REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

BETA ELECTROMECHANICAL CORPORATION,
Respondent.

CTA EB No. 2950
(CTA Case No. 10040)

Present:

RINGPIS-LIBAN, ***P.J.*****,**
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, ***JJ.***

Promulgated:
FEB 25 2026 11:10 am

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DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Commissioner of Internal Revenue (**CIR/petitioner**) pursuant to Section 2(a)(1),[2] Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**). It seeks to reverse the Special First Division's Decision[3] promulgated on

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[1] Filed on 22 July 2024, *rollo*, pp. 7-22.

[2] SEC. 2. *Cases within the jurisdiction of the Court en banc.* - The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over:
1. Cases arising from administrative agencies - Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry and Department of Agriculture[.]

[3] See Decision dated 05 March 2024, Division Docket, Volume VI, pp. 2972-3007. Penned by Associate Justice Catherine T. Manahan (Ret.), concurred in by Presiding Justice Roman G. Del Rosario (Ret.) and Associate Justice Marian Ivy F. Reyes-Fajardo.

05 March 2024 (**assailed Decision**) and its Resolution[4] issued on 18 June 2024 (**assailed Resolution**).

In the assailed Decision and Resolution, the Special First Division granted respondent's prior Petition for Review (**prior petition**) filed on 01 March 2019.[5] It cancelled the assessments for deficiency income tax, Value-Added Tax (**VAT**), Expanded Withholding Tax (**EWT**), and Compromise Penalty against respondent for calendar year (**CY**) 2012 amounting to ₱135,926,357.83, including interests. Consequently, the Special First Division cancelled the Collection Letter dated 09 January 2018 (**Collection Letter**) and Warrant of Distraint and Levy No. 121.2019.2004 dated 01 February 2019 (**WDL**).

PARTIES TO THE CASE

Beta Electromechanical Corporation (**respondent**) is a domestic corporation registered with the Securities and Exchange Commission (**SEC**) on 21 March 1973, with address at No. 18, Bagong Calzada, Barangay Ususan, Taguig City.[6] It is primarily engaged in the installation of electrical backbone and related systems for building construction.[7] It is also registered with the Bureau of Internal Revenue (**BIR**) with Tax Identification Number (**TIN**) 000-308-348-0000.[8]

Petitioner, on the other hand, is the duly appointed Commissioner of Internal Revenue empowered under the National Internal Revenue Code (**NIRC**) of 1997, as amended, to authorize the examination of any taxpayer, to assess the correct amount of tax, and to decide disputed assessments arising under the laws administered by the BIR. He or she may be served with notices, pleadings, resolutions, orders, decisions, and other legal processes at the BIR National Office Bldg., Agham Road, Diliman, Quezon City.[9]

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4 See Resolution dated 18 June 2024, id., pp. 3045-3048. Penned by Associate Justice Catherine T. Manahan (Ret.), concurred in by Presiding Justice Roman G. Del Rosario (Ret.) and Associate Justice Marian Ivy F. Reyes-Fajardo.

5 See Petition for Review with Omnibus Motion to Suspend Collection of Taxes; for the Lifting and Invalidation of the Warrant of Distraint and/or Levy, and/or Assessment of Taxes; and to Dispense with the Requirement to Post Bond filed 01 March 2019, Division Docket, Volume I, pp. 12-60.

6 Note 1 (Corporate Information), Notes to the Financial Statements, Audited Financial Statements for CY 2012 and 2011, BIR Records, p. 39.

7 Id.

8 BIR Certificate of Registration, Exhibit "P-2", Division Docket, Volume V, p. 2388.

9 Par. 2, Joint Stipulation of Facts and Issues, id., pp. 2335-2336.

FACTS OF THE CASE

On 16 May 2014, respondent received Letter of Authority (**LOA**) No. LOA-121-2014-00000081 (SN: eLA201100077628) which authorized Group Supervisor (**GS**) Monica Zamora (**Zamora**) and Revenue Officers (**ROs**) Teodoro Matibag (**Matibag**), Malik Dimakuta (**Dimakuta**), Alfred Manodon (**Manodon**), and Myrna Ramirez (**Ramirez**) to examine respondent's books of accounts and other accounting records for all internal revenue taxes for CY 2012.[10] A Checklist of Requirements accompanied the LOA and this listed the documents that respondent must provide.[11] On 09 July 2014, respondent complied and submitted to petitioner various returns, books of accounts, financial statements, contracts, and other documents.[12]

On 08 July 2015, respondent received the Preliminary Assessment Notice (**PAN**) with Details of Discrepancies.[13] In the PAN, petitioner found respondent liable for deficiency taxes amounting to ₱142,040,608.96 for CY 2012, computed as follows:

Tax Type	Basic Tax	Interest (as of 31 July 2015)	Total
Income Tax	₱48,946,570.64	₱24,881,173.41	₱ 73,827,744.05
VAT	44,393,589.02	22,320,060.71	66,713,649.73
EWT	949,297.72	479,917.46	1,429,215.18
Compromise	70,000.00		70,000.00
Total	₱94,359,457.38	₱47,681,151.58	₱142,040,608.96

On 22 July 2015, in its Reply to the PAN (**Reply**),[14] expressed its disagreement with the findings and explained that the assessments lack factual and legal basis. A day later, respondent again wrote petitioner asking for additional time to submit the documents in support of its Reply.[15] Respondent then submitted the said reconciling schedules on 10 August 2015.[16]

10 See LOA dated 08 May 2014, Exhibit "R-1", BIR Records, p. 2.
11 See Checklist of Requirements, Exhibit "R-2", id., p. 1.
12 See Transmittal Sheet, id., pp. 3-221.
13 See PAN, Exhibit "R-4", id., pp. 271-276.
14 See Letter dated 21 July 2015, id., pp. 284-291.
15 See Letter dated 23 July 2015, id., p. 300.
16 See Transmittal Sheet, id., p. 332.

On 26 October 2015, respondent received the Formal Letter of Demand (**FLD**) with Details of Discrepancies, and Final Assessment Notice (**FAN**).[17] In the FLD/FAN, although respondent's deficiency tax was reduced to ₱135,926,357.83, petitioner still found it liable as computed below:

Tax Type	Basic Tax	Interest (as of 31 Dec 2015)	Total
IT	₱43,661,590.89	₱23,650,028.40	₱67,311,619.29
VAT	42,279,597.12	24,756,818.09	67,036,415.21
EWT	949,297.72	559,025.61	1,508,323.33
Compromise	70,000.00	24,756,818.09	70,000.00
Total	₱86,960,485.73	₱48,965,872.10	₱135,926,357.83

On 23 November 2015, respondent filed before petitioner's Large Taxpayer Excise Audit Division (**LTEAD**) I a Request for Reconsideration (**Protest**) to the FLD/FAN, together with several schedules.[18] Respondent submitted another copy of the Protest, this time before petitioner's Large Taxpayer's Service (**LTS**), on 10 December 2015.[19]

With over a year not receiving any correspondence from petitioner, respondent received a letter on 30 March 2017 (**Letter of Reassignment**) informing it that the LOA was reassigned to RO Manodon following RO Matibag's death.[20] Respondent was also informed that its Protest was considered void since it was filed before LTEAD I and not with the LTS.[21] In response, respondent argued that LTEAD I is part of the LTS.[22] Moreover, LTEAD I accepted the Protest and even held conferences with petitioner's representatives.[23]

Later, respondent also inquired from petitioner why its case docket was transmitted from the LTEAD I to the Large Taxpayers Collection Enforcement Division (**LTCED**) without its Protest being resolved.[24]

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17 See FLD, Exhibit "R-6", id., pp. 326-331. See FAN, id., pp. 323-325.
18 See Transmittal Letter, id., p. 336.
19 See Protest, Exhibit "R-7", id., pp. 337-344.
20 See Letter, id., pp. 367-371.
21 See Letter received by [petitioner] on 13 October 2017, id., pp. 372.
22 Id.
23 Id.
24 See Letter received by [petitioner] on 05 January 2018, id., pp. 343-392.

On 25 January 2018, respondent received the Collection Letter requesting it to settle, within ten (10) days from receipt, the deficiency taxes amounting to ₱170,743,457.84, (including interests adjusted until 31 December 2017).[25] Respondent wrote the CIR requesting for reconsideration of the Collection Letter.[26] Among others, respondent lamented that the issuance of the Collection Letter instead of a Final Decision on Disputed Assessment (**FDDA**) was a violation of its right to due process.

On 01 February 2019, petitioner issued the WDL directing the LTCED to distrain and/or levy respondent's personal and real properties, to answer for its tax liability for CY 2012.[27] Respondent received the WDL on the same day and responded with a *Motion for Clarification* which, despite its denomination, assailed the WDL for being violative of the Anti-Red Tape Act of 2007 and respondent's right to due process.[28]

PROCEEDINGS BEFORE THE COURT IN DIVISION

On 01 March 2019, respondent filed its prior petition with this Court praying for the nullification of the FLD/FAN, the Collection Letter, and the WDL.[29] The case was docketed as CTA Case No. 10040 and was raffled to the First Division.[30]

In its prior petition, respondent argued that the assessment against it was void due to the lack of valid LOA and for blatant violation of its right to due process. Respondent also asserted that the WDL, on its face, was highly irregular and did not comply with statutory requirements. The Summon was thereafter served on petitioner.[31]

Since the petition was accompanied with *Omnibus Motion to Suspend Collection of Taxes; for the Lifting and Invalidation of the Warrant of Distraint and/or Levy, and/or Assessment of Taxes; and to*

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25 See Collection Letter dated 09 January 2018, Exhibit "R-9", id., p. 400.
26 See Letter received by [petitioner] on 02 February 2018, id., pp. 412-425.
27 See Warrant of Distraint and/or Levy No. 121-2019-004, id., p. 514.
28 See Motion for Clarification received by [petitioner] on 04 February 2019, id., pp. 727-741.
29 Supra at note 5.
30 Composed of Presiding Justice Roman G. Del Rosario (Ret.), Associate Justice Esperanza R. Fabon-Victorino (Ret.), and Associate Justice Catherine T. Manahan (Ret.).
31 See Summons dated 12 March 2019, id., p. 178.

Dispense with the Requirement to Post a Bond (**Motion to Suspend Collection**), the First Division set the same for hearing.[32]

In support of the Motion to Suspend Collection, respondent submitted the Judicial Affidavit of Maureen Yu Jeco (**Jeco**) on 05 April 2019.[33] On the same date, petitioner filed his or her Comment to the Motion to Suspend Collection, to which respondent filed a Reply on 15 April 2019.[34]

During the hearing on the Motion to Suspend Collection on 10 April 2019, respondent presented Jeco, its Accounting Manager and Comptroller.[35]

Jeco, by way of her Judicial Affidavit, testified that the collection of the alleged deficiency tax for CY 2012 will jeopardize respondent's operations. She explained that respondent is not liquid because its current ratio (which measures the company's ability to pay short-term obligations) for CY 2018, CY2 2017, and CY 2016 were at 1.25, 1.23, and 1.37, respectively. Jeco maintained that the collection of the alleged deficiency tax will affect the lives of its 1,801 employees. Lastly, Jeco claimed that since respondent is involved in the construction industry, shutting it down will also affect many infrastructure projects in the country.[36]

On cross-examination, Jeco explained that in 2017, respondent's total current assets were ₱1,201,717,000.00 which includes cash and receivables amounting to ₱79,846,215.00 and ₱771,301,251.00, respectively.[37] During redirect examination, Jeco explained that respondent's receivables were retention receivables (or amounts

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32 See Resolution dated 26 March 2019, id., pp. 181-182.

33 See Compliance/Submission, id., pp. 211-214. **See also** the Judicial Affidavit (of Ms. Maureen F. Yu-Jeco) dated 04 April 2019, Exhibit "P-1", id., pp. 216-407 (with annexes).

34 See Comment/Opposition (to [Respondent's] Omnibus Motion to Suspend Collection of Taxes; for Lifting and Invalidation of the Warrant of Distraint and/or Levy, and/or Assessment of Taxes; and to Dispense with the Requirement to Post Bond), id., pp. 198-209. **See also** Urgent Motion for Extension of Time to File Comment/Opposition (to [Respondent's] Omnibus Motion to Suspend Collection of Taxes; for Lifting and Invalidation of the Warrant of Distraint and/or Levy, and/or Assessment of Taxes; and to Dispense with the Requirement to Post a Bond), id., pp. 189-192. **See also** Order dated 03 April 2019, id., p. 196. See further Reply, id., Volume II, pp. 419-429.

35 See Order dated 10 April 2019, id., Volume II, pp. 409-410.

36 Supra at note 32.

37 TSN dated 10 April 2019, pp. 16-17.

withheld by its customers until the end of the construction period).[38] No re-cross examination was conducted.[39]

On 06 June 2019, Efren Gancayco (**Gancayco**), respondent's President, assumed the witness stand to testify in support of its Motion to Suspend Collection.[40] There, he claimed essentially that petitioner's collection efforts will jeopardize the interest of the government since it will affect respondent's funding for the completion of various government projects that it was handling.[41]

On cross-examination and upon further questions from the Court, Gancayco was unable to provide a basis for his testimony that the bond can be dispensed with since it was issued in violation of respondent's right to due process.[42] There was no redirect examination.[43]

Meanwhile, upon motion,[44] the Court granted extensions of time for petitioner to file his or her Answer on 27 May 2019.[45] In the Answer, petitioner argued that **(a)** the Court had no jurisdiction over respondent's prior petition as the assessment had become final, demandable, and executory; **(b)** the assessment was valid as it contained a demand and a specific period within which to pay the assessed taxes; **(c)** the LOA issued against respondent was valid even without revalidation; **(d)** the Court's power of judicial review over the CIR's decisions on disputed assessment was exclusive and appellate, thus, respondent should not be allowed to raise issues for the first time on appeal; and finally, **(e)** the assessment has legal and factual bases, thus, valid and binding against respondent.

Later, petitioner elevated the BIR Records to the Court.[46]

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38 Id., pp. 18-20.

39 Id., p. 20.

40 See Order dated 06 June 2019, id., pp. 880-881; **See also** Judicial Affidavit (of Mr. Efren Gancayco) dated 04 April 2019, Exhibit "P-3", id., pp. 435-828 (with annexes).

41 See Judicial Affidavit (of Mr. Efren Gancayco) dated 04 April 2019, Exhibit "P-3", id.

42 TSN dated 06 June 2019, pp. 12-18.

43 Id., p. 18.

44 See **(1)** Motion for Extension of Time to File Answer (**First Motion for Time**) filed on 26 March 2019, id., pp. 183-186; **(2)** Order dated 02 April 2019 granting the First Motion for Time, id., pp. 194-195; **(3)** Urgent Motion for Additional Time to File Answer (**Second Motion for Time**) filed on 25 April 2019, id., Volume II, pp. 829-832; **(4)** Resolution dated 06 May 2019 granting the Second Motion for Time, id., Volume II, pp. 836-837

45 See Answer, id., pp. 839-868.

46 See Compliance filed on 07 June 2019, id., pp. 892-894.

Respondent thereafter filed a Reply debunking petitioner's arguments in the Answer.[47] It insisted that the Court has jurisdiction over its prior petition since it timely filed the Protest and its petition. It also maintained that the FLD/FAN was void for its failure to contain a demand and specific period within which to pay. As to the LOA's validity, it argued that a revalidation was mandatory and that the new RO must be named in a new LOA. It also questioned the application of the 10-year prescriptive period and the legal and factual basis of the assessments.[48]

Reverting to the Motion to Suspend Collection, the First Division allowed respondent to recall Gancayco to the witness stand for the purpose of identifying several "Sub-Contractor's Certificate of Payment", the originals of which were not available when he was initially presented.[49]

During the hearing on 15 October 2019, Gancayco testified through his Supplemental Judicial Affidavit where he identified several Sub-Contractor's Certificate of Payment to prove the percentage of completion of respondent's various projects.[50] On cross-examination, Gancayco explained that the alterations in some of the Certificates may have been done by the project manager who had authority to do so.[51] No redirect examination followed.[52]

Still later, respondent filed its Formal Offer of Evidence (**FOE**) on the Motion to Suspend Collection, offering Exhibits "P-1" to "P-3-k", with sub-markings.[53] With no objections from petitioner, the First Division admitted the offered exhibits.[54]

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47 See Motion for Additional Time to File Reply filed on 14 June 2019, id., pp. 900-905. **See also** Order dated 18 June 2019 wherein the First Division granted the Motion for Additional Time to File Reply, id., pp. 915-916.

48 See Reply [To [Petitioner's] Answer dated May 27, 2019] filed on 01 July 2019, id., pp. 929-949.

49 See **(1)** [Respondent's] Motion for Leave of Court to Recall Witness filed on 01 July 2019, id., pp. 921-926; **(2)** [Petitioner's] Motion to Admit Attached Comment/Opposition (Re: Motion for Leave of Court to Recall Witness) filed on 31 July 2019, with attached Comment/Opposition (Re: Motion for Leave of Court to Recall Witness), id., pp. 965-968; **(3)** Resolution dated 08 August 2019, id., pp. 971; and **(4)** Resolution dated 30 August 2019, id., pp. 976-978.

50 See **(1)** Submission/Compliance filed on 10 October 2019; id., pp. 979-981; **(2)** Supplemental Judicial Affidavit of Mr. Efren M. Gancayco, Exhibit "P-49", id., pp. 982-998 (with annexes); **(3)** Order dated 15 October 2019, id., pp. 1002-1003.

51 TSN dated 15 October 2019, id., pp. 9-13.

52 Id., p. 13.

53 See Formal Offer of Exhibits (For the Omnibus Motion to Suspend Collection of Taxes, etc) filed on 22 November 2019, id., Volume III, pp. 1013-1614 (with annexes).

54 See Comment ([Respondent's] Formal Offer of Evidence) filed on 29 November 2019, id., pp. 1615-1617. **See also** Resolution dated 10 January 2020, id., Volume IV, pp. 1628-1629.

Respondent then filed its Memorandum in support of its Motion to Suspend Collection.[55] On the other hand, petitioner manifested that he or she was adopting his or her arguments in the Comment/ Opposition filed on 05 April 2019.[56]

On 11 March 2020, the First Division resolved the Motion to Suspend Collection. In granting the same, it found that the collection of respondent's alleged tax deficiency, at that stage, would prejudice respondent's operations as well as the government, not to mention the general public which stands to benefit from the government's infrastructure projects handled by respondent.[57] The First Division, however, found no sufficient basis to dispense with the required bond.[58]

Petitioner filed a Motion for Reconsideration (**MR**) which the First Division denied because the arguments therein were already considered in its Resolution dated 11 March 2020.[59]

Respondent then posted the required bond through a supersedeas bond issued by Prudential Guarantee and Assurance, Inc. (**Prudential**).[60] However, the First Division found the same defective since the bond documents bound petitioner and Prudential to the payment of whatever is due to respondent, instead of binding respondent and Prudential to the payment of the amount due in favor petitioner.[61] Moreover, the bond documents did not state that it was a continuing bond.[62] Thus, the Court set aside its resolution which granted respondent's Motion to Suspend Collection.[63]

Respondent rectified the mistakes and, through a motion, asked the First Division to reconsider.[64] Petitioner opposed the same stating that respondent was given ample time to satisfy the bond requirement,

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55 Memorandum [For the Omnibus Motion to Suspend Collection of Taxes, etc.] filed on 20 January 2020, id., Volume IV, pp. 1630-1658.
56 Manifestation filed on 27 January 2020, id., pp. 1659-1660.
57 Resolution dated 11 March 2020, id., pp. 1666-1682.
58 Id.
59 See Motion for Reconsideration (Re: Resolution dated 11 March 2020) filed on 17 June 2020, id., pp. 1683-1696. **See also** Resolution dated 16 October 2020, id, pp. 1757-1763.
60 See Manifestation and Compliance (with Motion to Refer the Case for Mediation), id., pp. 1700-1717 (with annexes).
61 See Resolution dated 09 July 2020, id., pp. 1723-1725.
62 Id.
63 Id.
64 See Motion for Reconsideration (Re: Resolution dated 9 July 2020) (With Motion for Leave to Admit Reformed Supersedeas Bond) filed on 24 July 2020, id., pp. 1729-1738 (with annexes).

yet it was negligent in not checking the conditions of the bond.[65] However, despite the objection, the Court ultimately accepted respondent's bond.[66]

Subsequently, the First Division referred the case to the Philippine Mediation Center – Court of Tax Appeals (**PMC-CTA**) Unit. Unfortunately, the mediation period lapsed without conciliation between the parties.[67] The Court noted that the parties may still enter into a compromise at any stage of the proceedings.[68] Accordingly, the First Division set the case for pre-trial.[69]

Prior to the Pre-Trial Conference held on 24 June 2021,[70] the parties filed their Pre-Trial Briefs.[71] They also filed their Joint Stipulation of Facts and Issues (**JSFI**) which the First Division approved.[72] On 09 November 2021, the Pre-Trial Order (**PTO**) was issued.[73] Meanwhile, respondent moved for the commissioning of Madonna Mia S. Dayego (**Dayego**) as the Independent Certified Public Accountant (**ICPA**) for the case.[74]

In the trial that ensued,[75] the First Division appointed Dayego as the ICPA for the case.[76] Afterwards, respondent also presented its first two (2) witnesses: Jeco and Gremy Luck T. Roa (**Roa**).[77]

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65 See Motion to Admit Attached Comment/Opposition (Re: Motion for Reconsideration) with Comment/Opposition (Re: Motion for Reconsideration) filed on 29 September 2020, id., pp, 1744-1751.

66 See Resolution dated 16 October 2020, supra at note 59.

67 See Mediator's Report filed on 20 May 2021, id., p. 1822.

68 See **(1)** Request for Extension filed on 28 January 2021, id., p. 1772; **(2)** See Resolution dated 09 February 2021 granting the Request for Extension, id., 1775; **(3)** [Respondent's] Manifestation filed on 08 March 2021 requesting the Court to await the [Petitioner's] decision on its counter-offer, id., pp. 1776-1808 (with annexes); and **(4)** Resolution dated 19 May 2021 denying the request, id., p. 1821.

69 See Notice of Pre-Trial Conference, id., pp. 1828-1833.

70 See Order dated 24 June 2021, id., pp. 2294-2297.

71 See [Respondent's] Pre-Trial Brief filed on 18 June 2021, id., pp. 1839-2231 (with annexes). **See also** [Petitioner's] Pre-Trial Brief filed on 18 June 2021, id., Volume V, pp. 2232-2286 (with annexes).

72 See Joint Stipulation of Facts and Issues filed on 14 July 2021, id., pp. 2335-2352. **See also** Resolution dated 29 September 2021, id., pp. 2366-2367.

73 See Pre-Trial Order dated 09 November 2021, id., pp. 2570-2586.

74 See Motion for the Commissioning of an Independent Certified Public Accountant filed on 14 July 2021, id., pp. 2313-2334 (with annexes).

75 See Order dated 09 November 2021, id., pp. 2588-2590.

76 Id.

77 Id.

To recall, Jeco was respondent's Accounting Manager and Comptroller who previously testified on its Motion to Suspend Collection. Jeco took the witness stand again, this time to testify on the main case. By way of her Judicial Affidavit, she stated that upon receipt of the LOA on 16 May 2014, and even after respondent filed its Protest, respondent actively communicated with it for the reconciliation of the assessment. She added that the name indicated in the Collection Letter, and the name and TIN indicated in the WDL, did not match respondent's. Lastly, she testified that respondent sent letters to petitioner requesting for the cancellation of the Collection Letter and WDL.[78]

On cross-examination, Jeco stated that the address indicated in the Collection Letter and WDL was respondent's. She also testified that the name indicated in the WDL (*i.e.*, Beta Electric Corporation) was respondent's former business name.[79] No redirect examination was conducted.[80]

Roa, who was respondent's Accounting Supervisor in 2012, likewise testified by way of her Judicial Affidavit. She averred that respondent actively communicated with petitioner for the reconciliation of the assessments. She added that the parties had various meetings from 2016 to 2017 to discuss the assessments. She also asserted that instead of CY 2012, the period indicated in the Letter of Reassignment was CY 2013. Lastly, she testified that during the audit, and even after the filing of the Protest, respondent submitted *via* email the documents requested by petitioner.[81]

On cross-examination, Roa testified that the Protest was filed twice– initially with the LTEAD I on 24 November 2015 and then subsequently with the LTS on 01 December 2015. She added that respondent had no file copy of the Protest as stamped received by the LTEAD I, instead, a transmittal sheet served as the proof of filing.[82]

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78 See Judicial Affidavit (of Maureen F. Yu Jeco) subscribed on 17 June 2021, Exhibit "P-44", id., Volume IV, pp. 2036-2092 (with annexes).
79 TSN dated 09 November 2021, pp. 40-46.
80 Id., p. 46.
81 See Judicial Affidavit (of Gremy Luck Roa) subscribed on 17 June 2021, Exhibit "P-45", Division Docket, Volume IV, pp. 2093-2153 (with annexes).
82 TSN dated 09 November 2021, supra at note 78, pp. 53-59.

On redirect examination, Roa explained that respondent resubmitted the Protest to the LTS as RO Matibag so instructed.[83] No re-cross examination from petitioner.[84]

On 24 March 2022, respondent continued the presentation of its witnesses, with Maricris M. Tomas (**Tomas**) and ICPA Dayego taking the witness stand.

Tomas, respondent's accountant, took the witness stand first. Her testimony was offered to prove (**a**) respondent's correct TIN, (**b**) that respondent's Quarterly VAT returns were duly filed in 2012, (**c**) that its EWT returns were duly filed in 2012, (**d**) the email correspondences sent by respondent to petitioner, and (**e**) the continuous meetings between respondent and petitioner.[85] She also identified the LOA, respondent's BIR Certificate of Registration, VAT and EWT Returns, transmittal sheets, and other documents.[86]

On cross-examination, Tomas stated that respondent did not keep a copy of the Protest as stamped received by LTEAD I. She also confirmed that respondent's previous name was Beta Electric Corporation.[87] No redirect examination followed.[88]

Next to take the witness stand was ICPA Dayego. By way of her Judicial Affidavit, ICPA Dayego identified her ICPA Report[89] and maintained her recommendation that ₱74,667,489.61 out of the ₱86,890,485.73 basic deficiency IT, VAT, and EWT assessed in the FLD/FAN be reversed.[90] On cross-examination, when asked if there were documents that respondent gave to her but which were not furnished to petitioner during the audit, she replied that she knew of none.[91] Again, no redirect examination was conducted.[92]

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[83] Id., pp. 59-60.
[84] Id., p. 60.
[85] See Judicial Affidavit (of Maricris M. Tomas), Exhibit "P-42", Division Docket, Volume IV, pp. 2154-2231 (with annexes).
[86] Id.
[87] TSN dated 24 March 2022, pp. 9-13.
[88] Id., p. 13.
[89] See Report to the Court of Tax Appeals submitted on 27 December 2021, Exhibit "P-86", Division Docket, Volume V, pp. 2606-2657.
[90] See Judicial Affidavit of Madonna Mia S. Dayego (Independent Certified Public Accountant), Exhibit "P-88", id., pp. 2662-2736 (with annexes).
[91] TSN dated 24 March 2022, pp. 19-23.
[92] Id., p. 23.

After presenting all its witnesses, respondent filed its FOE, offering Exhibits "P-1" to "P-88-a", with sub-markings; and "P-1-Motion for Commissioning of ICPA" to "P-5-Motion for Commissioning of ICPA".[93] Petitioner did not interpose objections.[94]

While the Court eventually admitted most of respondent's exhibits, it nevertheless denied respondent's other exhibits for **(a)** failure to present the originals for comparison, **(b)** discrepancy between the marked documents and description in the FOE, **(c)** for not being found in the records of the case, and **(d)** for the markings not being used.[95]

When petitioner's turn to present evidence came, she or he presented RO Manodon as the sole witness.[96]

In his Judicial Affidavit, RO Manodon identified the LOA, PAN, FLD/FAN, Protest, various Memoranda, and the BIR Records. He also testified that the Protest filed with the LTS on 01 December 2015 was filed out of time, thus, they forwarded the case to the LTCED for enforcement and collection.[97]

On cross-examination, RO Manodon admitted that there was a discrepancy between the **(a)** TIN indicated in the LOA and Checklist of Requirement and **(b)** LOA number indicated in the LOA and the FLD/FAN. He also confirmed that it took them nine (9) months from the LOA's issuance to issue the PAN. Lastly, he stated that once the assessment is final, executory, and demandable, there is no longer need for further reconciliation.[98] No redirect examination was conducted.[99]

Having presented its sole witness, petitioner filed his or her FOE, offering Exhibits "R-1" to "R-12-a", with sub-markings.[100] Respondent objected arguing that the documents offered were incompetent,

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93 See Formal Offer of Exhibits filed on 29 March 2022, Division Docket, Volume VI, pp. 2745-2794.
94 See Comment (on [Respondent's] Formal Offer of Evidence), id., pp. 2796-2798.
95 See Resolution dated 01 June 2022, id., pp. 2804-2809.
96 See Order dated 30 August 2022, id., pp. 2820-2821.
97 See Judicial Affidavit of Revenue Officer Alfred B. Manodon subscribed on 18 June 2021, Exhibit "R-12", id., Volume V, pp. 2241-2286 (with annexes).
98 TSN dated 30 August 2022, pp. 9-20.
99 Id., p. 20.
100 See Formal Offer of Evidence filed on 09 September 2022, id., pp. 2825-2830.

misleading, hearsay, not authenticated, or irrelevant.[101] The First Division admitted petitioner's exhibits, *except* for Exhibits "R-9"[102] and "R-10",[103] for failure of petitioner's witness to identify them.[104]

Thereafter, respondent filed its Memorandum while petitioner manifested that he or she was adopting the arguments in the Answer as his or her Memorandum.[105] Accordingly, the Court submitted the case for decision on 06 March 2023.[106]

On 05 March 2024, the Special First Division[107] promulgated the now assailed Decision which granted respondent's prior petition.[108] In so granting, the Special First Division found that the FLD/FAN did not address respondent's explanations in its Reply to the PAN. Instead, petitioner reiterated *verbatim* in the *Details of Discrepancy* attached to the FLD/FAN what it stated in the *Details of Discrepancy* (attached to the PAN), save for one (1) adjustment in income tax and VAT.

In the assailed Decision, the Special First Division discussed how the *Avon*[109] case requires that taxpayers must not be left unaware on how the CIR or his or her authorized representatives appreciated the explanations or defenses raised by the taxpayer. Thus, as part of the due process requirement in the issuance if tax assessments, petitioner should have provided the reasons for rejecting respondent's refutations and the particular facts upon which the conclusions for assessing respondent were based. The Special First Division then concluded that petitioner indeed violated respondent's right to due process. The dispositive portion of the assailed Decision reads:[110]

---

101 See Comment (To the Formal Offer of Evidence of [Petitioner]) filed on 19 September 2022, id., pp. 28312843.
102 Collection Letter dated 09 January 2018.
103 Warrant of Distraint and/or Levy dated 01 February 2019.
104 See Resolution dated 18 November 2022, Division Docket, Volume VI, pp. 2847-2848.
105 See [Respondent's] Memorandum filed on 20 February 2023, id., pp. 2854-2968. **See also** [Petitioner's] Manifestation filed on 22 December 2022, id., pp. 2849-2851.
106 See Minute Resolution dated 06 March 2023, id., p. 2969.
107 Following the retirement of Associate Justice Erlinda P. Uy, the Court underwent a reorganization. Pursuant to Administrative Circular No. 01-2023 dated 23 May 2023, the instant case stayed with the Special First Division, which was composed of the same members of the prior First Division.
108 Supra at note 3.
109 *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99, 03 October 2018.
110 Supra at note 3.

...

> **WHEREFORE**, the instant *Petition for Review* is **GRANTED.** Accordingly, the FDL dated October 21, 2015 and *Audit Result/Assessment Notices* attached thereto, assessing [respondent] for deficiency income tax, VAT, EWT, and administrative penalties, for taxable year 2012, in the aggregate amount of **₱135,926,357.83**, inclusive of interests, as well as the Collection Letter dated 09 January 2018 and WDL No. 121.2019.2004, are **CANCELLED AND SET ASIDE.**
>
> [Petitioner] or the BIR is **ENJOINED and PROHIBITED** from collecting the amount sought under the subject tax assessments.
>
> **SO ORDERED.**[111]

...

In the bid for the Special First Division to reconsider, petitioner filed his or her MR advancing the arguments below[112] —

First, petitioner alleged that the Court has no jurisdiction over respondent's case. According to petitioner, respondent received the FLD/FAN on 26 October 2015. However, the latter filed its Protest only on 01 December 2015, which was outside the thirty (30)-day reglementary period. Since the assessment had become final and executory, then there was no disputed assessment over which the Court could take jurisdiction. Moreover, to reinforce its stand that the Court had no jurisdiction, petitioner pointed out that respondent likewise failed to appeal the Collection Letter (which served as the FDDA) within 30 days from receipt thereof.

Second, as to the Special First Division's finding that he or she violated respondent's right to due process, petitioner asserted that administrative due process is satisfied once a party is given an opportunity to be heard or seek reconsideration of any action or ruling. In respondent's case, it was given the chance to explain and even refute the findings of its deficiency tax assessment.

Lastly, petitioner insisted that presumption stands in favor of the correctness of tax assessments. Thus, the burden of proof was on respondent to prove not only that the CIR was wrong but that respondent was right. Otherwise, the presumption stands.

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111 Citations omitted, emphasis and italics in the original text.
112 See Motion for Reconsideration (Re: Decision dated 5 March 2024), id., pp. 3008-3019.

Unconvinced, the Special First Division issued the assailed Resolution which denied the MR for lack of merit.[113] On petitioner's assertion that respondent's Protest was not filed on time, the Special First Division ruled that petitioner's own evidence (*i.e.*, the Transmittal Sheet marked as Exhibit "R-11") showed that respondent timely filed its Protest on 24 November 2015, well-within the 30-day period from respondent's receipt of the FLD/FAN on 26 October 2015. Likewise, the Special First Division disagreed with petitioner's argument that all presumptions were in favor of the correctness of the assessment. It ruled that the said presumption cannot be applied when a violation of the taxpayer's right to due process is patent. In this case, the violation consisted in petitioner's failure to inform respondent of the reason for the denial of the latter's Reply to the PAN.

PROCEEDINGS BEFORE THE COURT *EN BANC*

Unsatisfied with the Special First Division's actions, petitioner filed the present petition before the Court *En Banc* on 22 July 2024.[114] With the filing of respondent's Comment (on the petition),[115] the Court submitted the case for decision on 27 February 2025.[116]

ISSUES

Petitioner puts forward the following issues for the Court *En Banc*'s resolution:

I.
WHETHER THE SPECIAL FIRST DIVISION ERRED IN RULING THAT IT HAS JURISDICTION OVER THE INSTANT CASE, AND

II.
WHETHER THE SPECIAL FIRST DIVISION ERRED IN RULING THE ASSESSMENT IS VOID.[117]

---

113 Supra at note 4.
114 Supra at note 1.
115 See Comment and Opposition (To the Petition for Review) filed on 04 February 2025, *rollo*, pp. 135-156.
116 See Notice of Resolution dated 12 November 2025, id., p. 161.
117 Supra at note 1, Assignments of Errors, *rollo*, p. 10.

ARGUMENTS

In calling for the reversal of the assailed Decision and Resolution, petitioner argues that the Court of Tax Appeals (**CTA**) has no jurisdiction over the case. He or she insists that the FLD/FAN had become final and executory since the respondent's Protest was filed out of time. It disagrees with the Special First Division finding that respondent had timely filed its Protest as shown by a transmittal sheet. According to petitioner, respondent should have submitted the "stamped received" document to prove his or her receipt of the Protest.

Petitioner adds that it was LTEAD I, not the LTS, that signed the transmittal sheet. Petitioner invokes Revenue Memorandum Circular (**RMC**) No. 39-2013[118] which mandates that the Protest should be filed with the office that issued or signed the FLD/FAN which, in this case, was the LTS. Petitioner concludes that since the Protest was filed with the wrong office, the same was ineffective.

Petitioner also reiterates its argument that the Collection Letter is akin to an FDDA or the final decision on the disputed assessment that respondent should have timely appealed to the CTA. Since respondent failed to do so, then the assessment has become final and executory.

In addition, petitioner argues that the requirement of due process is satisfied when a person is notified of the charge against him or her and is given an opportunity to explain or defend himself or herself. Petitioner asserts that respondent was given a clear opportunity to be heard and to refute the findings of its deficiency tax assessment.

Lastly, petitioner echoes that all presumptions are in favor of the correctness of the tax assessment.

Respondent, on the other hand, maintains that the CTA has jurisdiction over the petition. Contrary to petitioner's arguments, the assessment has not attained finality. Although it was LTEAD I, instead of the LTS, that received its Protest to the FLD/FAN on 24 November 2015, the filing of the Protest is still valid. Respondent explains that the organizational structure of the BIR shows that LTEAD

118 Receipt of Protest Letter on Final Assessment Notices and Final Decision on Disputed Assessments.

I operates as one of the attached offices (or is part) of the LTS. In fact, LTEAD I (to which RO Manodon belongs) is under the control and supervision of the Assistant Commissioner of Internal Revenue (**ACIR**) of LTS. As such, LTEAD I was duty-bound to forward or deliver the Protest to the ACIR of the LTS (to whom it was addressed), which has control and supervision over it. Aside from this, the LTS and LTEAD I are located in the same building, or at the BIR National Office. In conclusion, LTEAD I's receipt of the Protest can be considered as constructive receipt by the LTS.

Respondent also contends that even if the Protest was filed out of time, petitioner committed estoppel *in pais* when RO Manodon and respondent, on several occasions, exchanged messages, met in person, and conferred with each other to reconcile the assessments. Meanwhile, estoppel in deed occurred when RO Manodon presented a Letter of Reassignment authorizing him to continue the audit. Lastly, there is laches on petitioner's part when RO Manodon requested the resubmission of various documents without raising any concerns about petitioner's alleged failure to file the Protest in time.

RULING OF THE COURT *EN BANC*

Before the Cour *En Banc* proceeds with the resolution of the issues raised, We find it propitious to first determine whether the present petition was filed on time.

As the records bear, petitioner received a copy of the assailed Resolution on 21 June 2024.[119] Petitioner had fifteen (15) days from his or her receipt thereof, or until 06 July 2024, within which to file a Petition for Review before the Court *En Banc*.[120]

---

[119] See Notice of Resolution dated 19 June 2024, *rollo*, p. 64.

[120] See Section 3(b), Rule 8 of the RRCTA, which reads:
SEC. 3. *Who may appeal; period to file petition.* —
...
(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

On 08 July 2024, petitioner requested for an additional 15 days to file the petition.[121] Since 06 July 2024 fell on a Saturday (which means the request was filed on time), We granted the request and gave petitioner additional 15 days from 06 July 2024, or until 21 July 2024, within which to file a Petition for Review.[122] With 21 July 2024 falling on a Sunday, the present Petition for Review was timely filed on 22 July 2024.[123]

We now proceed to the merits of the case.

I. THE SPECIAL FIRST DIVISION HAS JURISDICTION OVER THE CASE.

The CTA, being a court of special jurisdiction, can only take cognizance of matters which are clearly within its jurisdiction.[124] Section 7(a)(1) of Republic Act (**RA**) No. 1125,[125] as amended by RA 9282,[126] provides:

> ...
>
> SEC. 7. *Jurisdiction*. — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, **or other matters arising under the National Internal Revenue Code** or other laws administered by the Bureau of Internal Revenue[.][127]
>
> ...

121 See Motion for Extension of Time to File Petition for Review, *rollo*, pp. 1-4.
122 See Notice dated 19 July 2024, id., p. 6.
123 See Petition for Review, supra at note 1.
124 *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, 25 March 2019, citing *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, 22 October 2014.
125 AN ACT CREATING THE COURT OF TAX APPEALS.
126 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.
127 Emphasis supplied and italics in the original text.

Based on the foregoing provision, this Court has jurisdiction over the decisions of petitioner, not only on those "involving disputed assessments, and refunds of internal revenue taxes, fees or other charges, penalties in relation thereto" but also regarding "other matters arising under the [NIRC]."

In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue,*[128] a case similar to the case at bar, the Supreme Court held:

> ...
>
> The first assigned error relates to the jurisdiction of the CTA over the issues in this case. The Court of Appeals ruled that only decisions of the BIR denying a request for reconsideration or reinvestigation may be appealed to the CTA. Since the petitioner did not file a request for reinvestigation or reconsideration within thirty (30) days, the assessment notices became final and unappealable. The petitioner now argue that the case was brought to the CTA because the warrant of distraint or levy was illegally issued and that no assessment was issued because it was based on an invalid waiver of the statutes of limitations.
>
> We agree with petitioner. Section 7(1) of Republic Act No. 1125, the Act Creating the Court of Tax Appeals, provides for the jurisdiction of that special court:
>
> > SEC. 7. Jurisdiction. — The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided —
> >
> > > (1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or **other matters arising under the National Internal Revenue Code or other laws or part of law administered by the Bureau of Internal Revenue;**
>
> The appellate jurisdiction of the CTA is not limited to cases which involve decisions of the Commissioner of Internal Revenue on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the Bureau of Internal Revenue. The wording of the provision is clear and simple. **It gives the CTA the jurisdiction to determine if the warrant of distraint and levy issued by the BIR**

[128] G.R. No. 162852, 16 December 2004; Citations omitted, italics and emphasis in the original text and supplied.

> **is valid** and to rule if the Waiver of Statute of Limitations was validly effected.
>
> This is not the first case where the CTA validly ruled on issues that did not relate directly to a disputed assessment or a claim for refund. In *Pantoja v. David*, **we upheld the jurisdiction of the CTA to act on a petition to invalidate and annul the distraint orders of the Commissioner of Internal Revenue.** Also, in *Commissioner of Internal Revenue v. Court of Appeals*, the decision of the CTA declaring several waivers executed by the taxpayer as null and void, thus invalidating the assessments issued by the BIR, was upheld by this Court.
>
> ...

The foregoing declaration confirms that the CTA's appellate jurisdiction is not limited to cases involving petitioner's decisions on matters relating to assessments or refunds. The law also provides the CTA with appellate jurisdiction over any case that could arise from the NIRC of 1997, as amended, or from other related laws that the BIR administers.

In the case at bar, petitioner issued the WDL pursuant to the provisions of the NIRC of 1997, as amended. The WDL states:

> ...
> To: The Chief, LT Collection Enforcement Division or his duly Authorized Representative
>
> ...
>
> WHEREAS, THERE IS DUE FROM:
>
> BETA ELECTRIC CORPORPORATION
> No. 18 Bagong Calzada St.,
> Barangay Ususan, Taguig City
> TIN-000-308-048
>
> The sum of **ONE HUNDRED SEVENTY MILLION SIX HUNDRED SEVENTY THREE THOUSAND FOUR HUNDRED FIFTY SEVEN PESOS & 84/100 (₱170,673,457.84)**, . . .
>
> ...
>
> WHEREAS, the said taxpayer failed and refused and still fails and refuses to pay the same notwithstanding the demands made by this [o]ffice.

Now, therefore, pursuant to **Section 205** and in accordance with:

[A.] **Section 206, 207(A), 208 of the National Internal Revenue Code** as amended, you are hereby directed to **Distrain** the goods, chattels or effects, and other personal property [of] whatever character of the delinquent taxpayer.

[B.] **Section 206-207B of the National Internal Revenue Code**, as amended, you are hereby directed to Levy upon the real property and interest in/or rights to real property of the delinquent taxpayer.[129]

...

Since the WDL's issuance is a matter that arose from petitioner's implementation of the provisions of the NIRC of 1997, as amended; particularly Sections 205, 206, 207 (a), 207 (b), and 208, then the CTA has jurisdiction to take cognizance of respondent's prior petition which, on the main, prayed for the cancellation of the WDL:

...

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court that a DECISION be rendered NULLIFYING, INVALIDATING, AND CANCELLING the WDL No. 121.2019.2004, the [COLLECTION LETTER] dated January 9, 2018, and the assessment for being VOID;

Moreover, after due notice and hearing, the following Order or Writ be issued:

a. A Writ of Preliminary Injunction or an Order Suspending the Implementation of the said WDL and CL; and

b. An Order dispensing with the posting of the required Bond.

Other reliefs, just and equitable under the circumstances are likewise being prayed for.[130]

...

[129] See Warrant of Distraint and/or Levy No. 121-2019-004, supra at note 26; Emphasis in the original text and supplied.

[130] See Prayer, Petition for Review with Omnibus Motion to Suspend Collection of Taxes; for the Lifting and Invalidation of the Warrant of Distraint and/or Levy, and/or Assessment of Taxes; and to Dispense with the Requirement to Post Bond filed on 01 March 2019, supra at note 28, at p. 59.

As to the prior petition's timeliness, respondent had 30 days from its receipt of the WDL within which to appeal it.[131] Since respondent received the WDL on 01 February 2019, it had until 04 March 2019 to file a Petition for Review.[132] Thus, respondent's prior petition filed before the CTA on 01 March 2019 was filed on time.[133]

II. THE ASSESSMENT IS VOID FOR HAVING BEEN ISSUED IN VIOLATION OF RESPONDENT'S RIGHT TO DUE PROCESS.

To recap, the Special First Division found that the FLD/FAN did not address respondent's explanations in its Reply to the PAN. Instead, petitioner merely mirrored *verbatim* the PAN's *Details of Discrepancy* in the FLD's/FAN's *Details of Discrepancy*, save for one adjustment in income tax and VAT.[134] Applying the *Avon* case, it concluded that respondent's right to due process was violated.

In disagreeing with the Special First Division's action, petitioner again recycled the argument that the requirement of due process is satisfied when a taxpayer is notified of the charge against him or her and is given an opportunity to explain or defend himself or herself. Petitioner asserts that respondent was given a clear opportunity to be heard and to refute the findings of its deficiency tax assessment.

We do not share petitioner's argument.

---

131 Pursuant to Section 11 of the Republic Act (RA) No. 1125, as amended by RA 9282, which provides that:
SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

132 The 30th day fell on 03 March 2019, a Sunday. Thus, the last day to file was moved to the next working day on 04 March 2019.

133 See Petition for Review with Omnibus Motion to Suspend Collection of Taxes; for the Lifting and Invalidation of the Warrant of Distraint and/or Levy, and/or Assessment of Taxes; and to Dispense with the Requirement to Post Bond filed on 01 March 2019, supra at note 28, at p. 12.

134 See assailed Decision, supra at note 3.

Section 228 of the NIRC of 1997, as amended, as implemented by Revenue Regulations (RR) No. 12-99,[135] and as amended by RR No. 18-13,[136] outlines the due process requirements for the issuance of deficiency tax assessments.

Section 228 of the NIRC of 1997, as amended, states:

> ...
>
> 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.
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
>
> ...

On the other hand, relevant portions of Section 3 of RR No. 12-99, as amended, state:

> ...
>
> SEC. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —
>
> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
>
> 3.1.1 *Preliminary Assessment Notice (PAN).* — If after review and evaluation by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer a Preliminary Assessment Notice (PAN) for the proposed assessment. It shall show in detail, the

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135 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.

136 Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

> facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based (see illustration in ANNEX A hereof).
>
> If the taxpayer fails to respond within fifteen (15) days from date of receipt of the PAN, he shall be considered in default, in which case, a Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.
>
> If the taxpayer, within fifteen (15) days from date of receipt of the PAN, responds that he/it disagrees with the findings of deficiency tax or taxes, an FLD/FAN shall be issued within fifteen (15) days from filing/submission of the taxpayer's response, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.
>
> ...

In the landmark case of *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[137] (**Avon**), citing *Ang Tibay, represented by Toribio Teodoro, manager and proprietor, and National Workers' Brotherhood v. The Court of Industrial Relations and National Labor Union, Inc.*,[138] the Supreme Court emphasized the CIR's duty to: (**a**) inform the taxpayer of the legal and factual bases of the assessment; (**b**) consider the taxpayer's explanations or defenses regarding the assessment; and (**c**) provide reasons for rejecting such explanations or defenses. Failure to comply with these requirements renders the assessment void, *viz*:

> ...
>
> The importance of providing the taxpayer with adequate written notice of his or her tax liability is undeniable. Under Section 228, it is explicitly required that the taxpayer be informed in writing of the law and of the facts on which the assessment is made; otherwise, the assessment shall be void. Section 3.1.2 of Revenue Regulations No. 12-99 requires the Preliminary Assessment Notice to show in detail the facts and law, rules and regulations, or jurisprudence on which the proposed assessment is based. Further, Section 3.1.4 requires that the Final Letter of Demand must state the facts and law on which it is based; otherwise, the Final Letter of Demand and Final Assessment Notices themselves shall be void. Finally, Section 3.1.6 specifically requires that the decision of the Commissioner or of his or her duly authorized representative on a disputed assessment shall state the facts and law, rules and regulations, or jurisprudence on which the

137 Supra at note 109; Citations omitted, italics in the original text and emphasis supplied.
138 G.R. No. 46496, 27 February 1940.

decision is based. Failure to do so would invalidate the Final Decision on Disputed Assessment.

...

On the other hand, the taxpayer is explicitly given the opportunity to explain or present his or her side throughout the process, from tax investigation through tax assessment. Under Section 3.1.1 of Revenue Regulations No. 12-99, the taxpayer is given 15 days from receipt of the Notice for Informal Conference to respond; otherwise, he or she will be considered in default and the case will be referred to the Assessment Division for appropriate review and issuance of deficiency tax assessment, if warranted. Again, under Section 228 of the Tax Code and Section 3.1.2 of Revenue Regulations No. 12-99, the taxpayer is required to respond within 15 days from receipt of the Preliminary Assessment Notice; otherwise, he or she will be considered in default and the Final Letter of Demand and Final Assessment Notices will be issued. After receipt of the Final Letter of Demand and Final Assessment Notices, the taxpayer is given 30 days to file a protest, and subsequently, to appeal his or her protest to the Court of Tax Appeals.

...

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.**

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 P15,700,000.00 to P62,900,000.00, without any discussion or explanation on the merits of Avon's explanations.

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.**
>
> ...
>
> 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.
>
> ...
>
> In this case, Avon was able to amply demonstrate the Commissioner's disregard of the due process standards raised in *Ang Tibay* and subsequent cases, and of the Commissioner's own rules of procedure. **Her disregard of the standards and rules renders the deficiency tax assessments null and void.**
>
> ...

Verily, in *Commissioner of Internal Revenue v. Yumex Philippines Corporation*,[139] the Supreme Court reaffirmed *Avon* and emphasized the importance of observing procedural due process:

> ...
>
> In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (*Avon case*), the Court enjoined strict observance by the BIR of the prescribed procedure for issuance of the assessment notices with due regard for the taxpayers' constitutional rights. It is mandatory that the BIR not only inform the taxpayer through the PAN, FLD, and FAN of the facts, law and regulations, and jurisprudence on which the assessment against it is based, but it must also accord the taxpayer the opportunity to be heard through the entire process, *i.e.*, from tax investigation until tax assessment.
>
> ...

[139] G.R. No. 222476, 05 May 2021 citing G.R. Nos. 201398-99 & 201418-19, supra at note 137; Citation omitted and italics in the original text.

To determine whether petitioner considered respondent's explanations, we lay out below a side-by-side comparison of the assessments in the PAN, respondent's explanations in its Reply to the PAN, and petitioner's subsequent assessments in the FLD/FAN:

No.	Per PAN[140]	Reply to the PAN[141]	Per FLD/FAN[142]
		INCOME TAX	
I (a)	Unreported Sales (SAWT versus SLS) - **₱29,114,381.45** This represents comparison of Income Payment reported in BIR Form 2307 (SAWT) versus Summary List of Sales. The amount of ₱29,114,381.45 representing unreported sales is subject to Income Tax rate of 30%, hence, assessed pursuant to Section 27(A) of the Tax Code, as amended.	▪ VAT on Customer's Deposit Since we are engaged on a construction business, the basis of recording of sales is through progress billing. The remittance of output tax to BIR for customer's deposit is being made upon collection. We record the recoupment of down payment upon progress billing. Upon receipt of down payment by the customer, we record it in our books as follows: ... Let us say we billed them 50% work accomplishment. Assuming GPR is 85%. The billing entry would be as follows: ... ▪ Accounts Receivable – EWT The certificate of Creditable Withholding Tax (CWT) issued by customers were used in the reporting of Income Tax Return of Beta Electric Corporation for the year ended December 2012 but were recorded under "Accrued Others" in the books. These certificates were received after the remittance of VAT Payable. The remittance of the output taxes pertaining to these certificates were made in the first quarter of 2013. Also, there are other cases wherein certificates were received after the external audit and thus we could not record the CWT anymore for the year 2012. These were recorded and used in 2013.	Unreported Sales (SAWT versus SLS) - **₱11,497,782.26** This represents comparison of Income Payment reported in BIR Form 2307 (SAWT) versus Summary List of Sales. The amount of ₱11,497,782.26 representing unreported sales is subject to Income Tax rate of 30%, hence, assessed pursuant to Section 27(A) of the Tax Code, as amended.

140 See PAN, Exhibit "R-4", supra at note 12.
141 See Letter dated 21 July 2015, supra at note 13.
142 See FLD, Exhibit "R-6", supra at note 16.

No.	Per PAN[140]	Reply to the PAN[141]	Per FLD/FAN[142]
		▪ Other discrepancies refer to VAT on retention & other adjustments. ▪ The unreported sales amounting to ₱276,035.67 of the The Residences at Greenbelt Condo Corp. customer as reflected on the schedule was reported under Ayala Property Management Corp. customer. ▪ Please take note of the errors on tagging of customers. DMCI-Beta Tewet Joint Venture Corp. was erroneously reported to BIR under DMCI account resulting to unreported sales amounting to ₱6,696,650.67. Per BIR 2012 Summary List of Sales JTKC Land Inc. had taxable sales amounting to ₱78,147,297.26 but per books has only ₱74,727,862.58. The accounted difference amounting to ₱3,419,434.68 should be for Madrigal Bayot & Dev't. Corp.	
I (b)	Unaccounted Sales subjected to VAT - ₱25,378,288.04 This represents discrepancies on reported Vatable Sales per VAT return amounting to ₱1,300,336,595.65 as against the total amount subject to VAT in the amount of ₱1,274,958,307.61. The discrepancy amounting to ₱25,378,288.04 representing unaccounted sales is subject to regular income tax rate, hence, assessed pursuant to Section 27(A) of the Tax Code, as amended.	▪ Output taxes as per our VAT return are based on collection whereas Output taxes per Sales Revenue are recorded under Deferred Output Tax account. This Deferred VAT is remitted upon collection of progress billing. ▪ As per BIR computation, collections were presented at gross amount while as per VAT return it is at net of VAT.	Unaccounted Sales subjected to VAT - ₱25,378,288.04 This represents discrepancies on reported Vatable Sales per VAT return amounting to ₱1,300,336,595.65 as against the total amount subject to VAT in the amount of ₱1,274,958,307.61. The discrepancy amounting to ₱25,378,288.04 representing unaccounted sales is subject to regular income tax rate, hence, assessed pursuant to Section 27(A) of the Tax Code, as amended.
I (c)	Disallowance for non-withholding of taxes - ₱30,412,249.82 Income Payments not subjected to Expanded Withholding Tax. This	We have complied with the Revenue Regulation No. 14-2008 issued by the BUR which state that: ... ▪ As per your schedule, you have assessed Beta Electric	Disallowance for non-withholding of taxes - ₱30,412,249.82 Income Payments not subjected to Expanded Withholding Tax. This

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	represents discrepancy resulting from a reconciliation of expenses per Financial Statements/Trial Balance versus that in the Monthly Alphalist of Payees and remittances as reflected in the BIR Form 1601E. Investigation revealed that certain income payments were not subjected to requisite withholding taxes, thus, the corresponding expense/ payment was disallowed.	Corporation of the disallowance for non-withholding of taxes amounting to ₱30,412,249.82. Please take note that certain income payments were not subjected to the requisite withholding taxes because not all expenses are vatable and not all suppliers are regular. During 2012 year-end reporting of the Annual Information Return or BIR Form 1604E, we have indicated our regular suppliers whose income payments are exempt from withholding of taxes but subject to income tax. These are the Gancayco Law Office and SGV&Co. because they are General Professional Partnership whose income payments shall not be subject to income tax since they are the individual partners subject to income tax in their separate and individual capacities. ▪ Beta Electric Corporation is included in the Top 20,000 required to withheld taxes. Incurred expenses involve numerous but small transactions at project sites. The usual expenses that may involve purchases from non-regular suppliers are transportation, notary, meal reimbursement, representations, club and association dues and others. To be considered as our regular supplier, we have noted the prerequisites to be followed. All of our one-time purchases amounting to 10,000 and above are subjected to EWT. ▪ Another possible difference was the comparison to operating expenses and cost of sales. The total expenses derived from 2012 AFS consist mainly of administrative expenses & those closed to COS. Other expenses such as jobs in process or purchases of	represents discrepancy resulting from a reconciliation of expenses per Financial Statements/Trial Balance versus that in the Monthly Alphalist of Payees and remittances as reflected in the BIR Form 1601E. Investigation revealed that certain income payments were not subjected to requisite withholding taxes, thus, the corresponding expense/ payment was disallowed.

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		materials or fixed assets and advances to suppliers etc.	
I (d)	Unreported Gain on Sales of PPE - ₱167,592.92 The computation of Sales of Property Pant and Equipment disclosed gain on sales of ₱168,484.92 as against reported gain on sales per Cash Flow for only ₱893. The discrepancy representing unreported gain of ₱167,592.92 is subject to regular income tax rate, hence, assessed pursuant to Section 27(A) of the Tax Code, as amended.	▪ The only disposal of fixed assets that occurred in 2012 was the sale of defective CPUs as evidenced by OR#24003. ▪ The cost of the service vehicle which was damaged due to a typhoon with plate no. PNI-793 was compensated by a claim from an insurance company. The income generated from the retirement was booked under "Miscellaneous Income". ▪ The service vehicle with plate no. XDY-839 was property of Raco-Haven Automation Phil Inc (RHAPI). RHAPI suffered from bankruptcy. The proceeds from this sale were used to offset from our receivable from them. ▪ Some fixed assets like tools being used by our workers are part of their accountabilities and are charged to them should they lost it. Reversal of depreciation expenses from these assets are recorded under "JIP Others" account.	Unreported Gain on Sales of PPE - ₱167,592.92 The computation of Sales of Property Pant and Equipment disclosed gain on sales of ₱168,484.92 as against reported gain on sales per Cash Flow for only ₱893. The discrepancy representing unreported gain of ₱167,592.92 is subject to regular income tax rate, hence, assessed pursuant to Section 27(A) of the Tax Code, as amended.
I (e)	Undeclared Income (Matching of MAP versus Purchases) - ₱4,924,251.60 Matching Summary of Monthly Alphalist of supplier versus SLP of Beta Electric Corporation showed unreported purchases amounting to ₱48,138,804.21. Dividing the said amount by the COS ratio of 90.72% has resulted in additional sales of ₱53,063,055.79. The gross income of ₱4,924,251.16 (₱53,063,055-₱48,138,804.63) was subjected to regular corporate income tax rate of 20% pursuant to Section 27 of the Tax Code, as amended.	▪ Discrepancy comprises of reported withholding taxes to "VARIOUS SUPPLIERS" account. Some differences as verified and reviewed consist of non-vatable supplies, retention on progress billings by our sub-contractors (recorded as Prepaid Input Tax) and advances to suppliers. Also included are payment to association dues and general professional partnership which are subject to input tax but not subject to EWT.	Undeclared Income (Matching of MAP versus Purchases) - ₱4,924,251.16 Matching Summary of Monthly Alphalist of supplier versus SLP of Beta Electric Corporation showed unreported purchases amounting to ₱48,138,804.21. Dividing the said amount by the COS ratio of 90.72% has resulted in additional sales of ₱53,063,055.79. The gross income of ₱4,924,251.16 (₱53,063,055-₱48,138,804.63) was subjected to regular corporate income tax rate of 20% pursuant to Section 27 of the Tax Code, as amended.

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I (f)	Undeclared Income (Discrepancy on Compensation) - ₱73,158,472.09 The total Gross Compensation reported per F/S (page 235) amounted to ₱240,487,167.90 as against Gross Compensation per Return amounting to ₱313,645,639.99 leaving a difference of ₱73,158,472.09 which is subject to regular income tax rate, hence, assessed pursuant to Section 27(A) of NIRC, as amended.	▪ The total compensation as per return is higher than that reported per FS due to unbilled revenue for 2012. Breakdown of JIP-Labor as of December 2012 shows a total amount of ₱75,132,620.97. The expenses that should have been declared are still part of our assets under JIP-labor account. ...	Undeclared Income (Discrepancy on Compensation) - ₱73,158,472.09 The total Gross Compensation reported per F/S (page 235) amounted to ₱240,487,167.90 as against Gross Compensation per Return amounting to ₱313,645,639.99 leaving a difference of ₱73,158,472.09 which is subject to regular income tax rate, hence, assessed pursuant to Section 27(A) of NIRC, as amended.
		VAT	
II (a)	Unreported Sales (SAWT versus SLS) - **₱29,114,381.45** This represents comparison of Income Payment reported in BIR Form 2307 (SAWT) versus Summary List of Sales. The amount of ₱29,114,381.45 representing unreported sales is subject to 12% Value added taxes, hence, assessed pursuant to Section 106 of NIRC, as amended.	This was not specifically addressed in the Reply to the PAN but We note that the explanation in Row I(a) is applicable since they refer to the same assessment.	Unreported Sales (SAWT versus SLS) - **₱11,497,782.26** This represents comparison of Income Payment reported in BIR Form 2307 (SAWT) versus Summary List of Sales. The amount of ₱11,497,782.26 representing unreported sales is subject to 12% Value added taxes, hence, assessed pursuant to Section 106 of NIRC, as amended.
II (b)	Undeclared Income (Matching of MAP versus SLP) - ₱53,063,055.79 The output taxes resulting from the matching of Monthly Alphalist (MAP) of supplier versus SLP resulting from the underdeclaration of sales of ₱53,063,055.79, the 12% output taxes were assessed pursuant to Section 106 of the Tax Code, as amended.	This was not specifically addressed in the Reply to the PAN but We note that the explanation in Row I(e) is applicable since they refer to the same assessment.	Undeclared Income (Matching of MAP versus SLP) - ₱53,063,055.79 The output taxes resulting from the matching of Monthly Alphalist (MAP) of supplier versus SLP resulting from the underdeclaration of sales of ₱53,063,055.79, the 12% output taxes were assessed pursuant to Section 106 of the Tax Code, as amended.
II (c)	Unreported Collection - ₱58,322,981.36	▪ We remit output taxes upon collection. Thus, output tax from Customer Deposit is	Unreported Collection - ₱58,322,981.36

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	The unreported collection is based on the analysis of 2012 Gross Receipts submitted by the subject taxpayer by using its beginning and ending summary list of Accounts Receivable as compared to the 2012 schedule of Taxable Income (page 232). The amount of ₱58,332,981.36 representing unreported collections is subject to 12% Value Added Taxes, hence, assessed pursuant to Section 106 of the Tax Code, as amended.	reported upon collection. The entry upon collection is a debit to Prepaid Output Tax and a credit to Output Tax. The discrepancies noted as per BIR audit are due to the recoupment of these customer deposits. The entry on the VAT portion upon recoupment is a debit to Deferred Output Tax and a credit to Prepaid Output Tax.	The unreported collection is based on the analysis of 2012 Gross Receipts submitted by the subject taxpayer by using its beginning and ending summary list of Accounts Receivable as compared to the 2012 schedule of Taxable Income (page 232). The amount of ₱58,332,981.36 representing unreported collections is subject to 12% Value Added Taxes, hence, assessed pursuant to Section 106 of the Tax Code, as amended.
II (d)	Unremitted Prepaid VAT per FS - ₱27,549,150.00 This account per F/S pertain to unremitted value added taxes on customer deposits, hence, assessed pursuant to Section 106 of the NIRC, as amended.	▪ The balance of Prepaid Output VAT as per books is the un-recouped down payment. The output tax from customer deposits are being remitted to BIR upon collection of down payment.	Unremitted Prepaid VAT per FS - ₱27,549,150.00 This account per F/S pertain to unremitted value added taxes on customer deposits, hence, assessed pursuant to Section 106 of the NIRC, as amended.
		EWT	
III (a)	Discrepancy on Services at 2% - ₱30,412,249.82 Analysis of all accounts that should have been subjected to Expanded Withholding Taxes per F/S versus per return revealed some untaxed discrepancies amounting to ₱30,412,149.82 which resulted to basic EWT of ₱608,245.00 such are being assessed pursuant to Section 57 and Section 249 of the NIRC, as amended and RR 12-01.	See I(c)	Discrepancy on Services at 2% - ₱30,412,249.82 Analysis of all accounts that should have been subjected to Expanded Withholding Taxes per F/S versus per return revealed some untaxed discrepancies amounting to ₱30,412,149.82 which resulted to basic EWT of ₱608,245.00 such are being assessed pursuant to Section 57 and Section 249 of the NIRC, as amended and RR 12-01.
III (b)	Matching SLP versus MAP various) - ₱24,275,544.37 Matching SLP versus Monthly Alphalist revealed some untaxed discrepancies amounting to ₱24,275,544.37 resulting to basic tax on EWT amounting to ₱341,052.72		Matching SLP versus MAP various) - ₱24,275,544.37 Matching SLP versus Monthly Alphalist revealed some untaxed discrepancies amounting to ₱24,275,544.37 resulting to basic tax on EWT amounting to ₱341,052.72

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	such are being assessed pursuant to Section 57 and Section 249 of the NIRC, as amended and RR 12-01.		such are being assessed pursuant to Section 57 and Section 249 of the NIRC, as amended and RR 12-01.

Based on the foregoing comparison, the assessment in the FLD/FAN is indeed a replica of the assessment in the PAN, except for the reduction in *Unreported Sales (SAWT versus SLS)*.[143] This finding is consistent with the Special First Division's ruling that petitioner reiterated *verbatim* in the *Details of Discrepancy* attached to the FLD/FAN, what it stated in the *Details of Discrepancy* of the undated PAN, save for the adjustments in one basic income tax due and basic deficiency VAT only.[144]

A careful review of the FLD/FAN also shows that the Reply to the PAN and its reconciling schedules[145] were not mentioned. We further observe that petitioner did not contradict the Special First Division's finding that respondent's Reply to PAN was not considered before the issuance of the FLD/FAN. Instead, petitioner contained his or her response to the argument that the requirement of administrative due process is sufficiently complied with as long as the taxpayer was given the opportunity to be heard. However, in light of the Supreme Court's clear pronouncement in *Avon*, petitioner's argument must fail.

En totale, We find that the assessment is *inescapably void* for petitioner's failure to observe respondent's right to due process.

Having resolved that the Special First Division has jurisdiction over respondent's prior petition, and that the assessment was issued in violation of respondent's right to due process, We find it unnecessary to resolve the other issue raised by the parties as they could no longer change the outcome of the case.

WHEREFORE, with the foregoing considered, the instant Petition for Review filed by petitioner Commissioner of Internal Revenue on 22 July 2024 is **DENIED** for lack of merit. Accordingly, the assailed Decision dated 05 March 2024 and assailed Resolution dated

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143 See Rows I(a) and II(a).
144 See assailed Decision, supra at note 3, at p. 3003.
145 See Letter dated 23 July 2015, supra at note 14. **See also** Transmittal Sheet, supra at note 15.

18 June 2024, of the Special First Division in CTA Case No. 10040, entitled *Beta Electromechanical Corporation v. Commissioner of Internal Revenue*, are hereby **AFFIRMED.**

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ON LEAVE
MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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 case was assigned to the writer of the opinion of the Court.

JEAN MARIE A. BACORRO-VILLENA
Acting Presiding Justice