22-000378-0049

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10945

MITSUBISHI MOTORS PHILIPPINES CORPORATION,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. FELIX PAUL R. VELASCO III
ATTY. SYLVIA R. ALMA JOSE
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1605 Pasig City

GREETINGS:

You are hereby notified by these presents that on **February 27, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 3, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

MITSUBISHI MOTORS PHILIPPINES CORPORATION, *Petitioner,*	**CTA CASE NO. 10945**
	Members:
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **BACORRO-VILLENA,** *and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 27 2025, 1:20PM

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DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review*[1] (*Petition*) seeking the withdrawal and cancellation of the Warrant of Distraint and/or Levy (WDL) issued for the collection of alleged deficiency income tax (IT), value-added tax (VAT), expanded withholding tax (EWT), final withholding tax on compensation (FWT), documentary stamp tax (DST), and miscellaneous tax, in the total amount of ₱325,576,191.39 for the taxable year (TY) 2015.

THE PARTIES

Petitioner Mitsubishi Motors Philippines Corporation is a corporation duly organized and existing under the laws of the Philippines, with registered office address at No. 1 Auto Park Avenue, Greenfield Automotive Park, Special Economic Zone, Sta. Rosa, Laguna.[2]

[1] Docket, pp. 6–15.
[2] *Id.* at 7, par. 2.1.

Respondent is the Commissioner of Internal Revenue (CIR), with office address at the 5th Floor, Bureau of Internal Revenue (BIR) National Office Building, BIR Road, Diliman Quezon City.[3]

THE FACTS

On April 27, 2017, petitioner received a Letter of Authority (LOA) No. eLA201500034631 dated April 17, 2017,[4] informing it that certain revenue officers (ROs) from the BIR's Large Taxpayer Services (LTS) would examine its books of accounts and other accounting records for TY 2015.[5]

On November 17, 2020, petitioner received a Preliminary Assessment Notice (PAN) dated November 16, 2020,[6] issued by the LTS Excise LT Audit Division II (ELTAD II) and signed by then OIC-Assistant Commissioner (OIC-ACIR) Mr. Manuel V. Mapoy (Mapoy). The PAN demanded payment of alleged deficiency IT, VAT, EWT, FWT, DST, and miscellaneous tax, inclusive of interests and compromise penalties, in the total amount of ₱319,416,637.21,[7] for TY 2015, summarized as follows:

Tax Type	Basic	Surcharge	Interest	Administrative Penalty	Total
Income Tax	₱5,511,694.01	-	₱3,812,582.20	-	₱9,324,276.22[8]
VAT	172,198,616.46	-	126,757,052.79	-	298,955,669.25
EWT	5,583,862.45	-	4,140,931.20	-	9,828,319.86[9]
FWT	377,208.47	-	279,733.67	-	656,942.14
DST	264,116.57	-	197,313.17	-	461,429.75[10]
Administrative Penalty	-	-	-	₱190,000.00	190,000.00
TOTAL	**₱183,935,497.97**[11]	-	**₱135,187,613.04**[12]	**₱190,000.00**	**₱319,416,637.21**[13]

On December 1, 2020, petitioner filed a reply to the PAN.[14]

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[3] *Id.* at 276, *Joint Stipulation of Facts and Issues* (JSFI), par. 1.
[4] Exhibits "P-6" and "R-1", BIR Records, p. 1.
[5] Docket, p. 276, JSFI, par. 2.
[6] *Id.* at 21–35, Exhibit "P-9".
[7] *Id.* at 276, JSFI, par. 3.
[8] Actual sum is ₱9,324,276.21.
[9] Actual sum is ₱9,724,793.65.
[10] Actual sum is ₱461,429.74.
[11] Actual sum is ₱183,935,497.96.
[12] Actual sum is ₱135,187,613.03.
[13] Actual sum is ₱319,313,110.99.
[14] Docket, pp. 36–44, Exhibit "P-10".

On March 8, 2021, within the extended period per Waivers of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code[15] executed by the parties, petitioner received a Formal Letter of Demand (FLD) with attached Assessment Notices (FANs) dated February 26, 2021,[16] demanding payment of the total amount of ₱325,766,191.39, inclusive of interests.[17] The FLD, signed by then Deputy Commissioner of the Operations Group (DCIR-OG), Mr. Arnel Guballa,[18] reiterated the alleged tax deficiencies, as follows:

Tax Type	Basic	Interest	Compromise	Total
Income Tax	₱5,511,694.01	₱4,002,848.90	-	₱9,514,542.92[19]
VAT	172,198,616.46	132,701,443.39	-	304,900,059.85
EWT	5,583,862.45	4,333,689.19	-	10,021,077.85[20]
FWT	377,208.47	292,755.11	-	669,963.58
DST	264,116.57	206,430.62	-	470,547.19
Administrative Penalty			₱190,000.00	190,000.00
TOTAL	**₱183,935,497.97**[21]	**₱141,537,167.22**[22]	**₱190,000.00**	**₱325,766,191.39**[23]

On April 6, 2021, within the prescribed thirty (30)-day period from receipt of the FLD, petitioner filed a Protest[24] addressed to the LTS, attention to OIC-ACIR Mapoy.[25]

On June 10, 2021, petitioner received LOA No. eLA201700070024/LOA-124-2021-00000047 dated June 2, 2021 (Second LOA),[26] informing petitioner that the ROs named therein would examine petitioner's books of accounts and other accounting records[27] for TY 2015.

On January 20, 2022, petitioner received LOA No. eLA202000003819/LOA-124-2021-00000086 dated December 23, 2021 (Third LOA),[28] covering the same taxable period, *i.e.*, TY 2015.[29]

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15 BIR Records, pp. 870–877 & 896.
16 *Id.* at 45–63, Exhibit "P-4".
17 *Id.* at 277, JSFI, par. 4.
18 *Id.*
19 Actual sum is ₱9,514,542.91.
20 Actual sum is ₱9,917,551.64.
21 Actual sum is ₱183,935,497.96.
22 Actual sum is ₱137,534,318.31.
23 Actual sum is ₱321,659,816.27.
24 Exhibits "P-5" and "R-9", BIR Records, pp. 1009–1021.
25 Docket, p. 277, JSFI, par. 5.
26 Exhibits "P-7" and "R-2", BIR Records, p. 1025.
27 Docket, p. 277, JSFI, par. 6.
28 *Id.* at 277, JSFI, par. 7.
29 Exhibits "P-8" and "R-3", BIR Records, p. 1026.

On June 29, 2022, respondent issued a WDL,[30] signed by then OIC-ACIR of LTS Maridur V. Rosario. Petitioner received the WDL on June 30, 2022.[31]

On August 1, 2022, petitioner filed this *Petition for Review*.[32]

On September 14, 2022, *Summons*[33] was issued to respondent.

On October 14, 2022, respondent filed a *Motion for Extension of Time to File Answer*,[34] which the Court granted on October 27, 2022.[35]

On November 15, 2022, within the extended period, respondent filed his *Answer (Re: Petition for Review dated 01 August 2022)*.[36]

On November 21, 2022, respondent filed a *Motion with Leave of Court to Admit Attached Amended Answer*,[37] with attached *Amended Answer with Leave of Court (Re: Petition for Review dated 01 August 2022)*.[38]

On November 25, 2022, respondent transmitted the BIR Records for this case.[39]

In the Resolution dated December 13, 2022,[40] the Court granted respondent's *Motion with Leave of Court to Admit Attached Amended Answer*. Accordingly, the *Amended Answer with Leave of Court (Re: Petition for Review dated 01 August 2022)* was admitted. The case was also referred for mediation at the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA).

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30 Exhibits "P-3" and "R-11", BIR Records, p. 1063.
31 Docket, p. 277, JSFI, par. 8.
32 *Supra* note 1.
33 Docket, p. 132.
34 *Id.* at 133–135.
35 *Id.* at 140.
36 *Id.* at 141–160.
37 *Id.* at 175–178.
38 *Id.* at 180–194.
39 *Id.* at 206–208, Compliance.
40 *Id.* at 211–212.

On March 28, 2023, the Court received a *Request for Extension*[41] from (Ret.) Justice Oswaldo D. Agcaoili, Mediator of the PMC-CTA, requesting a final extension of 30 days for mediation.

On April 26, 2023, the Court granted the parties a non-extendible period of 30 days from April 13, 2023, or until May 13, 2023, within which to reach an amicable settlement.[42]

On May 12, 2023, the parties filed a *Joint Motion to Suspend Court Proceedings*,[43] which the Court denied on June 6, 2023, considering that the maximum period for mediation had lapsed.[44]

On June 8, 2023, a *Notice of Pre-Trial Conference*[45] was issued, setting the pre-trial conference for August 10, 2023.

On June 23, 2023, the Court received the PMC-CTA's Mediator's Report dated June 21, 2023,[46] stating the unsuccessful mediation between the parties, which the Court noted on July 6, 2023.[47]

On August 7 and 8, 2023, *Respondent's Pre-Trial Brief*[48] and *Pre-Trial Brief (For Petitioner Mitsubishi Motors Philippines Corporation)*[49] were filed, respectively.

On August 10, 2023,[50] the Pre-Trial Conference was conducted. Thereafter, the parties submitted their *Joint Stipulation of Facts and Issues* on September 11, 2023.[51]

On December 6, 2023, a Pre-Trial Order was issued.[52]

Trial then ensued.

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41 *Id.* at 213.
42 *Id.* at 216, Resolution.
43 *Id.* at 217–219.
44 *Id.* at 223–224, Resolution.
45 *Id.* at 225–227.
46 *Id.* at 228.
47 *Id.* at 233, Resolution.
48 *Id.* at 235–241.
49 *Id.* at 243–250.
50 *Id.* at 255–257.
51 *Id.* at 276–285.
52 *Id.* at 301–314.

On January 16, 2024, the petitioner presented its sole witness, Mr. Efren Bombita, Jr.[53] On January 22, 2024, petitioner filed its *Formal Offer of Evidence*,[54] to which respondent filed a *Comment (Re: Formal Offer of Evidence dated 22 January 2024)*[55] on January 23, 2024. In a Resolution dated March 7, 2024, the Court admitted petitioner's exhibits.[56]

On April 18, 2024, respondent presented as witnesses, ROs Marlon D. Gampon and Eden V. Tesorero.[57] On April 22, 2024, respondent filed his *Formal Offer of Evidence*,[58] to which petitioner filed a *Comment (Re: Formal Offer of Evidence dated 22 April 2024)*[59] on April 30, 2024. Respondent's exhibits, *except* Exhibit "R-7-1", were admitted in a Resolution dated May 30, 2024.[60]

On June 28, 2024, respondent filed a *Manifestation*,[61] stating that all arguments had been fully discussed in his *Answer*, which he adopted as his memorandum. On July 4, 2024, petitioner posted *via* accredited courier its *Memorandum*.[62]

On July 18, 2024, this case was submitted for decision.[63]

THE ISSUES

The parties have stipulated the following issues for resolution:[64]

A. WHETHER THIS HONORABLE COURT HAS JURISDICTION OVER THE INSTANT CASE;

B. WHETHER PETITIONER IS LIABLE TO PAY THE ASSESSED DEFICIENCY INCOME TAX, VALUE-ADDED TAX, EXPANDED WITHHOLDING TAX, FINAL WITHHOLDING TAX ON COMPENSATION, DOCUMENTARY STAMP TAX, AND MISCELLANEOUS TAX FOR TAXABLE YEAR 2015 IN THE AGGREGATE AMOUNT OF ₱325,576,191.39; and

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53 *Id.* at 320–321, Order dated January 16, 2024.
54 *Id.* at 322–326.
55 *Id.* at 328–329.
56 *Id.* at 338–339, Resolution.
57 *Id.* at 340–342 & 343–344, Minutes of the Hearing & Order, respectively.
58 *Id.* at 348–355.
59 *Id.* at 357–358.
60 *Id.* at 367–368.
61 *Id.* at 369–371.
62 *Id.* at 390–402.
63 *Id.* at 407 Resolution.
64 Docket, pp. 277–278, JSFI, II. Submitted Issues for Trial; 308, Pre-Trial Order dated December 6, 2023, IV. Issues to be tried or resolved.

C. WHETHER OR NOT THE BIR'S ISSUANCE OF THE WARRANT OF DISTRAINT AND/OR LEVY WAS VALID.

Petitioner's arguments:

Petitioner argues that the Court has jurisdiction over the *Petition,* as the 30-day period under Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, should be reckoned from petitioner's receipt of the WDL. Petitioner claims that it received the WDL on June 30, 2022. Considering that the 30th day, July 30, 2022, fell on a Saturday, petitioner argues that the deadline was extended to August 1, 2022, the next working day, when the *Petition* was timely filed.

Petitioner further argues that its protest to the FLD was properly filed with the Assistant Commissioner of LTS (ACIR-LTS) since Revenue Delegation Authority Order (RDAO) No. 07-2022[65] delegates the authority to sign the FAN and FLD to the ACIR-LTS.

Moreover, petitioner claims that the WDL was prematurely issued because the FLD and FANs were still under protest within the allowable period and had not yet become final, executory and demandable, citing the cases of *Commissioner of Internal Revenue v. Algue, Inc.*[66] and *Commissioner of Internal Revenue v. Pacific Hub Corporation,*[67] in support of this argument.

Respondent's arguments:

Respondent counters that the Court has no jurisdiction over the *Petition* because the assessment has already become final, executory, and demandable. According to respondent, petitioner's protest to the FLD, filed on March 8, 2021, should have been submitted to the DCIR-OG, as the FLD was signed by the DCIR-OG, pursuant to RDAO No. 04-2018.[68] Respondent argues that because the protest was submitted to the incorrect venue, it is deemed as not having been filed at all.

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65 Amending Revenue Delegation Authority Order (RDAO) No. 4-2018, Relative to the Delegation of Authority to Sign and Approve Assessment Notices & Reports of Investigation of the Divisions under the Large Taxpayers Service (LTS), July 12, 2022.

66 G.R. No. L-28896, February 17, 1988 [Per J. Cruz, First Division].

67 CTA *EB* No. 1837 (CTA Case No. 8895), November 8, 2019.

68 Delegation of Authority to Sign and Approve Assessment Notices & Reports of Investigation of the Divisions under the LTS, April 30, 2018.

Respondent further counters that the issuance of the WDL was in accordance with the law. Since the protest to the FLD was deemed not filed, the FLD has become final, executory, and demandable. Thus, there is no legal impediment to respondent's resort to summary remedies.

THE COURT'S RULING

The Court has jurisdiction over this Petition for Review.

Before delving into the merits, the Court must first determine whether it has jurisdiction over petitioner's prayer for the cancellation of the WDL.

Section 7(a)(1) of Republic Act (RA) No. 1125,[69] as amended by RA No. 9282,[70] confers the Court jurisdiction over decisions of respondent, to wit:

> SEC. 7. *Jurisdiction.* – The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or **other matters arising under the National Internal Revenue** or other laws administered by the Bureau of Internal Revenue;[71] (*Emphasis supplied*)

The above provision clearly establishes that the exclusive jurisdiction of the Court of Tax Appeals (CTA) is not only limited to cases involving decisions of the CIR on assessments or refunds but also encompasses "other matters" arising from the

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69 AN ACT CREATING THE COURT OF TAX APPEALS.

70 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

71 Sec. 7(a)(1) of RA No. 1125, as amended, is reproduced in Sec. 3(a)(1) of the Revised Rules of the Court of Tax Appeals (RRCTA):

SEC. 3. *Cases within the jurisdiction of the Court in Divisions.* – The Court in Divisions shall exercise:

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

(1) **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or **other matters arising under the National Internal Revenue Code** or other laws administered by the Bureau of Internal Revenue; (*Emphasis supplied*)

NIRC or related laws administered by the BIR. In *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*,[72] the Supreme Court ruled that "[Section 7(1) of RA No. 1125] gives the CTA the jurisdiction to determine if the warrant of distraint and levy issued by the BIR is valid."

Accordingly, the Court has jurisdiction to determine whether the WDL issued against petitioner is valid.

Relatedly, Section 11 of RA No. 1125, as amended by RA No. 9282, prescribes the period for filing an appeal before the CTA, *viz.*:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* - **Any party adversely affected by a decision**, ruling or inaction of the Commissioner of Internal Revenue ... **may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein. (*Emphasis supplied*)

The above provision is also provided under Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), *viz.*:

> SEC. 3. *Who may appeal; period to file petition.* – (a) **A party adversely affected by a decision**, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments ... **may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling**, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. (*Emphasis supplied*)

Based on the foregoing, the Court has exclusive jurisdiction to review the WDL by appeal, provided that the appeal is filed within 30 days from petitioner's receipt of the WDL.

In this case, respondent issued the WDL on June 29, 2022,[73] which petitioner received on June 30, 2022.[74] Counting 30 days from that date, petitioner had until July 30, 2022, to file a *Petition for Review* before this Court. Since July 30, 2022

[72] G.R. No. 162852, December 16, 2004 [Per J. Ynares-Santiago, First Divison], cited in *Commissioner of Internal Revenue v. Manila Medical Services, Inc. (Manila Doctors Hospital)*, G.R. No. 255473, February 13, 2023 [Per J. Singh, Third Division].

[73] Exhibits "P-3" and "R-11", BIR Records, p. 1063.

[74] Docket, p. 277, JSFI, par. 8.

fell on a Saturday,[75] petitioner had until the next working day, or August 1, 2022, to file an appeal with the CTA.

As the *Petition for Review* was timely filed on August 1, 2022, the Court assumes jurisdiction over the case.

Petitioner properly filed its protest against the FLD/FAN with the OIC-ACIR of LTS.

Petitioner properly filed its protest against the FLD/FAN with the OIC-ACIR of LTS in accordance with governing laws, regulations, and administrative issuances.

Respondent argues that the assessment became final and executory due to petitioner's alleged failure to file its protest in the proper venue. Specifically, respondent asserts that petitioner should have filed its protest with the DCIR-OG rather than with the OIC-ACIR of LTS. In support of this claim, respondent cites Revenue Memorandum Circular No. 39-2013,[76] which states:

> II. *Clarification*
>
> In order to avoid the conduct of unwarranted reinvestigation cases, to prevent the undue accumulation of delinquent accounts, and to obviate the premature enforcement of summary remedies against the concerned taxpayers, the guidelines for receipt of protest letters and other similar correspondences are clarified as follows:
>
> 1. **All letters of protest**, requests for reinvestigation/reconsideration and similar correspondences **shall only be filed by the taxpayers** or their duly authorized representatives, in person or through registered mail with return card, **with the** Office of the concerned Regional Director (RD), **Assistant Commissioner-Large Taxpayers Service (ACIR-LTS)** and Assistant Commissioner-Enforcement Service (ACIR-ES), **who signed the Preliminary Assessment Notices (PANs)**, FANs and Formal Letters of Demand, for proper recording of the protests, and evaluation if the same is in accordance with Section 228 of the NIRC, as implemented by Revenue Regulations No. 12-99. <u>If the aforesaid procedures are not followed, then the letters of protest, requests for</u>

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[75] Proclamation No. 1236 s. 2021, Declaring the Regular Holidays and Special (Working/Non-Working) Days for the Year 2022, October 29, 2021.

[76] Receipt of Protest Letter on Final Assessment Notices and Final Decision on Disputed Assessments, April 4, 2013.

> reinvestigation/reconsideration and similar correspondences shall be considered **void and without force and effect**. (*Emphasis supplied*)

Additionally, respondent relies on RDAO No. 04-2018,[77] which delegates to the DCIR-OG the authority to sign and approve FLDs/FANs for assessments processed by divisions under the LTS, *viz.*:

> I. Delegated Authority
>
> Pursuant to Section 7 of the National Internal Revenue Code of 1997, as amended, the authority of the Commissioner of Internal Revenue to sign Final Assessment Notices (FAN) & Formal Letters of Demand and Final Decision on Disputed Assessments (FDDA) processed by the Divisions under the Large Taxpayers Service (LTS), which were previously delegated to the Assistant Commissioner of the Large Taxpayers Service (LTS) under RDAO No. 4-2007 and RDAO No. 7-2007, is hereby amended and delegated as follows:
>
> A. The Assistant Commissioner of the Large Taxpayers Service (LTS) shall retain the authority to sign and approve Preliminary Assessment Notices (PAN);
>
> B. The Deputy Commissioner for Operations shall be authorized to sign and approve Final Assessment Notices (FAN) and Formal Letters of Demand; and
>
> C. The authority to sign and approve Final Decision on Disputed Assessments (FDDA) shall revert back to the Commissioner of Internal Revenue.

Petitioner, however, contends that its protest was properly filed with the OIC-ACIR of LTS because, while the DCIR-OG signed the FLD/FAN, the PAN and FLD/FAN were issued by the LTS, as indicated in the letterhead. It asserts that the LTS Office, which accepted petitioner's protest, should be faulted for receiving it and not endorsing it to DCIR-OG, particularly since both offices are located in the same BIR's National Office building.

It further argues that RDAO No. 04-2018, cited by respondent, which was the basis for the DCIR-OG's authority to sign and approve FANs and FLDs, was later amended by

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[77] Delegation of Authority to Sign and Approve Assessment Notices & Reports of Investigation of the Divisions under the LTS, April 30, 2018.

RDAO No. 07-2022,[78] which reverted the delegated authority to sign FLDs/FANs back to the ACIR-LTS. Thus, petitioner asserts that the ACIR-LTS remains the proper officer to sign the FLD/FAN, not the DCIR-OG.

After a judicious review of the parties' arguments, the Court finds that petitioner properly filed its protest with the Office of the ACIR-LTS in accordance with existing laws and administrative issuances.

Respondent's claim that the protest should have been filed with the Office of the DCIR-OG has no legal or procedural basis. Executive Order No. 175[79] and Revenue Administrative Order No. 001-14[80] explicitly place the LTS directly under the Office of the Commissioner, not under the OG. The LTS, headed by an Assistant Commissioner, operates independently from the DCIR-OG, which does not exercise jurisdiction or control over the LTS or its taxpayers. Given that petitioner is classified as a large taxpayer,[81] the Office of the ACIR-LTS was the proper office to receive and evaluate its protest.[82]

Moreover, while RDAO No. 04-2018 delegated to the DCIR-OG the authority to sign FLDs/FANs processed by divisions under the LTS, it was silent on the filing of protests. Nowhere does it mandate large taxpayers to file protests with the DCIR-OG. The RDAO merely addresses signing authority and does not alter the established procedural framework governing the filing of protests. Accordingly, the Office of the ACIR-LTS remained the appropriate recipient of petitioner's protest.

Additionally, the FLD/FAN was issued under the LTS, as reflected in the letterhead, reinforcing that the OIC-ACIR of LTS retained jurisdiction over the assessment. Thus, respondent erred in disregarding petitioner's protest as improperly filed and in asserting that the assessment became final and executory. Since petitioner's protest was validly and timely filed, no tax delinquency arose, and there was no legal basis for the issuance of a WDL.

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78 Amending Revenue Delegation Authority Order (RDAO) No. 4-2018, Relative to the Delegation of Authority to Sign and Approve Assessment Notices & Reports of Investigation of the Divisions under the Large Taxpayers Service (LTS), July 12, 2022.

79 Organizational Restructuring of the Bureau of Internal Revenue to Improve Administrative Control Over Certain Categories of Taxpayers, November 3, 1999.

80 BIR Organizational Structure under Executive Order No. 366 (Rationalization Plan), June 17, 2014.

81 Taxpayer's Profile, BIR Records, p. 866.

82 Organizational Restructuring of the Bureau of Internal Revenue to Improve Administrative Control Over Certain Categories of Taxpayers, November 3, 1999.

Availing of the summary collection remedies under the Tax Code, such as the issuance of a WDL is contingent upon the existence of "delinquent taxes," which is lacking when the matter of the taxpayer's civil liability is subject of a valid protest that is still pending resolution by respondent and his authorized agents.[83] In this case, since petitioner's tax liability was still the subject of a pending, valid protest, no tax delinquency existed. Consequently, respondent's issuance of the WDL was premature and legally unwarranted.

The FLD/FAN and WDL are void for violating petitioner's fundamental right to due process.

Even assuming that the protest was filed in the wrong venue, the FLD/FAN issued in this case remains void for failure to comply with due process requirements.

Section 228 of the NIRC of 1997, as amended,[84] mandates that the taxpayer must be informed in writing of the law and facts on which the assessment is based; otherwise, the assessment is void.[85] The requirement that the taxpayer 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.[86] Moreover, it must be emphasized that failure to comply with Section 228 of the NIRC of 1997, as amended, renders the assessment void and finds no validation in any provision in the Tax Code.[87]

To implement Section 228 of the NIRC of 1997, as amended, Section 3 of Revenue Regulations (RR) No. 12-

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[83] *Mannasoft Technology Corporation v. Commissioner of Internal Revenue*, G.R. No. 244202, July 10, 2023 [Per J. Dimaampao, Third Division].

[84] 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:

....

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. (*Emphasis supplied*)

[85] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 3, 2018 [Per J. Leonen, Third Division].

[86] *Commissioner of Internal Revenue v. Spouses Magaan*, G.R. No. 232663, May 3, 2021 [Per J. Leonen, Third Division].

[87] *Commissioner of Internal Revenue v. Spouses Magaan*, G.R. No. 232663, May 3, 2021 [Per J. Leonen, Third Division] citing *Commissioner of Internal Revenue v. Reyes*, G.R. Nos. 159694 & 163581, January 27, 2006 [Per CJ Panganiban, First Division].

1999,[88] as amended by RR Nos. 18-2013[89] and 7-2018[90] explicitly requires that the FLD/FAN must state, among others, the factual and legal bases of the assessment; otherwise, it is void, *viz.*:

> SEC. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* –
>
> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
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> ....
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> 3.1.2 *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 (see illustration in ANNEX 'A' hereof).
>
> ....
>
> 3.1.4 *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 **shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based, *otherwise, the assessment shall be void*** (see illustration in ANNEX 'B' hereof).

While Section 228 of the NIRC of 1997, as amended, does not require taxpayers to respond to a PAN, the BIR is nonetheless required to consider any reply received within the fifteen (15)-day period allotted to taxpayers.[91] This consideration is not merely procedural; rather, it serves to uphold due process rights and to promote a more efficient

[88] 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 Taxpayers Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty, September 6, 1999.

[89] Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, November 28, 2013.

[90] Amending Certain Sections of Revenue Regulations No. 12-99, as Amended by Revenue Regulations No. 18-13, Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, January 22, 2018.

[91] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, October 3, 2018 [Per J. Leonen, Third Division].

resolution of tax disputes by shortening the assessment procedure.

In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (*Avon*),[92] the Supreme Court ruled that:

> **Tax assessments issued in violation of the due process rights of a taxpayer are null and void.** While the government has an interest in the swift collection of taxes, the Bureau of Internal Revenue and its officers and agents cannot be overreaching in their efforts, but must perform their duties in accordance with law, with their own rules of procedure, and always with regard to the basic tenets of due process.
>
> The 1997 National Internal Revenue Code, also known as the Tax Code, and revenue regulations allow a taxpayer to file a reply or otherwise to submit comments or arguments with supporting documents at each stage in the assessment process. **Due process requires the Bureau of Internal Revenue to *consider* the defenses and evidence submitted by the taxpayer and to render a decision based on these submissions. Failure to adhere to these requirements constitutes a denial of due process and taints the administrative proceedings with invalidity.**
>
> ....
>
> 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.**
>
> ....
>
> 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.'** Tax investigation and assessment necessarily demand the observance of due process because they affect the proprietary rights of specific persons.
>
> ....

[92] *Id.*

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:

(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.
(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.**

....

The last requirement relating to the form and substance of the decision is <u>the decision-maker's *'duty to give reason'*</u> 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 <u>to ensure that the decision will be thought through by the decision-maker</u>.

....

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.**

....

The importance of providing taxpayer with adequate written notice of his or her tax liability is undeniable. **Under Section 228, it is explicitly required 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.** Section 3.1.2 of

MV

Revenue Regulation No. 12-99 requires the Preliminary Assessment Notice to show in detail the facts and law, rules and regulations, or jurisprudence on which the proposed assessment is based. Further, **Section 3.1.4 requires the Final Letter of Demand must state the facts and law on which it is based; otherwise, the Final Letter of Demand and Final Assessment Notices themselves shall be void.** Finally, Section 3.1.6 specifically requires that the decision of the Commissioner or of his or her duly authorized representative on a disputed assessment shall state the facts and law, rules and regulations, or jurisprudence on which the decision is based. Failure to do so would invalidate the Final Decision on Disputed Assessment.

'The use of the word 'shall' in Section 228 of the [National Internal Revenue Code] and in [Revenue Regulations] No. 12-99 indicates that the requirement of informing the taxpayer of the legal and factual bases of the assessment and the decision made against him [or her] is mandatory.' This is an essential requirement of due process and applies to the Preliminary Assessment Notice, Final Letter of Demand with the Final Assessment Notices, and the Final Decision on Disputed Assessment.

....

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 Final Assessment Notices, did not even comment or address the defenses and documents submitted by Avon. 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.

....

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. <u>He or she must give the particular facts upon which his or her conclusion are based, and those facts must appear in the record</u>.**

....

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 supplied*)

The *Avon* ruling establishes that respondent or his duly authorized representative must perform assessment functions in strict adherence to the law and their own rules of procedure, always with due regard for the basic tenets of due process. This requires respondent to consider the taxpayer's defenses and evidence and to render a decision based on these submissions.

If respondent or his duly authorized representative fails to observe due process, the deficiency tax assessment is void and of no force and effect. A crucial requirement of due process in tax assessment is that the taxpayer must be informed, in writing, of the law and facts on which the assessment is based. **This must be embodied in the PAN and FLD/FAN**. If respondent rejects the taxpayer's explanations, he must give reasons for doing so, citing the particular facts and law supporting his conclusion, and those facts must appear in the record. The taxpayer must *not* be left unaware of how the BIR appreciated the explanations or defenses presented in response to the assessment.

In this case, the PAN dated November 16, 2020,[93] found petitioner liable for basic deficiency taxes of ₱183,935,497.97 for TY 2015.[94]

Petitioner replied to the PAN on December 1, 2020,[95] presenting arguments and defenses and attaching various supporting documents against respondent's deficiency tax assessment.[96] The Supreme Court has emphasized the importance of the PAN stage in the tax assessment process, as it presents an opportunity for both taxpayers and the BIR to resolve disputes early, without needing the issuance of a FAN.[97]

Despite this, the FLD dated February 26, 2021, reiterated the same basic deficiency tax assessment of ₱183,935,497.97, with only the total interest adjusted, bringing the total amount due to ₱325,766,191.39.[98]

The Details of Discrepancies attached to the FLD were identical to those in the PAN, with no indication that respondent considered petitioner's reply. In essence, the BIR merely reiterated its findings as stated in the PAN without addressing petitioner's rebuttals—an indication that respondent failed to consider petitioner's arguments when he

[93] Exhibit "P-9", Docket, pp. 21–35.; Exhibit "R-6", BIR Records, pp. 887–895.
[94] *Supra* note 6, Docket, pp. 21–35, Exhibit "P-9".
[95] Docket, pp. 36–44, Exhibit "P-10".
[96] BIR Records, attachments to the PAN on p. 930 (A).
[97] *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*, G.R. No. 249153, September 12, 2022 [J. Dimaampao, Third Division], citing *Commissioner of Internal Revenue v. Transitions Optical Philippines, Inc.*, G.R. No. 227544, November 22, 2017 [Per J. Leonen, Third Division].
[98] *Supra* note 16, Docket, pp. 45–63, Exhibit "P-4".

issued the FLD/FAN. Consequently, petitioner was left unaware of how respondent or the BIR appreciated its explanations or defenses, violating its right to administrative due process.

To satisfy due process under *Avon*, respondent must inform the taxpayer of the factual and legal bases for the deficiency tax assessment and provide an opportunity to protest it, and adduce supporting evidence.[99] *Avon* further underscores that the CIR must consider the taxpayer's evidence and explanation; otherwise, the right to be heard is meaningless.

The Supreme Court in *Avon* ruled that while the BIR is not obliged to accept the taxpayer's explanations, any rejection must be accompanied by explanations. Respondent must give the particular facts supporting the conclusion, and those facts must appear in the record.

A comparison of the PAN and FLD/FAN, including their respective Details of Discrepancies,[100] reveals identical computations of the deficiency tax assessment, without any acknowledgment of petitioner's submitted explanations and evidence in the reply to the PAN. Respondent's total disregard of these submissions constitutes a violation of petitioner's right to administrative due process, rendering void the FLD/FAN, and by extension, the WDL.

As the Supreme Court has emphasized, "between the power of the State to tax and an individual's right to due process, the scale favors the right of the taxpayer to due process."[101]

Given that the deficiency tax assessment against petitioner is void, the Court finds no need to discuss its merits further, and the WDL cannot be given any effect.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED**.

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[99] *Commissioner of Internal Revenue v. Villanueva*, G.R. No. 249540, February 28, 2024 [Per J. Caguioa, Third Division], citing *Commissioner of Internal Revenue v. Unioil Corp.*, G.R. No. 204405, August 4, 2021 [Per J. Hernando, Second Division.

[100] Docket, pp. 21–35, vis-à-vis pp. 45–57.

[101] *Commissioner of Internal Revenue v. Villanueva*, G.R. No. 249540, February 28, 2024 [Per J. Caguioa, Third Division], citing *Commissioner of Internal Revenue v. Fitness by Design, Inc.*, G.R. No. 215957, November 9, 2016 [Per J. Leonen, Second Division].

Accordingly, the Formal Letter of Demand with Final Assessment Notices dated February 26, 2021, assessing petitioner for deficiency income tax, value-added tax, expanded withholding tax, final withholding tax on compensation, documentary stamp tax, and miscellaneous tax in the total amount of ₱325,576,191.39 for taxable year 2015, and the Warrant of Distraint and/or Levy issued against petitioner, are **CANCELLED** and **SET ASIDE**.

Furthermore, respondent is **ENJOINED** and **PROHIBITED** from enforcing the collection of the said amount against petitioner.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
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.

ROMAN G. DEL ROSARIO
Presiding Justice