REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

PACO SORIANO PANDACAN DEVELOPMENT COOPERATIVE, Petitioner,	**CTA CASE NO. 11107**
	Members:
- versus -	**RINGPIS-LIBAN,** *P.J., Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE and REGIONAL DIRECTOR OF REGION NO. 6 – BUREAU OF INTERNAL REVENUE, Respondents.	Promulgated: 3:30 p.m.

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DECISION

FERRER-FLORES, J.:

The **Petition for Review** filed on March 23, 2023, prays for the cancellation and withdrawal of the assessments issued by respondents against petitioner on its alleged deficiency income tax, percentage tax, documentary stamp tax (DST), and compromise penalty, in the aggregate amount of **₱10,576,458.80**, for taxable year (TY) 2019.[1]

THE PARTIES

Petitioner Paco Soriano Pandacan Development Cooperative is a cooperative duly registered with the Cooperative Development Authority (CDA), with Registration Certificate No. 9520-16012225 dated March 22,

[1] Summary of the Case, Pre-Trial Order dated May 29, 2024, Docket, p. 341.

2010,[2] and with address at 1343 A. Linao St., Brgy. 674, Zone 73 Dist. V, Paco, Manila.[3] Petitioner was duly issued Certificate of Tax Exemption (CTE) Nos. COOP-00095-16-RR-06-RDO-34 on December 22, 2016[4] and COOP-00051-21-RR-06-RDO-34 on October 13, 2021.[5]

Respondent **Commissioner of Internal Revenue** (CIR) is tasked by law to assess and collect all national internal revenue taxes, fees and charges, and enforce all forfeitures, penalties and fines connected therewith. He may be served with summons and other court processes at the Bureau of Internal Revenue (BIR), National Office Building, Diliman, Quezon City.[6]

Respondent **Regional Director** (RD) **of Region No. 6 of the BIR**, on the other hand, is the official tasked by law, as regards Revenue Region No. 6, to assess and collect all national internal revenue taxes, fees and charges, and enforce all forfeitures, penalties and fines connected therewith. He may be served with summons and other court processes at the BIR Regional Office Bldg., Tuazon Bldg., Solana corner Beaterio St., Intramuros, Manila.[7]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On September 13, 2021, the RD of Region No. 6 of the BIR issued Letter of Authority (LOA) No. eLA201900011234/LOA-034-2021-00000230,[8] authorizing Revenue Officer (RO) Hasnor Rangiris and Group Supervisor (GS) Julieta Bumanlag, to examine its books of accounts and other accounting records for all internal revenue taxes, for the taxable period January 1, 2019 to December 31, 2019. The said LOA was signed by RD Jethro M. Sabariaga. It was received by petitioner on September 17, 2021.[9]

RD Sabariaga, thereafter, issued the Preliminary Assessment Notice (PAN) (Parts I and II) dated July 5, 2022, with Details of Discrepancies against petitioner.[10] The same was received by petitioner on July 6, 2022.[11]

The PAN found petitioner liable for deficiency income tax, percentage tax, and DST in the following amounts:

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[2] Exhibit "P-2", Docket p. 261.
[3] Par. 1.1, Facts, *Joint Stipulation of Facts and Issues (JSFI)*, Docket p. 325.
[4] Exhibit "P-3", Docket pp. 262 to 263.
[5] Par. 1.4, Facts, JSFI, Docket, p. 326.
[6] Par. 1.2, Facts, JSFI, Docket, pp. 325 to 326.
[7] Par. 1.3, Facts, JSFI, Docket, p. 326.
[8] Exhibit "P-1", Docket, p. 260; Exhibit "R-1", BIR Records, p. 25.
[9] Exhibit "R-1", BIR Records, p. 25.
[10] Exhibits "P-8" and "P-9", Docket, pp. 280 to 284.
[11] Exhibits "R-13" and "R-13-A", BIR Records, pp. 157 to 161.

KIND OF TAX	AMOUNT (₱)
Income	
Basic Tax Due	5,082,033.76
Interest 12% (06/15/2020 to 07/20/2022)	1,278,166.30
Percentage	
Basic Tax Due	1,704,973.91
Surcharge 25%	426,243.48
Interest 12% (01/21/2020 to 07/20/2022)	510,651.36
DST	
Basic Tax Due	901,134.50
Surcharge 25%	225,283.63
Interest 12% (01/06/2020 to 07/20/2022)	274,339.91
Compromise Penalty	70,000.00
TOTAL	10,472,826.85

On July 18, 2022, petitioner filed its letter dated July 15, 2022,[12] arguing that the said PAN has no legal basis and that, as a duly registered cooperative, it enjoys a tax-exempt status.

On August 1, 2022, petitioner received the Formal Letter of Demand (Parts I and II) with Details of Discrepancies and Assessment Notices (FLD/FAN), all dated July 28, 2022,[13] assessing petitioner of deficiency taxes in the aggregate amount of ₱10,576,458.80, inclusive of interests, surcharges, and compromise penalties, to wit:

KIND OF TAX	AMOUNT (₱)
Income	
Basic Tax Due	5,082,033.76
Interest 12% (06/15/2020 to 08/30/2022)	1,346,669.33
Percentage	
Basic Tax Due	1,704,973.91
Surcharge 25%	426,243.48
Interest 12% (01/21/2020 to 08/30/2022)	533,633.48
DST	
Basic Tax Due	901,134.50
Surcharge 25%	225,283.63
Interest 12% (01/06/2020 to 08/30/2022)	286,486.70
Compromise Penalty	70,000.00
TOTAL	10,576,458.80

On August 26, 2022, petitioner filed its Protest of the Final Assessment Notices, Formal Letters of Demand and Details of Discrepancies (Protest) dated August 25, 2022.[14] On August 30, 2022, the BIR Assessment Office

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[12] Exhibit "P-10", Docket, pp. 285 to 289.

[13] Exhibits "P-11" to "P-17", Docket, pp. 290 to 299; Exhibits "R-14" and series to "R-15" and series, BIR Records, pp. 183 to 190.

[14] Exhibit "P-18", Docket, pp. 300 to 305; Refer also to pars. 1.6 and 1.11, JSFI, Docket, pp. 326 and 328, respectively.

and the BIR Legal Service were furnished with the copy of the said Protest against the FLD/FAN for TY 2019.[15]

PROCEEDINGS BEFORE THIS COURT

Maintaining that it had 30 days from the lapse of the 180-day period for respondents to act on petitioner's Protest, or until March 24, 2023,[16] petitioner filed the present *Petition for Review*[17] on March 23, 2023.

The instant case was originally raffled to the CTA Third Division. Pursuant to Administrative Circular No. 01-2023,[18] it was transferred to the CTA Second Division on May 31, 2023.[19]

Summons was issued by the Court on June 5, 2023.[20]

Thereafter, respondents filed a *Motion for Extension of Time to File Answer with Entry of Appearance*,[21] which was granted by the Court in the Minute Resolution dated July 11, 2023.[22]

Within the extended period granted by the Court,[23] on August 4, 2023, respondents filed their *Answer with Motion to Dismiss*.[24]

Petitioner filed its *Opposition to the Motion to Dismiss* on September 11, 2023.[25]

In the Resolution dated October 13, 2023,[26] the Court denied respondents' *Motion to Dismiss*. The Court also ordered petitioner to attach the following to its pre-trial brief: (1) a summary of its intended witnesses; (2) a summary of its intended evidence; (3) the judicial affidavits of its witnesses; and, (4) copies of its documentary evidence.

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[15] Par. 1.7, Facts, JSFI, Docket, p. 326.
[16] Par. 4, Statement of the Case & Timeliness of the Petition, Petition for Review, Docket, p. 9.
[17] Docket, pp. 6 to 19.
[18] Reorganizing the Divisions of the Court dated May 23, 2023.
[19] Notice, Docket, p. 77.
[20] Docket, p. 79.
[21] Docket, pp. 87 to 84.
[22] Docket, p. 85.
[23] Respondent's *Motion for Extension to File Answer with Entry of Appearance* dated July 5, 2023, and Minute Resolution dated July 11, 2023, Docket, pp. 81 to 85.
[24] Docket, pp. 86 to 112.
[25] Docket, pp. 215 to 219.
[26] Docket, pp. 225 to 226.

The Pre-Trial Conference was set and held on February 15, 2024.[27] Prior thereto, petitioner's *Pre-Trial Brief with Compliance* was filed on February 12, 2024,[28] while *Respondents' Pre-Trial Brief* was submitted on February 13, 2024.[29]

During the said Pre-Trial Conference, this case was referred to mediation before the Philippine Mediation Center - Court of Tax Appeals (PMC-CTA).[30] The PMC-CTA, however, issued a *No Agreement to Mediate* dated April 1, 2024,[31] stating that the parties had agreed not to have the instant case mediated.

On March 18, 2024, the parties filed their *Joint Stipulation of Facts and Issues*,[32] which was admitted and approved by the Court in its Resolution dated April 12, 2024,[33] thereby deeming the termination of the Pre-Trial.

The Pre-Trial Order was issued on May 29, 2024.[34]

Trial ensued, with both parties presenting and offering their respective testimonial and documentary evidence.

Petitioner offered the testimony of Ms. Erinna May Lim, its Assistant Bookkeeper.[35]

On June 13, 2024, petitioner filed its *Formal Offer of Evidence*.[36] Respondents, however, failed to file their comment thereon.[37]

In the Resolution dated September 18, 2024,[38] the Court admitted all of petitioner's offered exhibits.

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[27] Resolution dated October 13, 2023, Docket, pp. 225 to 226; Notice of Pre-Trial Conference dated October 20, 2023, Docket, pp. 227 to 228; Minutes of hearing held on, and Order dated, February 15, 2024, Docket, pp. 316 to 317, and 322 to 324, respectively.
[28] Docket, pp. 233 to 243.
[29] Docket, pp. 308 to 315.
[30] Minutes of hearing held on, and Order dated, February 15, 2024, Docket, pp. 316 to 317, and 322 to 324, respectively.
[31] Docket, p. 335.
[32] Docket, pp. 325 to 329.
[33] Docket, p. 337.
[34] Docket, pp. 341 to 347.
[35] *Judicial Affidavit of Ms. Erinna May Lim* dated February 8, 2024, Docket, pp. 245 to 259; Minutes of hearing held on, and Order dated, May 30, 2024, Docket, pp. 348 to 350.
[36] Docket, pp. 353 to 357.
[37] *Records Verification* dated July 5, 2024 issued by the Judicial Records Division of this Court, Docket, p. 359.
[38] Docket, pp. 362 to 363.

For their part, respondents presented the testimony of RO Hasnor S. Rangiris.[39]

On October 9, 2024, *Respondents' Formal Offer of Evidence* was filed,[40] to which petitioner filed its *Comment to Respondent's Formal Offer of Evidence)* on October 30, 2024.[41] In the Resolution dated November 29, 2024,[42] the Court admitted all of respondents' offered exhibits.

Respondents' *Memorandum* was filed via registered mail on January 20, 2025;[43] while petitioner's *Memorandum* was submitted on February 7, 2025.[44]

The case was considered submitted for decision on February 13, 2025.[45]

ISSUES

The parties submit the following issues for this Court's resolution, to wit:

I. Whether petitioner violated the terms and conditions of its issued CTE (COOP-00095-16-RR-06-RDO-034) that would warrant its revocation.

II. Whether petitioner is liable to pay the aggregate amount of ₱10,576,458.80, representing deficiency income tax, percentage tax, DST, and compromise tax for the TY 2019.[46]

ARGUMENTS

Petitioner maintains that the assessments are null and void for having been issued in gross violation of the right of petitioner to due process, on the bases of the following: (1) petitioner is exempt from the alleged deficiency taxes pursuant to Article 60 of Republic Act (RA) No. 9520; (2) the 2016 CTE of petitioner was never suspended, revoked or cancelled; and, (3) respondents conducted tax audit on the books of petitioner for TY 2019 without securing prior authority from the CDA. Petitioner, moreover, argues that it did not

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[39] Exhibit "R-18", Docket, pp. 116 to 130; Minutes of the hearing held on, and Order dated, September 24, 2024, Docket, pp. 364 to 365-A.
[40] Docket, pp. 368 to 376.
[41] Docket, pp. 379 to 382.
[42] Docket, pp. 386 to 387.
[43] Docket, pp. 388 to 408.
[44] Docket, pp. 433 to 452.
[45] Minute Resolution dated February 13, 2025, Docket, p. 454.
[46] Issues, JSFI, Docket, pp. 328 to 329.

violate the terms and conditions of its 2016 CTE which would warrant its revocation.

On the other hand, respondents contend that this Court has no jurisdiction over the case as the *Petition for Review* was filed without the required *Verification and Certification Against Forum Shopping*. Respondents further argue, while maintaining that no valid *Petition for Review* was filed, that petitioner's CTE has been revoked, and thus, petitioner is liable to pay deficiency tax for TY 2019. Lastly, respondents aver that petitioner can no longer continue to benefit from tax exemptions provided by Section 60 of RA No. 9520.

THE COURT'S RULING

The present *Petition for Review* is meritorious.

The Court has jurisdiction over the present case.

Respondents insist that the instant *Petition for Review* was filed without the required *Verification and Certification Against Forum Shopping* (*Verification*). They argue that the annexed *Verification* was dated March 22, 2023 while the *Petition for Review* was dated March 23, 2022. They, thus, stress that the Verification was executed before the Petition for Review. Consequently, respondents posit that the subject *Petition for Review* must be treated as a mere scrap of paper and thus, must be dismissed.

This Court, however, has already settled the foregoing issue raised by respondents in the Resolution dated October 13, 2023[47] when respondents' *Motion to Dismiss* was denied.

Be that as it may, even after taking a second hard look on the same issue, this Court still disagrees with respondents.

We hereby reiterate Our disquisition as stated in the said Resolution, to wit:

> The one (1)-day discrepancy between the Verification and Certification and the Petition is a trivial issue. It can be explained as a mere typographical error, or the draft of the Petition being finished before it was actually finalized and signed, or any other excusable mistake that neither affects the merits of the case nor impugns on respondent's rights. Whatever

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[47] Docket, pp. 225 to 226.

> the case, it is certainly not enough to justify the wholesale dismissal of petitioner's case, especially considering the stance towards technical rules of procedure encouraged by the Supreme Court.

Correspondingly, the Court sees no legal obstacle to take cognizance of the present case.

The FLD/FAN was issued in violation of petitioner's right to due process.

The requirement to inform the taxpayer of the assessment is mandatory, as prescribed under Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, to wit:

> 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
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> xxx xxx xxx
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> **The taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.** (Emphasis supplied)
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> xxx xxx xxx

The foregoing provision explicitly requires 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.[48] The requirement that the taxpayer must be informed of the factual and legal bases of the assessment is mandatory. It cannot be presumed. As a requirement of due process, this rule allows the taxpayer to make an effective protest.[49] To be sure, the requirement set by law to state in writing the factual and legal bases for the assessment is not a hollow exhortation. The law imposes a substantive, not merely a formal, requirement.[50] Furthermore, it must be emphasized that failure to comply with Section 228 does not only render the assessment void but also finds no validation in any provision in the Tax Code.[51]

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48 *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., et seq.*, G.R. Nos. 201398-99 and 201418-19, October 3, 2018.
49 *Commissioner of Internal Revenue vs. Spouses Remigio P. Magaan and Leticia L. Magaan*, G.R. No. 232663, May 3, 2021.
50 *Commissioner of Internal Revenue vs. Unioil Corporation*, G.R. No. 204405, August 4, 2021.
51 *Id.*, citing *Commissioner of Internal Revenue vs. Reyes*, G.R. Nos. 159694 and 163581, January 27, 2006.

To implement the above-quoted Section 228, Section 3 of Revenue Regulations (RR) No. 12-99,[52] as amended by RR No. 18-2013,[53] provides, in part, as follows:

> SECTION 3. ***Due Process Requirement in the Issuance of a Deficiency Tax Assessment. –***
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> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
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> 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 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** (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 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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> 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 payment of the taxpayer's deficiency tax or taxes <u>shall state the facts, the law</u>, rules and regulations, or jurisprudence <u>on which the assessment is based, *otherwise, the assessment shall be void*</u>** (see illustration in ANNEX 'B' hereof).
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> 3.1.5 *Final Decision on a Disputed Assessment (FDDA).* – The decision of the Commissioner or his duly authorized representative **<u>shall state the (i) facts, the applicable law</u>**, rules and regulations, or jurisprudence on which such decision is based, ***<u>otherwise, the decision shall be void</u>*** (see illustration in ANNEX 'C' hereof), and (ii) that the same is his final decision. *(Emphases and underscoring added)*

[52] SUBJECT: 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.

[53] SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

The foregoing provisions prescribe, as part of due process in the issuance of tax assessments, that the PAN, FLD/FAN and FDDA must, respectively, state, among others, the facts and the law on which the assessment is based; otherwise, the FLD/FAN and/or FDDA shall be void.

In *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., et seq.* (*Avon* case),[54] the Supreme Court held that tax investigation and tax assessment demand the observance of due process, viz:

> The Bureau of Internal Revenue is the primary agency tasked to assess and collect proper taxes, and to administer and enforce the Tax Code. To perform its functions of tax assessment and collection properly, it is given ample powers under the Tax Code, such as the power to examine tax returns and books of accounts, to issue a subpoena, and to assess based on the best evidence obtainable, among others. However, these powers must 'be exercised reasonably and [under] the prescribed procedure.' **The Commissioner and revenue officers must strictly comply with the requirements of the law, with the Bureau of Internal Revenue's own rules, and with due regard to taxpayer's constitutional rights.**
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> xxx xxx xxx
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> In carrying out these quasi-judicial functions, the Commissioner is required to 'investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them as basis for their official action and exercise of discretion in a judicial nature.' <u>**Tax investigation and assessment necessarily demand the observance of due process because they affect the proprietary rights of specific persons**</u>.
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> In *Ang Tibay v. The Court of Industrial Relations*, this Court observed that **although quasi-judicial agencies 'may be said to be free from the rigidity of certain procedural requirements[, it] does not mean that it can, in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirements of due process in trials and investigations of an administrative character.'** It then enumerated the fundamental requirements of due process that must be respected in administrative proceedings:
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> (1) The party interested or affected must be able to present his or her own case and submit evidence in support of it.
> (2) The administrative tribunal or body must consider the evidence presented.
> (3) There must be evidence supporting the tribunal's decision.
> (4) The evidence must be substantial or 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'
> (5) The administrative tribunal's decision must be rendered on the evidence presented or at least contained in the record and disclosed to the parties affected.

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

(6) The administrative tribunal's decision must be based on the deciding authority's own independent consideration of the law and facts governing the case.

(7) **The administrative tribunal's decision is rendered in a manner that the parties may know the various issues involved and the reasons for the decision.**

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The last requirement relating to the form and substance of the decision is the decision-maker's *'duty to give reason'* to enable the affected person to understand how the rule of fairness has been administered in his [or her] case, to expose the reason to public scrutiny and criticism, and to ensure that the decision will be thought through by the decision-maker.

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Administrative due process is anchored on fairness and equity in procedure. It is satisfied if the party is properly notified of the charge against it and is given a fair and reasonable opportunity to explain or defend itself. Moreover, it demands that the party's defenses be considered by the administrative body in making its conclusions, and **that the party be sufficiently informed of the reasons for its conclusions.**

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Clearly, administrative due process requires that a party be properly notified of the charges, given a fair chance to be heard, have its defenses duly considered, and be clearly informed of the basis of the administrative decision.

In *Avon*, the Court also discussed that while respondent is not obliged to accept the explanations of a taxpayer, he must give a reason for rejecting the same, viz:

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 conclusion are based, and those facts must appear in the record.**

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The Commissioner's total disregard of due process rendered the identical Preliminary Assessment Notice, Final Assessment Notices, and Collection Letter **null and void, and of no force and effect.**

This Court has, in several cases, declared void any assessment that failed to strictly comply with the due process requirements set forth in Section 228 of the Tax Code and Revenue Regulation No. 12-99.

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> In *Commissioner of Internal Revenue v. Reyes,* **this Court ruled as void an assessment for deficiency estate tax issued by the Commissioner for failure to inform the taxpayer of the law and the facts on which the assessment was made, in violation of Section 228 of the Tax Code.**
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> xxx xxx xxx
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> xxx. ***[The Commissioner of Internal Revenue's]*** **disregard of the standards and rules renders the deficiency tax assessments null and void**. xxx. *(Emphases and underscoring added)*

Based on the foregoing jurisprudential pronouncements, respondent or his duly authorized representative is mandated to perform assessment functions in accordance with, and strict adherence to, law, with their own rules of procedure, and always with regard to the basic tenets of due process. Due process requires respondent and/or the BIR to consider the defenses and evidence submitted by the taxpayer and to render a decision based on these submissions.

Furthermore, in case respondent or his duly authorized representative fails to observe due process, it shall have the effect of rendering the deficiency tax assessment void, and of no force and effect.

Indeed, a significant part of the due process requirement in the issuance of tax assessments is that the concerned taxpayer must be informed, in writing, of the law and of the facts on which the assessment is made. Such requirement must be embodied in the PAN, FLD/FAN, and FDDA. Specifically, when respondent rejects the taxpayer's explanations, he must give some reason for doing so and the particular facts and law upon which his conclusion are based, and those facts must appear in the record. As a corollary, the concerned taxpayer must *not* be left unaware on how the respondent, or his duly authorized representatives appreciated the explanations or defenses raised in connection with the assessment.

To stress, in case respondent or his duly authorized representative fails or effectively fails to observe the foregoing due process requirements, it shall have the effect of rendering the assessment and collection of the pertinent deficiency tax void.

The following table shows the comparison between the pertinent portions of the PAN and the FLD/FAN in the instant case:

Type of Tax	BASIC TAX DUE	
	PAN	**FLD**
Income	₱5,082,033.76	₱5,082,033.76
Percentage	1,704,973.91	1,704,973.91
DST	901,134.50	901,134.50

A comparison of the PAN and the FLD/FAN shows that the basic tax amounts remain unchanged, except for the adjusted interests.

It is worth noting that respondent CIR made mention of petitioner's reply to the PAN in the FLD/FAN.[55] What respondent CIR indicated in the FLD/FAN, instead, is an acknowledgment of the receipt of petitioner's reply to the PAN and that the same shall "form part of the docket". Moreover, the Details of Discrepancies[56] attached to the FLD/FAN is essentially a word-for-word reproduction of the discussions[57] attached to the PAN. Surely, this does not satisfy the statutory requirement of stating the facts and the law on which the assessment is based.

Considering the foregoing, petitioner was clearly left unaware on how the respondent, or his duly authorized representatives appreciated the explanations or defenses raised therein. Again, when respondent CIR rejects the taxpayer's explanations, he must give some reason for doing so and the particular facts and law upon which his conclusion are based, and those facts must appear in the record. In this case, respondent failed to observe this requirement in issuing the FLD. Thus, the inevitable conclusion is that respondent violated petitioner's right to due process, as recognized under Section 228 of the NIRC of 1997, as amended. As a consequence, the deficiency tax assessments are rendered void and unenforceable.

In other words, the persuasiveness of the right to due process reaches both substantial and procedural rights and **the failure of the respondent to <u>strictly comply</u> with the requirements laid down by law and the BIR's own rules is a denial of the taxpayer's right to due process.**[58]

Respondent's exercise of his power to decide tax cases involving disputed assessments is an exercise of his administrative adjudicatory power or quasi-judicial functions.[59] Although the BIR, a quasi-judicial agency, "may be said to be free from the rigidity of certain procedural requirements, it does not mean that it can, in justiciable cases, entirely ignore or disregard the

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55 Par. 1 and 2, Formal Letter of Demand, Docket, p. 294.
56 Exhibit "P-17", Docket, pp. 297 to 299.
57 Details of Discrepancies, Exhibit "P-9", Docket, p. 283 to 284.
58 Refer to *Commissioner of Internal Revenue vs. Metro Star Superama, Inc.*, G.R. No. 185371, December 8, 20210, citing *Tupas vs. Court of Appeals*, G.R. No. 89571, February 6, 1991.
59 *Commissioner of Internal Revenue vs. Court of Tax Appeals (Second Division) and Petron Corporation*, G.R. No. 207843, July 15, 2015.

fundamental and essential requirements of due process in trials and investigations of an administrative character."[60]

The presumption of correctness of assessment being a mere presumption cannot be made to rest on another presumption; hence, assessment should not be based on mere presumptions no matter how reasonable or logical said presumptions may be.[61] In another case, the Supreme Court held that "prima facie correctness of a tax assessment does not apply upon proof that an assessment is utterly without foundation, meaning it is arbitrary and capricious. Where the BIR has come out with a 'naked assessment' *i.e.*, without any foundation character, the determination of the tax due is without a rational basis."[62]

Commissioner of Internal Revenue vs. Liquigaz Philippines Corporation and Liquigaz Philippines Corporation vs. Commissioner of Internal Revenue[63] instruct that "[a]ny short-cuts to the prescribed content of the assessment or the process thereof should not be countenanced". For as between the power of the State to tax and a taxpayer's right to due process, the scale favors the right of the taxpayer to due process.[64]

To reiterate, tax assessments issued in violation of the due process rights of a taxpayer are null and void.[65] Furthermore, a void assessment bears no valid fruit.[66] Such being the case, the subject tax assessments cannot be enforced against petitioner, and the BIR has no right to collect the same.

In light of the foregoing, the Court need not belabor the other issues raised by the parties.

In any case, it bears stressing that this Court is not bound by the issues specifically raised by the parties, but may also rule upon related issues necessary to achieve an orderly disposition of the case. This is expressly provided for in Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended, to wit:

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60 *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc.* and *Avon Products Manufacturing, Inc. vs. Commissioner of Internal Revenue*, G.R. Nos. 201398-99 and G.R. Nos. 201418-19, October 3, 2018.

61 *Collector of Internal Revenue vs. Benipayo*, G.R. No. L-13656, Jan. 31, 1962.

62 *Commissioner of Internal Revenue vs. Hantex Trading Co. Inc*., G.R. No. 136975, March 31, 2005.

63 G.R. No. 215534 and 215557, April 18, 2016.

64 *Commissioner of Internal Revenue vs. Fitness by Design, Inc.*, G.R. No. 215957, November 9, 2016.

65 *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., et seq.*, supra.

66 *Samar-I Electric Cooperative vs. Commissioner of Internal Revenue*, G.R. No. 193100, December 10, 2014.

RULE 14
JUDGMENT, ITS ENTRY AND EXECUTION

SECTION 1. – Rendition of judgment – xxx

In deciding a case, the Court may not limit itself to the issued stipulated by the parties but may also rule upon related issued necessary to achieve an orderly disposition of the case. (Emphasis added)

The aforesaid authority was confirmed by the Supreme Court in *Commissioner Internal Revenue vs. Lancaster Philippines, Inc.*,[67] to wit:

On whether the CTA can resolve an issue which was not raised by the parties, <u>we rule in the affirmative</u>.

Under Section 1, Rule 14 of A.M. No, 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA is not bound by the issues specifically raised by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. The text of the provision reads:

Section 1. Rendition of judgment. – xxx

In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.

The above provision is clearly worded. xxx (Emphases added)

The Supreme Court has applied the foregoing provision in *Commissioner of Internal Revenue vs. Yumex Philippines Corporation*,[68] wherein it held the following:

As the CTA En Banc held, **the CTA Division was justified in ruling on the issue that respondent was denied due process <u>even though it was not expressly raised by respondent in its petition for review</u>**. xxx (Emphasis and underscoring added)

Furthermore, in *Comilang vs. Burcena, et al.*,[69] the Supreme Court held:

Once a court acquires jurisdiction over a case, it has wide discretion to look upon matters which, although not raised as an issue, would give life and meaning to the law. Indeed, the Rules of Court recognize the broad discretionary power of an appellate court to consider errors not assigned. xxx

xxx xxx xxx

[67] G.R. No. 183408, July 12, 2017.
[68] G.R. No. 222476, May 5, 2021.
[69] G.R No. 146853, February 13, 2006.

> **Thus, an appellate court is clothed with ample opportunity to review rulings even if they are not assigned as errors in the appeal in these instances:** (a) grounds not assigned as errors but affecting jurisdiction over the subject matter; (b) matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law; **(c) matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice**; (d) matters not specifically assigned as errors on appeal but raised in the trial court and are matters of records having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; **(e) matters not assigned as errors on appeal but closely related to an error assigned; and (f) matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent**. (Emphases added)

On the basis of the foregoing jurisprudential pronouncements, it is clear that this Court, as an appellate court, is clothed with ample opportunity to review rulings even if they are not assigned as errors in the appeal in certain instances. To be sure, although the issue of whether petitioner was denied due process in the issuance of the subject tax assessments was not specifically raised or assigned as an error in the present case, the consideration thereof is necessary in arriving at a just decision and complete resolution of the case. Relative thereto, it must be emphasized that tax assessments issued in violation of the due process rights of a taxpayer are null and void. Thus, assuming that the said issue is answered in the affirmative, as determined by this Court, it would be unjust on the part of petitioner to be held liable under an invalid tax assessment.

In the same vein, the issue raised by this Court is closely related to the issues related by the parties, since it likewise deals with the issue substantially raised by the parties, *i.e.*, whether petitioner is liable for the assessed deficiency taxes. As a corollary, the said latter issue is dependent upon the same issue raised by this Court.

By virtue of the foregoing, the Court sees no legal obstacle to resolve the above-stated issue raised by this Court.

ACCORDINGLY, premises considered, the present **Petition for Review** is **GRANTED**. The Formal Letter of Demand and Assessment Notice Nos. 34-19-11234-2022-153(IT), 34-19-11234-2022-153(PT), 34-19-11234-2022-153(DST), and 34-19-11234-2022-153(MC) all dated July 28, 2022 assessing petitioner for deficiency income tax, percentage tax, documentary stamp tax, and compromise penalty for taxable year 2019 in the total amount of ₱10,576,458.80 are **CANCELLED** and **WITHDRAWN.** ɯ

The Commissioner of Internal Revenue, his representatives, agents or any person acting on his behalf are hereby **ENJOINED** from enforcing the collection of the deficiency income tax, percentage tax, documentary stamp tax, and compromise penalty assessments against Paco Soriano Pandacan Development Cooperative contained in the Formal Letter of Demand and Assessment Notice Nos. Nos. 34-19-11234-2022-153(IT), 34-19-11234-2022-153(PT), 34-19-11234-2022-153(DST), and 34-19-11234-2022-153(MC) all dated July 28, 2022. This decree of suspension is **IMMEDIATELY EXECUTORY** consistent with Section 4, Rule 39 of the Rules of Court.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

We Concur:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice