REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Special First Division

MALAYAN EDUCATION SYSTEM, INC. (FORMERLY KNOWN AS MALAYAN COLLEGES, INC. AND PRESENTLY OPERATING UNDER THE NAME OF MAPUA UNIVERSITY), *Petitioner,*	**CTA AC No. 260** (Civil Case No. CV-14-131442) Members: **DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
-versus-	
CITY OF MANILA, CITY MAYOR, AND CITY TREASURER, *Respondents.*	Promulgated: SEP 19 2023 3:50

x- -x

RESOLUTION

MANAHAN, J.:

This resolves respondents' **Motion for Reconsideration**[1] filed on June 1, 2023 seeking the reinstatement of the Decision dated October 27, 2021 rendered by the Regional Trial Court (RTC) – Branch 11, Manila, which ordered petitioner to pay respondents the deficiency local business tax in the amount of Php82,536,920.97.

The instant motion assails the Court's Decision dated May 10, 2023 (Assailed Decision), the dispositive portion of which, reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **PARTIALLY GRANTED**. The *Decision* dated October 27, 2021 and *Order* dated December 15, 2021, both rendered by the Regional Trial Court – Branch 11, Manila, are **REVERSED** and **SET ASIDE**. Accordingly, the letter of assessment dated November 6, 2013 is hereby **CANCELLED** and **SET ASIDE**.

[1] Docket, CTA AC No. 260, pp. 178-188.

SO ORDERED."

Respondents, argue that there was already a breakdown of assessment as to which taxes were not paid by petitioner as there were entries under "learning institution", "rental", "Lessor", and the corresponding amount of taxes due, hence, there was sufficient compliance with the law as to the nature of the tax, fee, and charges, and the amount of deficiency tax, surcharge, interest, and penalties were all clearly indicated in the computation sheet.

Respondents further argue that petitioner was able to submit its protest letter and argue its case questioning the assessment.

On the other hand, petitioner, in its **Comment/Opposition (Re: Motion for Reconsideration dated June 1, 2023)**[2] filed on July 10, 2023, argues that respondent issued the Letter of Assessment (LOA) without clearly disclosing which provision of the Manila Revenue Code serves as the basis of said assessment.

Petitioner insists that it was not made aware of respondent's legal basis, and has to resort to mere guesswork to be able to defend its claim against the City of Manila.

The Ruling

This Court shall determine first whether the instant motion was filed on time.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> "SECTION 1. *Who may and when to file motion.* — **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution or order **of the Court by filing a motion for reconsideration** or new trial **within fifteen days from the date of receipt of notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

---

[2] Docket, pp.192-207.

The records of the instant case reveal that respondents received the Assailed Decision on May 22, 2023. In accordance with the abovementioned provision of the RRCTA, respondents had fifteen (15) days from receipt of notice of said decision from May 22, 2023 or until June 6, 2023 within which to file their motion for reconsideration. Thus, the filing of respondents' *Motion for Reconsideration* on June 1, 2023 was on time.

Respondents insists that there was no violation of petitioner's right to due process because it was able to file its protest letter against the LOA and was able to argue its case.

A scrutiny of the protest letter particularly on petitioner's argument of lack of due process would show that petitioner was asking for a clarification on the legal basis of the subject LOA, to wit:[3]

> "A review of the Formal Demand and the Computation would reveal that the assessment failed to mention the particular provision of the Manila City Ordinance imposing the alleged business tax upon which the assessment is based. The computation of the tax base attached to the Formal Demand is likewise silent on the particular rate of business tax used in arriving at the deficiencies. Malayan have been requesting the Office of the City Treasurer of Manila to inform Malayan of the basis of the assessment. The only verbal reply which Malayan got from some officials of the City Treasurer of Manila was that the assessment was based on Section 193 of the LGC, on the withdrawal of the tax exemption privileges including non-stock and non-profit hospitals and educational institutions. **Considering that Section 193 of the LGC does not provide for the specific imposition of the business tax, there was no way for Malayan to intelligently answer the assessment given that the Formal Demand and even the officials of the City Treasurer of Manila could not provide them with the basis of the assessment**.
>
> xxx xxx xxx
>
> Considering that the failure of the Formal Demand to specifically inform Malayan of the particular tax ordinance provision and the rates used in computing the deficiency tax assessments, the Formal Demand violates the provisions of Section 195 of the LGC and violates Malayan's constitutional right to due process of the law. The absence of clear information as to the legal basis of the assessment effectively prevented Malayan intelligently answering or arguing against the assessment. **In the interest of fairness, it is only just to provide Malayan with the legal basis of the assessment**.

---

[3] RTC Docket, Civil Case No. 14-131442, Folder 2 of 4, Exhibit F, Protest Letter dated January 6, 2014, pp. 138 and 142. om

> Otherwise, the Formal Demand would violate Malayan's right to due process of law". *(Emphasis supplied)*

However, respondent City Treasurer in her Letter dated January 7, 2014,[4] instead of responding to petitioner's inquiry and providing the particular tax rate in the Manila Revenue Code as the basis of the LOA, merely cited the "Gross on Learning Institution and Rental Income" as the basis of her computation without providing the specific tax rate in the Manila Revenue Code which was used in arriving at the deficiency local business tax of petitioner, to wit:

> "On another point, MCI decries the alleged "lack of due process" since the Formal Demand and Computation failed to provide an explicit basis of the assessment leaving it without an opportunity to intelligently refute the same.
>
> Such argument is without merit. To begin with, the accompanying computation evidently provided the particulars: "Gross on Learning Institution and Rental Income" as well as the amounts due or liable. Consequently, the legal requirements under Section 195 of the Local Government Code "to state the *nature* of the tax and the *amount* of deficiency including interest" have satisfactorily been met. It likewise bears emphasis that the financial records submitted by MCI were in relation to a Notice to Submit Documents informing it of an audit and examination to be conducted thereon. It therefore cannot feign ignorance of the tax rate or bewail an absence of adequate notice."

Respondents must be aware that the essence of due process in administrative proceedings is not only for the petitioner to file a protest letter and have the opportunity to be heard but as well as the opportunity to properly and intelligently prepare for the answer to such charges. As held in *Alberta De Joya Iglesias v. The Office of the Ombudsman, et al.*[5], to wit:

> Administrative due process demands that the party being charged is given an opportunity to be heard. Due process is complied with "if the party who is properly notified of allegations against him or her is given an opportunity to defend himself or herself against those allegations, and such defense was considered by the tribunal in arriving at its own independent conclusions."
>
> In *F/O Ledesma v. Court of Appeals*:

---

[4] RTC Docket, Civil Case No. 14-131442, Folder 2 of 4, Exhibit G, p. 145.

[5] G.R. No. 180745, August 30, 2017. *cm*

> Due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself. In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. The essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of.

> An important component of due process is the right of the accused to be informed of the nature of the charges against him or her. **A proper appraisal of the accusations would give the accused an opportunity to adequately prepare for his or her defense. Otherwise, substantial justice would be undermined**. (*Emphasis supplied*)

Furthermore, in *Commissioner of Internal Revenue v. Azucena T. Reyes*[6], the Supreme Court ruled that such observance of due process is not merely formal but a substantive requirement of law, to wit:

> "*Fourth*, petitioner violated the cardinal rule in administrative law that the taxpayer be accorded due process. Not only was the law here disregarded, but no valid notice was sent, either. A void assessment bears no valid fruit.

> **The law imposes a substantive, not merely a formal, requirement. To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations: that taxpayers should be able to present their case and adduce supporting evidence**. xxx" (*Emphasis supplied*)

Based on the said factual findings, it will be difficult for petitioner to prepare an adequate defense against such assessment if it is left guessing as to what particular provision of the Manila Revenue Code it violated in the first place.

In the exercise by the state of its power to tax, be it by the National Government or by the local government units, the law should be construed strictly against them and liberally in favor

---

[6] G.R. Nos. 159694 and 163581, January 27, 2006. *cm*

of the taxpayer as held in *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*[7], to wit:

> It is an elementary rule enshrined in the 1987 Constitution that no person shall be deprived of property without due process of law. **In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side, and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution**. Thus, while "taxes are the lifeblood of the government," the power to tax has its limits, in spite of all its plenitude. Hence in *Commissioner of Internal Revenue v. Algue, Inc.,* it was said -
>
>> Taxes are the lifeblood of the government and so should be collected without unnecessary hindrance. On the other hand, such collection should be made in accordance with law as any arbitrariness will negate the very reason for government itself. It is therefore necessary to reconcile the apparently conflicting interests of the authorities and the taxpayers so that the real purpose of taxation, which is the promotion of the common good, may be achieved.
>>
>> xxx xxx xxx
>>
>> It is said that taxes are what we pay for civilized society. Without taxes, the government would be paralyzed for the lack of the motive power to activate and operate it. Hence, despite the natural reluctance to surrender part of one's hard-earned income to taxing authorities, every person who is able to must contribute his share in the running of the government. The government for its part is expected to respond in the form of tangible and intangible benefits intended to improve the lives of the people and enhance their moral and material values. This symbiotic relationship is the rationale of taxation and should dispel the erroneous notion that it is an arbitrary method of exaction by those in the seat of power.
>>
>> **But even as we concede the inevitability and indispensability of taxation, it is a requirement in all democratic regimes that it be exercised reasonably and in accordance with the prescribed procedure.** If it is not, then

---

[7] G.R. No. 185371, December 08, 2010. *cm*

> the taxpayer has a right to complain and the courts will then come to his succor. For all the awesome power of the tax collector, he may still be stopped in his tracks if the taxpayer can demonstrate x x x that the law has not been observed. *(Emphasis supplied)*

Further, in the cited case of *Luz R. Yamane, in her capacity as the City Treasurer of Makati City v. BA Lepanto Condominium Corporation*[8] in the Assailed Decision, the Supreme Court ruled that even if Section 195 of the Local Government Code of 1991 does not expressly require the assessment notice to specifically cite the provision of the ordinance, reference to the local tax ordinance is vital considering that the Manila Revenue Code provides multiple provisions on business taxes and at varying rates, to wit:

> "Ostensibly, the notice of assessment, which stands as the first instance the taxpayer is officially made aware of the pending tax liability, should be sufficiently informative to apprise the taxpayer the legal basis of the tax. Section 195 of the Local Government Code does not go as far as to expressly require that the notice of assessment specifically cite the provision of the ordinance involved but it does require that it state the nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties. In this case, the notice of assessment sent to the Corporation did state that the assessment was for business taxes, as well as the amount of the assessment. There may have been *prima facie* compliance with the requirement under Section 195. However in this case, **the Revenue Code provides multiple provisions on business taxes, and at varying rates. Hence, we could appreciate the Corporation's confusion, as expressed in its protest, as to the exact legal basis for the tax. Reference to the local tax ordinance is vital, for the power of local government units to impose local taxes is exercised through the appropriate ordinance enacted by the *sanggunian*, and not by the Local Government Code alone. What determines tax liability is the tax ordinance, the Local Government Code being the enabling law for the local legislative body**." (*Emphasis supplied*)

Thus, it is incumbent upon respondents to refer and state the particular provision of the Manila Revenue Code in the LOA it issues to their taxpayers because just like the revenue code cited in the abovementioned case, it consists of multiple provisions on business taxes and at varying rates.

---

[8] G.R. NO. 154993, October 25, 2005.

WHEREFORE, premises considered, respondents' *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice