REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

IMASEN PHILIPPINE MANUFACTURING CORPORATION, Petitioner,	**CTA CASE NO. 10402**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: 11:17 AM

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RESOLUTION

FERRER-FLORES, J.:

Before this Court is respondent's **Motion for Reconsideration (Re: Decision promulgated on 08 July 2025)** filed on July 8, 2025, with petitioner's **Comment/Opposition** filed *via* registered mail on September 29, 2025.

On July 8, 2025, the Court promulgated the assailed Decision granting petitioner's *Amended Petition for Review,* cancelling respondent's assessment of deficiency income tax, value-added tax, final withholding tax, expanded withholding tax and compromise penalty for taxable year (TY) 2016, and enjoining respondent from enforcing the collection of the assessed deficiency taxes, the dispositive portion of which reads as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present **Amended Petition for Review** is **GRANTED**.
>
> The assessment of respondent Commissioner of Internal Revenue (CIR) of deficiency income tax, value-added tax, final withholding tax,

expanded withholding tax, and compromise penalty, for taxable year 2016 are **CANCELLED** and **SET ASIDE**.

Consequently, respondent CIR or any person acting on his behalf is **ENJOINED** from enforcing the collection of deficiency taxes assessed against petitioner for calendar year 2016.

SO ORDERED.

In his *Motion*, respondent argues that the Court erred in ruling that there was a violation of petitioner's right to due process. Respondent asserts that the principle laid down in *Commissioner of Internal Revenue vs. Avon Products Manufacturing* (*Avon Case*)[1] is not applicable in the present case as petitioner has always been accorded due process from the start of the audit proceedings up to the issuance of the Preliminary Assessment Notice (PAN), Final Letter of Demand (FLD) and Final Decision on Disputed Assessment (FDDA).

He maintains that he has no obligation to give credence to the arguments raised by the petitioner in its protest, as some are unmeritorious, and no new evidence has been presented to refute the assessments.

He posits that due process abhors the absolute lack of notice or opportunity to be heard, which is not present in this case. Instead, respondent asserts that he has considered the explanations of petitioner, as evidenced by the reduction of the latter's total deficiency tax assessment. Respondent emphasizes that the appreciation of legal arguments and evidence in an assessment case within the BIR is for the appreciation of the CIR or his duly authorized representatives, and not of the taxpayer. It is the respondent, by reason of his tax expertise, that is vested with the discretion to determine the sufficiency of the taxpayer's submissions and the soundness of its legal arguments.

Respondent further contends that the Court erred in enjoining the collection of the assessed deficiency taxes. He maintains that tax assessments are presumed correct and made in good faith and that respondent still has a recourse to appeal the assailed Decision. In the absence of a final pronouncement from the Supreme Court declaring the invalidity of the assessment, petitioner's recourse is to request for the issuance of a Temporary Restraining Order (TRO) or injunction from this Court and to prove all requisites for its issuance.

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[1] G.R. Nos. 201398-99, October 03, 2018.

Respondent asserts, however, that petitioner failed to show the existence of a clear and unmistakable right to an exemption, nor did it show the presence of extreme urgency necessitating the issuance of the suspension order to prevent serious damage to petitioner. In contrast, it is the respondent who stands to suffer great damage and injury should a suspension order issue, as he stands to lose, albeit temporarily, his authority to impose upon and collect the taxes due from petitioner.

On the other hand, in its *Comment/Opposition*, petitioner controverts respondent's claim that no supporting documents were submitted during audit. Petitioner maintains that, in its Reply to the PAN dated June 21, 2018, it raised arguments and submitted documents to refute the deficiency income tax assessments. While petitioner concedes that respondent is not bound to accept wholesale the submissions of taxpayers, it stresses that respondent failed to conduct a good faith consideration of the arguments and evidence it had presented.

Petitioner emphasizes that the due process violation stems from the fact that respondent reiterated the findings in the PAN to the FLD without any explanation or reference to the documentary submissions of petitioner in its reply to the PAN. According to petitioner, this omission demonstrates that respondent did not conduct a genuine evaluation of its submissions prior to the issuance of the FLD, thereby violating petitioner's right to due process.

Petitioner further maintains that the issuance of an assessment stating the facts and the law on which an assessment is based satisfies only the notice requirement of due process. The hearing requirement, where the taxpayer is given an opportunity to explain or defend itself, is complied with when it is given the opportunity to submit refutations and evidence against the assessment and the respondent genuinely considers the same. In the present case, petitioner argues that respondent failed to comply with the hearing requirement of due process, because no honest and good faith evaluation of documents submitted by petitioner against the PAN was done prior to the issuance of the FLD.

Finally, with respect to respondent's argument that it should not be enjoined from enforcing the collection of deficiency taxes against petitioner for TY 2016, petitioner asserts that it has already posted a valid and subsisting cash bond to guaranty payment of deficiency taxes should the questioned assessments be ultimately upheld.

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

To reiterate, the Court's finding that the subject tax assessments are void for violation of petitioner's right to due process is supported by the pronouncement of the Supreme Court in the *Avon case*. Thus, respondent's failure to consider or appreciate the taxpayer's arguments, and to provide an explanation why the arguments raised therein were rejected, constitute a violation of the taxpayer's right to due process, thereby rendering the assessments null and void, *viz.*:

> 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, <u>did not even comment or address the defenses and documents submitted by Avon</u>. Thus, <u>Avon was left unaware on how the Commissioner or her authorized representatives appreciated the explanations or defenses raised in connection with the assessments.</u>** 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.
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> xxx xxx xxx
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> **It is true that the Commissioner is not obliged to accept the taxpayer's explanations, as explained by the Court of Tax Appeals. However, <u>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</u>.**
>
> 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.**
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> xxx xxx xxx
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> **The Commissioner's total disregard of due process rendered the <u>identical</u> Preliminary Assessment Notice, Final Assessment Notices, and Collection Letter null and void, and of no force and effect.** (*Emphasis and underscoring supplied*)

In the instant case, petitioner submitted its Reply to the PAN stating therein substantive arguments that go into the validity of the assailed assessments and even submitted supporting documents to bolster its arguments. The CIR, however, disregarded these explanations and merely reiterated the findings in the PAN and attached Details of Discrepancy to the FLD/FAN and attached Details of Discrepancy, save for minor adjustments in the computation of interest.

To emphasize, respondent did not address or even comment on the matters raised or the documents submitted by petitioner. There was no discussion showing how the issues were evaluated or why the defenses were rejected. As a result, petitioner was left unaware of how the respondent, or his representative, appreciated the explanations and defenses raised in connection with the assessments.

With respect to respondent's argument that the reduction in petitioner's total deficiency tax assessment demonstrates that petitioner's explanations were, in fact, considered, the Court is not persuaded.

As stated earlier, records reveal that respondent issued identical PAN and FAN, except for the adjustment in the computation of interest. Although the total deficiency tax assessment was later reduced at the FDDA stage, such reduction does not establish that respondent genuinely evaluated petitioner's arguments at the PAN stage.

The Court is guided by the ruling in *Avon* and *Prime Steel Mill, Inc. vs. Commissioner of Internal Revenue*,[2] where the Supreme Court emphasized that the PAN is part of due process as it gives both the taxpayer and the respondent the opportunity to settle the case at the earliest possible time without the need for the issuance of a FAN. This purpose, however, is not served if the respondent fails to act or consider the taxpayer's explanations.

Moreover, the filing of a response to the PAN prior to the issuance of the FAN/FLD cannot be a useless exercise. The right to be heard, which includes the right to present evidence, is meaningless if the respondent can simply ignore the evidence without reason. Thus, the fact that respondent was able to reduce the total deficiency tax assessment in the FDDA stage, does not cure the defect.

As to respondent's contention that the Court cannot enjoin the collection of deficiency taxes, the Court finds the same untenable.

It must be emphasized that the Court's directive enjoining respondent to collect the assessed deficiency taxes, is a necessary consequence of its

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[2] G.R. No. 249153, September 12, 2022.

judgment declaring the assessments null and void. A void assessment bears no valid fruit.[3] It is as if it were never issued. Hence, it cannot attain finality nor serve as a lawful basis for respondent to collect taxes.

Section 5 (c), Rule 135 of the Rules of Court provides:

> Section 5. Inherent powers of court. — Every court shall have power:
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> x x x
>
> (c) To compel obedience to its judgments, orders and processes, and to the lawful orders of a judge out of court, in a case pending therein;
>
> x x x

As a corollary, Section 3, Rule 71 of the Rules of Court provides:

> Section 3. Indirect contempt to be punished after charge and hearing. — After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, **a person guilty of any of the following acts may be punished for indirect contempt;**
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> x x x
>
> (b) **Disobedience of** or resistance to a lawful writ, process, order, or **judgment of a court**, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto; xxx (*Emphasis supplied*)

It follows, therefore, that the Court may rightfully enjoin any act, including the collection of deficiency taxes, that would render its final judgment inutile. To allow the petitioner to proceed with collection despite the nullity of the assessments would not only amount to blatant disregard for judicial authority but would also erode the rule of law and undermine the integrity of the Court's decisions.

At this juncture, it is almost trite to restate, yet necessary to emphasize, that a void assessment bears no fruit and can never attain finality. Accordingly, it cannot serve as the basis for the collection of deficiency tax.

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[3] *Commissioner of Internal Revenue vs. Unioil Corporation*, G.R. No. 204405. August 04, 2021.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by respondent in his *Motion for Reconsideration*, the Court finds no compelling reason to reverse or modify the Decision promulgated on July 8, 2025.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration (Re: Decision promulgated on 08 July 2025)** filed on July 8, 2025 is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice