REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

EPERFORMAX CONTACT CENTERS (CEBU) CORP.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10572

Members:

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

Promulgated:

4:27 pm

x - x

RESOLUTION

FERRER-FLORES, J.:

Submitted before this Court is respondent's **Motion for Reconsideration (Re: Decision dated 9 September 2025)** filed on October 2, 2025, with petitioner's **Comment (to the Motion for Reconsideration dated 9 September 2025)** filed on December 23, 2025.

On September 9, 2025, the Court promulgated a Decision setting aside respondent's deficiency income tax, withholding tax on compensation (WTC), expanded withholding tax (EWT), final withholding tax (FWT), documentary stamp tax (DST) assessments, plus interest and surcharges, against petitioner for taxable year (TY) 2016, for violating its right to due process of law, the dispositive portion of which reads as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present **Petition for Review** is **GRANTED**.
>
> Accordingly, the FLD and the attached Assessment Notices, all dated November 11, 2019, assessing petitioner for deficiency taxes for taxable year 2016, are declared **NULL** and **VOID**. Furthermore, the undated FDDA and the attached Assessment Notices, assessing petitioner, for deficiency income tax, WTC, EWT, FWT, and DST for taxable year

2016, in the total amount of **₱49,585,840.75**, inclusive of surcharges, interests, and compromise penalties, are **REVERSED** and **SET ASIDE**.

SO ORDERED.

In his *Motion*, respondent asserts that the Assessment Notices against petitioner are valid and were issued in accordance with the National Internal Revenue Code (NIRC) of 1997, as amended, and the pertinent rules and regulations. He maintains that the Formal Letter of Demand and Final Assessment Notices (FLD/FAN) dated November 11, 2019[1] and the Final Decision on Disputed Assessment (FDDA),[2] categorically stated and definitely fixed petitioner's deficiency tax liabilities. Respondent maintains that the phrase "please take note that the interest will have to be adjusted if paid beyond the date specified therein" in the FLD and FDDA simply means that interest will be adjusted if petitioner fails to pay within the due date specified in the FAN. He emphasizes that tax obligations, being imposed by law, are demandable without need of further notice. Thus, respondent argues that, similar to the 30-day reglementary period for protesting a deficiency assessment, no specific demand to pay is required. Failure to pay within the prescribed period renders the assessment final, executory, and demandable by operation of law. Likewise, upon receipt of the FDDA, the taxpayer has 30 days to either pay the deficiency assessment or elevate the case to the Court of Tax Appeals.

Respondent further contends that mere reiteration in the FLD/FAN of the items indicated in the details of discrepancies in the Preliminary Assessment Notice (PAN)[3] does not necessarily imply that the Bureau of Internal Revenue (BIR) did not consider the factual and legal matters stated in petitioner's Reply to the PAN. Respondent avers that when a legal basis is clear and well-established, further explanation or elaboration may be considered unnecessary, especially if restating it in greater detail might be seen as redundant and can detract from overall focus. Thus, respondent maintains that he is not barred from retaining his assessment if he finds that the arguments propounded by a taxpayer are inadequate and the reasoning do not rely on sound accounting and legal principles, statutes or precedents.

On the other hand, in its *Comment*, petitioner claims that the present *Motion* should be denied for being mere reiteration of the arguments which have already been exhaustively discussed and ruled upon by the Court. Petitioner reiterates the Court's finding that a simple look at both PAN and FLD/FAN would disprove respondent's argument that they contained a fixed and definite amount of tax liability. Petitioner argues that although both the FLD/FAN and FDDA contains computations of petitioner's tax liability, the

---

[1] Exhibit "P-11", Docket – Vol. II, pp. 741 to 755; Exhibits "R-8" to "R-8-F", BIR Records, pp. 330 to 345.
[2] Exhibits "P-14" and "R-10" to "R-10-F", BIR Records, pp. 875 to 888.
[3] Exhibit "P-9", Docket – Vol. II, pp. 719 to 727; Exhibit "R-6", BIR Records, pp. 283 to 291.

amount therein remains indefinite and that the due date required to be indicated in the FAN was left blank – as confirmed by respondent's witness, Revenue Officer Joyce Amor Molina, during her cross-examination on April 16, 2024.

Lastly, petitioner contends that the 30-day period to protest an assessment under the law does not mean that the BIR can dispense with the obligation to indicate a due date therein by operation of law. Petitioner submits that, as borne by the evidence on record, respondent did not comply with administrative due process, as he failed to take into account any of its arguments despite submitting valid justifications, supporting documents and reconciliations during the administrative proceedings.

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

Verily, Section 228 of the NIRC of 1997,[4] as amended, explicitly requires that the taxpayer be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void. The requirement that the taxpayer must be informed of the factual and legal bases of the assessment is mandatory. It cannot be presumed.[5] Corollary, an assessment contains not only a computation of tax liabilities, but also a demand for payment within a prescribed period.[6] It includes a demand for the settlement of a tax liability that is definite and fixed, within a specified period. The absence of such demand renders the assessment invalid.

In the case of *Commissioner of Internal Revenue vs. Fitness By Design, Inc.*,[7] the Supreme Court emphasizes that the FAN is not valid if it does not contain a definite due date for payment by the taxpayer as this demand for payment signals the time when penalties and interests begin to accrue against the taxpayer and enabling the latter to determine his remedies, to wit:

> **The disputed Final Assessment Notice is not a valid assessment.**
>
> 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

---

[4] Section 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: x x x

The taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void. x x x

[5] *Commissioner of Internal Revenue v. Spouses Remigio P. Magaan and Leticia L. Magaan,* G.R. No. 232663, May 3, 2021.

[6] *Commissioner of Internal Revenue v. Pascor Realty and Development Corporation, et al.,* G.R. No. 128315, June 29, 1999

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

> 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:
>
>> 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 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**.
>
> Contrary to petitioner's view, **April 15, 2004 was the reckoning date of accrual of penalties and surcharges and not the due date for payment of tax liabilities. The total amount depended upon when respondent decides to pay. The notice, therefore, did not contain a definite and actual demand to pay**. *(Emphases supplied)*

Herein, as in the above quoted case, the FLD dated November 11, 2019 states in part: "***please take note that the interest will have to be adjusted if paid beyond <u>the date specified therein</u>***." The Assessment Notices accompanying the said FLD, however, conspicuously left blank the space where the due dates should have been indicated. Consequently, the FLD was vague. The indefiniteness in the amount being assessed becomes amplified by the failure to indicate the due dates when the subject deficiency taxes must be paid. This omission means there was no proper and valid demand within a specific period, as mandated by the NIRC of 1997, as amended, and its corresponding rules and regulations. Thus, petitioner cannot be adjudged liable for deficiency taxes which in the first place are not legally demandable.

Similarly, the FDDA does not likewise indicate a valid due date for payment. The due date reflected in the attached assessment notices in its Details of Discrepancies is "October 31, 2020", although the same was only received by petitioner on June 3, 2021. Clearly, the prescribed period stated therein for the payment of the deficiency taxes already lapsed when petitioner received the FDDA, thereby making it impossible for petitioner to comply with, hence, the said due date is deemed invalid.

The Court likewise finds respondent's argument, that no further demand is needed since obligations arising from law, such as paying taxes, are established by law, the Court finds respondent's argument as misplaced.

Again, to implement the Section 228 of the NIRC of 1997, as amended, the BIR issued Revenue Regulations (RR) No. 12-1999,[8] as amended by RR No. 18-2013[9] and 7-2018[10], which essentially states that the Commissioner of Internal Revenue (CIR) is required to inform the taxpayer of the factual and legal bases of the deficiency tax assessment, provide him or her the opportunity to protest his or her case and adduce supporting evidence thereof, and that **in case the protest is denied in whole or in part the CIR must state, among others, the facts and the law on which the denial is based.**

As discussed in the assailed Decision, part of the due process requirement in the issuance of tax assessments is that the PAN, FLD/FAN and FDDA must, respectively, state, among others, the facts and the law on which the assessment is based, otherwise, they shall be void. Due process further requires the BIR to consider the defenses and evidence submitted by the taxpayer and to render a decision based on these submissions. More importantly, when respondent rejects the taxpayer's explanations, he must give some reason for doing so and the particular facts and law upon which his conclusion are based, and those facts must appear in the record. As a corollary, the concerned taxpayer must *not* be left unaware on how the respondent or his duly authorized representatives appreciated the explanations or defenses raised in connection with the assessment.

Here, the PAN dated July 18, 2019, found petitioner liable for deficiency income tax, WTC, EWT, FWT, and DST, in the total basic amount of ₱96,876,116.63. In its Reply to the PAN, petitioner laid out

---

8 SUBJECT: 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, dated September 6, 1999.

9 SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, dated November 28, 2013.

10 SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99, as Amended by Revenue Regulations No. 18-13, Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, dated February 5, 2018.

arguments and defenses against the deficiency taxes assessed by the BIR. The Court, however, observed that the FLD/FAN dated November 11, 2019, assessed petitioner with the same exact basic deficiency tax in the amount of ₱96,876,116.64, and notably, only the total interest was updated to ₱38,496,657.48, thereby bringing the total amount due to ₱138,424,753.54. Furthermore, the BIR also did not address any of the explanations advanced by petitioner in its reply to the PAN — an indication that the BIR did not consider the same when it issued the subject FLD. In fact, the Details of Discrepancies attached to the FLD were merely copied verbatim from the Details of Discrepancies that was attached to the PAN. The only difference is that respondent replaced the term "5% Preferential Tax" with "5% Final Tax" and added a section on miscellaneous taxes/compromise penalties.

Additionally, assuming that respondent found the arguments propounded petitioner as inadequate and insufficient to overturn the deficiency assessment findings, the fact still remains that respondent did not comment or address the defenses raised by petitioner. In the case of *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., et seq.,*[11] the Supreme Court reiterates that administrative due process is anchored on fairness and equity in procedure. It requires the BIR to consider the defenses and evidence submitted by the taxpayer and to render a decision based on these submissions. While it is true that the BIR is not obliged to accept the taxpayer's explanations, it must, however, give some reason for rejecting the said explanations and the particular facts and law upon which its conclusions are based, and those facts must appear in the record. Failure to adhere to these requirements constitutes a denial of due process and taints the administrative proceedings with invalidity.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by the respondent in his *Motion for Reconsideration*, the Court finds no compelling reason to reverse or modify the conclusions reached in the Decision promulgated on September 9, 2025.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration (Re: Decision dated 9 September 2025)** dated September 23, 2025 is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

[11] G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice