REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

CHUN LANG CHAN, then operating under the business name TOKAI RUBBER PRODUCTS, represented by Li Chuan Chang,
Respondent.

CTA *EB* NO. 2489
(CTA Case No. 9758)

Present:

DEL ROSARIO, *PJ,*
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

Promulgated:

FEB 01 2023 11:45 am

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RESOLUTION

CUI-DAVID, J.:

Before the Court *En Banc* is petitioner's *Motion for Reconsideration (Notice of Decision promulgated on September 14, 2022)*[1] filed on September 29, 2022, with respondent's *Comment/Opposition (To Petitioner's Motion for Reconsideration)*[2] filed on November 7, 2022, seeking reconsideration of the Decision[3] promulgated on September 14, 2022, the dispositive portion of which reads:

[1] *En Banc* (*EB*) Docket, pp. 111-118.
[2] A.M. No. 05-11-07-CTA, November 22, 2005.
[3] *EB* Docket, pp. 88-110.

> **WHEREFORE**, premises considered, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the Decision dated December 3, 2020, and the Resolution dated May 26, 2021, promulgated by the Court's Second Division in CTA Case No. 9758, are **AFFIRMED**.
>
> **SO ORDERED.**

In his Motion, petitioner argues that the Court *En Banc* erred in ruling that respondent was not accorded the due process requirements. First, respondent was furnished a copy of the Preliminary Assessment Notice (PAN) and Final Assessment Notice/Formal Letter of Demand (FAN/FLD). Second, respondent was able to file his protest, although, he could not refute the assessment against him. Hence, petitioner could not be faulted on the reiteration of the assessment against respondent because the latter failed to make use of the opportunity through the non-submission of documents that would support his protest.

Respondent, on the other hand, counters that upon receipt of the PAN, he filed a 12-page Reply to the PAN, citing jurisprudence that the assessments should be based on law and facts, not presumptions. Further, when respondent filed his formal protest to the FAN/FLD within the 30-day period, the said protest was duly supported with documents which means that he did not wait for 60 days to submit documents substantiating his protest. Apart from these documents attached to his protest, respondent submitted voluminous documents in compliance with the revenue officer's request for presentation of documents during the examination of the company's books. More, aside from the documents attached to respondent's formal protest, an addendum was filed adopting all the documents attached to his 12-page Reply to PAN. Respondent contends that petitioner ignored said documents and did not bother to read and act on them, thereby depriving him of his right to due process.

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

Notably, petitioner's arguments are mere rehash of the same facts and issues, which have already been thoroughly discussed, in the assailed Decision. The FLD/FAN was issued without taking into consideration respondent's Reply to the PAN, as well as the pieces of documents submitted in support thereof, in violation of respondent's right to due process. The FLD/FAN merely echoed the PAN.[4]

Contrary to petitioner's stance that the mere issuance of assessment notice accorded due process to the taxpayer, Section 228[5] of the Tax Code should not be read restrictively as to limit the written notice only to the assessment itself. As implemented by Revenue Regulations No. 12-99, the written notice requirement for both the FLD and the FAN must be in observance of due process, *i.e.*, to afford the taxpayer adequate opportunity to file a protest on the assessment and thereafter file an intelligent appeal in case of an adverse decision.[6]

WHEREFORE, there being no new matters and issues advanced that will merit reconsideration, let alone modification of the Decision of September 14, 2022, petitioner's *Motion for Reconsideration (Notice of Decision promulgated on September 14, 2022)*, is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

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[4] See *Commissioner of Internal Revenue v. Unioil Corp.*, G.R. No. 204405, August 4, 2021.
[5] SEC. 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: ...
The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
[6] *Commissioner of Internal Revenue v. Liquigaz Philippines Corp.*, G.R. Nos. 215534 & 215557, April 18, 2016.

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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

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice