REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

ROBINSONS LAND CORPORATION, Petitioner,	CTA Case No. 9163
	Members:
-versus-	DEL ROSARIO, PJ, Chairperson, FABON-VICTORINO, and MANAHAN, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 0 9 2020 8:00 am

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DECISION

***Fabon-Victorino, J.*:**

In this Petition for Review dated October 2, 2015, petitioner Robinsons Land Corporation prays to declare null and void the assessments for deficiency income tax (IT), value-added tax (VAT), expanded withholding tax (EWT), withholding tax on compensation (WTC), final withholding tax (FWT), documentary stamp tax (DST), and compromise penalties, in the aggregate amount of ₱3,762,799,564.00 covering the fiscal year (FY) October 1, 2008 to September 30, 2009.[1]

Petitioner is a domestic corporation, with principal office located at Level 2, Galleria Corporate Center, EDSA corner Ortigas Avenue, Quezon City.[2] It is registered with the Bureau of Internal Revenue (BIR) with Taxpayer Identification Number (TIN) 000-361-376-00000.[3]

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1 Summary of the Case, Pre-Trial Order dated May 31, 2016, Docket – Vol. I, p. 232.
2 Exhibit "P-1", Docket – Vol. III, pp. 1176 to 1191.
3 Exhibit "P-3", Docket – Vol. III, p. 1192.

Respondent, on the other hand, is the Commissioner of Internal Revenue (CIR) with office address at BIR Building, Diliman, Quezon City.[4]

On May 14, 2010, respondent issued *Letter of Authority* (LOA) No. LOA-127-2010-0000002 authorizing the examination of petitioner's books of accounts for FY covering October 1, 2008 to September 30, 2009.[5]

On May 26, 2014, petitioner received a copy of the *Preliminary Assessment Notice* (PAN) indicating that upon investigation, it was found to have deficiency IT, VAT, WC, EWT, FWT and DST in the aggregate amount of ₱3,483,203,002.82, inclusive of increments, for the FY ended September 30, 2009.[6]

On June 10, 2014, petitioner protested the PAN.[7]

On June 30, 2014, petitioner received a *Formal Letter of Demand* (FLD) dated June 27, 2014,[8] reiterating the findings in the PAN, with assessment for deficiency IT, VAT, WTC, EWT, FWT, DST and compromise penalties in the sum of ₱3,539,349,169.19, inclusive of increments, for FY ended September 30, 2009.[9]

On July 30, 2014, petitioner protested the FLD, and even filed a Supplement thereto on September 26, 2014.

On September 3, 2015, petitioner received the *Final Decision on Disputed Assessment* (FDDA) which increased the amount of deficiency tax assessment from

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[4] Par. 1, Summary of Admitted Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 203.

[5] Par. 2, Summary of Admitted Facts, *JSFI*, Docket – Vol. I, p. 203; BIR Records, p. 2.

[6] Par. 3, Summary of Admitted Facts, and Par. 1, Stipulation of Facts, *JSFI*, Docket – Vol. I, pp. 203 to 204; Exhibit "P-6", Docket – Vol. III, pp. 1210 to 1221

[7] Par. 4, Summary of Admitted Facts, *JSFI*, Docket – Vol. I, p. 204; Exhibit "P-7", Docket – Vol. III, pp. 1229 to 1238.

[8] Exhibit "P-8", Docket – Vol. III, pp. 1239 to 1249.

[9] Par. 5, Summary of Admitted Facts, and Par. 2, Stipulation of Facts, *JSFI*, Docket – Vol. I, p. 204.

₱3,539,349,169.19 to ₱3,762,799,564.00, inclusive of penalties and increments,[10] as shown below:

Type of Tax	Basic Tax	Surcharge	Interest	Compromise	Total
IT	₱758,009,940.11	₱379,004,970.05	₱839,833,478.00		₱1,976,848,388.16
VAT	664,731,346.20	332,365,673.10	766,353,288.00		1,763,450,307.30
WC	1,857,921.19		2,157,225.00	₱25,000.00	4,040,146.19
EWT	2,141,108.07		2486,032.00	25,000.00	4,627,140.07
FWT	5,242,848.61		6,087,449.00	50,000.00	11,380,297.61
DST	997,700.54	249,425.13	1,161,159.00	20,000.00	2,428,284.67
Total	**₱1,432,980,864.72**	**₱711,620,068.28**	**₱1,618,078,631.00**	**₱120,000.00**	**₱3,762,799,564.00**

On October 2, 2015,[11] petitioner filed the instant Petition for Review which was initially raffled to the Second Division of the Court.

On January 4, 2016, respondent filed his *Answer,*[12] capitalizing on petitioner's admission of receipt of a valid LOA on May 14, 2010 consistent with Section 6 of the National Internal Revenue Code (NIRC), as amended, only that no electronic Letter of Authority (eLOA) was issued as required under Revenue Memorandum Order (RMO) No. 69-10 pertaining to the transition from manually issued LOAs to eLOAs. Such absence of eLOA however did not invalidate the assessment contrary to petitioner's contention as there was nothing in the said RMO, or in any other RMO for that matter that states that non-issuance of an eLOA shall render invalid an otherwise valid assessment.

Besides, RMOs are mere internal issuances to serve as guidelines for BIR's operations and which do not vest any rights in favor of a taxpayer.

Further, an assessment enjoys the presumption of correctness, thus, shifting the burden of proving the contrary on the taxpayer, such as petitioner. *Sans* any proof, petitioner's allegations disputing the assessment remain to be as such.

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10 Par. 6, Summary of Admitted Facts, *JSFI*, Docket – Vol. I, p. 204; Exhibit "P-11", Docket – Vol. III, pp. 1273 to 1285.
11 Docket – Vol. I, pp. 10 to 43.
12 Docket – Vol. I, pp. 134 to 153.

The assessment likewise informed petitioner of the law and the facts upon which it was based. The FDDA indicated the factual and legal bases for each item of the assessment in compliance with the due process requirement on assessment.

The items in the assessment were not also mere presumptions for they were based on actual audit and verification of documents conducted by the examining Revenue Officers (ROs). In addition, petitioner did not submit in the administrative proceeding the required documents fortifying his conclusion that subject taxes were not paid.

The parties filed their *Joint Stipulation of Facts and Issues,*[13] on March 9, 2016 on the basis of which a Pre-Trial Order was issued on March 31, 2016,[14] thereby terminating the pre-trial proceeding.

Trial ensued during which petitioner presented as witnesses its Business Unit Controller, Anne Mae E. Mangaser,[15] and the Court-commissioned Independent Certified Public Accountant (ICPA), Katherine O. Constantino.[16]

Witness **Anne Mae E. Mangaser** testified that as petitioner's Business Unit Controller she oversees its accounting department, files tax returns for and in its behalf, pays the corresponding taxes, and coordinates with the BIR regarding tax audits.

Per its Amended Articles of Incorporation and SEC Registration, petitioner is a real estate developer engaged in the business of selling, acquiring, building, constructing,

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13 Docket – Vol. I, pp. 203 to 208.

14 Docket – Vol. I, pp. 232 to 237.

15 Exhibit "P-57", Docket – Vol. I, pp. 361 to 383, and Vol. III, pp. 1534 to 1539; Minutes of the hearing held on, and Order dated, August 1, 2016, Docket – Vol. I, pp. 613 and 612, respectively; Minutes of the hearing held on, and Order dated, April 30, 2018, Docket – Vol. III, pp. 1557 to 1558.

16 Exhibit "P-58", Docket – Vol. II, pp. 624 to 652; Minutes of the hearing held on, and Order dated, October 12, 2016, Docket – Vol. III, pp. 1129 to 1130; no cross examination, TSN dated October 12, 2016, p. 2.

developing, leasing, disposing real properties. It is also an operator of various shopping malls, hotels, and mixed-use properties. It is registered with the BIR with Certificate of Registration No. 8RC0000447303.

Petitioner was audited by the BIR for the period of October 1, 2008 to September 30, 2009 pursuant to a LOA it received. However, no eLOA was served upon it.

After the tax audit, petitioner received the PAN issued against it to which it filed a written protest on June 10, 2014.

On June 30, 2014, petitioner received the FLD dated June 27, 2014 against which it filed a formal protest on July 30, 2014, with a supplement filed on September 26, 2014.

On September 3, 2015, petitioner received the assailed FDDA, hence, this appeal *via* a Petition for Review.

The witness further declared that petitioner in this appeal questions the assessment for IT arising from alleged undeclared revenue as determined by the BIR after comparing its revenue subjected to VAT with its revenue as reported in its Income Tax Returns (ITRs), and deemed the difference in the equation as taxable income. The discrepancy however, witness opined, was only due to erroneous encoding, wherein the gross VATable sales/revenues inputted in its electronically filed VAT Return for the 1st Quarter of 2009 did not match with the gross VATable sales/revenues entered in the manual VAT Return for the same period. The correct figure for the relevant period is however easily verifiable from petitioner's monthly and quarterly VAT Returns, ITRs, audited financial statements, worksheet for VAT returns, summary list of sales, and supporting official receipts.

Admittedly, petitioner did not exert any effort to rectify the erroneous entry in the electronically filed VAT Return since the manual VAT Returns reflected the correct amount. Besides, the error was detected only in 2011 during the tax audit conducted against petitioner. The discrepancies discovered were due to timing difference in the recording of the transactions as petitioner used the fiscal year while the BIR third-party sources used the calendar year.

Petitioner refutes the rest of the findings as the items in question were either not subject to tax, or had already been paid. Also some deficiency taxes were based on discrepancies which could be verified through the documents in its possession.

Finally, the imposition of the 50% surcharge in addition to the assessed deficiency IT and VAT was erroneous. The FDDA merely states that 25% and 50% surcharges were imposed pursuant to Section 248 of the NIRC of 1997, as amended, *sans* any explanation thereto.

Katherine O. Constantino, the Court-commissioned ICPA, testified that she examined the pertinent documents in connection with the deficiency tax assessments issued against petitioner. She reduced her findings in the *Final and Consolidated ICPA Report* and *Supplemental ICPA Report* she submitted to the Court on July 22, 2016[17] and August 26, 2016,[18] respectively.

Per her examination, the PAN, FLD, FDDA with attached Details of Discrepancies did not provide sufficient transaction details such as dates, the name of suppliers, amounts involved, invoice amounts, input VAT or EWT amounts, etc., rendering verification of each item in the assessment impossible.

She concurred with witness Anne Mae E. Mangaser that most of the discrepancies noted and served as bases of the assessment were attributable to timing difference in the recording of the transactions.

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[17] Exhibit "P-21", Docket – Vol. II, pp. 655 to 741.
[18] Exhibit "P-55", Docket – Vol. II, pp. 742 to 753.

2014. Since petitioner failed to refute the finding in the PAN, they recommended the issuance of the FLD/FAN *via* Memorandum dated June 13, 2014. The FLD/FAN was issued on June 30, 2014.

Upon their recommendation in the Memorandum dated June 22, 2015, the assailed FDDA was issued and served upon petitioner on September 3, 2015.

Respondent filed his *Formal Offer of Evidence* on November 26, 2018,[23] which the Court resolved in its Resolution dated January 18, 2019.[24]

The case was submitted for decision on April 22, 2019.[25]

THE ISSUES

The following issues were raised by the parties for the resolution of the Court:

> 1. Whether petitioner is liable to pay the aggregate amount of Three Billion Seven Hundred Sixty-Two Million Seven Hundred Ninety-Nine Thousand Five Hundred Sixty-Four Pesos (₱3,762,799,564.00) corresponding to the assessments for deficiency Income Tax, Value Added Tax, Expanded Withholding Tax, Withholding Tax on Compensation, Final Withholding Tax, Documentary Stamp Tax, and compromise penalty for the period ended 30 September 2009, inclusive of increments, based on the details of discrepancies attached to the FDDA.
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> 2. Whether the imposition of the 50% surcharge on the deficiency IT and VAT assessments against petitioner for the period ended 30 September, 2009 is proper.

In addition, petitioner submits the following issue:

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23 Docket – Vol. III, pp. 1572 to 1577.
24 Docket – Vol. III, pp. 1588 to 1589.
25 Resolution dated April 22, 2019, Docket – Vol. III, pp. 1705 to 1707.

> 3. Whether the Assessments are null and void due to the absence of an electronic letter of authority covering the audit investigation against petitioner for the period ended 30 September 2009."[26]

Petitioner's arguments:

Petitioner claims that the assessments issued against it are null and void since no eLOA was issued and served against it. In the absence of the said eLOA, it cannot be legally compelled to pay and made liable for the alleged deficiency IT, VAT, EWT, WTC, FWT, DST, and compromise penalty, for FY ended September 30, 2009, as well as deficiency and delinquency interests. Petitioner as well rejects the imposition of 50% surcharge on its deficiency IT and VAT.

Respondent's counter-arguments:

Respondent contends that since petitioner failed to raise in the administrative proceedings before the BIR the issue of non-issuance and service of an eLOA, it cannot be allowed to raise it for the first time on appeal, thus, the Court may not address the said issue.

Evan granting that the Court may determine the issue of non-service of an eLOA, petitioner's admission that it received a valid LOA issued in accordance with Section 6 of the NIRC of 1997, as amended, cannot be ignored. The assessments being a fruit of a valid tax audit, petitioner is liable to pay the assessed deficiency taxes and compromise penalty together with the corresponding surcharge.

THE RULING OF THE COURT

It is a legal truism that the Court of Tax Appeals (CTA) can resolve issues not raised by the parties in the proceedings below. This is expressly provided under Section 1 Rule 14 of the Revised Rules of the Court of Tax Appeals

[26] Statement of Issues, *JSFI*, Docket – Vol. I, p. 205.

(RRCTA). The relevant portion of the provision reads as follows:

> In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.

Thus, contrary to respondent's claim, the Court has the required authority to rule on the issue not raised or invoked in the administrative proceeding, specifically, the non-issuance of an eLOA which is intrinsically related to the validity of the subject assessments as ruled by the Supreme Court,[27] for there lies the liability of petitioner to pay the assessed amount of Three Billion Seven Hundred Sixty-Two Million Seven Hundred Ninety-Nine Thousand Five Hundred Sixty-Four Pesos (₱3,762,799,564.00) representing its deficiency Income Tax, Value Added Tax, Expanded Withholding Tax, Withholding Tax on Compensation, Final Withholding Tax, Documentary Stamp Tax, and compromise penalty for the period ended 30 September 2009, inclusive of increments. In other words, the Court has the legal competence to inquire into the alleged infirmity in the issuance of the subject assessment against petitioner.

On the matter, it was established that on May 14, 2010, respondent issued LOA-127-2010-00000022, authorizing Revenue Officers (ROs) Ma Salud Maddela, Cletofel Parungao, Myrna Ramirez, Joel Aguila, Allan Maniego, Zenaida Paz, and Group Supervisor (GS) Glorializa Samoy to validate petitioner's books of account and other accounting record for FY ended September 30, 2009.[28]

In the Letter dated June 13, 2014, ROs Allan M. Maniego and Joel M. Aguila recommended the issuance assessment against petitioner for deficiency IT, VAT, EWT, WTC, FWT, DST, and compromise penalties for FY ended September 30, 2009 be issued against petitioner.[29] Since investigating ROs were armed with the required authority to

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27 *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.* G.R. No. 183408, July 12, 2017.
28 Exhibit R-1, BIR Record, p. 2.
29 Exhibit R-12, BIR Record, p. 1643.

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conduct tax audit by virtue of LOA-127-2010-00000022 dated May 14, 2010, no improper or illegal examination for FY ended September 30, 2009 was committed by respondent's agents against petitioner.

It is therefore incorrect for petitioner to claim that the absence of an eLOA, despite issuance and proper service of a valid LOA invalidated the assailed assessments. Note that Section 13 of the NIRC, as amended, merely requires a valid LOA emanating from respondent or his authorized representative for the investigating ROs to legally commence tax examination against the taxpayer,[30] thus:

> SEC. 13. Authority of a Revenue Officer.- Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Revenue Regional Director himself.

An LOA is defined as a notice to the taxpayer that it is under investigation for possible deficiency tax assessment[31]; at the same time it authorizes or empowers a designated revenue officer to examine, verify, and scrutinize a taxpayer's books and records, in relation to internal revenue tax liabilities for a *particular period.*[32] Contrariwise, the absence of such an authority renders the assessment or examination a patent nullity.[33]

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30 *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.,* G.R. No. 183408, July 12, 2017; *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 222743, April 5, 2017; and *Commissioner of Internal Revenue vs. Sony Philippines, Inc.,* G.R. No. 178697, November 17, 2010.

31 See *Commissioner of Internal Revenue vs. De La Salle University, Inc.,* G.R. No. 196596, November 9, 2016.

32 *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.,* G.R. No. 183408, July 12, 2017. Italics in the original.

33 See *Commissioner of Internal Revenue vs. Sony Philippines, Inc.,* G.R. No. 178697, November 17, 2010.

Thus, standing alone, the absence of an eLOA did not invalidate the subject assessments issued by respondent against petitioner. After all, the objective of proper notice was achieved through the issuance of LOA-127-2010-00000022 dated May 14, 2010 and receipt thereof by petitioner.

Still on the validity or invalidity of the subject assessments, Section 228 of the NIRC, as amended, requires that a taxpayer be informed in writing of the law and the facts on which the assessment is made, otherwise, the assessment shall be void. The use of the word "shall" in the provisions indicates the mandatory nature of the requirements laid down therein.[34] The requirement is substantive and not a mere formality. Providing the taxpayer with the factual and legal bases for the assessment is crucial before proceeding with tax collection. Tax collection should be premised on a valid assessment, which would allow the taxpayer to present his or her case and produce evidence for substantiation.[35]

An assessment, in the context of the National Internal Revenue Code, is a "written notice and demand made by respondent on the taxpayer for the settlement of a due tax liability that is there definitely set and fixed."[36]

The term "assessment" refers to the determination of amounts due from a person obligated to make payments.[37] In the context in which it is used in the NIRC, an assessment is a written notice and demand made by the BIR on the taxpayer for the settlement of a due tax liability that is there definitely set and fixed.[38] It must contain not only a computation of tax liabilities, but also a demand for payment within a prescribed period,[39] the purpose of which is to

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[34] *Commissioner of Internal Revenue vs. United Salvage and Towage (Phils.), Inc.,* G.R. No. 197515, July 02, 2014.

[35] *Commissioner of Internal Revenue vs. Fitness By Design, Inc.,* G.R. No. 215957, November 9, 2016.

[36] *Id.*

[37] See *SMI-ED Phil. Technology, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 175410, November 12, 2014.

[38] *Adamson vs. Court of Appeals,* G.R. No. 120935, May 21, 2009.

[39] *Commissioner of Internal Revenue vs. Pascor Realty and Development Corporation,* G.R. No. 128315, June 29, 1999.

determine the amount that a taxpayer is liable to pay.[40] In reverse, an assessment which failed to include a due date or a fixed and determinate amount of tax liability is *not* an assessment contemplated by Tax Code and related jurisprudence.

A valid formal assessment contains not only a computation of tax liabilities but also a demand for payment within a prescribed period, thereby signaling the time when penalties and interests begin to accrue against the taxpayer and enabling the latter to determine his remedies therefor.[41]

A final assessment notice provides for the amount of tax due with a demand for payment on a day certain. This substantive requirement is mandated to aid the taxpayer in making a reasonable protest. To immediately ensue with tax collection without initially substantiating a valid assessment contravenes the principle in administrative investigations "that taxpayers should be able to present their case and adduce supporting evidence."[42]

Based on the foregoing, a valid written assessment must contain a fixed amount of tax liability with a demand for payment within a prescribed period or on a day certain.

The FLD issued in the instant case states: "In view thereof, you are requested to pay your aforesaid deficiency tax liabilities through eFPS using BIR Payment Form (BIR Form 0605) within the time shown in the enclosed assessment notice."[43]

However, the enclosed Assessment Notices alluded to did not indicate the due dates for payment in the space provided,[44] negating compliance with the requirement that the formal written assessment must contain a demand for payment within a prescribed period.

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40 See *Tupaz vs. Hon. Ulep,* G.R. No. 127777, October 1, 1999.
41 *Commissioner of Internal Revenue vs. Dominador Menguito*, G.R. No. 167560, September 17, 2008.
42 *Commissioner of Internal Revenue vs. Fitness By Design, Inc.,* G.R. No. 215957, November 9, 2016.
43 Exhibit "R-13", BIR Records, p. 1664.
44 Exhibit "R-14", BIR Records, pp. 1644 to 1650.

The FLD also states - "Please note that the interest and the total amount due will have to be adjusted if paid beyond July 9, 2014."[45]

The FLD does not also show the exact amount of tax liability that petitioner is obligated to pay. While the FLD provides for the computations of petitioner's tax liability, the amount remains indefinite, since the said tax assessment is still subject to modification or adjustment, depending on the date of payment by petitioner.

Given that there was failure to state a date certain for the payment of the deficiency taxes in the subject assessments, as well as to provide a definite amount of taxes to be paid, petitioner's obligation for payment of the alleged deficiency taxes in the subject assessment is not deemed to have legally accrued. Simply put, petitioner may not be adjudged to account for deficiency taxes which in the first place are not legally demandable.[46]

The same inadequacies are present in the FDDA, which contained the following statements:

1. "Please note that the interest and the total amount due will have to be adjusted if paid beyond July 31, 2015."[47]

2. "It is requested that your aforesaid deficiency tax/taxes be paid immediately upon receipt hereof, inclusive of penalties."[48]

As with the FLD, the enclosed Assessment Notice/s to the FDDA did not indicate the due date for payment,[49] negating respondent's compliance with the requisite demand for payment within a prescribed period. While the FDDA

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[45] Exhibit "R-13", BIR Records, p. 1665.
[46] *Commissioner of Internal Revenue vs. Megabucks Merchandising Corp.*, CTA EB No. 1974 (CTA Case No. 9345), February 12, 2020.
[47] Exhibit "P-11", Docket - Vol. III, p. 1275.
[48] Exhibit "P-11", Docket - Vol. III, p. 1276.
[49] Exhibit "P-11", Docket - Vol. III, pp. 1292 to 1298.

stated that the payment of deficiency taxes contained therein shall be made immediately upon receipt by petitioner, it nevertheless failed to provide the exact amount of tax liability, which will still be adjusted depending on the time of payment made.

On account of these infirmities in both the FLD and FDDA, the subject assessments are void for failure to comply with the due process requirements of a valid assessment under the NIRC, as amended.

Jurisprudence has it that taxpayers must be informed in writing of the law and the facts upon which a tax assessment is based; otherwise, the assessment is void,[50] as declared in the case of *Commissioner of Internal Revenue vs. Fitness by Design, Inc.,*[51] the Supreme Court struck down the assessments therein for respondent's failure to provide corresponding due dates in the assessment notices, as well as lack of a fixed and determinate amount of tax liability, *viz.*:

> The disputed Final Assessment Notice is not a valid assessment.
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> First, it lacks the definite amount of tax liability for which respondent is accountable. It does not purport to be a demand for payment of tax due, which a final assessment notice should supposedly be. An assessment, in the context of the National Internal Revenue Code, is a "written notice and demand made by the [Bureau of Internal Revenue] on the taxpayer for the settlement of a due tax liability that is there: definitely set and fixed." Although the disputed notice provides for the computations of respondent's tax liability, the amount remains indefinite. It only provides that the tax due is still subject to modification, depending on the date of payment. Thus:
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>> The complete details covering the aforementioned discrepancies established during the investigation of this case are shown in the accompanying Annex 1 of this Notice. The 50% surcharge and 20% interest have been imposed pursuant to Sections 248 and

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[50] *Commissioner of Internal Revenue vs. Reyes*, G.R. No. 159694, January 27, 2006.

[51] G.R. No. 215957, November 9, 2016.

> 249 (B) of the [National Internal Revenue Code], as amended. Please note, *however, that the interest and the total amount due will have to be adjusted if prior or beyond April 15, 2004*. (Emphasis Supplied)

Second, there are no due dates in the Final Assessment Notice. This negates petitioner's demand for payment. Petitioner's contention that April 15, 2004 should be regarded as the actual due date cannot be accepted. The last paragraph of the Final Assessment Notice states that the due dates for payment were supposedly reflected in the attached assessment:

> In view thereof, you are *requested to pay* your aforesaid deficiency internal revenue tax liabilities through the duly authorized agent bank in which you are enrolled *within the time shown in the enclosed assessment notice.* (Emphasis in the original)

However, based on the findings of the Court of Tax Appeals First Division, the enclosed assessment pertained to remained unaccomplished.

Tax laws are civil in nature. Under our Civil Code, acts executed against the mandatory provisions of law are void, except when the law itself authorizes the validity of those acts. Failure to comply with Section 228 of the NIRC, as amended does not only render the assessment void, but also finds no validation in any provision in the Tax Code. We cannot condone errant or enterprising tax officials, as they are expected to be vigilant and law-abiding.[52]

WHEREFORE, the instant *Petition for Review* is hereby **GRANTED**. Accordingly, the assessments against petitioner for deficiency income tax, VAT, EWT, WTC, FWT, and DST, in the aggregate amount of ₱3,762,799,564.00, inclusive of penalties and increments, for fiscal year ended September 30, 2009, are **CANCELLED and SET ASIDE**.

SO ORDERED.

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[52] *Commissioner of Internal Revenue vs. Reyes,* G.R. No. 159694, January 27, 2006.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

(With Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

ROBINSONS LAND CORPORATION, *Petitioner,*	**CTA CASE NO. 9163**
	Members:
-versus-	**DEL ROSARIO**, *P.J., Chairperson,* **FABON-VICTORINO**, *and* **MANAHAN**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 09 2020 8:00am

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CONCURRING OPINION

I concur in the grant of the Petition for Review and the cancellation and setting aside of the Formal Letter of Demand dated June 27, 2014, with attached Assessment Notices, issued against petitioner assessing it for deficiency taxes for the fiscal year ending September 30, 2009 ***solely*** on the ground that the aforesaid Formal Letter of Demand and Assessment Notices are void for their **failure to demand payment of the tax due within a specific period**

A final assessment notice must not only indicate the legal and factual bases of the assessment **but must also state a clear and categorical demand for payment of the computed tax liabilities within a specific period.**[1] Absent a valid demand, as in this case, the Formal Letter of Demand and Assessment Notices are fatally infirm. Being void assessments, they bear no fruit[2] and must be slain at sight.

All told, I *CONCUR* in the result.

ROMAN G. DEL ROSARIO
Presiding Justice

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[1] *Commissioner of Internal Revenue vs. Fitness By Design,* G.R. No. 215957, November 9, 2016.
[2] *Commissioner of Internal Revenue vs. Metro Star Superama, Inc.,* G.R. No. 185371, December 8, 2010.