CTA Form No. 8 (For DCC)

21-000506-0066

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10712

BROADCAST ENTERPRISES & AFFILIATED MEDIA (BEAM) INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF RESOLUTION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. ROSE ANN O. TOLENTINO
Bureau of Internal Revenue
Legal Division, Revenue Region No.7B
25th Floor, The Podium-West Tower
ADB Avenue, Ortigas Center
Mandaluyong City

SALVADOR LLANILLO & MIJARES
Units 1706-1711, 17th Floor, Tower One & Exchange Plaza
Ayala Triangle, Ayala Avenue
1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **May 27, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **May 28, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

BROADCAST ENTERPRISES & AFFILIATED MEDIA (BEAM), INC., Petitioner,	**CTA CASE NO. 10712**
	Members:
- versus -	**DEL ROSARIO,** ***P.J.***, *Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** ***JJ.***
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAY 27 2025; 11:40 AM

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Motion for Reconsideration (Decision dated 19 November 2024)"[1] (**MR**), filed *via* email on 10 December 2024, with petitioner Broadcast Enterprises & Affiliated Media (BEAM), Inc. (**petitioner**'s) "Comment/Opposition (Re: Respondent's [MR] dated 10 December 2024)"[2] (**Comment/Opposition**) filed on 27 January 2025.

Respondent seeks the reversal and setting aside of this Court's Decision[3] promulgated on 19 November 2024 (**assailed Decision**) in the above-captioned case. The assailed Decision granted the instant Petition for Review[4]; thereby, cancelling and setting aside the deficiency tax assessments embodied in the Final Decision on Disputed Assessment (**FDDA**) dated 12 November 2021[5], indicating petitioner's

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1 Division Docket, Volume II, pp. 892-897.
2 Id., pp. 899-904.
3 Id., pp. 865-891.
4 Filed on 20 December 2021, id., Volume I, pp. 6-268, with attached exhibits.
5 Exhibit "P-9"/Exhibit "R-16", id., pp. 366-372.

supposed deficiency tax liabilities in the aggregate amount of ₱7,399,669.66, inclusive of interest, for the taxable year (**TY**) 2017. It also enjoined and prohibited respondent or any person duly acting on his behalf from collecting the said amount against petitioner.

In the assailed Decision[6], this Court held that respondent failed to prove that the Preliminary Assessment Notice (**PAN**) was properly served on and received by petitioner. Thus, respondent violated petitioner's right to due process by issuing the Formal Letter of Demand with Details of Discrepancies and Assessment Notices[7] (**FLD/FAN**) without first serving and confirming receipt of the PAN.

In the instant MR[8], respondent maintains that petitioner's right to due process was not violated. Respondent asserts that the PAN with Details of Discrepancies dated 16 December 2020, was mailed to petitioner on the same date, as evidenced by Registry Receipt No. RE457759681ZZ. Respondent thus argues that petitioner was duly notified of the assessment and was afforded ample time and opportunity to protest the findings in the said assessment.

In its Comment/Opposition[9], petitioner submits that respondent's argument deserves scant consideration for being a mere rehash of the arguments in his or her Answer that has been duly deliberated upon in the assailed Decision.

While conceding that the Registry Receipt proves the fact of mailing, petitioner argues that jurisprudence firmly establishes that the Registry Receipt, by itself, is insufficient to prove that the PAN was properly served on and received by it. Agreeing with this Court's ruling, petitioner asserts that respondent failed to present sufficient evidence to demonstrate that the PAN was properly served on and actually received by petitioner or its duly authorized representative. Consequently, respondent violated its right to due process.

We resolve.

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6 Supra at note 3.
7 Exhibit "P-5", Division Docket, Volume II, pp. 718-726; Exhibits "R-11" and "R-11-A" to "R-11-C", BIR Records, pp. 613-621.
8 Supra at note 1.
9 Supra at note 2.

A simple cursory of respondent's MR immediately reveals that it merely rehashed the previous argument that this Court has already exhaustively considered and passed upon in its assailed Decision. Considering that respondent forwards a similar issue already resolved, We deem that respondent's MR deserves scant consideration.

In *Shangri-la International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[10], the Supreme Court made clear that it is incumbent upon the respondent-movant to raise substantially plausible matters to warrant the relief sought, thus:

> ...
> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired cause of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.
> ...

Nonetheless, for respondent's clarity and to reaffirm the settled doctrine, We shall briefly expound on the basis of this Court's ruling.

While respondent insists that petitioner was duly notified of the PAN through the presentation of Registry Receipt No. RE457759681ZZ, such assertion fails to meet the evidentiary standard long upheld by this Court. As consistently held in *Barcelon, Roxas Securities, Inc. (now known as UBP Securities, Inc.) v. Commissioner of Internal Revenue*[11] (**Barcelon**), *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*[12] (**T Shuttle**) and *Commissioner of Internal Revenue v. Arturo E. Villanueva, Jr.*[13] (**Villanueva, Jr.**), the mere presentation of a registry receipt does not, by itself, prove that the PAN was actually received by

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10 G.R. No. 159938, 22 January 2007; Citation omitted.
11 G.R. No. 157064, 07 August 2006.
12 G.R. No. 240729 (Resolution), 24 August 2020.
13 G.R. No. 249540, 28 February 2024.

petitioner or its authorized representative. The burden lies with respondent to present competent, independent evidence of actual receipt, such as a signed registry return card or an official certification from the Bureau of Posts.

In this case, respondent offered no such proof. As highlighted in the assailed Decision, *none* of petitioner's authorized representatives signed the registry receipt to confirm the PAN's receipt. The Affidavit of Service of PAN[14] and the internally prepared Report on Service by Mail/Courier dated 16 December 2020[15] for the PAN similarly fail to establish actual receipt. This failure is underscored by the fact that the service report did not even indicate petitioner's complete registered address.[16]

Thus, respondent's claim that petitioner was afforded due process cannot be sustained. The PAN is a mandatory requirement under Section 228[17] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, and Section 3.1.2 of Revenue Regulations (**RR**) No. 12-99[18], as amended, designed to provide the taxpayer a fair opportunity to respond before the issuance of a FAN. Without competent proof of valid service and actual receipt of the PAN, no valid assessment can be issued. This Court therefore reaffirms that absent compliance with the due process requirements of the law, the assessment is void and without legal effect.

ACCORDINGLY, there being no new matters raised that would have compelled this Court to revisit its prior ruling and/or reverse the same, respondent's "Motion for Reconsideration (Decision dated 19 November 2024)", filed on 10 December 2024, is hereby **DENIED** for lack of merit.

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14 Exhibit "R-10", Division Docket, Volume I, p. 344; BIR Records, p. 603.

15 Exhibit "R-10-A", id., p. 345; BIR Records, p. 594.

16 The Report on Service by Mail/Courier dated 16 December 2020 conspicuously omits petitioner's complete address, listing only "Baranka Ilaya, Mandaluyong City," which differs significantly from petitioner's registered address, "3/F Globe Telecom Tower 1, Pioneer [Highlands] cor. Madison Sts., Brgy. Barangka Ilaya [1550] Mandaluyong City."

17 SEC. **228**. *Protesting of Assessment.*

18 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.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
Associate Justice