REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2984** (CTA Case No. 8525)
	Present:
-versus-	**RINGPIS-LIBAN**, *Acting P.J.*, **MANAHAN**, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, **FERRER-FLORES**, *and* **ANGELES**, *JJ.*
ASIA UNITED LEASING & FINANCE CORPORATION, *Respondent.*	Promulgated: NOV 03 2025 1:NPM

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DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Petition for Review* (*Petition*)[1] filed by petitioner Commissioner of Internal Revenue ("Petitioner" or "CIR"). The *Petition* seeks the reversal and setting aside of the Decision dated February 26, 2024 (assailed *Decision*)[2] and the Resolution dated August 13, 2024 (assailed *Resolution*)[3] of the Court's Special First Division (Court in Division), which cancelled and set aside the deficiency Income Tax (IT), Expanded Withholding Tax (EWT), and Documentary Stamp Tax (DST), together with interest, assessed against respondent Asia United Leasing & Finance Corporation (respondent) for taxable year (TY) 2008, in the total amount of ₱5,578,461.96.

[1] *En Banc* (*EB*) Docket – Vol. I, pp. 5–11.
[2] *Id.* at 18–34.
[3] *Id.* at 36–39.

THE PARTIES

Petitioner is the duly appointed CIR, vested with the authority to administer and enforce national internal revenue laws. He may be served with summons and other legal processes at his principal place of business at the Bureau of Internal Revenue (BIR) National Office Building, BIR Road, Diliman, Quezon City.[4]

Respondent is a corporation duly registered and operating under the laws of the Philippines with current business address at 31/F Joy-Nostalg Center, 17 ADB Avenue, Ortigas Center, Pasig City.[5]

THE FACTS AND THE PROCEEDINGS

The facts, as found by the Court in Division, are as follows:

> On October 11, 2011, a Notice of Informal Conference (NIC) was sent by the BIR, Revenue Region No. 7, Revenue District Office (RDO) No. 043A to [respondent] informing the latter that a report of investigation relative to internal revenue deficiencies for TY 2008 has been submitted to Revenue District Officer, Florante R. Aninag, containing the recommendation of Revenue Officer Benedict R. Bacani.
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> On December 16, 2011, the Assessment Division of Revenue Region No. 7 issued a Preliminary Assessment Notice (PAN) to [respondent], stating therein that the latter is subject to deficiency income tax, EWT, and DST, for TY 2008. The PAN was received by [respondent] on January 4, 2012.
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> On the same day that the PAN was received by [respondent], a FAN and Formal Letter of Demand (FLD) was also issued by the BIR, showing the amount of, *inter alia*, deficiency income tax and interest due from [respondent]. The FAN was received by [respondent] only on January 11, 2012. It is also on this latter date that [respondent] filed its protest to the PAN.
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> On February 1, 2012, the Assessment Division of the BIR Revenue Region No. 7 wrote [respondent], stating therein, that "this case will be forwarded to the Revenue District Office No. 43, Pasig City for appropriate action." This letter was in response to [respondent]'s letter dated January 23, 2012, reiterating [respondent]'s position in its protest to the PAN, and thereby protesting or disputing the FAN.

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[4] *Id.* at 18–19, Decision dated February 26, 2024.
[5] *Id* at 18.

Subsequently, on July 5, 2012, [respondent] received from the BIR the Preliminary Collection Letter (PCL) dated June 25, 2012, for deficiency internal revenue tax of ₱5,578,461.96, to which [respondent] sent a reply via a letter dated July 11, 2012.

On August 1, 2012, [respondent] received the Final Notice Before Seizure (FNBS) dated July 16, 2012 from the BIR Revenue Region No. 7, RDO No. 043A, stating that: "(a) [respondent] has at least ten (10) days from the receipt of the same to settle the deficiency internal revenue taxes for the year 2008; (b) that upon [respondent]'s failure to settle the Assessment, the BIR will be constrained to enforce collection through summary and/or judicial remedies by issuing the corresponding Warrant of Distraint and/or Levy (WDL) and Garnishment, and filing the necessary action in a court of law in order to protect the interest of the government, without further notice."

On August 3, 2012, [respondent] filed the present Petition for Review.

[Petitioner]'s Answer to the Petition for Review was filed on September 28, 2012.

[Respondent] filed its Reply to the Answer on October 15, 2012.

The Pre-Trial Conference was set and held on November 23, 2012. Prior thereto, the Pre-Trial Brief for [Respondent] and [Petitioner]'s Pre-Trial Brief were separately filed on November 20, 2012.

On December 7, 2012, the parties then submitted their Joint Stipulation of Facts and Issues (JSFI), which was approved by the Court (except the reservation made by both parties for the presentation of other witnesses who were not identified or described) in the Resolution dated December 28, 2012, thereby terminating the Pre-Trial. The Pre-Trial Order dated February 5, 2013 was then issued.

In the Order dated April 3, 2013, the present case was transferred to this Court's Third Division.

After a series of re-settings, trial then proceeded. In the Resolution dated August 30, 2013, counsel for [respondent] was fined ₱1,000.00 due to the series of re-settings granted by the Court, all at the instance of [respondent], thereby delaying the administration of justice. In the same Resolution, counsel for [respondent] was also ordered to submit a status report on the offer of compromise on the next scheduled hearing.

On September 20, 2013, [respondent] filed a Compliance and Motion, (1) informing the Court: (i) that the compromise offer is now pending review by the Regional Evaluation Board (REB) of Revenue Region No. 7 of the BIR; (ii) that [respondent] already paid the amount of ₱115,006.67 for the EWT and DST as required by the Collection Division thereof; and (iii) that [respondent] was informed by the same Division that the approval of the REB is expected at the soonest possible time, considering that only the signatures of the Assessment Chief of the same Revenue Region and the Regional Director are lacking; and (2) praying for the suspension of the proceedings for a period of at least four (4) months, for purposes of the compromise settlement to save the parties further cost of litigation and so as not to waste the time of the Court.

In the Resolution dated September 25, 2013, the Court noted the said Compliance filed by [respondent], and granted respondent ten (10) days from notice, to file comment/opposition to [respondent]'s Motion.

Counsel for [petitioner] confirmed the status of the case and interposed no objection to [respondent]'s motion, rendering the Resolution dated September 25, 2013 directing [petitioner] to comment thereon, moot. In the Resolution dated September 30, 2013, the Court archived the instant case considering that the parties agreed to have the case archived, to be revived upon the filing of the appropriate action.

Subsequently, in the Order dated October 3, 2018, the instant case was transferred to this Court's First Division.

The parties failed to file a motion/manifestation as to the status of the compromise settlement. Thus, in the Resolution dated February 12, 2019, the Court directed the parties to give an update on the status of the offer of compromise by [respondent] within (ten) 10 days from receipt thereof.

[Respondent] then filed its Manifestation on March 8, 2019; while [petitioner] filed his Manifestation on March 11, 2019. In the Resolution dated March 27, 2019, the Court noted the said Manifestations separately filed by [respondent] and [petitioner] to the effect that the offer of compromise is still for deliberation by the Technical Working Group (TWG) of the REB.

However, the parties failed to give an update on the status of the compromise settlement. In view thereof and considering that almost seven (7) months have lapsed from the last update, the Court directed the parties to provide an update on the status of the offer of compromise, within ten (10) days from notice.

On October 3, 2019, the parties filed a Joint Manifestation, stating that [respondent]'s offer of compromise has been approved by the TWG of the REB and has been elevated to the National Evaluation Board (NEB); and that [respondent]'s offer is set to be assigned to a revenue officer for evaluation and schedule for resolution, which the Court noted in the Resolution dated November 12, 2019.

The parties failed to file a motion/manifestation as to the status of the compromise settlement.

In the Resolution dated August 3, 2020, the Court set the case for the initial presentation of [respondent]'s witness on October 7, 2020, considering that despite the opportunity granted for the parties to enter into a compromise, still, no compromise agreement has been reached by them.

Thereafter, the parties filed on October 13, 2020 their Joint Motion to Suspend Proceedings, which was denied by the Court in the Resolution dated October 21, 2020.

The parties then presented their respective documentary and testimonial evidence.

[Respondent] presented the testimonies of the following individuals, namely: (1) Ms. Judith Labiaga, [respondent]'s Operations Head; and (2) Atty. Edward M. Menor, the Court-commissioned Independent Certified Public Accountant (ICPA).

The ICPA Report was submitted on September 1, 2021.

On November 8, 2021, [Respondent]'s Formal Offer of Evidence was submitted. [Petitioner], however, failed to file his comment thereon. In the Resolution dated April 28, 2022, the Court admitted [respondent]'s offered documentary evidence, except for Exhibits "P-17", "P-169", "P-170" and "P-171", since the respective PDF files thereof are not accessible.

Consequently, [respondent] filed on May 26, 2022 its Motion for Partial Reconsideration (on Resolution dated 28 April 2022). [Petitioner], however, failed to file his comment thereon. In the Resolution dated August 4, 2022, the Court granted [respondent]'s Motion for Partial Reconsideration, and admitted Exhibits "P-17", "P-169", "P-170" and "P-171".

For his part, [petitioner] presented the testimony of Revenue Officer Benedict Bacani.

On October 5, 2022, [Petitioner]'s Formal Offer of Evidence was filed. The BIR Records for this case was also transmitted on the same date.

> [Respondent] then filed its Comment/Opposition [On Respondent's *Motion to Admit (Formal Offer of Evidence)* dated 04 October 2022] on October 17, 2022. In the Resolution dated December 13, 2022, the Court admitted [petitioner]'s offered exhibits, except for Exhibit "R-8", for failure to present the original thereof for comparison.
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> The Memorandum for the [Respondent] was filed on February 3, 2023. However, [petitioner] failed to file his memorandum.

On February 26, 2024, the Court in Division rendered the assailed *Decision,* disposing of the case as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**.
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> Accordingly, for being void in view of the violation of [respondent's] right to due process, the subject tax assessments embodied in the FAN/FLD dated January 4, 2012 issued against [respondent] for deficiency income tax, EWT, and DST plus interests, for TY 2008, in the total amount of ₱5,578,461.96, are **CANCELLED** and **SET ASIDE**. Moreover, the Preliminary Collection Letter dated June 25, 2012 and Final Notice Before Seizure dated July 16, 2012, both issued against [respondent] for TY 2008 are **WITHDRAWN** and **SET ASIDE**.
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> [Petitioner] or any person duly acting on his behalf is hereby **ENJOINED** from collecting or taking further action on the subject deficiency taxes against petitioner for TY 2008.
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> **SO ORDERED**.

On March 15, 2024, petitioner filed a *Motion for Reconsideration (Decision dated 26 February 2024)*,[6] to which respondent filed a *Comment (On the Respondent's Motion for Reconsideration dated 13 March 2024)*[7] on May 24, 2024.

On August 13, 2024, the Court in Division issued the assailed *Resolution* dated August 13, 2024, denying petitioner's motion for reconsideration, the *fallo* of which reads:

> **WHEREFORE**, premises considered, [petitoner's] *Motion for Reconsideration (Decision dated 26 February 2024)* posted on March 15, 2024, is **DENIED** for lack of merit.
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> **SO ORDERED.**

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[6] Division Docket – Vol. III, pp. 1705–1710.
[7] *Id.* at 1713–1721.

On August 30, 2024, petitioner filed a *Motion for Extension of Time to File Petition for Review*,[8] which the Court granted on September 4, 2024. As a result, the period for filing the *Petition* was extended by fifteen (15) days, or until September 15, 2024.[9]

On September 16, 2024, petitioner filed the present *Petition for Review*.

Pursuant to the Court *En Banc*'s directive,[10] respondent filed a *Comment (On the Respondent's Petition for Review dated 13 September 2024)*[11] on November 18, 2024.

On December 18, 2024, the Court *En Banc* referred the case to the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA) for mediation.[12]

On January 17, 2025, the Court *En Banc* received PMC-CTA Form No. 6—No Agreement to Mediate, stating that the parties decided not to submit their case for mediation.[13]

On February 5, 2025, the Court *En Banc* noted the PMC-CTA report and deemed the case submitted for decision.[14]

THE ISSUES

Petitioner raised the following issues for the Court's resolution:[15]

I. Whether or not respondent's right to due process was violated by petitioner.

II. Whether or not the Honorable Court erred in cancelling the FLD/FAN dated January 4, 2012, issued against respondent for Taxable Year 2008.

Petitioner's arguments

Petitioner argues that respondent's right to due process was not violated, since respondent is not mandated to reply to the Preliminary Assessment Notice (PAN). Petitioner further

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8 *EB* Docket – Vol. I, pp. 1–2.
9 *Id.* at 3, Notice of Resolution.
10 *Id.* at 42, Notice of Resolution.
11 *Id.* at 43–49.
12 *Id.* at 59, Notice of Resolution.
13 *Id.* at 60.
14 *Id.* at 61, Notice of Resolution.
15 *Id.* at 6–7, Petition for Review, Issues.

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argues that due process is satisfied when a person is notified of the charge and given an opportunity to explain or defend. Petitioner maintains that both the PAN and the Final Assessment Notice and Formal Letter of Demand (FAN/FLD) were duly served and received, and that respondent was able to contest the assessment intelligently. Petitioner concludes that the Court in Division erred in cancelling the FAN/FLD dated January 4, 2012, issued against respondent for TY 2008.

Respondent's arguments

Respondent contends that the premature issuance of the FAN/FLD violated its right to due process. It argues that the taxpayer's default, or the submission of a response to the PAN, triggers the period within which the BIR may issue the FAN/FLD. Respondent avers that it is not yet in default, nor has it submitted its reply to the PAN when the FAN/FLD was issued by petitioner before the lapse of the 15-day period to reply to the PAN.

THE COURT *EN BANC*'S RULING

The instant Petition for Review was timely filed.

Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) states:

> SEC. 3. *Who may appeal; period to file petition.* —
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> ...
>
> (b) **A party adversely affected by a** decision or **resolution of a Division of the Court on a motion for reconsideration** or new trial **may appeal to the Court by filing before it a petition for review <u>within fifteen days from receipt</u> of a copy of the questioned** decision or **resolution.** Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (*Emphasis supplied*)

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Records show that the Office of the Solicitor General (OSG), the principal counsel, received the assailed *Resolution* on **August 15, 2024.**[16] Accordingly, the 15-day reglementary period to appeal should be counted from August 15, 2024. Thus, the deadline to either move for an extension or file a petition for review under Section 3(b), Rule 8[17] of the RRCTA was **August 30, 2024**.

Petitioner filed a *Motion for Extension of Time to File Petition for Review* on **August 30, 2024**, making the said motion timely. Petitioner was thereby granted until September 15, 2024 to file a petition for review.

This *Petition for Review* filed on September 16, 2024 was within the extended period considering that the 15th day, September 15, 2024, fell on a Sunday. Thus, the Court acquires jurisdiction over this case.

The Court in Division did not err in cancelling the assessment for violating the taxpayer's right to due process.

Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, expressly requires that before a final assessment may be issued, the taxpayer must first be notified of the factual and legal bases of the proposed assessment through a PAN and afforded an opportunity to respond within a period prescribed by regulations. The law further provides that failure to comply with these requirements renders the assessment void. It states:

> 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 *pre-assessment notice* shall not be required in the following cases:
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> ....

[16] Division Docket – Vol. III, p. 1726.

[17] SEC. 3. *Who may appeal; period to file petition.* – .... (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

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 <u>implementing rules and regulations</u>, 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. (*Emphasis supplied*)

This statutory safeguard is implemented by Revenue Regulations (RR) No. 12-99,[18] as amended by RR No. 18-2013.[19] Section 3 thereof prescribes the due process requirements in the issuance of a deficiency tax assessment. Specifically, Section 3.1.1 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 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

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[18] 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, September 6, 1999.

[19] Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, November 28, 2013.

> taxpayer's deficiency tax liability, inclusive of the applicable penalties. (*Emphasis supplied*)

From the aforementioned provisions, it is clear that a taxpayer has 15 days from receipt of the PAN to respond. Only after the lapse of this period, or upon receipt of the taxpayer's reply to the PAN, may the BIR validly issue the FAN/FLD.

The Supreme Court, in *Commissioner of Internal Revenue v. Maxicare Healthcare Corporation*,[20] held that the PAN referred to in RR No. 18-2013 corresponds to the "pre-assessment notice" under Section 228 of the NIRC of 1997, as amended, to which the taxpayer is required to respond within a period set by regulation. The Supreme Court further emphasized that under RR No. 12-99, as amended, this period is 15 days, and failure to observe it invalidates the assessment for want of due process:

> It is evident from the foregoing that the **PAN corresponds with the "preassessment notice" mentioned in Section 228 of the NIRC**, and to which "the taxpayer shall be required to respond," which "response" shall be "[w]ithin a period to be prescribed by implementing rules and regulations." ...
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> Further, as can be seen from the above-quoted Section 3.1.1 of RR No. 12-99, **the period for a response to a PAN is set at 15 days**, as Section 228 of the NIRC allowed such period to be set by the implementing rules and regulations, and again, **RR No. 12-99 implements Section 228**. ... (*Emphasis supplied*)

In *Prime Steel Mill, Inc. v. Commissioner of Internal Revenue* (*Prime Steel*),[21] citing *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*[22] and *Commissioner of Internal Revenue v. Yumex Philippines Corporation* (*Yumex*),[23] the Supreme Court underscored that "the sending of a PAN is part and parcel of the due process requirement in the issuance of a deficiency tax assessment and **the BIR must strictly comply** with the requirements laid down by the law and by its own rules." It further stressed that the 15-day reply period must be strictly observed, and "only after receiving the taxpayer's response or in case of the taxpayer's default can respondent issue the FLD/FAN:"

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[20] G.R. No. 261065, July 10, 2023 [Per J. Singh, Third Division].
[21] G.R. No. 249153, September 12, 2022 [Per J. Dimaampao, Third Division].
[22] G.R. No. 185371, December 8, 2010 [Per J. Mendoza, Second Division].
[23] G.R. No. 222476, May 5, 2021 [Per C.J. Gesmundo, First Division].

In the oft-cited case of *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, the Court held that **the sending of a PAN is part and parcel of the due process requirement** in the issuance of a deficiency tax assessment and **the BIR must <u>strictly comply</u> with the requirements laid down by the law and by its own rules**.

The importance of the PAN stage of the assessment process cannot be discounted as it presents an opportunity for both the taxpayer and the BIR to settle the case at the earliest possible time without need for the issuance of a FAN.

In the very recent case of *Commissioner of Internal Revenue v. Yumex Philippines Corp.*, the Court had occasion to state that **the 15-day period** provided under Revenue Regulations No. 12-99 for a taxpayer to reply to a PAN should also be **<u>strictly observed</u> by the BIR**. The Court highlighted that "[**o**]**nly after receiving the taxpayer's response or in case of the taxpayer's default can respondent issue the FLD/FAN**."

While *Yumex* rests on slightly different factual circumstances, it may nevertheless apply analogously to the case at bench. **There can be no substantial compliance with the due process requirement when the BIR completely ignored the 15-day period by issuing the FAN and FLD even before petitioner was able to submit its Reply to the PAN.**

As the Court also held in *Yumex*, "[t]hat [the taxpayer] was able to file a protest to the FLD/FAN is of no moment." "Sec. 3.1.2 of RR No. 12-99 explicitly grants the taxpayer fifteen (15) days from receipt of the PAN to file a response."

In the same vein, it 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.** (*Emphasis supplied; Citations omitted*)

The Supreme Court explained that the PAN stage cannot be disregarded, as it presents an opportunity for both the taxpayer and the BIR to settle the case without the need for a FAN. In *Yumex*, it emphasized that strict observance of the 15-day reply period is indispensable, and that the issuance of a FAN prior to the taxpayer's reply or the lapse of the period constitutes a denial of due process. *Prime Steel*, quoting *Yumex*, further held that the filing of a protest after receipt of a prematurely issued FAN does not cure the defect, declaring:

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> "[T]hat [the taxpayer] was able to file a protest to the FLD/FAN is of no moment." "Sec. 3.1.2 of RR No. 12-99 explicitly grants the taxpayer fifteen (15) days from receipt of the PAN to file a response."

Thus, the Court in *Prime Steel* and *Yumex* rejected the notion of substantial compliance and clarified that once the BIR issues a FAN/FLD before the expiration of the 15-day reply period, the assessment is void.

In this case, respondent received the PAN on **January 4, 2012**,[24] giving it until January 19, 2012 to file a reply. Despite the 15-day window, petitioner prematurely issued the FAN/FLD on the very same day, **January 4, 2012**,[25] without waiting for the expiration of the 15-day reply period, and without affording respondent a meaningful opportunity to be heard. This act deprived respondent of its statutory right to due process, thereby rendering the assessment void.

The fact that respondent submitted a protest to the PAN on January 11, 2012[26] does not cure the defect, as the issuance of the FAN/FLD prior to the expiration of the 15-day reply period demonstrates that the BIR had already reached a conclusion without considering respondent's response to the PAN. This renders the assessment fatally defective.

As the Court in Division correctly found, the premature issuance of the FAN/FLD constitutes a denial of due process:

> [T]he premature issuance by respondent of the subject FLD/FAN on January 4, 2012, prior to the lapse of the fifteen (15)-day period given to petitioner within which to respond to the PAN ... clearly constitutes denial of due process as petitioner was not given the opportunity to dispute and present evidence against the PAN, before the FAN was issued.

The Court in Division's ruling is fully in line with established jurisprudence. The Supreme Court, in several cases, has enjoined strict observance by the BIR of the prescribed procedure for the issuance of assessment notices in order to uphold the taxpayers' constitutional rights.[27]

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[24] Division Docket – Vol. I, p. 145, Joint Stipulation of Facts and Issues (JSFI), Summary of Admitted Facts, par. 3.
[25] *Id.* at 146, JSFI, Summary of Admitted Facts, par. 7.
[26] *Id.* at 145, JSFI, Summary of Admitted Facts, par. 6.
[27] *Prime Steel Mill, Inc. v. Commissioner of Internal Revenue*, G.R. No. 249153, September 12, 2022 [Per J. Dimaampao, Third Division], citing *Commissioner of Internal Revenue v. Yumex Philippines Corp.*, G.R. No. 222476, May 5, 2021 [Per C.J. Gesmundo, First Division]; *Commissioner of Internal Revenue v. Fitness by Design, Inc.*, G.R. No. 215957, November 9, 2016 [Per J. Leonen, Second Division] and *Commissioner of Internal Revenue v. BASF Coating + Inks Phils., Inc.*, G.R. No. 198677, November 26, 2014 [Per J. Peralta, Third Division].

Accordingly, the FAN/FLD issued against respondent for TY 2008 must be struck down for violation of due process. Having been issued in contravention of Section 228 of the NIRC of 1997, as amended, and RR No. 12-99, as amended by RR No. 18-2013, the subject assessment is null and void and produces no legal effect.

WHEREFORE, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the Decision dated February 26, 2024 and the Resolution dated August 13, 2024 of the Special First Division, are **AFFIRMED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

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CERTIFICATION

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

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice