

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

DIZON FARMS PRODUCE, INC.,
Petitioner,

CTA EB No. 2516
(CTA Case No. 9711)

-versus-

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

X-----X

COMMISSIONER OF
INTERNAL REVENUE,
Petitioner,

CTA EB No. 2521
(CTA Case No. 9711)

Present:

-versus-

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

DIZON FARMS PRODUCE, INC.,
Respondent.

Promulgated:

AUG 01 2023

X-----X

DECISION

REYES-FAJARDO, J.:

THE CASE

Before the Court En Banc (the “Court”) are appeals from the Decision promulgated on January 5, 2021 (the “assailed Decision”)¹ and Resolution promulgated on July 8, 2021 (the “assailed Resolution”),² by the Third Division of this Court (the “Court in Division”) in the case entitled “Dizon Farms Produce, Inc. vs. Commissioner of Internal Revenue,” docketed as CTA Case No. 9711.

The assailed Decision cancelled and set aside the Final Assessment Notice (“FAN”) and Assessment Notices Nos. IT-ELA36515-13-17-097, for income tax; VT-ELA36515-13-17-097, for value-added tax (“VAT”); WE-ELA36515-13-17-097, for expanded withholding tax (“EWT”); IE-ELA36515-13-17-097, for improperly accumulated earnings tax (“IAET”); and MC-ELA36515-13-17-097, for compromise penalty, all dated January 05, 2017, (hereinafter collectively referred to as “Assessment Notices”) assessed by the Commissioner of Internal Revenue (hereinafter referred to as “CIR”) against Dizon Farms Produce, Inc. (hereinafter referred to as “DFPI”) for taxable year (“TY”) 2013, in the aggregate amount of ₱56,112,075.48 for being void.

The assailed Decision likewise ordered DFPI to pay the deficiency documentary stamp tax (“DST”) in the amount of ₱1,053,918.16, inclusive of the twenty-five percent (25%) surcharge, twenty percent (20%) deficiency interest, and twenty percent (20%) delinquency interest imposed thereon under Sections 248(A)(3), 249(B) and (C) of the National Internal Revenue Code (“NIRC”) of 1997, as amended, computed until December 31, 2017, as well as the delinquency interest at the rate of twelve percent (12%) on the total amount due as of February 6, 2017, computed from January 1, 2018 until full payment thereof, pursuant to Section 249(C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (“TRAIN”) Law, and as implemented by Revenue Regulations (“Rev. Regs.”) No. 21-2018.³

¹ Decision, EB 2516, Docket – pp. 31 to 57; EB 2521, Docket – pp. 22 to 48.

² Resolution, EB 2516, Docket – pp. 58 to 68; EB 2521, Docket – pp. 50 to 60.

³ Decision, EB 2516, Docket – pp. 55 to 56; EB 2521, Docket – pp. 46 to 47.

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The assailed Resolution, on the other hand, denied DFPI's Motion for Partial Reconsideration⁴ and the CIR's Motion for Reconsideration (of the Decision dated 05 January 2021),⁵ both for lack of merit.⁶

THE PARTIES

DFPI is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office at 91-A, Bagsakan Road, FTI Complex, Western Bicutan, Taguig City.⁷

The CIR is vested by law with the authority to carry out the functions, duties and responsibilities of the Bureau of Internal Revenue ("BIR"), including, *inter alia*, the power to decide disputed assessments, grant tax refunds and issue tax credit certificates, pursuant to the provisions of the NIRC of 1997, as amended, and other tax laws, rules and regulations.⁸

THE FACTS

The facts, as found by the Court in Division, are as follows:

On December 19, 2016, DFPI received the Preliminary Assessment Notice ("PAN") dated December 16, 2016, representing deficiency income tax, VAT, EWT, DST, and IAET assessments for TY 2013. On January 3, 2017, DFPI filed a Protest Letter against the PAN.

On January 13, 2017, DFPI received the FAN and Assessment Notices, all dated January 5, 2017, representing the same deficiency tax assessments in the aggregate amount of ₱56,829,954.37, for TY 2013. On February 9, 2017, DFPI filed a Protest Letter dated February 8, 2017 against said FAN and Assessment Notices.

⁴ CTA Case No. 9711, Docket, Volume 2 – pp. 654 to 659.

⁵ CTA Case No. 9711, Docket, Volume 2 – pp. 662 to 678.

⁶ Resolution, EB 2516, Docket – p. 68; EB 2521, Docket – p. 60.

⁷ Petition for Review, EB 2516, Docket – p. 17.

⁸ *Id.*

On April 10, 2017, DFPI reiterated its Protest and submitted all the necessary and relevant documents in support of its Protest against the FAN, in compliance with the sixty (60)-day period within which to submit supporting documents provided under Section 228 of the NIRC of 1997, as amended. The BIR did not act upon the DFPI Protest against the FAN even after the lapse of the one hundred eighty (180) day period provided under the NIRC of 1997, as amended.

Therefore, on November 6, 2017, DFPI filed a Petition for Review. The same was originally raffled to the First Division of this Court. On January 19, 2018, the CIR filed an Answer with special and affirmative defenses and transmitted the BIR Records of case.

On March 22, 2018, the Pre-Trial Conference was held. On April 11, 2018, the parties submitted their Joint Stipulation of Facts and Issues which was approved in a Resolution dated April 18, 2018. On June 4, 2018, the Pre-Trial Order was issued.

Trial ensued.

During trial, DFPI presented documentary and testimonial evidence. DFPI offered the testimonies of its witnesses, namely: (1) Ms. Rosalie S. Tanguanco, DFPI's authorized representative for tax and financial matters; and (2) Mr. Gil C. Bermudez, the Court-commissioned Independent Certified Public Accountant ("ICPA"), who filed his ICPA Report on July 30, 2018.

On September 27, 2018, the case was transferred to this Court's Third Division.

On November 5, 2018, DFPI filed a Motion to Admit Formal Offer of Evidence ("FOE"). On November 29, 2018, the CIR submitted a Comment to DFPI's FOE. On January 29, 2019, the Court in Division admitted DFPI's exhibits.

The CIR also presented documentary and testimonial evidence. The CIR offered the testimony of Mr. Melvin Raymund A. Villanueva, a Revenue Officer of the BIR.

On June 24, 2019, the CIR filed a FOE with Leave of Court for Manifestation/Motion to Correct of Clerical Error. On June 26, 2019, DFPI filed a Comment. In the Resolution dated August 20, 2019, the Court in Division set the CIR's Motion to Correct of Clerical Error for hearing and held in abeyance the resolution of the CIR's FOE.

On September 27, 2019, the CIR filed a Compliance/Manifestation with Submission, praying that the Court in Division admit the Amended Judicial Affidavit of Mr. Melvin A. Valenzuela, as part of the records of the case.

During the hearing held on October 2, 2019, the Court in Division admitted the CIR's Compliance/Manifestation with attached Amended Judicial Affidavit of Mr. Melvin A. Valenzuela. The CIR's counsel then recalled to the witness stand Mr. Melvin A. Valenzuela, who testified on direct examination by way of his Amended Judicial Affidavit. Upon motion of the CIR's counsel, the Court in Division ordered expunged from the records of this case the original Affidavit executed on March 15, 2018 of a certain Melvin Raymund A. Villanueva. The Court in Division also granted the CIR's motion to change the surname of "Villanueva" to "Valenzuela" as appearing in the CIR's FOE and submitted for resolution the CIR's FOE with DFPI's comment thereto.

Subsequently, in the Resolution dated November 7, 2019, the Court in Division admitted the CIR's exhibits, except for Exhibit "R-10".

Thereafter, both parties filed their respective Memorandum. On January 9, 2020, the case was deemed submitted for decision.

Yet, on July 30, 2020, DFPI filed a Motion to Admit Supplemental Memorandum (with leave of Court), attaching therewith a Supplemental Memorandum. In the Resolution dated

September 15, 2020, the Court in Division ordered the CIR to comment on the said Motion to Admit.

On November 6, 2020, the CIR filed a Motion for Additional of Time to File Comment, praying for an extension of fifteen (15) days from October 27, 2020, or until November 11, 2020, within which to file a comment. Thus, on November 11, 2020, the CIR filed a Comment to the Motion to Admit Supplemental Memorandum.

On November 26, 2020, the Court in Division granted DFPI's Motion to Admit Supplemental Memorandum and CIR's Motion for Additional of Time to File Comment, and admitted the Supplemental Memorandum for DFPI.

On January 5, 2021, the Court in Division promulgated the assailed Decision partially granting DFPI's Petition for Review. The dispositive portion of said assailed Decision reads:⁹

WHEREFORE, in light of the foregoing considerations, the instant Petition for Review is **PARTIALLY GRANTED**.

Accordingly, the FAN and Assessment Notice Nos. IT-ELA36515-13-17-097, for income tax; VT-ELA36515-13-17-097, for VAT; WE-ELA36515-13-17-097, for EWT; IE-ELA36515-13-17-097, for IAET; and MC-ELA36515-13-17-097, for compromise penalty, all dated January 05, 2017, assessed against Petitioner for taxable year 2013, in the aggregate amount of Php56,112,075.48, are **CANCELLED** and **SET ASIDE**, for being void.

As regards Assessment Notice No. DS-ELA36515-13-17-097, for DST, the same is hereby **AFFIRMED**. Accordingly, Petitioner is **ORDERED TO PAY** Respondent the deficiency DST amounting to **Php1,053,918.16**, inclusive of the twenty-five percent (25%) surcharge, twenty percent (20%) deficiency interest and twenty percent (20%) delinquency interest imposed thereon under Sections 248 (A) (3), 249 (B) and (C) of the NIRC of 1997, as amended, respectively, computed until December 31, 2017, to wit:

Basic DST	Php442,163.00
Add: 25% Surcharge	110,540.75
20% Deficiency Interest from January 06, 2014 until February 06, 2017 (Php442,163.00 x 20% x	273,293.08

⁹ Decision, EB 2516, Docket — pp. 55 to 56; EB 2521, Docket — pp. 46 to 47.

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1,128 days/365 days)	
Total Amount Due, February 06, 2017	Php825,996.83
Add: 20% Deficiency Interest from February 07, 2017 to December 31, 2017 (Php442,163.00 x 20% x 328 days/365 days)	79,468.20
20% Delinquency Interest from February 07, 2017 to December 31, 2017 (Php825,996.83 x 20% x 328 days/365 days)	148,453.13
Total Amount Due, December 31, 2017	Php1,053,918.16

In addition, Petitioner is **ORDERED TO PAY** delinquency interest at the rate of twelve percent (12%), which is double the legal interest rate for loans or forbearance of any money, on the total amount due as of February 06, 2017 in the amount Php825,996.83, as determined above, computed from January 01, 2018 until full payment thereof, pursuant to Section 249 (C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN), and as implemented by RR No. 21-2018.

SO ORDERED.

Thereafter, both parties filed their respective Motions for Reconsideration.

On January 29, 2021, DFPI filed a Motion for Partial Reconsideration, moving for reconsideration of the Court in Division's Order to pay the deficiency DST, including surcharge, interest, and delinquency interest.¹⁰

Meanwhile, on February 2, 2021, the CIR filed a Motion for Reconsideration (of the Decision dated 05 January 2021), praying for a reconsideration of the assailed Decision, a promulgation of another decision denying DFPI's Petition for Review, and a judgment ordering DFPI to pay the assessed deficiency taxes for TY 2013.¹¹

On February 10, 2021, DFPI filed an Opposition/Comment (Against Respondent's Motion for Reconsideration), while on February 16, 2021, the CIR filed a Comment (To Petitioner's Motion for Partial Reconsideration).

¹⁰ CTA Case No. 9711, Docket, Volume 2 – pp. 654 to 659.

¹¹ *Id.* at pp. 662 to 678.

On July 8, 2021, the Court in Division promulgated the assailed Resolution denying both DFPI's Motion for Partial Reconsideration and the CIR's Motion for Reconsideration (of the Decision dated 05 January 2021), for lack of merit.¹²

Undaunted, both parties filed their respective appeals before the Court.

On August 13, 2021, the CIR filed a Petition for Review dated August 11, 2021 by registered mail. The same was received by the Court on October 26, 2021 and was docketed as CTA EB Case No. 2521.¹³

October 4, 2021, DFPI filed a Petition for Review dated September 23, 2021 by electronic mail.¹⁴ The same was personally filed on October 21, 2021 and was docketed as CTA EB Case No. 2516.¹⁵

On November 2, 2021, the Court resolved to consolidate CTA EB Case No. 2521 with CTA EB Case No. 2516, the latter bearing the lower docket number, pursuant to Section 1, Rule 31 of the Revised Rules of Court.

On March 22, 2022, DFPI filed an Opposition/Comment (Against Commissioner of Internal Revenue's Petition for Review in CTA EB Case No. 2521) dated March 21, 2022.¹⁶ Meanwhile, on March 31, 2022, the CIR filed a Comment (To Dizon Farms Produce, Inc.'s Petition for Review) dated March 31, 2022.¹⁷

On June 2, 2022, the consolidated cases were referred to mediation.¹⁸ On July 4, 2022, the Philippine Mediation Center Office

¹² Resolution, EB 2516, Docket – p. 68; EB 2521, Docket – p. 60.

¹³ EB 2521, Docket – pp. 1 to 20.

¹⁴ *Id.* at pp. 1 to 15.

¹⁵ *Id.* at pp. 16 to 30.

¹⁶ *Id.* at pp. 75 to 80.

¹⁷ *Id.* at pp. 81 to 85.

¹⁸ *Id.* at pp. 88 to 90.



filed a Report stating that the parties decided not to have their respective cases mediated.¹⁹

Therefore, on August 2, 2022, the Court promulgated a Resolution submitting the consolidated cases for decision.²⁰

THE ISSUES

The issues to be resolved are as follows:

- I. Whether or not the Court in Division erred in ordering DFPI to pay the assessed deficiency DST, including surcharge, deficiency interest, and delinquency interest; and
- II. Whether or not the Court in Division erred in cancelling, withdrawing and setting aside the FAN and Assessment Notices, all dated January 5, 2017, representing assessed deficiency income tax, VAT, EWT, IAET, and compromise penalty for TY 2013.

DFPI's Arguments:

DFPI contends that the Court in Division erred in holding that –

1. DFPI is precluded from further questioning the validity of the FAN;²¹ and
2. DFPI signified its amenability to pay the DST assessment in its Protest Letter against the PAN, and in its Protest Letter against the FAN.²²

To support its contention, DFPI argues that its acquiescence to pay the DST assessment is based on its belief that the FAN was valid.

¹⁹ *Id.* at p. 91.

²⁰ EB 2516, Docket – pp. 93 to 94.

²¹ Petition for Review, EB 2516, Docket – p. 22.

²² *Id.* at p. 22 to 23.

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DFPI asserts that it would not have agreed to pay the DST assessment if it knew that the said assessment was void *ab initio*.²³

CIR's Arguments:

The CIR maintains that the Court in Division gravely erred in partially granting DFPI's Petition for Review thereby ordering the cancellation of the FAN and Assessment Notices for income tax, VAT, EWT, IAET, and compromise penalty for TY 2013, in the aggregate amount of ₱56,112,075.48, for being void.²⁴

The CIR argues based on the following grounds:

1. The extraordinary prescriptive period of ten (10) years should be applied in the instant case;²⁵
2. There is presumption of falsity of returns;²⁶
3. There was no violation of due process against DFPI. The case of *Commissioner of Internal Revenue v. Avon Manufacturing, Inc. ("Avon")*²⁷ is not in all fours in the case at bar, thus, inapplicable;²⁸
4. An action against a taxpayer's Protest to PAN is not required by the BIR Rules and Regulations;²⁹
5. The Formal Letter Demand ("FLD")/FAN issued by the CIR substantially complied with the prescribed due process requirements in the issuance of deficiency tax assessments,

²³ *Id.*

²⁴ Petition for Review, EB 2521, Docket – p. 5.

²⁵ *Id.* at p. 5.

²⁶ *Id.* at p. 6.

²⁷ *Commissioner of Internal Revenue v. Avon Manufacturing, Inc. et. al.*, G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

²⁸ Petition for Review, EB 2521, Docket – p. 8.

²⁹ *Id.* at p. 13.

pursuant to Section 228 of the NIRC of 1997, as amended;³⁰
and

6. Assessments are *prima facie* presumed correct and made in good faith.³¹

THE COURT'S RULING

The consolidated Petitions for Review are denied.

At the onset, the arguments raised by both parties in their respective Petitions for Review are mere reiterations of the same arguments previously pleaded by DFPI in its Motion for Partial Reconsideration and by the CIR in his Motion for Reconsideration (of the Decision dated 05 January 2021). Both of which were denied by the Court in Division in the assailed Resolution for lack of merit.³²

Given that the parties' arguments have already been extensively discussed, submitted to, and resolved by the Court in Division, they are unsubstantial to warrant reconsideration or modification of both the assailed Decision and Resolution.³³ Thus, the Court adopts the findings of the Court in Division and expounds on matters below.

***Avon* is applicable to the case at bar. Hence, the subject FAN and Assessment Notices, except that pertaining to DST, are void for failure to adhere to the requirements of due process.**

In *Avon*, the Supreme Court categorically pronounced that the CIR's inaction and omission to give due consideration to the

³⁰ *Id.* at p. 14.

³¹ *Id.* at p. 17.

³² Resolution, EB 2516, Docket – p. 68; EB 2521, Docket – p. 60.

³³ *Rosario v. Commission on Audit*, G.R. No. 253686, June 29, 2021; *Caranto v. Caranto*, G.R. No. 202889, March 2, 2020; *Castillo y Fernandez v. People*, G.R. No. 232735, November 22, 2017; *Cojuangco, Jr. v. Republic*, G.R. No. 180705, July 9, 2013.

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arguments and evidence submitted by a taxpayer are deplorable transgressions of the latter’s right to due process, to wit:

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 conclusions are based, and those facts must appear in the record.**

Indeed, the Commissioner’s inaction and omission to give due consideration to the arguments and evidence submitted before her by Avon are deplorable transgressions of Avon’s right to due process. The right to be heard, which includes the right to present evidence, is meaningless if the Commissioner can simply ignore the evidence without reason.³⁴

It is thus settled that due process requires the CIR 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.³⁵ Thus, issuance of a FAN, without consideration and evaluation of the defenses contained in a taxpayer’s Protest to a PAN, constitutes a violation of the taxpayer’s right to due process which renders the assessment void.

Here, records reveal that on December 19, 2016, DFPI received the PAN assessing it for deficiency income tax, VAT, EWT, DST, and IAET for TY 2013, in the aggregate amount of ₱55,965,065.88, inclusive of interests and penalties, summarized as follows:

	Basic	Surcharge	Interest	Total
Income tax	₱19,894,969.42	-	₱10,857,747.69	₱30,752,717.11
VAT	5,056,900.38	-	2,981,493.05	8,038,393.43
EWT	175,988.19	-	104,725.03	280,713.22
DST	442,163.00	-	265,540.08	707,703.08
IAET	9,838,823.80	₱2,459,705.95	3,887,009.29	16,185,539.04
<i>Total</i>	₱35,408,844.79	₱2,459,705.95	₱18,096,515.14	₱55,965,065.88

³⁴ Emphasis supplied.
³⁵ *Commissioner of Internal Revenue v. Avon Manufacturing, Inc. et. al.*, G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

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On January 3, 2017, DFPI filed its Protest Letter against the PAN.³⁶ In its Protest Letter, DFPI addressed the findings of the BIR per line item as stated in the PAN, except for the assessed basic DST amounting to ₱442,163.00,³⁷ to which DFPI was amenable.

On January 5, 2017, just two (2) days after DFPI filed its Protest Letter, the BIR issued the subject FAN and Assessment Notices which contained the very same issues and the same amount of deficiency taxes stated in the PAN, apart from the computation of interests and the addition of compromise penalty, to wit:

	Basic	Surcharge	Interest	Total
Income tax	₱19,894,969.42	-	₱11,315,604.52	₱31,210,573.94
VAT	5,056,900.38	-	3,097,871.03	8,154,771.41
EWT	175,988.19	-	108,775.17	284,763.36
DST	442,163.00	-	275,715.89	717,878.89
IAET	9,838,823.80	₱2,459,705.95	4,113,437.02	16,461,966.77
Compromise Penalty	-	-	-	50,000.00
<i>Total</i>	₱35,408,844.79	₱2,459,705.95	₱18,911,403.63	₱56,779,954.37

The records of the case are clear that in issuing the FAN and Assessment Notices dated January 5, 2017, the BIR neither addressed nor delved into the arguments raised by DFPI in its Protest Letter dated January 3, 2017. As correctly found by the Court in Division, the BIR issued a FAN which is a complete replica of the PAN, without even stating and explaining the demerits of DFPI's contentions.³⁸

Similar to *Avon*,³⁹ the Details of Discrepancy attached to the FAN and Assessment Notices in this case did not even comment or address the defenses and documents submitted by DFPI. Thus, DFPI was left unaware on how the CIR appreciated the explanations or defenses raised in connection with the assessments. Worse, the CIR likewise failed to act upon DFPI's Protest Letter against the said FAN and Assessment Notices,⁴⁰ even after DFPI's submission of all the necessary and relevant documents in support of said Protest.

³⁶ CTA Case No. 9711, Docket, Volume 1 – pp. 421 to 432.

³⁷ *Id.* at p. 427.

³⁸ Decision, CTA Case No. 9711, January 5, 2021, EB 2516, Docket – p. 44; EB 2521, Docket – p. 53.

³⁹ G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

⁴⁰ Dated February 8, 2017.

Evidently, there was clear inaction of the CIR at every stage of the proceedings.

In this respect, the Court reiterates the Court in Division's pronouncement that the right of the taxpayer to answer the PAN carries with it the correlative duty on the part of the CIR to consider the response thereto; and that the issuance of the FAN without even hearing the side of the taxpayer is anathema to the cardinal principles of due process. Right to due process is the opportunity to be heard. However, such opportunity would be wasted if the reply or protest to assessments submitted to the BIR is not taken into consideration.⁴¹

As a consequence of such violation, the said deficiency tax assessments are rendered void and cannot be enforced against DFPI, except for the assessed basic DST, as explained below.

DFPI is estopped from questioning the validity of the DST assessment.

Article 1431 of the New Civil Code provides that "through estoppel, an admission or representation is rendered conclusive upon the person making it and cannot be denied or disproved as against the person relying thereon." This substantive law is echoed in Section 2(a) of Rule 131 of the Revised Rules of Court, which states that "whenever a party has by his own declaration, act or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission be permitted to falsify it."⁴²

For the principle of estoppel to apply, the following elements must be established: 1) conduct which amounts to a false representation or concealment of material facts, or, at least, which calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts

⁴¹ Decision, CTA Case No. 9711, January 5, 2021, EB 2516, Docket — p. 54; EB 2521, Docket — p. 45.

⁴² *Malayan Insurance Co., Inc. v. St. Francis Square Realty Corp.*, G.R. Nos. 198916-17 & 198920-21 (Resolution), July 23, 2018.

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to assert; (2) intention, or at least expectation, that such conduct shall be acted upon by the other party; and (3) knowledge, actual or constructive, of the actual facts.⁴³

Estoppel is clearly applicable to the case at bar. DFPI indicated its concurrence to the assessed basic DST amounting to ₱442,163.00 by stating in simple, clear and unequivocal terms, “*We are amenable to this computation,*” in its Protest Letter dated January 3, 2017 against the PAN.⁴⁴ Thereafter, DFPI reiterated its acquiescence to the DST assessment in its Protest Letter dated February 8, 2017 against the FAN.⁴⁵

As aptly pronounced by the Court in Division, DFPI’s assent to the DST assessment constitutes an admission or representation conclusive upon DFPI, who made such assent willfully and knowingly and with a clear intention to settle the same. Thus, it cannot be denied by the latter as against the CIR or the BIR. To hold otherwise and allow DFPI to renege on its own representation and deny rights which it had previously recognized would run counter to the principle of equity which this institution holds dear.⁴⁶

Moreover, Section 3.1.5 of Rev. Regs. No. 12-99⁴⁷ provides that if the taxpayer only disputes or protests against the validity of some of the issues raised, the taxpayer shall be required to pay the deficiency tax or taxes attributable to the undisputed issues, to wit:

3.1.5 Disputed Assessment. — The taxpayer or his duly authorized representative may protest administratively against the aforesaid formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof. **If there are several issues involved in the formal letter of demand and assessment notice but the taxpayer only disputes or protests against the validity of some of the issues raised, the taxpayer shall be**

⁴³ *Id.*

⁴⁴ CTA Case No. 9711, Docket, Volume 1 — p. 427.

⁴⁵ *Id.* at p. 452.

⁴⁶ *Rizal Commercial Banking Corp. v. Commissioner of Internal Revenue*, G.R. No. 170257, September 7, 2011.

⁴⁷ Revenue Regulations No. 12-99, 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, September 6, 1999.

required to pay the deficiency tax or taxes attributable to the undisputed issues, in which case, a collection letter shall be issued to the taxpayer calling for payment of the said deficiency tax, inclusive of the applicable surcharge and/or interest. No action shall be taken on the taxpayer's disputed issues until the taxpayer has paid the deficiency tax or taxes attributable to the said undisputed issues. The prescriptive period for assessment or collection of the tax or taxes attributable to the disputed issues shall be suspended.⁴⁸

In view of the Court's finding that the subject FAN and Assessment Notices are void for violation of DFPI's right to due process, except that pertaining to the subject DST assessment on the basis of estoppel, it is no longer necessary to address the other arguments raised by the CIR which are mere rehash of his arguments previously raised in his Motion for Reconsideration (of the Decision dated 05 January 2021).

WHEREFORE, in light of the foregoing considerations, the consolidated Petitions for Review are **DENIED** for lack of merit. Accordingly, the Decision promulgated on January 5, 2021 and Resolution promulgated on July 8, 2021 rendered by the Third Division of this Court in CTA Case No. 9711 are **AFFIRMED**.

SO ORDERED.


MARIAN IVY F. REYES-FAJARDO
Associate Justice

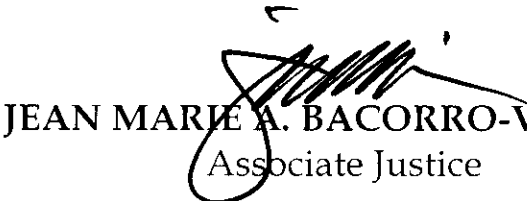
⁴⁸ Emphasis supplied.

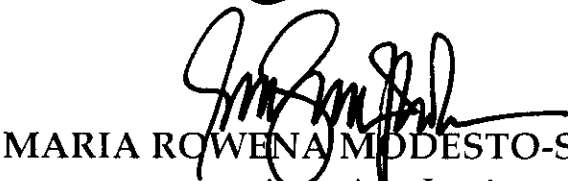
WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice

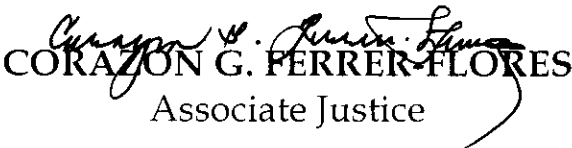

MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court.


ROMAN G. DELROSARIO
Presiding Justice