REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

KINGSTON ALUMINUM AND STAINLESS SALES CORP., represented by its President, **MILDRID V. CHING,** Petitioner,	**CTA CASE NO. 10326**
	Members:
-versus-	**RINGPIS-LIBAN,** *Chairperson, and* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
BUREAU OF INTERNAL REVENUE – REVENUE REGION NO. 9A, represented by the Regional Director **GERRY O. DUMAYAS,** Respondent.	Promulgated: JUN 17 2025

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AMENDED DECISION

MODESTO-SAN PEDRO, J.:

For the Court's resolution are (1) petitioner's *Motion for the Issuance of an Amended Decision,* filed on March 10, 2025, with respondent's *Manifestation in Lieu of Comment,* filed on April 4, 2025; and respondent's *Motion for Reconsideration (Re: Decision dated 24 February 2025),* filed on March 24, 2025, with petitioner's *Comment/Opposition [Re: Motion for Reconsideration dated March 21, 2025],* filed on April 21, 2025.

Motion for Issuance of an Amended Decision

Petitioner, through its Motion, prays for the issuance of an Amended Decision correcting the dispositive portion of Our Decision, dated February 24, 2025. It observes that this Court declared void the assessment against it for the year 2012, while the subject assessment in this case is actually for the year 2017.

Upon review of the records, the Court finds that the assailed assessment here is, in fact, for the year 2017, and that the dispositive portion of the Decision inadvertently mentions the year 2012. We thus deem it proper to correct the typographical error via the present Amended Decision.

Motion for Reconsideration

Respondent, via his Motion, seeks the reversal of the same Decision. He argues that (1) the discrepancy which supposedly caused the due date for payment to become indefinite was a mere typographical error and thus does not affect the validity of the assessment; (2) his issuance of the Formal Letter of Demand/Final Assessment Notice ("FLD/FAN") complied with the minimum requirements for such, as it included the factual and legal basis for the assessment; (3) he is not required to agree with the arguments of protesting taxpayers; (4) petitioner was able to file protests to respondent's issuances, so respondent complied with the essence of due process requirements; and (5) petitioner is liable to pay the assessed amount.

The Motion lacks merit.

That the claim in the FLD, that petitioner was required to pay the assessed amount 15 days from receipt of the Preliminary Assessment Notice, was supposedly a mere typographical error does not change the indefiniteness of the given date. Even if the Court were to correct the error to say "15 days upon receipt of the Final Assessment Notice," there would still be two contradicting due dates in the FLD/FAN: 15 days from receipt of the FAN and February 29, 2020, as written on the FAN itself.

This would still cause confusion and render the due date indefinite. How would the taxpayer know which of these is the actual due date? What law, rule, or regulation states that the FAN must prevail if it contradicts the FLD on the due date? How would it know that the "correct" due date is the one in the FAN when the FLD clearly says that it is *mandated* to pay within 15 days from notice, as per the "implementing Revenue Regulations" for *Section 228 of the National Internal Revenue Code of 1997, as amended*? Without a way to choose between the two dates explicitly given as due dates, the actual due date for payment became indefinite.

The due date being indefinite, the assessment is void.

As for respondent's arguments against Our use of *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[1] ("*Avon*"), the same miss the point as well.

First, respondent's contention that he complied with the "minimum" due process requirements for assessments is unacceptable. There is no "minimum" set of such requirements as this implies that other requirements can be ignored. Due process requirements are *requirements*, so *all* must be complied with. Otherwise, they would not be requirements in the first place.

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

The important requirement laid down by *Avon*, that respondent's replies to a taxpayer's protests must clearly address said taxpayer's arguments, is a *requirement*. It is jurisprudential and thus mandatory. Nothing clarifies that it is an "extra" requirement that can thus be ignored; otherwise, it would not be a requirement in the first place, and the Supreme Court would not have voided the assessment in *Avon*. As such, it is false to claim that respondent complied with the "minimum" due process requirements—he simply failed to comply with all due process requirements.

Second, nowhere did the Court state that respondent was supposed to accept petitioner's arguments. In fact, in the very passage from the Decision that respondent quoted in his Motion, We clearly stated that the Commissioner of Internal Revenue ("CIR") can be fully correct in fully rejecting a taxpayer's argument. In the Decision, the Court even gave an example of an argument that should be completely rejected: the idea that respondent's failure to revalidate the relevant Letter of Authority renders the assessment void. Respondent was justified and correct in rejecting this argument.

The issue is that respondent failed to explain *why* he rejected petitioner's argument. He did not explain why, for example, the failure to revalidate the Letter of Authority did not nullify the assessment, or even acknowledge this argument at all. Such a lack of explanation, and *not* the CIR's rejection of a taxpayer's argument, is the failure that nullifies an assessment, following *Avon*. As explained in the Decision, even if the CIR is completely correct in rejecting a taxpayer's protest, the assessment is void if the CIR does not *explain* and *communicate the reasons for* such rejection.

Indeed, respondent clearly knows this. In his own motion, respondent quotes a passage from *Commissioner of Internal Revenue v. RCBC Savings Bank, Inc.*[2] In said quotation, respondent *emphasizes, italicizes, and underlines* the phrase "so long as the reasons for such rejection are clearly communicated to the taxpayer." In other words, respondent *strongly emphasized* the clear declaration that he is required to explain the reasons for his rejection of a taxpayer's arguments. By his own Motion, then, he violated petitioner's due process rights.

Third, the fact that petitioner filed protests against the assessment notices does not mean that it was able to *intelligently* protest the assessments. As observed in the Decision, petitioner's protest against the FLD merely repeated the arguments in its protest against the PAN. These include arguments that are clearly incorrect. This inclusion happened precisely because respondent failed to explain why such arguments were incorrect and thus rejected.

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[2] CTA EB Case No. 2781 (CTA Case No. 9832), February 12, 2024.

Following *Avon*, however, this cannot be considered a substantial protest. To use an analogy: had this Court granted the instant Petition for Review in a single-page Decision that lacked any discussions of the case, then respondent would not be able to file a substantial motion for its reconsideration. He would not know *why* the Petition was granted or even *what he was arguing against*. He would thus be confined to filing a *pro forma* motion doomed to denial.

The same is true for petitioner's administrative protests. Even if it were able to protest the FLD/FAN, it was constrained to simply parrot its earlier protest against the PAN as it did not know *why* the earlier protest was rejected or even *what counterarguments it was arguing against*. Forced to file such a protest, it was clearly deprived of its right to intelligently and substantially defend its case against the assessment. Its right to due process was thus violated.

In short, for respondent's failure to clearly communicate *why* he rejected petitioner's protests, the assessment is void.

As the assessment is still void, there is still no need to cover respondent's arguments regarding petitioner's alleged liabilities.

ACCORDINGLY, respondent's *Motion for Reconsideration (Re: Decision dated 24 February 2025)*, filed on March 24, 2025, is hereby **DENIED** for lack of merit.

However, petitioner's *Motion for the Issuance of an Amended Decision*, filed on March 10, 2025, is **GRANTED**. Let the dispositive portion of the Decision, dated February 24, 2025, in the instant case be **MODIFIED** to refer to "taxable year 2017" instead of "taxable year 2012," as follows:

> **ACCORDINGLY**, the instant *Petition for Review*, filed on August 20, 2020, is hereby **GRANTED**. The assailed Preliminary Assessment Notice, Formal Letter of Demand, Final Decision on Disputed Assessment, and Letter-Reply are **CANCELLED** and **SET ASIDE**. The assessment against petitioner for alleged deficiency taxes for taxable year 2017 is declared **NULL AND VOID**.
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> Respondent and any of his agents and officers are **ENJOINED AND PROHIBITED** from collecting any amount in relation to the void assessment.
>
> **SO ORDERED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest that the conclusion in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice