REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB NO. **2436**
(CTA Case No. 9118)

- versus -

Present:

DEL ROSARIO, *P.J.*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

RURAL BANK OF BACNOTAN (LA UNION), INC.,
Respondent.

Promulgated:
DEC 13 2022 3:10pm

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner Commissioner of Internal Revenue's (**petitioner**'s/**CIR**'s) "Motion for Reconsideration (Re: Decision promulgated 28 July 2022)"[1] (**MR**) filed on 15 August 2022, with respondent Rural Bank of Bacnotan (La Union), Inc.'s (**respondent**'s) "Comment/Opposition (For the Respondent)"[2] (**Comment**) filed on 10 October 2022. The MR seeks the reversal of the

[1] *Rollo*, pp. 124-129.
[2] Id., pp. 139-145.

Court *En Banc*'s Decision[3] (**assailed Decision**) dated 28 July 2022. The dispositive portion of the assailed Decision provides:

> ...
>
> **WHEREFORE**, the foregoing premises considered, petitioner Commissioner of Internal Revenue's Petition for Review filed on 10 February 2021 is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated 02 March 2020 and 21 January 2021, respectively, in CTA Case No. 9118, entitled *Rural Bank of Bacnotan (La Union), Inc. v. Commissioner of Internal Revenue*, are hereby **AFFIRMED**.
>
> Petitioner Commissioner of Internal Revenue is further **ENJOINED** from collecting taxes pursuant to the Final Letter of Demand and Final Assessment Notice dated 22 December 2014 subject of this case.
>
> **SO ORDERED.**
>
> ...

In the assailed Decision, the Court *En Banc* found that petitioner failed to act on respondent's protest to the Preliminary Assessment Notice (**PAN**), instead he or she unceremoniously issued the Final Assessment Notice (**FAN**) and Formal Letter of Demand (**FLD**) without considering the arguments raised in respondent's protest. The Court *En Banc* concluded that the same was a violation of respondent's right to due process thus resulting in the invalidity of the assessment.

In the assailed Decision, citing the cases of *Ray Peter O. Vivo v. Philippine Amusement and Gaming Corporation (Pagcor)*[4] [**Vivo**] and *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[5] (**Avon**), We concluded:

> ...
>
> Notwithstanding compliance with the technical requirements of RR No. 12-99, as amended, due process remains of paramount consideration. No less than the Bill of Rights requires that, "[n]o person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws".

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3 Id., pp. 95-123.
4 G.R. No. 187854, 12 November 2013.
5 G.R. No. 201398-99, 03 October 2018.

In administrative proceedings, "due process" means an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of. In *Ray Peter O. Vivo v. Philippine Amusement and Gaming Corporation (Pagcor)* [**Vivo**], the Supreme Court elaborates on the meaning of administrative due process in this wise:

> ...
>
> The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard. In administrative proceedings, such as in the case at bar, procedural due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. "To be heard" does not mean only verbal arguments in court; one may be heard also thru pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.
>
> In administrative proceedings, procedural due process has been recognized to include the following: (1) the right to actual or constructive notice of the institution of proceedings which may affect a respondent's legal rights; **(2) a real opportunity to be heard personally or with the assistance of counsel, to present witnesses and evidence in one's favor, and to defend one's rights;** (3) a tribunal vested with competent jurisdiction and so constituted as to afford a person charged administratively a reasonable guarantee of honesty as well as impartiality; and (4) **a finding by said tribunal which is supported by substantial evidence submitted for consideration during the hearing or contained in the records or made known to the parties affected.**
>
> ...

Vivo enumerates the requirements of administrative due process. To the Court's mind, petitioner, through his agents, have failed to comply with all the above requisites.

First, petitioner failed to afford respondent a real opportunity to be heard when the BIR's letter dated 15 December 2014 immediately denied any chance of respondent's protest being considered. To be clear, the BIR did not simply deny respondent's protest but it likewise notified the latter (on the same day it received the latter's protest) that its protest "cannot be acted upon favorably".

Second, in immediately striking down respondent's protest, petitioner did not consider respondent's arguments and the supporting evidence it submitted to the BIR. As a result, petitioner could not have possibly arrived at a decision supported by evidence presented for the BIR's consideration. This is demonstrated by the fact that the Details of Discrepancies in the FLD/FAN are but echoes of those previously included in the PAN. It did not, in any way, make reference and neither did it refute respondent's arguments in its protest to the PAN.

As the records also clearly evince, in its protest to the FLD/FAN, respondent raised the same exact issue, *i.e.*, the BIR's failure to consider its arguments or the documents it attached to its protest to the PAN. However, such issue fell on deaf ears when its subsequent protest to the FLD/FAN was not acted upon.

In this respect, the Supreme Court, in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (**Avon**), ruled that an opportunity to be heard goes hand in hand with a decision based on the arguments and evidence presented by the taxpayer, to wit:

> ...
> **Tax assessments issued in violation of the due process rights of a taxpayer are null and void**. While the government has an interest in the swift collection of taxes, the Bureau of Internal Revenue 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.
>
> The 1997 National Internal Revenue Code, also known as the Tax Code, and revenue regulations allow a taxpayer to file a reply or otherwise to submit comments or arguments with supporting documents at each stage in the assessment process. **Due process requires the Bureau of Internal Revenue to consider the defenses and evidence submitted by the taxpayer and to render a decision based on these submissions**. Failure to adhere to these requirements constitutes a denial of due process and taints the administrative proceedings with invalidity.
> ...
>
> In carrying out these quasi-judicial functions, the Commissioner is required to "investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them as basis for their official action and exercise of discretion in a judicial nature." Tax investigation and assessment necessarily demand the observance of due process because they affect the proprietary rights of specific persons.
> ...
>
> "[A] fair and reasonable opportunity to explain one's side" is one aspect of due process. **Another aspect is the due consideration given by the decision-maker to the arguments and evidence submitted by the affected party.**
> ...

> Taking into consideration the above principles, petitioner and his agents could not simply skirt their responsibility to rule on respondent's case on the merits of its claims as the latter was able to file its protest to the PAN within the reglementary period provided in the BIR's own rules.[6]
>
> ...

In the brief MR, petitioner merely argues that he or she did not act on respondent's protest to the PAN as there was already a need to issue the FAN and FLD. According to petitioner, due process simply means an "opportunity to be heard" and respondent was duly afforded the same.

Respondent, however, differs in opinion from petitioner. In its Comment, it echoes and fully agrees with the conclusions reached by the Court *En Banc* in the assailed Decision.

We resolve.

In *Philippine National Bank v. Hon. Jose G. Paneda, et al.*[7], the Supreme Court explained that an MR is *pro forma* in the following cases:

> ...
>
> ... **(1) it was a second motion for reconsideration, or (2) it did not comply with the rule that the motion must specify the findings and conclusions alleged to be contrary to law or not supported by the evidence, or (3) it failed to substantiate the alleged errors, or (4) it merely alleged that the decision in question was contrary to law, or (5) the adverse party was not given notice thereof.** ...
>
> ...

Petitioner's MR is devoid of any justification for its actions. The MR clearly shows that it makes no attempt to present its arguments in a new light. A cursory perusal of its MR further shows that it basically admits the correctness of the Court *En Banc*'s findings as it confesses that petitioner consciously did not consider respondent's arguments in its protest to the PAN. Contrary to petitioner's opinion, such actions are not consistent with the claim that due process was extended to respondent.

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6 Supra at note 3; Citations omitted and emphasis in the original text.
7 G.R. No. 149236, 14 February 2007; Emphasis in the original text.

Finding no merit in petitioner's recycled arguments, the Court will no longer engage itself in an exhaustive discussion of his or her issues. In these cases where an MR presents a mere rehash of the movant's arguments, the Court may deal with the motion summarily in keeping with the Supreme Court's ruling in the case of *Ortigas and Company Limited Partnership v. Judge Tirso Velasco and Dolores V. Molina*[8], to wit:

> ...
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, ART. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
> ...

WHEREFORE, the foregoing considered, petitioner's "Motion for Reconsideration (Re: Decision promulgated 28 July 2022)" filed on 15 August 2022 is **DENIED** for being *pro forma*.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

[8] G.R. No. 109645, 04 March 1996.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

ON LEAVE

LANEE S. CUI-DAVID
Associate Justice

ON LEAVE
CORAZON G. FERRER-FLORES
Associate Justice