REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

VIBAL GROUP, INC., (formerly Vibal Publishing House, Inc.), *Petitioner,*	**CTA CASE NO. 10219**
	Members:
-versus-	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: DEC 23 2025 10:30 am

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R E S O L U T I O N

MANAHAN, J.:

For this Court's resolution is respondent's *Motion for Reconsideration* posted on February 7, 2025 and received by the Court on March 10, 2025 and electronically filed on March 3, 2025 with petitioner's *Comment/Opposition* personally filed on September 17, 2025 and electronically filed on September 18, 2025.

Respondent prays for the reversal and setting aside of the Court's Decision (assailed Decision) dated January 20, 2025, the dispositive portion of which, reads as follows:

> **WHEREFORE,** in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**.
>
> Accordingly, the FLD/FAN dated January 12, 2016, the FDDA dated September 12, 2017, and respondent's letter dated October 29, 2019, all issued against petitioner, for the assessments for deficiency income tax, VAT and EWT, including interests thereon, for TY 2012, in the aggregate amount of **₱172,042,972.75**, are **CANCELLED and SET ASIDE**.
>
> **SO ORDERED.**

Respondent raises the following argument in his *Motion for Reconsideration,* to wit:

> The Honorable Court has no jurisdiction to take cognizance of the present Petition for Review as the assailed tax assessments had long been final, executory and incontestable.

Respondent cites Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended, and argues that the subject Final Assessment Notice (FAN) for taxable year (TY) 2012 had become final, executory and demandable for petitioner's failure to file a protest within the time prescribed therein. Respondent contends that it was erroneous on the part of the Court to take cognizance of the present Petition for Review as there was no "disputed assessment" that may be the proper subject of an appeal.

Respondent finds support in the ruling of the Supreme Court in the case of *Commissioner of Internal Revenue vs. Court of Tax Appeals Third Division and City Super Incorporated,*[1] (*City Super* case) where it was supposedly held that "when a taxpayer files a petition for review before the Court of Tax Appeals without validly contesting the assessment with the Commissioner of Internal Revenue, the Court of Tax Appeals has no jurisdiction xxx xxx."

Respondent now seeks the reversal of the assailed Decision and asks the Court to uphold the subject deficiency tax assessment issued against petitioner for TY 2012.

In its *Comment/Opposition*, petitioner asserts that respondent raises no new matters in his Motion for Reconsideration as the issues raised therein have been passed upon and resolved by the Court in the assailed Decision.

Petitioner dismisses respondent's reliance on the *City Super* case because it maintains the facts ruled upon are not on all fours with the present case. Petitioner argues that in the *City Super* case, the Supreme Court ruled that the CTA has no jurisdiction because the taxpayer failed to file a valid protest against a *valid* assessment while in the present case the subject FAN is void for being issued in violation of its right to due

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[1] G.R. No. 239464, May 10, 2021.

process. It invokes the principle that "a void assessment bears no valid fruit," hence it cannot attain a final and executory nature.

Petitioner recalls that the subject FAN is void because it was issued eight (8) days from its receipt of the Preliminary Assessment Notice (PAN) in patent violation of the fifteen (15)-day period accorded to a taxpayer to file a response pursuant to the relevant provision of law and implementing regulations. It now asks the Court to deny petitioner's Motion for Reconsideration for lack of merit.

RULING OF THE COURT

Respondent's *Motion for Reconsideration* lacks merit.

As aptly discussed in the assailed Decision and pointed out by petitioner, respondent's issuance of the FAN was in violation of its right to due process. The facts show that the PAN for TY 2012 dated December 23, 2015 was received by petitioner on January 4, 2016 and had until January 19, 2016 within which to file a response thereto pursuant to the clear provisions of Section 228 of the 1997 NIRC, as amended, quoted as follows:

> 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**: xxx
>
> xxx xxx xxx
>
> **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.**
>
> xxx xxx xxx. *(Emphasis supplied)*

The facts further show that respondent issued the FLD/FAN on January 12, 2016 or before the expiration of the said fifteen-day period which is a clear violation of its right to due process. In the case of *Commissioner of Internal Revenue vs. Yumex Philippines Corporation,*[2] *(Yumex* case*)* the Supreme Court acknowledged the procedural due process provided under the afore-quoted Section 228 of the 1997 NIRC, as amended, as implemented by Section 3 of Revenue Regulations (RR) No. 12-99 and recognized that a taxpayer is given the opportunity to present his or her side within fifteen (15) days from receipt of the PAN and another thirty (30) days from receipt of the FAN to file a protest.

We quote Section 3 of RR No.12-99, to wit:

> SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment. —*
>
> 3.1 Mode of procedures in the issuance of a deficiency tax assessment:
>
> xxx xxx xxx
>
> 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 facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based xxx.
>
> **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 finding 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.
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> xxx xxx xxx

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[2] G.R. No. 222476, May 5, 2021.

> 3.1.3 *Formal Letter of Demand and Final Assessment Notice (FLD/FAN).* - The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued by the Commissioner or his duly authorized representative. The FLD /FAN calling for payments of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based; otherwise, the assessment shall be void.
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> xxx xxx xxx" *(Emphases supplied)*

Based on the foregoing provisions of Section 228 of the NIRC and RR No. 12-99, as part of due process in the issuance of tax assessments, a taxpayer is given fifteen (15) days from receipt of the PAN to file a protest or response thereto with the Bureau of Internal Revenue (BIR). It is only upon the lapse of the prescribed fifteen (15)-day period, (without such protest or response being filed by the taxpayer within such period), that respondent may issue the corresponding FLD or FAN.

Citing the same *Yumex* case, the Supreme Court in the fairly recent case of *Prime Steel Mill, Inc. vs. Commissioner of Internal Revenue,*[3] emphasizes the importance of observance of the fifteen (15)-day period to respond to the PAN, otherwise, the due process requirement may be breached, and we quote, thus:

> In the very recent case of *Commissioner of Internal Revenue vs. Yumex Philippines Corp.,* the Court had occasion to state that **the fifteen (15)-day period provided under Revenue Regulations No. 12-99 for a taxpayer to reply to a PAN should also be strictly observed by the BIR**. *(Emphasis supplied)*

A void assessment bears no fruit.[4] In the same manner, a void FAN cannot be the subject of a protest.

In view of the foregoing discussion, the Court finds no compelling reason to reverse or modify the assailed Decision dated January 20, 2025.

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[3] G.R. No. 249153, September 12 2022.
[4] *Commissioner of Internal Revenue vs. South Entertainment Gallery, Inc.,* G.R. No. 223767, April 24, 2023.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(On Leave)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice