REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

BIO-RESOURE POWER GENERATION CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10372

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

OCT 04 2024 3:00 pm

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RESOLUTION

***MODESTO-SAN PEDRO, J.*:**

For the Court's resolution is respondent's *Motion for Reconsideration (Re: Decision dated 30 July 2024)*, filed on August 16, 2024, with petitioner's *Comment (Re: Respondent's Motion for Reconsideration dated August 16, 2024)*, filed via registered mail on September 11, 2024.

Respondent assails this Court's Decision, dated July 30, 2024 ("Assailed Decision"), where We ruled that respondent's failure to properly address petitioner's arguments from its administrative protests constituted a violation of petitioner's right to due process, following *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[1] ("*Avon*"). Respondent insists that (1) administrative due process only requires that the taxpayer be notified of the assessment against it and be given a fair and reasonable opportunity to defend its case; (2) respondent is not required to accept a taxpayer's arguments; and (3) *Avon* cannot be retroactively applied. Given that the assessment is valid, respondent contends, petitioner is liable for deficiency taxes and compromise penalties.

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[1] G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice

The Motion is bereft of merit.

First, *Avon* includes extensive discussions about how a taxpayer is ***not*** given a fair opportunity to present its case if the reasons for the Commissioner of Internal Revenue's ("CIR") rejection of its previous arguments are not sufficiently explained. After all, a taxpayer cannot continue to reasonably defend its case if it does not know why the CIR rejected its previous arguments. For citing jurisprudence out of context while ignoring the Supreme Court's discussions and definitions of its own decrees, respondent's first argument fails.

Second, the violation of due process here stemmed not from respondent's rejection of petitioner's protest but from the former's failure to explain *why* he found the latter's arguments lacking. Nowhere in the Assailed Decision do We bar respondent from denying administrative protests, *so long as the reasons for such denial are clearly communicated to the taxpayer*. For missing the point of Our ruling, respondent's second argument fails.

Third, *Avon* was promulgated in 2018 while the offending Formal Letter of Demand/Final Assessment Notice and Final Decision on Disputed Assessment were both issued in 2019. Respondent's claim that these were issued in 2016 is a blatant falsehood alleged without any proof. As such, even without delving into the validity of respondent's contention that *Avon* cannot be retroactively applied, said contention is plainly inapplicable here. Thus, for being irrelevant, respondent's third argument fails.

Considering that none of respondent's arguments for the validity of the assessment withstands even the slightest scrutiny, his insistence that petitioner is liable for deficiency taxes and compromise penalties must be rejected as well.

The Motion thus uncovers no compelling reason to reverse Our ruling.

ACCORDINGLY, respondent's *Motion for Reconsideration (Re: Decision dated 30 July 2024)*, filed on August 16, 2024, is hereby **DENIED** for lack of merit. The Decision, dated July 30, 2024, is **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice