns for the second and third quarters of TY 2011 has already prescribed; (4) its rental income is subject to 5% gross income tax (**GIT**) and not to 30% regular income tax; (5) its local sales subjected to VAT are not subject to regular income tax; (6) it properly declared all of its receipts to VAT; (7) intercorporate dividends to a domestic corporation are not subject to FWT; and (7) it cannot be held liable to compromise penalty without its consent.

On 21 July 2022, summons was issued to respondent, directing him or her to file an Answer within thirty (30) days from the date of receipt

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18 Supra at note 6; See also par. 5, I. Summary of Admitted and Stipulated Facts, JSFI, Division Docket, p. 231.
19 BIR Records, Folder 2, pp. 2010-2018.
20 Supra at note 4, p. 2532.
21 Id.
22 Supra at note 1.
23 The Second Division is composed of Associate Justice Erlinda P. Uy (Ret.), as Chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.

thereof.[24] Following petitioner's receipt of the summons on 26 July 2022,[25] he or she filed a "Motion for Extension of Time to File Answer"[26] (**Motion for Extension**) on 25 August 2022.

In an Order dated 07 September 2022, the Court granted respondent's Motion for Extension and gave him or her a non-extendible period of 30 days from 25 August 2022,[27] or until 24 September 2022, to file his or her Answer.

On 27 September 2022, respondent filed his or her Answer[28] which the Court noted in its Resolution dated 20 October 2022[29] (considering that 24 September 2022 fell on a Saturday and work in government offices was suspended on 26 September 2022).

In his or her Answer, respondent interposed the following defenses: (1) petitioner was afforded due process in the conduct of the audit of its books of accounts and the issuance of the assessment because it was able to file its protest to the FLD/FAN and FDDA; (2) the period to assess petitioner's VAT returns for the first three (3) quarters of TY 2011 has not prescribed as petitioner is subject to the extraordinary prescriptive period of ten (10) years; (3) petitioner failed to demonstrate that the FLD/FAN were issued more than three (3) years after the filing of the VAT returns; (4) the deficiency income tax was based on petitioner's undeclared income from unregistered activities; (5) the deficiency VAT was based on receipts and collections not subjected to VAT; and (6) the deficiency FWT was based on petitioner's failure to withhold FWT on a dividend payment to an individual stockholder.

Following the parties' submission of their respective Pre-Trial briefs on 27 February 2023,[30] the Pre-Trial Conference was then held on 02 March 2023.[31] On the date of the Pre-Trial Conference, respondent also forwarded the entire BIR Records for TY 2011 consisting of three (3) folders with 2559 pages.[32]

24 Division Docket, p. 173.
25 Id.
26 Id., pp. 175-178.
27 Id., p. 180.
28 Id., pp. 182-187.
29 Id., p. 190.
30 Respondent's Pre-Trial Brief, id., pp. 193-197 & Petitioner's Pre-Trial Brief., id., pp. 198-210.
31 See Order dated 02 March 2023, id., pp. 227-228.
32 See Compliance filed by respondent on 02 March 2023, id., p. 226.

On 03 April 2023, both parties submitted a Joint Stipulation of Facts and Issues[33] (**JSFI**) which the Court admitted and approved on 14 April 2023,[34] effectively terminating the Pre-Trial Conference. The Pre-Trial Order[35] was subsequently issued on 20 April 2023.

Considering the parties' manifestation during the pre-trial conference that they are both willing to undergo mediation, the case was referred to the Philippine Mediation Center-Court of Tax Appeals (**PMC-CTA**).[36] The parties signed the Agreement to Mediate Form and were scheduled for a mediation conference on 25 May 2023 with Retired (**Ret.**) Justice Oswaldo D. Agcaoili (**Agcaoili**) as Mediator.[37] Pursuant to A.M. No. 01-10-5-PHILJA-SC,[38] the 30-day period allowed for the settlement of the case would have expired on 24 June 2023.

In the interim, on 29 May 2023, the Court Second Division issued a Resolution[39] transferring the present case to the Court's First Division[40] pursuant to Administrative Circular No. 01-2023 (Reorganizing the Divisions of the Court of Tax Appeals) dated 23 May 2023.

On 19 June 2023, the parties filed a Request for Extension,[41] signed by (Ret.) Justice Agcaoili. On 06 July 2023, the Court granted the parties a non-extendible period of 30 days from 24 June 2023, or within 24 July 2023, within which to reach an amicable settlement.[42]

On 26 July 2023, both parties filed a "Joint Motion to Suspend Proceedings"[43] stating that petitioner had already filed its Offer of Compromise with respondent and that the latter was still in the process of securing the necessary internal approvals concerning the terms of the

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33 Id., pp. 230-239.
34 See Resolution dated 14 April 2023, id., p. 241.
35 Id., pp. 243-248.
36 See Order dated 02 March 2023, id., p. 228.
37 See Mediation Schedule issued by the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA) on 08 May 2023, id., p. 249.
38 Second Revised Guidelines for the Implementation of Mediation Proceedings approved by the PHILJA Board of Trustees Approved during its 18 September and 01 October 2001 Meetings.
39 See Notice dated 29 May 2023, id., p. 251-A.
40 The First Division is composed of Presiding Justice Roman G. Del Rosario (Ret.), as Chairperson, and Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.
41 Division Docket, p. 252.
42 See Resolution dated 06 July 2023, id., pp. 254-255.
43 Id., pp. 260-262.

Offer of Compromise. Thus, the parties prayed for an additional ninety (90) days to reach an amicable settlement.[44] On 09 August 2023, the Court granted the parties another sixty (60) days from 24 July 2023, or until 22 September 2023, to reach an amicable settlement or to update the Court on the status of petitioner's Offer of Compromise.[45]

As of 09 October 2023, both parties failed to update the Court on the status of petitioner's Offer of Compromise.[46] As such, on 14 November 2023, the Court ordered them to show cause within five (5) days from their receipt of the Resolution why no sanction shall be imposed for their non-compliance with the Court's directive.[47] Later, petitioner manifested that despite religious follow-ups, it failed to receive any response from respondent regarding their Offer of Compromise.[48] On the other hand, respondent explained that petitioner's application for compromise was still pending evaluation and approval as the BIR National Evaluation Board had not convened.[49]

Following the parties' failure to reach an amicable settlement within the period granted to them, the presentation of petitioner's evidence proceeded on 20 February 2024.[50]

During the trial, petitioner presented its Treasurer,[51] Joanne Lazareto (**Lazareto**), who testified *via* her Judicial Affidavit.[52] In her testimony, Lazareto explained that as Treasurer, she is tasked with reviewing petitioner's tax computations, returns, and payments and reviewing and handling tax assessments involving petitioner.[53] She also has custody of all the documents and records relevant to the said assessments, including the subject of the instant case.[54] She likewise discussed petitioner's allegations and arguments in the present petition and identified the documents that support the same.[55]

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44 Id.
45 See Resolution dated 09 August 2023, id., pp. 266-267.
46 See Records Verification Report dated 09 October 2023, id., p. 279.
47 See Resolution dated 14 November 2023, id., pp. 282-283.
48 See "Manifestation and Compliance (Resolution dated 14 November 2023)" filed by petitioner on 28 November 2023, id., pp. 284-286.
49 See "Compliance with Manifestation (to the Honorable Court's Resolution dated 09 August 2023 and 14 November 2023" filed by respondent on 28 November 2023, id., pp. 287-288.
50 See Order dated 20 February 2024, id., pp. 295-296.
51 See Q2 of Judicial Affidavit of Joanne Lazareto dated 30 June 2022, Exhibit "P-13", id., p. 53.
52 Id., pp. 52-66.
53 Id.
54 Id.
55 Id.

On cross-examination, Lazareto confirmed that her testimony was based only on records since she joined petitioner as its Treasurer only in 2020.[56] When asked whether she has proof that petitioner received the PAN on 06 February 2015, she responded that she merely relied on the CIR's letter and FDDA which mentioned the PAN's issuance date.[57] Lazareto also confirmed that aside from her testimony that RO Cruz and GS Pilarca no longer had authority to audit petitioner's books when the PAN and FLD/FAN was issued more than three (3) years from the issuance of the LOA, she does not have any other proof to support the assertion that the ROs who conducted the audit of petitioner lack authority to do so.[58]

Lazareto was also asked whether she has proof to support her claim that NYK-FilJapan Shipping E-Services Corp. (**NESC**) and NYK TDG eBusiness Corp. (**NTeB**) refer to the same entity, since under petitioner's Supplemental Agreement with PEZA, the registered activity pertains to NESC.[59] She responded that her claim is supported by the Amended Articles of Incorporation, but she is uncertain whether the same was submitted to the BIR as support to petitioner's Protest.[60] Lastly, Lazareto confirmed that she does not have a copy of the Trustee Agreement to support her claim that the dividends received by a certain Josephine Francisco was for the benefit of her trustor.[61]

Respondent did not conduct any redirect examination.[62] Afterwards, in response to the Court's clarificatory questions, Lazareto explained that her statement that petitioner received the PAN on 06 February 2015, after it received the FLD/FAN, was based on another person's information, particularly, the person in-charge when the PAN was received.[63]

On 26 February 2024, petitioner filed a "Motion to Reopen"[64] asking the Court to allow it to recall Lazareto to the witness stand for her to identify the Amended Registration Certificate and PEZA's

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56 TSN dated 20 February 2024, p. 9.
57 Id., pp. 10-11.
58 Id., pp. 11-12.
59 Id., p. 12; see also Q31 to Q37 of Judicial Affidavit of Joanne Lazareto dated 30 June 2022, Exhibit "P-13", Division Docket, pp. 60-61.
60 TSN dated 20 February 2024, pp. 12-13.
61 Id., pp. 13-14.
62 Id., p. 14.
63 Id., pp. 14-17.
64 Division Docket, pp. 306-310.

Response to Petitioner's Request for a Certified True Copy of its VAT Zero Rating Certificate for TY 2011. The said documents were submitted in lieu of the photocopies of petitioner's PEZA Registration Certificate and VAT Zero Rating Certificate for TY 2011 which were only provisionally marked.[65] Respondent did not have any objection to the said Motion[66] which the Court granted on 03 May 2024.[67]

On 04 June 2024, Lazareto was recalled to the witness stand where she testified *via* her Supplemental Judicial Affidavit.[68] She testified that petitioner is no longer in possession of the originals of its PEZA Registration Certificate which it surrendered to PEZA on account of its amendment of its Registration Certificate.[69] With respect to petitioner's VAT Zero Rating Certificate for TY 2011, Lazareto explained that petitioner is likewise no longer in possession of its original.[70] Thus, they requested a certified true copy from PEZA but it can no longer provide the same as its records retention policy is only one (1) year from the date of approval.[71] Respondent did not conduct any cross-examination.[72]

When the Court asked for proof that Lazareto indeed submitted the original Certificate of Registration to PEZA, she responded that while she does not have any transmittal letter, the issuance of the new Certificate of Registration proves the same.[73] Lazareto also clarified that petitioner lost the original of its VAT Zero Rating Certificate for TY 2011, thus, it requested PEZA for a certified true copy of the same.[74]

On 06 June 2024, petitioner filed its "Formal Offer of Evidence"[75] (**FOE**) consisting of Exhibits "P-1" to "P-16-A". On 14 June 2024, respondent manifested that it has no objection to petitioner's FOE,[76] thus, the same was submitted for resolution on 01 July 2024.[77]

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65 Id.
66 See Manifestation (to the Honorable Court's Order dated 12 March 2024), id., pp. 330-331.
67 See Notice dated 03 May 2024, id., p. 335.
68 Exhibit "P-16", Supplemental Judicial Affidavit of Joanne Lazareto dated 26 February 2024, id., pp. 311-316
69 Id.
70 Id.
71 Id.
72 TSN dated 04 June 2024, p. 8.
73 Id., pp. 8-9.
74 Id., pp. 10-12.
75 Division Docket, pp. 354-362.
76 Id., pp. 367-368.
77 See Notice dated 01 July 2024, id., p. 370.

In a Resolution dated 09 August 2024,[78] the Court noted that majority of petitioner's duly marked exhibits are not attached to the records of the instant case. To allow the Court to decide the case on its merits, it permitted petitioner to submit the hard copies of the said exhibits within five (5) days from its receipt of the Resolution.[79] In response to the Court's Resolution, petitioner filed a "Motion to Set the Case for Commissioner's Hearing",[80] stating that despite diligent efforts, the duly-marked exhibits can no longer be found.

On 27 August 2024, the Court granted petitioner's "Motion to Set the Case for Commissioner's Hearing" and ordered the latter to submit on or before 24 September 2024 the hard copies of the exhibits duly marked during the Commissioner's Hearing set on 19 September 2024.[81]

In compliance with the Court's Resolution dated 27 August 2024, petitioner submitted hard copies of the exhibits in its possession.[82] Thus, petitioner's FOE filed on 06 June 2024 was submitted anew for resolution on 05 November 2024.[83] In the Resolution dated 26 November 2024,[84] the Court admitted all of petitioner's offered exhibits. With the said admission, petitioner is deemed to have rested its case.[85]

On 11 February 2025, respondent presented its witness, RO Cruz, who testified *via* his Judicial Affidavit.[86] In his testimony, RO Cruz narrated essentially the events that transpired during the audit of petitioner's books of accounts, from the issuance of the LOA up to respondent's release of his or her Decision on petitioner's request for reconsideration and identified the pieces of evidence in support thereof.[87]

During cross-examination, RO Cruz confirmed that he had been with the Assessment Division of Revenue District Office (**RDO**) No. 44

78 Id., pp. 374-375.
79 Id.
80 Id., pp. 378-382.
81 See Notice dated 27 August 2024, id., p. 384.
82 See Compliance filed by petitioner on 23 September 2024, id., pp. 391-420, with attached exhibits.
83 See Notice dated 05 November 2024, id., pp. 429-430.
84 Id., pp. 434-436.
85 Id.
86 Exhibit "R-4", Judicial Affidavit of Revenue Officer (RO) Virgo T. Cruz dated 23 February 2023, id., pp. 211-218.
87 Id.

– Taguig-Pateros for a period of seven (7) years from 21 May 2009 to 08 March 2016.[88] When asked why he did not mention the issuance of the PAN and Notice of Discrepancy (**NOD**) in his Judicial Affidavit, he answered that only the crucial points were mentioned therein.[89] He also confirmed that petitioner is a PEZA-registered entity that enjoys preferential tax rates.[90]

In addition, RO Cruz narrated that in assessments, after they finish their audit of a taxpayer's books of accounts, they prepare a NOD, which they issue to and serve on the taxpayer.[91] He continued to narrate that ROs wait for the taxpayer's response to the NOD and if they do not agree with the taxpayer's position, they recommend the issuance of a PAN.[92] They then issue a FAN if the taxpayer does not protest or if they do not agree with the protest.[93] Lastly, RO Cruz reiterated that the FAN was issued to petitioner on 23 January 2015.[94]

On redirect examination, RO Cruz clarified that while they recommend the issuance of the PAN, it is the Assessment Division of the RevReg that issues it.[95] He also recounted that petitioner was able to protest the Assessment Notices, which shows the discrepancies found in the audit, up to the National Office, thus, petitioner was given an opportunity to defend its interest in the assessment.[96]

During re-cross examination, although the same was not indicated in his judicial affidavit, RO Cruz stated that he recommended the issuance of the PAN.[97]

Respondent then proceeded to formally offer his or her exhibits in open court.[98] Petitioner manifested that the FAN, FDDA, and the Decision have no factual and legal basis while the Judicial Affidavit of respondent's witness was self-serving.[99] The Court noted petitioner's

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88 TSN dated 11 February 2025, pp. 10-11.
89 Id., pp. 11-14.
90 Id., pp. 18-19.
91 Id., pp. 19-20.
92 Id., p. 20.
93 Id.
94 Id., pp. 20-21.
95 Id., p. 21.
96 Id., pp. 22-23.
97 Id., p. 24.
98 Id., p. 25.
99 Id., pp. 27-28.

comments and admitted all of respondent's exhibits[100] which consists of "R-1" to "R-4", with sub-markings.[101] With the admission of respondent's exhibits, both parties were given 30 days, or until 13 March 2025, to file their respective Memoranda.[102]

Petitioner then filed its Memorandum[103] on 13 March 2025. The case was deemed submitted for decision on 24 April 2025 following the Records Verification Report dated 19 March 2025[104] that respondent failed to file a memorandum within the period provided.[105]

ISSUE

As can be gleaned from the Pre-Trial Order,[106] the sole issue for this Court's resolution is –

> WHETHER PETITIONER TRANSNATIONAL E-BUSINESS SOLUTIONS, INC. IS LIABLE FOR DEFICIENCY INCOME TAX, VALUE-ADDED TAX (VAT), FINAL WITHHOLDING TAX (FWT), AND COMPROMISE PENALTY IN THE AGGREGATE AMOUNT OF ₱15,643,523.75 FOR TAXABLE YEAR (TY) 2011.

ARGUMENTS

In support of the instant petition, petitioner argues that the subject deficiency assessments are void because (1) it was deprived of its right to due process as it was not given an opportunity to dispute the PAN considering that it received the FLD/FAN prior to the PAN and the FLD/FAN was prematurely issued since it was issued before the lapse of the fifteen (15)-day period allowed for petitioner to reply to the PAN; (2) the revenue officers who conducted the audit of petitioner's books of accounts did not have authority to do so because they remained in RevReg No. 8 beyond the three (3)-year period allowed in Section 17[107] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, and

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100 Id., p. 28.
101 Id., pp. 25-27.
102 Id., p. 29.
103 Id., pp. 445-493.
104 Id., p. 496.
105 See Notice of Resolution dated 24 April 2025, Division Docket, p. 497.
106 Supra at note 35.
107 Sec. 17. *Assignment of Internal Revenue Officers and Other Employees to Other Duties.*

the audit was conducted beyond the 120-day validity of the LOA under BIR's General Audit Procedure and Documentation; and (3) the period to assess its VAT returns for the second and third quarters of TY 2011 has already prescribed.

Petitioner further asserts that the rental income that the BIR alleged to be subject to regular income tax shall be subject to 5% GIT as it pertains to petitioner's PEZA-registered activity. It also claims that its local sales subjected to VAT are not subject to regular income tax. Even assuming that the right to assess its VAT returns has not yet prescribed, petitioner insists that respondent's assessment of deficiency VAT is erroneous since he or she subjected to VAT those items that are not VATable, such as accounts receivables that pertain to dues from related parties. Petitioner also claims that the dividends subjected by respondent to FWT were intercorporate dividends received by an individual on behalf of a domestic corporation, and thus, not subject to FWT. Lastly, petitioner contends that it cannot be held liable to compromise penalty without its consent.

Respondent counters that petitioner was afforded due process in the conduct of the audit of its books of accounts and the issuance of the assessments as it was accorded an opportunity to explain its side, and was able to do so when it filed its protest to the FLD/FAN and request for reconsideration of the FDDA. Respondent also claims that the period to assess petitioner's VAT returns for the first three (3) quarters of 2011 has not prescribed as petitioner is subject to the extraordinary prescriptive period of 10 years since it was found to have underdeclared its receipts.

In addition, respondent asserts that petitioner failed to demonstrate that the FLD/FAN was issued more than three (3) years after the filing of the VAT returns since it failed to present any evidence to support the actual date of filing such. Respondent further claims that the finding of deficiency income tax was based on petitioner's undeclared income from unregistered activities while the finding of deficiency VAT was based on receipts and collections not subjected to VAT using an Accounts Receivables Analysis. Lastly, respondent avers that the deficiency FWT was based on petitioner's failure to withhold FWT on a dividend payment to an individual stockholder.

RULING OF THE COURT

Before delving into the merits of the case, We shall first resolve whether this Court has jurisdiction over the instant petition.

THE COURT OF TAX APPEALS (CTA) HAS JURISDICTION OVER THE INSTANT PETITION FOR REVIEW.

As clearly set forth in the records and undisputed by the parties, petitioner filed a request for reconsideration on 04 May 2017,[108] or after the FDDA was served upon it on 04 April 2017.[109] On 09 June 2022, petitioner received respondent's Denial dated 25 May 2022.[110]

Section 11 of the Republic Act (**RA**) No. 1125,[111] as amended by RA 9282,[112] in relation to Section 3(a), Rule 8 of the RRCTA, provides for the time period when petitioner may invoke the CTA's jurisdiction in order to question respondent's decision, to wit:

> ...
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> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — **Any party adversely affected by a decision, ruling** or inaction **of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **may file an appeal with the CTA <u>within thirty (30) days</u> after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.**
>
> ...
>
> SEC. 3. *Who may appeal; period to file petition.* —
>
> (a) **A party adversely affected by a decision, ruling** or the inaction **of the Commissioner of Internal Revenue on disputed assessments** or claims for refund of internal revenue taxes, or by a

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108 Supra at note 19.
109 Supra at note 18.
110 Par. 6, I. Summary of Admitted and Stipulated Facts, JSFI, Division Docket, p. 231.
111 AN ACT CREATING THE COURT OF TAX APPEALS.
112 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

> decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction **may appeal to the Court by petition for review filed <u>within thirty days</u> after receipt of a copy of such decision or ruling**, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.[113]
>
> ...

Accordingly, in case of the CIR's adverse decision or ruling, the taxpayer is given 30 days to file a Petition for Review with the CTA.

Here, it is undisputed that petitioner received the CIR's Denial on <u>09 June 2022</u>,[114] which is the adverse decision appealable to this Court. Thus, it had 30 days from the said date, or until <u>09 July 2022</u>, to file a petition for review with the CTA.

At first glance, it may appear that the Petition for Review was filed on the 32nd day from the receipt of the questioned decision. However, it is noteworthy that the last day or the 30th day for filing the Petition fell on a weekend. Therefore, petitioner had until the next working day within which to file them. Section 1 of Rule 22[115] of the Rules of Court, which applies suppletorily to the RRCTA,[116] reads:

> ...
>
> Sec. 1. *How to compute time.* – In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. **If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.**[117]
>
> ...

[113] Italics in the original text, emphasis and underscoring supplied.
[114] Supra at note 5.
[115] COMPUTATION OF TIME.
[116] A.M. No. 05-11-07-CTA or the Revised Rules of the Court of Tax Appeals, Rule 1, Section 3.
[117] Emphasis supplied and italics in the original text.

Since 09 July 2022 falls on a Saturday, petitioner had until the next working day, or on 11 July 2022, Thus, petitioner timely filed the instant Petition for Review on 11 July 2022.

We now proceed to the merits of the case.

THE FORMAL LETTER OF DEMAND/ FINAL ASSESSMENT NOTICE (FLD/FAN) WAS ISSUED IN VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS, RENDERING THE ASSESSMENTS VOID.

Section 228 of the NIRC of 1997, as amended, provides the procedure for protesting of assessments, to wit:

> ...
> **SEC. 228.** *Protesting of Assessment.* — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he [or she] shall first notify the taxpayer of his findings: *Provided, however,* That a preassessment notice shall not be required in the following cases:
>
> (a) When the finding for any deficiency tax is the result of mathematical error in the computation of the tax as appearing on the face of the return; or
>
> (b) When a discrepancy has been determined between the tax withheld and the amount actually remitted by the withholding agent; or
>
> (c) When a taxpayer who opted to claim a refund or tax credit of excess creditable withholding tax for a taxable period was determined to have carried over and automatically applied the same amount claimed against the estimated tax liabilities for the taxable quarter or quarters of the succeeding taxable year; or
>
> (d) When the excise tax due on exciseable articles has not been paid; or
>
> (e) When an article locally purchased or imported by an exempt person, such as, but not limited to, vehicles, capital equipment, machineries and spare parts, has been sold, traded or transferred to non-exempt persons.

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. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.[118]

...

The above provision is implemented by Section 3 of Revenue Regulations (**RR**) No. 12-99,[119] as amended by RR No. 18-2013,[120] which provides:

...

SEC. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —

3.1 Mode of procedure 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 [or her] 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 ...

If the taxpayer fails to respond <u>within fifteen (15) days from date of receipt of the PAN</u>, he [she/it] 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/[she]/it disagrees with the findings of deficiency tax or taxes, an FLD/FAN shall be issued

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118 Emphasis supplied and italics in the original text.

119 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.

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

> **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.**[121]
>
> ...

Following the above-stated rules, respondent or his or her duly authorized representative is required to issue a PAN against the taxpayer whenever there is a finding of any deficiency tax due. The taxpayer is given 15 days, counted from receipt thereof, to respond. The taxpayer's failure to respond within the period prescribed results in the taxpayer being considered in default, leading to the issuance of the FLD/FAN.

The Supreme Court had long since settled the mandatory nature of the issuance of the PAN and compliance with the due process requirements in *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*:[122]

> ...
>
> Indeed, Section 228 of the Tax Code clearly requires that the taxpayer must first be informed that he [or she or it] is liable for deficiency taxes through the sending of a PAN. He [or she or it] 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.
>
> ...
>
> From the provision quoted above, it is clear that the sending of a PAN to taxpayer to inform him [or her or it] of the assessment 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.
>
> ...

121 Italics in the original text, emphasis and underscoring supplied.
122 G.R. No. 185371, 08 December 2010; Citations omitted and italics in the original text.

Further, in *Commissioner of Internal Revenue v. Nippo Metal Tech Phils., Inc. (Formerly Global Metal Tech Corporation),*[123] where the CIR issued the FLD/FAN to Nippo Metal without waiting for the lapse of the 15-day period to respond to the PAN, the Supreme Court held:

> ...
>
> Clearly, due process demands that the taxpayer receives the PAN ***and*** that he [or she or it] is given the opportunity to respond thereto. Moreover, in *CIR v. Avon Products Manufacturing, Inc.*, the Court even went beyond "opportunity to be heard" as an aspect of due process. In said case, the Court, reiterating *Ang Tibay v. The Court of Industrial Relations*, held that "[n]ot only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts ***but the [CIR] must consider the evidence presented.***"
>
> ...
>
> ... **By disregarding the 15-day period provided by law, the CIR utterly deprived respondent of the opportunity to contest the PAN and present evidence in support thereto before an FLD/FAN was issued.**
>
> ...

In the case of *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*[124] (**Prime Steel**) citing *Commissioner of Internal Revenue v. Yumex Philippines Corporation,*[125] the Supreme Court has held that the 15-day period provided under RR No. 12-99 for a taxpayer to reply to a PAN forms part and parcel of the due process requirement in the issuance of a deficiency tax assessment and the same must be strictly complied with; otherwise, the assessment becomes null and void.

It is clear from the foregoing that the issuance of the PAN, as well as giving the taxpayer 15 days from receipt thereof to respond to such notice, is part of due process in the issuance of tax assessments. If the taxpayer fails to respond to the PAN within the said 15-day period, the taxpayer shall be considered in default. Only then can the CIR or his or her duly authorized representative validly issue the FAN. Otherwise stated, the CIR or his or her duly authorized representative is duty-

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[123] G.R. No. 227616 (Notice), 19 June 2019; Citations omitted, italics, underscoring and emphasis in the original text and supplied.

[124] G.R. No. 249153, 12 September 2022.

[125] G.R. No. 222476, 05 May 2021.

bound to wait for the expiration of the 15-day period from receipt of the PAN before issuing the FAN.

In the case at bar, respondent issued the PAN on 13 January 2015.[126] It then issued the FLD/FAN on 23 January 2015.[127] While petitioner claims that it received the PAN only on 06 February 2015, the records is bereft of any information to support the same, *viz*:

...

Justice Villena:	[Y]ou said that petitioner has received the PAN on 6 February 2015. So, may I know what supports this statement?
Ms. Lazareto:	If I remember correctly, during the review of some documents[,] only the date received by the person in-charge during that time.
Justice Villena:	Yes. What is the particular document that you have referred to and made as basis for this answer in No. 12? Because I am going through the long answer that you have stated here, wala namang exhibit assigned to anything as support.
Ms. Lazareto:	Yes, your Honors.
Justice Villena:	Okay. So, this has been sourced from another person[,] that the PAN was received on 06 February 2015, based on another person's information?
Ms. Lazareto:	Yes, your Honors.[128]

...

Nonetheless, even if We assume that petitioner received the PAN on the same date as it was issued, petitioner would have until 28 January 2015 to respond to the PAN. Thus, by issuing the FLD/FAN on 23 January 2015, or merely 10 days from the issuance of the PAN, respondent clearly deprived petitioner of an opportunity to contest the PAN and present evidence in support thereto before the FLD/FAN was issued, a patent violation of petitioner's right to due process.

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126 Supra at note 14.
127 Supra at note 15.
128 TSN dated 20 February 2024, pp. 16-17.

Respondent counters that due process was satisfied since petitioner was given an opportunity to refute his or her findings, and was in fact able to do so by filing its Protest to FAN and administrative request for consideration of the FDDA. A similar argument was raised in *Prime Steel*,[129] which the Supreme Court addressed, citing *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*:[130]

> ...
>
> **[I]t is beside the point that petitioner was able to submit a "well-prepared protest letter**." The fact remains that respondent violated petitioner's right to due process by issuing a FAN without even awaiting its reply to the PAN.
>
> Well-settled is the rule that an assessment that fails to strictly comply with the due process requirements set forth in Section 228 of the Tax Code and Revenue Regulations No. 12-99 is void and produces no effect.[131]
>
> ...

While the government has an interest in the swift collection of taxes, the BIR and its officers and agents cannot be overreaching in their efforts, but must perform their duties in accordance with law, with their own rules of procedure, and always with regard to the basic tenets of due process.[132]

With the above disquisition, We find the FLD/FAN void and the assessment for deficiency taxes contained therein bear no valid fruit and must not be given any effect.[133]

WHEREFORE, the foregoing premises considered, the present Petition for Review filed by petitioner Transnational E-Business Solutions, Inc. on 11 July 2022 is hereby **GRANTED**. Accordingly, the Formal Assessment Notice with Formal letter of Demand dated

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129 Supra at note 124.

130 G.R. Nos. 201398-99 & 201418-19, 03 October 2018.

131 Supra at note 124; Citations omitted, italics, underscoring and emphasis in the original text and supplied.

132 *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, supra at note 130.

133 *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*, G.R. No. 223767, 24 April 2023; *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. Nos. 197945 & 204119-20, 09 July 2018; *Commissioner of Internal Revenue v. Liquigaz Philippines Corporation*, G.R. Nos. 215534 & 215557, 18 April 2016; *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, G.R. No. 185371, 08 December 2010.

23 January 2015, Final Decision on Disputed Assessment dated 17 March 2017, and the Decision of the Commissioner of Internal Revenue dated 25 May 2022, holding petitioner liable for deficiency internal revenue taxes in the aggregate amount of ₱15,643,523.75, inclusive of interests and compromise penalty, for taxable year 2011, are **CANCELLED** and **SET ASIDE**.

Respondent Commissioner of Internal Revenue or any person duly acting on his or her behalf is hereby **ENJOINED** from pursuing any action against petitioner relative to the above-mentioned void assessments.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

ATTESTATION

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 1st Division Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special 1st Division Acting Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice