REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

EPERFORMAX CONTACT CENTERS (CEBU) CORP., Petitioner,	**CTA CASE NO. 10572**
	Members:
- **versus** -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: SEP 0 9 2025

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DECISION

***FERRER-FLORES, J.*:**

The **Petition for Review** filed on July 5, 2021 prays that all tax assessments issued by respondent against petitioner on its alleged deficiency income tax, withholding tax on compensation (WTC), expanded withholding tax (EWT), final withholding tax (FWT), documentary stamp tax (DST), plus penalties, interest and surcharges, for taxable year (TY) 2016, in the aggregate amount of **₱49,585,840.75**, be declared null and void.[1]

THE PARTIES

Petitioner **ePerformax Contact Centers (Cebu) Corp.** is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office at JY Square IT Center 1 & 3, Salinas Drive, Lahug, Cebu City.[2]

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[1] Summary of the Case, Pre-Trial Order dated October 9, 2023, Docket – Vol. II, p. 531.

[2] Par. 1, Summary of Admitted Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 489.

Respondent is the **Commissioner of the Bureau of Internal Revenue (BIR)**, the government agency tasked to, among others, collect all national internal revenue taxes. As Commissioner, respondent has the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges and penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code (NIRC) of 1997, as amended, or other laws or portions thereof administered by the BIR.[3]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

Pursuant to the Letter of Authority (LOA) No. eLA201500034459 dated July 11, 2017,[4] the BIR Revenue District Office No. 123 – LT Division – Cebu conducted a tax examination of all internal revenue taxes of petitioner for the period of January 1, 2016 to December 31, 2016.[5] The BIR Large Taxpayers Division – Cebu then issued an undated Notice of Informal Conference (NIC), with attached Summary of Deficiency Taxes and Details of Discrepancies.[6]

On July 18, 2019, the BIR Large Taxpayers Service issued its Preliminary Assessment Notice (PAN),[7] reiterating its earlier findings in the NIC.[8] Thereafter, on August 7, 2019, petitioner filed its Reply to the Preliminary Assessment Notice Deficiency Assessment Findings for Taxable Year 2016 (Reply to PAN) dated August 6, 2019.[9]

Subsequently, on November 27, 2019, petitioner received the Formal Letter of Demand (FLD) dated November 11, 2019, indicating the alleged liability for deficiency income tax, WTC, EWT, FWT, DST, and other miscellaneous taxes, for calendar year ending December 3[1], 2016.[10]

On December 20, 2019, petitioner filed its Protest/Reply to the FLD/Request for Reinvestigation dated December 19, 2019, seeking for the cancellation of the FLD.[11] Petitioner submitted the supporting documents to its Protest/Reply to the FLD/Request for Reinvestigation on February 11, 2020.[12]

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[3] Par. 2, Summary of Admitted Facts, JSFI, Docket – Vol. II, p. 489.
[4] Exhibit "P-5", Docket – Vol. II, p. 700; Exhibit "R-1", BIR Records (Exhibit "R-11"), p. 1.
[5] Par. 3, Summary of Admitted Facts, JSFI, Docket – Vol. I, p. 490.
[6] Exhibit "P-7", Docket – Vol. II, pp. 701 to 707; Exhibit "R-4", BIR Records (Exhibit "R-11"), p. 246.
[7] Par. 4, Summary of Admitted Facts, JSFI, Docket – Vol. I, p. 490; Exhibit "P-9", Docket – Vol. II, pp. 719 to 727; Exhibit "R-6", BIR Records (Exhibit "R-11"), pp. 283 to 291.
[8] Par. 15, *Petition for Review*, vis-à-vis par. 1, Answer, Docket – Vol. I, pp. 8 and 386, respectively.
[9] Exhibit "P-10", Docket – Vol. II, pp. 728 to 740.
[10] Par. 5, Summary of Admitted Facts, JSFI, Docket – Vol. I, p. 490; Exhibit "P-11", Docket – Vol. II, pp. 741 to 755; Exhibits "R-8" to "R-8-F", BIR Records (Exhibit "R-11"), pp. 330 to 345.
[11] Par. 6, Summary of Admitted Facts, JSFI, Docket – Vol. I, p. 490; Exhibit "P-12", Docket – Vol. II, pp. 756 to 768.
[12] Exhibit "P-13", Docket – Vol. II, pp. 769 to 778.

Thereafter, on June 3, 2021, petitioner received the assailed undated Final Decision on Disputed Assessment (FDDA) issued by the BIR,[13] denying petitioner's administrative protest. In the FDDA, respondent concluded that petitioner is still liable to pay deficiency income tax, WTC, EWT, FWT, DST, and other miscellaneous taxes, for TY 2016, in the aggregate amount of ₱49,585,840.75.

PROCEEDINGS BEFORE THIS COURT

As already stated, the present *Petition for Review* was filed on July 5, 2021.[14]

Respondent filed his *Answer* on October 27, 2021.[15]

On February 11, 2022, respondent transmitted the *BIR Records* of this case, consisting of two folders.[16]

The Pre-Trial Conference was initially set on March 14, 2022.[17] In the Resolution dated March 14, 2022,[18] however, the parties were ordered to immediately proceed and to personally appear, or through their authorized representative, before the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA) on May 2, 2022. Prior thereto, *Petitioner's Pre-Trial Brief* was filed on March 10, 2022,[19] while *Respondent's Pre-Trial Brief* was submitted on March 11, 2022.[20]

On July 12, 2022, the parties filed a *Request for Extension,*[21] with the concurrence of Hon. Amelia R. Cotangco-Manalastas (Ret.), Mediator, requesting that the parties be granted a final extension of 30 days from July 20, 2022 or until August 19, 2022, to give the parties additional time within which to reach an amicable settlement.

In the Resolution dated July 20, 2022,[22] the Court granted the parties' *Request for Extension.*

[13] Exhibits "P-14" and "R-10" to "R-10-F", BIR Records (Exhibit "R-11-A), pp. 875 to 888.
[14] Docket – Vol. I, pp. 6 to 41.
[15] *Id.* at 386 to 405.
[16] Respondent's *Compliance* dated January 28, 2022, Docket – Vol. I, pp. 416 to 418.
[17] Notice of Pre-trial Conference dated December 7, 2021, Docket – Vol. I pp. 412 to 413.
[18] Docket – Vol. I, p. 457.
[19] *Id.* at 437 to 445.
[20] *Id.* at 446 to 451.
[21] *Id.* at 464.
[22] *Id.* at 466.

On August 23, 2022, the parties filed their *Joint Manifestation/Motion*,[23] praying for an extension of the ongoing mediation proceedings for a period of 30 days from August 19, 2022 or until September 18, 2022. In the Resolution dated September 14, 2022,[24] the Court granted the said *Joint Manifestation/Motion*, giving the parties a final and non-extendible period of 30 days from September 1, 2022 or until October 1, 2022, within which to reach an amicable settlement.

Thereafter, on October 14, 2022, the parties filed their *Joint Manifestation/Motion to Suspend Proceedings*,[25] praying for a temporary suspension of court proceedings for a period of 30 days from October 1, 2022 or until October 31, 2022. In the Resolution dated November 23, 2022,[26] the Court granted the parties until January 31, 2023, within which to file a compromise agreement, and ordered the parties to file a joint report on the status of the compromise agreement on or before January 2, 2023. On January 3, 2023, the parties filed a *Joint Manifestation*,[27] stating that the parties are aiming to have the *Compromise Agreement* filed on or before January 31, 2023, if the same shall be approved by the National Evaluation Board and respondent, which *Joint Manifestation* was noted by the Court in the Resolution dated February 6, 2023.[28]

On February 10, 2022, the parties submitted their *Joint Stipulation of Facts and Issues*,[29] which the Court noted in the Resolution dated March 2, 2023.[30]

On March 20, 2023, however, the PMC-CTA reported that the mediation was unsuccessful.[31]

In the Resolution dated April 19, 2023,[32] the Court set the case anew for Pre-Trial Conference on August 15, 2023, which proceeded as scheduled.[33] Subsequently, the Court issued the Pre-Trial Order dated October 9, 2023,[34] thereby deeming the termination of the Pre-Trial.

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

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23 Docket – Vol. I, pp. 467 to 469.
24 *Id.* at 474 to 475.
25 *Id.* at 476 to 479.
26 *Id.* at 481 to 482.
27 *Id.* at 483 to 484.
28 *Id.* at 487 to 488.
29 *Id.* at 489 to 497.
30 *Id.* at 499 to 500.
31 *Mediator's Report* dated March 17, 2023 issued by the PMC-CTA, Docket – Vol. I, p. 501.
32 Docket – Vol. I, pp. 509 to 510.
33 Minutes of the hearing held on, and Order dated, August 15, 2023, Docket – Vol. II, pp. 512 to 514.
34 Docket – Vol. II, pp. 531 to 536.

Petitioner offered the testimonies of the following individuals, namely: (1) Mr. Clyde V. Bajarias,[35] its Deputy Director – Finance Planning & Analysis; and, (2) Ms. Gadiosa R. Martinez,[36] the Court-commissioned Independent Certified Public Accountant (ICPA).[37]

The *Report* of the said ICPA was submitted on December 29, 2023.[38]

On February 14, 2024, petitioner filed its *Formal Offer of Evidence*.[39] Respondent, however, failed to file his comment thereon.[40] In the Resolution dated April 15, 2024,[41] the Court admitted petitioner's offered exhibits, *except*: (1) Exhibits "P-35-c-2-a", "P-35-c-2-b", "P-35-c-2-c", "P-35-c-2-d", "P-35-c-2-e", "P-35-c-2-f", "P-35-c-2-g", "P-35-c-2-h", "P-35-c-2-i", "P-35-c-2-j", "P-35-c-2-k", "P-35-c-2-l", and, "P-35-d-2", as they are either DAT or MSG file, thus, the Court cannot access or open the file; and, (2) Exhibit "P-41-a-3-f-85", for not being found in the records.

For his part, respondent presented the testimony of Revenue Officer Joyce Amor Molina.[42]

On April 30, 2024, *Respondent's Formal Offer of Evidence* was filed,[43] to which petitioner filed its *Comment To the Formal Offer of Evidence dated April 25, 2024* on May 13, 2024.[44]

In the meantime, on May 2, 2024, petitioner filed a *Motion for Reconsideration [To the Resolution dated April 15, 2024]*,[45] praying that: (1) Exhibits "P-35-c-2-a", "P-35-c-2-b", "P-35-c-2-c", "P-35-c-2-d", "P-35-c-2-e", "P-35-c-2-f", "P-35-c-2-g", "P-35-c-2-h", "P-35-c-2-i", "P-35-c-2-j", "P-35-c-2-k", "P-35-c-2-l", and "P-35-d-2" be admitted; (2) Exhibit "P-41-a-3-f-85" be admitted; and, (3) the corrections made by the Court and petitioner with regard to the markings of the exhibits mentioned in the

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35 Exhibits "P-45" and "P-46", Docket – Vol. I, pp. 42 to 60 and Docket – Vol. II, pp. 549 to 554, respectively; Minutes of the hearing held on, and Order dated, January 25, 2024, Docket – Vol. II, pp. 627 to 628.

36 Exhibit "P-47", Docket – Vol. II, pp. 599 to 626; Minutes of the hearing held on, and Order dated, January 25, 2024, Docket – Vol. II, pp. 627 to 628.

37 *Oath of Commission* dated November 16, 2023, Docket – Vol. II, p. 588; Minutes of the hearing held on, and Order dated, November 16, 2023, Docket – Vol. II, pp. 539 to 591.

38 Exhibit "P-32" (on a separate binder).

39 Docket – Vol. II, pp. 633 to 684.

40 Records Verification dated March 12, 2024 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 1032.

41 Docket – Vol. II, pp. 1034 to 1040.

42 Exhibit "R-12", Docket – Vol. I, pp. 427 to 436; Minutes of the hearing held on, and Order dated, April 16, 2024, Docket – Vol. II, pp. 1041 to 1043.

43 Docket – Vol. II, pp. 1044 to 1051.

44 *Id.* at 1081 to 1088.

45 Docket – Vol. I, pp. 1053 to 1060.

Formal Offer of Evidence be noted. Respondent, however, failed to file his comment thereon.[46]

In the Resolution dated July 22, 2024,[47] the Court granted petitioner's *Motion for Reconsideration*, thereby admitting Exhibits "P-35-c-2-a", "P-35-c-2-b", "P-35-c-2-c", "P-35-c-2-d", "P-35-c-2-e", "P-35-c-2-f", "P-35-c-2-g", "P-35-c-2-h", "P-35-c-2-i", "P-35-c-2-j", "P-35-c-2-k", "P-35-c-2-l", "P-35-d-2", and "P-41-a-3-f-85". In the same Resolution, the Court admitted all of respondent's offered exhibits, *except* Exhibit "R-11-B", for not being found in the records of the case.

On September 5, 2024, petitioner filed its *Memorandum*;[48] and on September 6, 2024, respondent filed his *Manifestation*,[49] stating that he is adopting the arguments he raised in his *Answer* as his *Memorandum*.

The case was considered submitted for decision on September 12, 2024.[50]

THE STIPULATED ISSUE

The parties submit the following issue for this Court's resolution:

> Whether or not petitioner is liable for the payment of deficiency Income Tax, Withholding Tax on Compensation, Expanded Withholding Tax, Final Withholding Tax, Documentary Stamp Tax plus penalties, interest and surcharges, in the aggregate amount of ₱49,585,840.75 for the taxable year 2016.[51]

Additionally, for an orderly disposition of this case, the Court raises the following issue, to wit:

> Whether or not the subject tax assessments are void, for violation of petitioner's right to due process.

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[46] Records Verification dated May 20, 2024 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 1089.
[47] Docket – Vol. II, pp. 1091 to 1095.
[48] *Id.* at 1097 to 1150.
[49] *Id.* at 1152 to 1154.
[50] Minute Resolution dated September 12, 2024, Docket – Vol. II, p. 1173.
[51] Issue Agreed Upon by the Parties, Issues to be Resolved, JSFI, Docket – Vol. I, p. 491.

Petitioner's arguments

Petitioner argues that: (a) the assessment is null and void under the NIRC of 1997, as amended; (b) the assessment has partially prescribed; (c) respondent's representatives are not authorized to conduct an audit beyond the 120-day period from petitioner's receipt of the LOA; and, (d) petitioner is not liable for deficiency income tax, WTC, EWT, FWT, DST, and miscellaneous tax.

Respondent's counter-arguments

In his *Answer*, respondent asserts that the issue on the validity of the FLD was never raised by petitioner in the administrative level, and, thus, it can no longer raise said issue on the ground of laches. He maintains that the conduct of the audit investigation and the resulting assessments are valid as the same were in accordance with law and rules; According to respondent, the amount of tax liabilities is definite and the non-revalidation of the LOA does not invalidate the assessments. Respondent insists that petitioner is liable for deficiency income tax, WTC, EWT, FWT, DST, plus penalties, surcharges and interests, in the aggregate amount of ₱49,585,840.75.

THE COURT'S RULING

The present *Petition for Review* has merit.

The subject FLD and the attached Assessment Notices are void, for failure to state a definite date for the payment of the tax liabilities. Likewise, the FDDA and the attached Assessment Notices are void for failure to indicate a valid due date.

Petitioner argues that the FLD and the FDDA suffer from substantial defects, falling short of the substantive requirements mentioned in the NIRC of 1997, as amended, and in jurisprudence and thus, should be declared void.

We agree with petitioner.

An assessment "refers to the determination of amounts due from a person obligated to make payments."[52] In the context in which it is used in the NIRC of 1997, as amended, an assessment is a written notice and demand made by the BIR on the taxpayer for the settlement of a **due tax liability that is there definitely set and fixed**.[53]

In *Commissioner of Internal Revenue vs. Pascor Realty and Development Corporation, et al.*,[54] the Supreme Court emphasized the requirement for an assessment to contain a specific demand for payment within a prescribed period in this wise:

> **An assessment contains not only a computation of tax liabilities, but also a demand for payment <u>within a prescribed period</u>.** It also signals the same time when penalties and interests begin to accrue against the taxpayer. To enable the taxpayer to determine his remedies thereon, due process requires that it must be served on and received by the taxpayer. xxx.
>
> xxx xxx xxx
>
> To start with, an assessment must be sent to and received by a taxpayer, **and must demand payment of the taxes described therein within a specific period**. Thus, the NIRC imposes a 25 percent penalty, in addition to the tax due, in case the taxpayer fails to pay the deficiency tax within the time prescribed for its payment in the notice of assessment. Likewise, an interest of 20% per annum, or such higher rate as may be prescribed by rules and regulations, is to be collected from the date prescribed for its payment until the full payment. *(Emphases and underscoring added)*

As a corollary, in *Commissioner of Internal Revenue vs. Fitness by Design, Inc.* (*Fitness bv Design* case),[55] the Supreme Court ruled as follows:

> ...**the Final Assessment Notice is <u>not valid</u> if it does not contain a definite due date for payment by the taxpayer.**
>
> xxx xxx xxx
>
> **The issuance of a <u>valid</u> formal assessment is a substantive prerequisite for collection of taxes.** Neither the National Internal Revenue Code nor the revenue regulations provide for a 'specific definition or form of an assessment.' However, the National Internal Revenue Code defines its explicit functions and effects. **An assessment does not only include a computation of tax liabilities; <u>it also includes a demand for payment within a period prescribed</u>. Its main purpose is to determine the amount that a taxpayer is liable to pay.**

[52] *SMI-ED Philippines Technology, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 175410, November 12, 2014.
[53] *Adamson, et al. vs. Court of Appeals, et al.*, G.R. Nos. 120935 and 124557, May 21, 2009.
[54] G.R. No. 128315, June 29, 1999.
[55] G.R. No. 215957, November 9, 2016.

xxx xxx xxx

A final assessment is a notice 'to the effect that the amount therein stated is due as tax and a demand for payment thereof.' This demand for payment signals the time 'when the penalties and interests begin to accrue against the taxpayer and enabling the latter to determine his remedies[.]' Thus, it must be 'sent to and received by the taxpayer, and **must demand payment of the taxes described therein within a specific period**.'

The disputed Final Assessment Notice is not a valid assessment.

First, it lacks the definite amount of tax liability for which respondent is accountable. It does not purport to be a demand for payment of tax due, which a final assessment notice should supposedly be. An assessment, in the context of the National Internal Revenue Code, is a 'written notice and demand made by the [Bureau of Internal Revenue] on the taxpayer for the settlement of a tax liability that is there definitely set and fixed.' Although the disputed notice provides for the computation of respondent's tax liability, the amount remains indefinite. It only provides that the tax due is still subject to modification, depending on the date of payment. Thus:

> The complete details covering the aforementioned discrepancies established during the investigation of this case are shown in the accompanying Annex 1 of this Notice. The 50% surcharge and 20% interest have been imposed pursuant to Sections 248 and 249 (B) of the [National Internal Revenue Code], as amended. **Please note, *however, that the interest and the total amount due will have to be adjusted if prior or beyond April 15, 2004.*** (Emphasis Supplied)

Second, there are no due dates in the Final Assessment Notice. This negates petitioner's demand for payment. Petitioner's contention that April 15, 2004 should be regarded as the actual due date cannot be accepted. The last paragraph of the Final Assessment Notice states that the due dates for payment were supposedly reflected in the attached assessment:

> In view thereof, you are *requested to pay* your aforesaid deficiency internal revenue tax liabilities through the duly authorized agent bank in which you are enrolled *within the time shown in the enclosed assessment notice.* (Emphasis in the original)

However, based on the findings of the Court of Tax Appeals First Division, **the enclosed assessment pertained to remained unaccomplished**.

Contrary to petitioner's view, April 15, 2004 was the reckoning date of accrual of penalties and surcharges and not the due date for payment of tax liabilities. **The total amount depended upon when respondent decides to pay. The notice, therefore, did not contain a definite and actual demand to pay.** ᴹ

> Compliance with Section 228 of the National Internal Revenue Code is a substantive requirement. It is not a mere formality. Providing the taxpayer with the factual and legal bases for the assessment is crucial before proceeding with tax collection. Tax collection should be premised on a valid assessment, which would allow the taxpayer to present his or her case and produce evidence for substantiation. *(Emphases and underscoring added)*

Based on the foregoing doctrinal pronouncements, a tax assessment must not only contain a computation of tax liabilities, but must also include a demand for the settlement of a tax liability that is definite and fixed, within a specified period. The absence of such demand renders the assessment invalid.

In this case, the FLD dated November 11, 2019[56] provides in part, as follows:

> ***Please take note that the interest will have to be adjusted if paid beyond <u>the date specified therein</u>.*** *(Emphasis and underscoring added)*

From the foregoing statement, it is not clear what the phrase *"the date specified therein"* actually refers to. In view of this vagueness, the indefiniteness in the amount being assessed becomes amplified.

Moreover, just as in the ruling in the *Fitness by Design* case, whereby the due date of the assessment notices therein *"remained unaccomplished"*, a perusal of the accompanying *Assessment Notices* to the said FLD[57] shows that the respective space for the due dates therein were conspicuously left blank. Considering that the said *Assessment Notices* failed to properly and respectively indicate the due dates when the subject deficiency taxes must be paid, no proper demand thereof within a specific period was validly made.

Thus, given that respondent failed to state the respective due dates for the payment of the subject deficiency taxes, petitioner's obligation for such deficiency taxes may not be deemed to have legally accrued. Simply put, petitioner may not be adjudged to be held liable for deficiency taxes which in the first place are not legally demandable.

In addition, the FDDA does not indicate a valid due date for payment. In particular, the due date reflected in the *Assessment Notices* is "October

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[56] Exhibit "P-11", Docket – Vol. II, at pp. 741 to 755; Exhibits "R-8" to "R-8-F", BIR Records (Exhibit "R-11"), pp. 330 to 345.

[57] Exhibit "P-11", at Docket – Vol. II, at pp.751 to 755; Exhibits "R-8-A" to "R-8-F", BIR Records (Exhibit "R-11"), pp. 330 to 335.

31, 2020",[58] although the same was only received by petitioner on June 3, 2021.[59] Clearly, the prescribed period stated therein for the payment of the alleged deficiency taxes already lapsed when the FDDA and the corresponding Assessment Notices were received by petitioner, making it impossible for petitioner to comply. It is as if the due date therein "remained unaccomplished", thus, negating compliance with the requirement that the assessment must contain a demand for payment within a prescribed period.

To be sure, as held in the *Fitness by Design* case, an assessment must demand payment of the taxes described therein within a *specific period.*

Considering that the subject Assessment Notices accompanying the FDDA failed to properly indicate the due date when the subject deficiency taxes must be paid, no proper demand thereof within a specific period was validly made.

Thus, given that respondent failed to state a definite due date for the payment of the taxes stated in the FLD, along with his failure to state the valid due dates for the payment of the subject deficiency taxes in the Assessment Notices attached to the FDDA, the subject tax assessments are a nullity, and thus, petitioner may not be adjudged to be held liable for the subject deficiency taxes.

With the said lapses of the BIR, the subject tax assessments can hardly fall under the jurisprudential definition of a tax assessment within the purview of the NIRC of 1997, as amended, considering that they lacked *"a definite due date for payment by the taxpayer".* They likewise do not purport to be a demand for payment of tax due, which a final assessment notice should supposedly be.

Accordingly, the inevitable conclusion is that the subject tax assessments are void, and thus, bear no valid fruit.[60] Correspondingly, at this juncture, it must already be stated that the FLD dated November 11, 2019, the undated FDDA, and the respective *Assessment Notices* attached thereto, must be cancelled.

In any event, this Court sees another reason why the subject tax assessments are void.

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[58] Exhibit "P-14" and Exhibits "R-10-A" to "R-10-F", BIR Records (Exhibit "R-11-A), pp. 875 to 880.

[59] Exhibit "P-14", Docket – Vol. II, pp. 779 to 787; Exhibits "R-10-A" to "R-10-F", BIR Records (Exhibit "R-11-A), pp. 875 to 888.

[60] *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, G.R. Nos. 197945 and 204119-20, July 9, 2018, G.R. No.197945 citing *Commissioner of Internal Revenue vs. Reyes*, G.R. Nos. 159694 and 163581, January 27, 2006.

Legal bases to resolve the issue raised by this Court.

Before proceeding to the issue raised by this Court, it is apt to state the justification thereof.

Section 1, Rule 14 of the 2005 Revised Rules of the Court of Tax Appeals reads as follows:

> 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 issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.** *(Emphasis added)*

Based on the foregoing provision, 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, and such authority of this Court is confirmed and recognized by the Supreme Court in *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.,*[61] viz:

> **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:
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> > **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 section is clearly worded.** xxx *(Emphases added)*

The Supreme Court has applied the foregoing provision in *Commissioner of Internal Revenue vs. Yumex Philippines Corporation,*[62] wherein it held the following: M

[61] G.R. No. 183408, July 12, 2017.
[62] G.R. No. 222476, May 5, 2021.

> 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.*,[63] 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
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> xxx xxx xxx
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> **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 record 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.**[64] *(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.[65] 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. M

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[63] G.R. No. 146853, February 13, 2006.

[64] Cited also in *M/V "Don Martin" Voy 047 and its Cargoes of 6,500 Sacks of Imported Rice, et al. vs. Hon. Secretary of Finance, et al.* (G.R. No. 160206, July 15, 2015), wherein the Supreme Court recognizes this Court's jurisdiction to determine an issue not raised by the parties.

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

In the same vein, the issue raised by this Court is closely related to the issue raised 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.

The subject tax assessments are void for violation of petitioner's right to administrative due process as respondent failed to give reasons for rejecting petitioner's reply to the PAN and protest to the FLD.

Section 228 of the NIRC of 1997, as amended, reads, in part, as follows:

> SEC. 228. *Protesting of Assessment.* — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: xxx
>
> xxx xxx xxx
>
> **The taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.**
>
> xxx xxx xxx *(Emphasis added)*

Under the foregoing provision, 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.[66] 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.[67] 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.[68] Furthermore, it must be emphasized that failure to comply with Section 228 of the NIRC of 1997, as amended, does not only render the assessment void, but also finds no validation in any provision in the Tax Code.[69]

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[66] *Supra* note 65.
[67] *Commissioner of Internal Revenue vs. Spouses Remigio P. Magaan and Leticia L. Magaan*, G.R. No. 232663, May 3, 2021.
[68] *Commissioner of Internal Revenue vs. Unioil Corporation*, G.R. No. 204405, August 4, 2021.
[69] *Id.*, citing *Commissioner of Internal Revenue vs. Reyes*, G.R. Nos. 159694 & 163581, January 27, 2006.

To implement the above-quoted Section 228, Section 3 of Revenue Regulations (RR) No. 12-99,[70] as amended by RR No. 18-2013,[71] and renumbered by RR No. 7-2018,[72] provides, in part, as follows:

> SECTION 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:
>
> xxx xxx xxx
>
> 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).
>
> xxx xxx xxx
>
> 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 <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).
>
> xxx xxx xxx
>
> 3.1.6 *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)*

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. ly

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[70] 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.

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

[72] SUBJECT: 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.

In *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., et seq.* (*Avon* case),[73] the Supreme Court held:

> **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.**
>
> xxx xxx xxx
>
> In *Ang Tibay v. The Court of Industrial Relations*,[74] 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.**
>
> xxx xxx xxx
>
> **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**

[73] G.R. Nos. 201398-99 and 201418-19, October 3, 2018.
[74] G.R. No. 46496, February 27, 1940.

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.**

xxx xxx xxx

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 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 that 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.

xxx xxx xxx

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, Avon was left unaware on how the Commissioner or her authorized representatives appreciated the explanations or defenses raised in connection with the assessments.** There was clear inaction of the Commissioner at every stage of the proceedings.

xxx xxx xxx

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.**

xxx xxx xxx

> **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.** *(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. And 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. Moreover, 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.

In this case, as stated in the PAN dated July 18, 2019,[75] the BIR ascertained that petitioner has deficiency income tax, WTC, EWT, FWT, and DST, including interests and surcharge, summarized as follows:

Tax Type	Basic	Surcharge	Interest	Total
Income Tax	₱ 33,939,046.42	₱ -	₱ 11,243,587.65	₱ 45,182,634.07
WTC	13,678,843.96	-	5,206,205.49	18,885,049.44
EWT	37,930,308.50	-	14,436,379.33	52,366,687.83
FWT	338,784.60	84,696.15	128,942.35	552,423.10
DST	10,989,133.16	2,747,283.29	4,551,371.90	18,287,788.34
Total	**₱ 96,876,116.63**	**₱ 2,831,979.44**	**₱ 35,566,486.72**	**₱ 135,274,582.78**

[75] Exhibit "P-9", Docket – Vol. II, pp. 719 to 727; Exhibit "R-6", BIR Records (Exhibit "R-11"), pp. 283 to 291.

In its *Reply* dated August 6, 2019 to the PAN,[76] petitioner raised legal and factual arguments, summarized as follows:

1. Recruitment costs are cost incurred when the special skills of the call service agents are developed, thus, directly attributable to the registered activity of petitioner.

2. Materials, supplies and facilities expenses are direct costs which are directly related to the registered activity of petitioner.

3. Only the depreciation allocated as Costs of Services was claimed as deduction for 5% income tax purposes. A portion of the disallowed depreciation costs refers to office furniture and equipment on the production floors of petitioner. The remaining disallowed costs refer to the transportation equipment/shuttle used by the trainees and customers of petitioner during onsite visits. Clearly, these are costs directly utilized in providing the registered activities of petitioner.

4. The Contract of Lease petitioner submitted to the BIR was executed on September 30, 2014. The schedules or price per square meter (sqm) used by the BIR in the computation of the deficiency was the price agreed by the Jovima Management & Development Corporation (JOVIMA) and petitioner as of September 30, 2014. However, the rent rate per sqm and Common Use Service Area (CUSA) Rate per sqm are subject to adjustments depending on the condition given in section 2.a.6 of the Contract of Lease. For 2016, the sixth and eighth floors were already put in operation; thus, the rent rate per sqm and CUSA Rate per sqm were adjusted to the rates applied on the other floors of Building 1 and Building 3.

5. Expenses for staff cellphone, visa/passport processing, transportation & travel – local & overseas, insurance & bond premium, membership, ads & promo, company-wide initiatives, representation & entertainment – customer, internal, & others, and professional & consultation fee – law office are direct costs of petitioner that are related to its registered activities.

6. All of the services of Cooperative Marketing Concepts, Inc. are performed abroad, thus, income derived

[76] Exhibit "P-10", Docket – Vol. II, pp. 728 to 740.

therefrom are sourced outside the Philippines, therefore, exempt from income tax pursuant to Section 23(F), in relation to Section 42(A) of the NIRC of 1997, as amended. Consequently, payment to CMC is not subject to withholding tax.

7. Part of the discrepancy noted by the BIR are payment to General Professional Partnerships such as SGV & Co. and ACCRA Law which are exempt from EWT.

8. A portion of the rental and utilities and prepayments pertains to payments to JOVIMA, the lessor of petitioner. JOVIMA is also a PEZA-registered enterprise. Hence, the rental payments to it are exempt from withholding tax.

9. Other expenses which should be subjected to 2% EWT were subjected to 5% tax by the BIR. Security Services which pertain to the salaries of security guards are not subject to EWT pursuant to Revenue Memorandum Circular (RMC) No. 39-2007.

10. Amounts paid to the suppliers of petitioner were properly subjected to the applicable withholding tax rates.

11. RR No. 6-2018 revoked RR No. 12-2013 and in effect, reinstated RR No. 14-2002 as amended by RR No. 17-2003.

12. The amount withheld on compensation is computed net of mandatory contributions on SSS, Philhealth, Pag-IBIG, personal exemption, bonuses and other benefits deemed excluded from the computation of the employees' compensation income pursuant to Section 32(B)(e) and (f) of the NIRC of 1997, as amended, and the corresponding employer's share for said mandated employee benefits. Moreover, part of compensation income per ITR includes overtime meal and transportation, floor incentives, Health Maintenance Organization (HMO) Premiums, share in group insurance which are expenses not part of the compensation income of the employee, therefore not subject to withholding tax on compensation.

13. Interest expenses related to the alleged loan from a nonresident foreign corporation are just an accrual of expense for the TY 2016. The duty of the withholding

agent to withhold tax arises only when it is paid.

14. Considering that JOVIMA and petitioner are PEZA-registered entities, both parties are exempt from DST on their lease contract.

15. Advances to related parties with ePerformax US are either customer collections or outstanding accrued expenses of petitioner from/to different companies abroad.

16. The due to ePerformax US are payments to CMC, which is also US-based, whose payment is also coordinated through ePerformax US. Clearly, these are just trade receivables or trade payables and not loans/advances between companies for business use.

17. The BIR cannot assess the 2015 balances that were already subjected to a tax assessment already settled by petitioner.

18. The dues to/from ePerformax Manila and ePITA are just reimbursable costs. Considering that these are not loans/advances between companies for business use, these are not subject to DST.

However, petitioner was still assessed, in the FLD/FAN dated November 11, 2019,[77] of the same deficiency tax liabilities for TY 2016, totaling ₱138,424,753.54, inclusive of surcharge, interests, and compromise penalties, summarized as follows:

Tax Type	Basic	Surcharge	Interests	Compromise Penalty	Total
Income tax	₱ 33,939,046.42	₱ -	₱ 12,270,127.58	₱ 50,000.00	₱ 46,259,173.99
WTC	13,678,843.96	-	5,619,943.67	50,000.00	19,348,787.63
EWT	37,930,308.50	-	15,583,641.27	50,000.00	53,536,949.76
FWT	338,784.60	84,696.15	139,189.42	20,000.00	582,670.17
DST	10,989,133.16	2,747,283.29	4,883,755.54	50,000.00	18,670,171.99
Total	**₱96,876,116.64**	**₱2,831,979.44**	**₱ 38,496,657.48**	**₱ 220,000.00**	**₱138,424,753.54**

Based on the foregoing, it can be clearly observed that the above assessments are similar to the findings stated in the PAN dated July 18, 2019. If at all, the difference between the said PAN and the subject FLD, in terms of the amounts indicated, are with the amounts of interests merely adjusted or updated, and compromise penalties imposed. It must be

[77] Exhibit "P-11", Docket – Vol. II, pp. 741 to 755; Exhibits "R-8" to "R-8-F", BIR Records (Exhibit "R-11"), pp. 330 to 345.

emphasized that the respective basic tax dues and the imposed surcharge remained the same. More importantly, it is noteworthy that in the said FLD, the BIR did not address any of the explanations made by petitioner in its protest letter to the PAN—an indication that the BIR did not consider the same when it issued the subject FLD. In fact, it is also notable that the Details of Discrepancies for the said FLD was merely copied verbatim from the Details of Discrepancies for the same PAN. The only difference is that respondent replaced the term "5% Preferential Tax" with "5% Final Tax" [78] and added a section on miscellaneous taxes/compromise penalties.[79]

As already stated, pursuant to the *Avon* case, the concerned taxpayer must be fully apprised of the factual and legal bases of the assessments and must not be left unaware on how respondent or his authorized representatives appreciated the explanations or defenses raised by petitioner in connection with the assessments.

Furthermore, it is noted that petitioner filed on December 20, 2019 its Protest/Reply to the FLD, reiterating its argument against the findings stated therein and requesting for a reinvestigation of the said findings.[80] Thereafter, submitted supporting documents to its Protest/Reply to the FLD/Request for Reinvestigation on February 11, 2020.[81]

In response to petitioner's protest, the subject FDDA was issued by respondent.[82] Again, while respondent made certain adjustments in the basic taxes due, he provided no sufficient explanation for the said adjustments, and still failed to address the arguments raised by petitioner in its protest to the FLD.

To stress, as part of the due process requirement in the issuance of tax assessments, respondent must give some reason for rejecting petitioner's explanations, and must give the particular facts upon which his conclusions are based, especially as regards the adjustments made, and those facts must appear on record. Respondent has obviously not observed such requirement in the issuance of the subject FLD, and the subject FDDA.

Thus, the inevitable conclusion again is that petitioner's right to due process, as recognized under Section 228 of the NIRC of 1997, as amended, and Sections 3.1.4 and 3.1.6 of RR No. 12-99, as amended, was violated by

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78 Exhibit "P-9", Docket – Vol. II, at p. 722; Exhibit "R-6", BIR Records (Exhibit "R-11"), at p. 288 vis-à-vis Exhibit "P-11", Docket – Vol. II, at p. 744; Exhibit "R-8", BIR Records (Exhibit "R-11"), at p. 342.

79 Exhibit "P-11", Docket – Vol. II, at pp. 749 to 750; Exhibit "R-8", BIR Records (Exhibit "R-11"), at pp. 336 to 337.

80 Exhibit "P-12", Docket – Vol. II, pp. 756 to 768.

81 Exhibit "P-13", Docket – Vol. II, pp. 769 to 778.

82 Exhibits "P-14" and "R-10" to "R-10-F", BIR Records (Exhibit "R-11-A), pp. 875 to 888.

respondent. As a consequence of such violation, the said deficiency tax assessments are rendered void.

To reiterate, tax assessments issued in violation of the due process rights of a taxpayer are null and void;[83] and a void assessment bears no valid fruit.[84] Such being the case, the subject tax assessments cannot be enforced against petitioner, and the BIR has no right to collect the same.

In view of the foregoing findings, it is no longer necessary to address the other respective arguments raised by the parties.

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

Accordingly, the FLD and the attached Assessment Notices, all dated November 11, 2019, assessing petitioner for deficiency taxes for taxable year 2016, are declared **NULL** and **VOID**. Furthermore, the undated FDDA and the attached Assessment Notices, assessing petitioner, for deficiency income tax, WTC, EWT, FWT, and DST for taxable year 2016, in the total amount of **₱49,585,840.75**, inclusive of surcharges, interests, and compromise penalties, are **REVERSED and SET ASIDE**.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

On leave
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[83] *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., et seq.*, supra.
[84] *Samar-I Electric Cooperative vs. Commissioner of Internal Revenue*, G.R. No. 193100, December 10, 2014.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

I attest 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's Division.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Acting Chairperson's Attestation, 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