REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Second Division

AEON CREDIT SERVICE (PHILIPPINES), INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10373

Members:

RINGPIS-LIBAN, *Chairperson*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:
APR 2 0 2025 9:29 Am

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RESOLUTION

RINGPIS-LIBAN, J.:

Before this Court is respondent's **Motion for Reconsideration (Decision dated December 13, 2024)** filed on January 17, 2025, with petitioner's **Comment/Opposition (To Respondent's Motion for Reconsideration dated 16 January 2025)** filed through licensed courier service on February 3, 2025, and received by the Court on February 4, 2025.

On December 13, 2024, the Court promulgated a Decision cancelling respondent's deficiency income tax, percentage tax, expanded withholding tax ("EWT"), withholding tax on compensation ("WTC"), documentary stamp tax ("DST") assessments, and compromise penalties for taxable year 2016, for violating petitioner's right to due process of law, the dispositive portion of which states as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**. Accordingly, the Assessments Notices and Formal Letter of Demand dated December 23, 2019, assessing petitioner for deficiency income tax, percentage tax, EWT, WTC, DST and compromise penalties for

calendar year 2016, in the aggregate amount of Php38,157,633.01, is **CANCELLED** and **SET ASIDE.**

SO ORDERED."

In his Motion, respondent argues that the Court erred in ruling that the subject tax assessments are void when he did not inform petitioner of the reasons for the denial of its *Reply to Preliminary Assessment Notice for Taxable Year 2016 ("Reply to the PAN")* filed on December 23, 2019. Respondent avers that he is not mandated to respond to petitioner's *Reply to PAN* since he may opt to issue instead the *Formal Letter of Demand/Final Assessment Notice ("FLD/FAN")* within fifteen (15) days from the filling of petitioner's *Reply to PAN*. Respondent continues that the fact that he did not respond to the *Reply to PAN* does not automatically equate to violation of due process considering that the facts and the law for the basis of the outcome of the assessment were explained in the in the Details of Discrepancies attached to the PAN, and a response to the *Reply to PAN* would not have changed the outcome of the assessment had it been done.

On the other hand, in its Comment, petitioner points out that it was not respondent's failure to respond to the *Reply to PAN* that is indicative of his violation of petitioner's right to due process, but rather his hasty issuance of the FAN/FLD dated December 23, 2019 merely a week after petitioner filed its Reply to PAN. Petitioner further asserts that a simple comparison of the PAN and the FAN/FLD reveals that respondent simply reiterated its findings in the PAN and the only difference in the amounts indicated in both PAN and FAN/FLD is attributable to adjustments for interest due from December 13, 2019 to January 13, 2020. Petitioner submits that it appears respondent has forgotten or has disregarded the well-entrenched principle that the PAN (along with the Notice of Informal Conference that precedes it) is an integral part of the taxpayer's right to due process, as it gives both the taxpayer and the Bureau of Internal Revenue ("BIR") the opportunity to settle the case at the earliest possible time.

After due consideration, the Court finds respondent's Motion for Reconsideration bereft of merit.

With emphasis, the Commissioner of Internal Revenue ("CIR")'s ample powers under the tax code should be exercised with due regard to the taxpayer's constitutional rights. Administrative due process is anchored on fairness and equity in procedure. It is satisfied if the party is properly notified of the charge against it and is given a fair and reasonable opportunity to explain or defend itself. Moreover, it demands that the party's defenses be considered by the administrative body in making its conclusions, and that the party be sufficiently informed of the reasons for its conclusions.[1] Simply put, when respondent rejects the taxpayer's explanations, he must give some reason for doing so, giving the

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[1] *Commissioner of Internal Revenue v. Unioil Corporation*, G.R. No. 204405, August 04, 2021.

particular facts upon which his conclusions are based, and those facts must appear in the record.

To reiterate, the Supreme Court held in the case of *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*,[2] that the BIR violated its own procedures by refusing to answer or even acknowledge the submitted Reply and Protest made by the taxpayer, to wit:

> "**The facts demonstrate that Avon was deprived of due process. It was not fully apprised of the legal and factual bases of the assessments issued against it.** The Details of Discrepancy attached to the Preliminary Assessment Notice, as well as **the Formal Letter of Demand with the Final Assessment Notices, did not even comment or address the defenses and documents submitted by Avon.** Thus, Avon was left unaware on how the Commissioner or her authorized representatives appreciated the explanations or defenses raised in connection with the assessments. There was clear inaction of the Commissioner at every stage of the proceedings.
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> First, despite Avon's submission of its Reply, together with supporting documents, to the revenue examiners' initial audit findings, and its explanation during the informal conference, the Preliminary Assessment Notice was issued. The Preliminary Assessment Notice reiterated the same audit findings, except for the alleged under-declared sales which ballooned in amount from ₱15,700,000.00 to ₱62,900,000.00, without any discussion or explanation on the merits of Avon's explanations.
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> Upon receipt of the Preliminary Assessment Notice, Avon submitted its protest letter and supporting documents, and even met with revenue examiners to explain. **Nonetheless, the Bureau of Internal Revenue issued the Final Letter of Demand and Final Assessment Notices, merely reiterating the assessments in the Preliminary Assessment Notice. There was no comment whatsoever on the matters raised by Avon, or discussion of the Bureau of Internal Revenue's findings in a manner that Avon may know the various issues involved and the reasons for the assessments.**
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> Under the Bureau of Internal Revenue's own procedures, the taxpayer is required to respond to the Notice of Informal Conference and to the Preliminary Assessment Notice within 15 days from receipt. Despite Avon's timely submission of a Reply to the Notice of Informal Conference and protest to the Preliminary Assessment Notice, together with supporting documents, **the**

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[2] G.R. Nos. 201398-99 & 201418-19, October 3, 2018.

> **Commissioner and her agents violated their own procedures by refusing to answer or even acknowledge the submitted Reply and protest.**
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> **It is true that the Commissioner is not obliged to accept the taxpayer's explanations**, as explained by the Court of Tax Appeals. **However, when he or she rejects these explanations, he or she must give some reason for doing so. He or she must give the particular facts upon which his or her conclusion are based, and those facts must appear in the record.**
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> x x x
>
> **The Commissioner's total disregard of due process rendered the identical Preliminary Assessment Notice, Final Assessment Notices,** and Collection Letter **null and void, and of no force and effect.**"[3]

From the above, the CIR is clearly required to comment on the matters raised by taxpayer in its protest and discuss the BIR's findings in a manner that the taxpayer may know the various issues involved and the reasons for the assessments. The Commissioner, in exercising his power to assess and collect taxes if owed, ought to give due consideration to the arguments and evidence submitted by the affected party.

Herein, the Details of Discrepancies attached to the FLD merely reiterated or copied *verbatim* what are indicated in the Details of Discrepancies attached to the PAN. In other words, the BIR merely reiterated the same findings stated in the PAN, without giving any reason for rejecting the refutations and explanations made by petitioner in its Reply to the PAN dated December 13, 2019 – an indication that the BIR did not consider the same when it issued the subject FLD. Consequently, petitioner was left unaware on how the BIR appreciated the explanations or defenses it raised against the subject PAN, a clear violation of its right to administrative due process.

Perforce, while taxes are the lifeblood of government and should be collected without hindrance, the collection of taxes however should be exercised reasonably in accordance with law and with their own rules of procedure, and always with regard to the basic tenets of due process. Tax assessments issued in violation of the due process rights of a taxpayer are null and void.[4]

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3 *Emphasis supplied.*

4 *See Commissioner of Internal Revenue v. Algue, Inc., et al.,* G.R. No. L-28896 February 17, 1988.

In view of the foregoing disquisitions, the Court finds no compelling reason to reverse or amend the Decision promulgated on December 13, 2024.

WHEREFORE, premises considered, respondent's Motion for Reconsideration (Decision dated December 13, 2024) is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RIGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO SAN-PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice