REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

THE CITY GOVERNMENT OF VALENZUELA, HON. ADELIA SORIANO, in her capacity as CITY TREASURER, AND ATTY. ULYSSES L. GALLEGO, in his capacity as OFFICER-IN-CHARGE OF THE BUSINESS PERMIT AND LICENSING OFFICE, *Petitioner,*	**CTA AC NO. 296** (*RTC Civil Case No. C-25725*) Members: **MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
-versus-	
NLEX CORPORATION, *Respondent.*	Promulgated: MAY 29 2025 8:22 a.m.

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RESOLUTION

MANAHAN, J.:

Before the Court is petitioner's *Motion for Reconsideration (to the CTA Decision dated 15 November 2024)* posted on January 3, 2025 ("***Motion for Reconsideration***"),[1] with respondent's comment filed on January 20, 2025.[2]

Petitioner seeks that the Court set aside its *Decision* dated November 15, 2024 ("**assailed *Decision***"),[3] which affirmed the cancellation of the local business tax assessment issued by petitioner against respondent for taxable years 2005 to 2014.

In the assailed *Decision*, this Court held that: 1.) the tax assessment issued on November 11, 2019 is already barred by prescription under Section 194 of the Local Government Code, which provides that local taxes shall be assessed and collected within five (5) years from the date they became due; and 2.)

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[1] Docket, pp. 127-138.
[2] *Comment (Re: Motion for Reconsideration dated 27 December 2024)*, Docket, pp. 152-163.
[3] Docket, pp. 115-125.

petitioner's invocation of the ten (10)-year prescriptive period under the same provision is without basis due to its failure to establish fraud.

In the instant *Motion for Reconsideration*, petitioner once again insists that respondent's verbal proposal to treat its allegedly erroneous tax payments as donation indicates fraud. According to petitioner, the proposal is "inconsistent with lawful tax compliance and exemplifies deliberate circumvention." Petitioner asserts that fraud need not be proved by direct evidence, and that "no person in his right mind would put into writing or document its fraudulent proposal, thereby providing incriminating evidence."

In its comment, respondent contends that: 1.) petitioner merely rehashed its arguments, all of which have already been addressed by the Court; 2.) petitioner did not make any finding of fraud in its tax assessment and only alleged it for the first time during trial; 3.) respondent's proposal lacks fraudulent intent; and 4.) an offer of compromise cannot be considered as an admission of liability and should not be taken against the offeror. Respondent also maintains that it demonstrated good faith by reporting its income to petitioner upon the issuance of *Department of Finance Local Finance Circular No. 1-2023*, which classified toll booths as a branch office.

Upon careful consideration of the arguments raised by both parties, the Court finds the *Motion for Reconsideration* to be without merit.

First, as already settled in the assailed *Decision*, fraud cannot be presumed from respondent's proposal to treat its tax payments as a donation. Such proposal, on its own, hardly signifies any intent to evade the payment of taxes. On the contrary, despite its position that it is not liable for the subject taxes, respondent paid the same and has availed of the proper legal remedy to protest the assessment against it.

While it is true that fraud is a state of mind that need not be proved by direct evidence but may be inferred from the attendant circumstances,[4] it remains the burden of the party

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[4] *Dumaran v. Llamedo*, G.R. No. 217583, August 04, 2021 [Per J. Hernando, Second Division]. *ccn*

alleging fraud to establish it by clear and convincing evidence.[5] Clear and convincing evidence is more than preponderance but less than the certainty of beyond reasonable doubt.[6] Here, aside from its mere imputation that respondent's proposal was tainted with fraud, petitioner failed to present any evidence—let alone clear and convincing evidence—of the existence of such fraud.

Second, respondent aptly noted that it was only when Atty. Ulysses L. Gallego testified in court that petitioner alleged, for the first time, the existence of fraud. Unfortunately, this constitutes a violation of due process.

As a government entity vested with the power to assess and collect tax, respondent has the correlative duty to respect the taxpayers' right to due process. Due process demands that a taxpayer be informed of the basis of an assessment against it, including the reason for extending the assessment period, if applicable. The Supreme Court's ruling in *McDonald's Philippines Realty Corporation v. Commissioner of Internal Revenue*[7] is instructive:

> ... while the law accords the tax authorities an extended period within which they may investigate the taxpayer and issue a corresponding tax assessment, the law does so by exception. Furthermore, it is recognized that the law on prescription should be liberally construed in favor of the taxpayer, to afford them protection against unreasonable examination, investigation, or assessment.
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> Thus, ***when invoking the benefit of the extra-ordinary 10-year assessment period, as well as the presumption of falsity or fraud, the tax authorities are duty-bound to respect a taxpayer's fundamental right to due process of the law. There is due process when the taxpayer is provided with information necessary to mount an intelligent and timely protest/defense to the assessment.***

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[5] *Spouses Velarde v. Heirs of Concepcion Candari,* G.R. No. 190057, October 17, 2022 [Per J. Lopez, M., Second Division].

[6] *Pangasinan v. Disonglo-Almazora,* G.R. No. 200558, July 01, 2015 [Per J. Mendoza, Second Division].

[7] G.R. No. 247737, August 08, 2023 [Per J. Inting, En Banc]. *Emphasis supplied, citations omitted.*

> ***Consequently, first, the tax authorities are required to communicate to the taxpayer, in a clear and adequate manner, the basis for extending the assessment period.*** Guided by the pronouncements in *Asalus*, *Fitness by Design*, and *Spouses Magaan*, the tax authorities are obligated to indicate in the assessment notice that the extraordinary prescriptive period is being applied and the bases of allegations of falsity or fraud (First Due Process Requirement).
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> Second, they are likewise proscribed from adopting a position inconsistent with the invocation of the extended period or that which will mislead the taxpayer and prejudice its defense (Second Due Process Requirement).

Tax assessments issued in violation of due process rights are void,[8] and no right to collect can arise therefrom. Thus, even assuming that the assessment issued by petitioner has not prescribed, it is still void for violating respondent's right to due process.

ACCORDINGLY, petitioner's *Motion for Reconsideration (to the CTA Decision dated 15 November 2024)* is **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

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

HENRY S. ANGELES
Associate Justice

[8] *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. No. 197945, July 09, 2018 [Per J. Leonardo-de Castro, First Division].