REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

IBMS TECHNOLOGY PHILS. CORPORATION,	**CTA CASE NO. 10606**
Petitioner,	Members:
- versus -	**RINGPIS-LIBAN,** *P.J., Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE,	Promulgated:
Respondent.	______________ 4:22 pm

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RESOLUTION

RINGPIS-LIBAN, P.J.:

Before this Court is petitioner's **Motion for Partial Reconsideration** filed *via* accredited courier on August 26, 2025, and received by the Court on August 28, 2025, with respondent's **Comment/Opposition (Re: Motion for Partial Reconsideration dated 25 August 2025)** filed through registered mail on October 8, 2025, and received by the Court on October 13, 2025.

On July 30, 2025, the Court promulgated a Decision partially granting the *Petition for Review* by upholding with modifications respondent's deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), and improperly accumulated earnings tax (IAET) assessments against petitioner for taxable year 2017, the dispositive portion of which reads as follows:

> "**ACCORDINGLY,** the present *Petition for Review* is **PARTIALLY GRANTED**.
>
> The subject compromise penalty being imposed amounting to ₱50,000.00, as reflected in the FAN (Part II) dated December 22, 2020 issued against petitioner for taxable year 2017 is **CANCELLED** and **SET ASIDE**.
>
> However, respondent's assessments for deficiency income tax, VAT, EWT and IAET, as stated in the FAN (Part I) dated December 22, 2020, for taxable year 2017 are **UPHELD WITH**

MODIFICATIONS. Accordingly, petitioner is **ORDERED TO PAY** respondent the amount of **₱61,898,607.80**, representing deficiency taxes for taxable year 2017, inclusive of the 25% surcharge and the 12% deficiency interest computed as of January 29, 2021, respectively imposed under Section 248(A)(3) and Section 249(B) of the NIRC of 1997, as amended by TRAIN Law, as follows:

Tax Type	Basic	Surcharge	Deficiency Interest	Total
Income Tax	₱ 15,614,577.08	₱ 3,903,644.27	₱ 5,231,097.22	₱ 24,749,318.57
VAT	16,965,277.38	4,241,319.35	6,135,387.98	27,341,984.71
EWT	778,814.90	194,703.73	282,421.75	1,255,940.38
IAET	5,720,238.09	1,430,059.52	1,401,066.53	8,551,364.14
Total	**₱39,078,907.45**	**₱9,769,726.87**	**₱13,049,973.48**	**₱61,898,607.80**

In addition, petitioner is **ORDERED TO PAY** respondent delinquency interest at the rate of 12% per annum on the total amount due of **₱61,898,607.80** as of January 29, 2021, as determined above, or equivalent to ₱20,350.23 per day, from January 30, 2021 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by TRAIN Law and implemented by RR No. 21-2018.

SO ORDERED."

In its Motion, petitioner argues that the Letter of Authority (LOA) LOA-050-2018-00000048/SN:eLA201500088318,[1] issued on August 22, 2018 was only valid for thirty (30) days from the date of its issuance, or until September 21, 2018, pursuant to the ruling in *Medicard Philippines, Inc. v. Commissioner of Internal Revenue.*[2] Petitioner continues that after the 30-day period, the LOA shall be rendered null and void unless revalidated in accordance with Revenue Audit Memorandum Order (RAMO) No. 1-00.[3] Petitioner contends that in this case, the Court's basis in ruling that the assessment notices were received by petitioner was the testimony of its witness, Ms. Regine F. Nonato, who testified that the subject LOA was received by petitioner in September 2018. Petitioner asserts that since Ms. Nonato could not remember the exact date of its actual receipt, it is therefore not clear as to whether the subject LOA was received by petitioner on or before the last day of the 30-day period on September 21, 2018. However, petitioner points out that in its Reply-Letter dated August 28, 2020 filed with the Bureau of Internal Revenue (BIR),[4] it clearly states that the LOA was received beyond the 30-day period without having been revalidated and as a result thereof, the subsequent assessment notices issued by respondent all emanated from an invalid LOA.

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1 Exhibit "P-1", Docket – Vol. I, p. 375; Exhibit "R-2", BIR Records (Exhibit "R-1"), p. 462.
2 G.R. No. 222743, April 5, 2017.
3 SUBJECT: Updated Handbook on Audit Procedures and Techniques Volume I (Revision —Year 2000), dated March 17, 2000.
4 Exhibit "P-3", Docket – Vol. I, p. 29.

Petitioner also avers that though the Notice of Informal Conference (NIC), Preliminary Assessment Notice (PAN) dated November 23, 2020, and Formal Assessment Notice (FAN) dated December 22, 2020 were personally served by BIR's revenue officer (RO) Angeline S. Ifurung, the latter did not however ascertain the authority of the persons who received the said notices on behalf of petitioner. For the said reason, petitioner asserts that RO Ifurung miserably failed to comply with the requirements provided under Revenue Regulations (RR) No. 12-99, as amended.[5] Petitioner further argues that while it was not able to raise the issue of receipt of the LOA and the assessment notices in its Request for Reinvestigation, the same does not bar it from raising the issue of due process following the ruling in the case of *Commissioner of Internal Revenue v. Fort 1 Global City Center, Inc.,*[6] citing *Mannasoft Technology Corp. v. Commissioner of Internal Revenue.*[7] Petitioner expounds that the Supreme Court in the said cases, emphasizes that the BIR's defect in complying with the requirements of due process was not cured by the fact that the taxpayer was able to file a protest to the FAN; and that since the BIR was negligent in complying with own rules, the latter should not be allowed to benefit from the doctrine of estoppel. Thus, petitioner maintains that respondent's failure to strictly observe the due process requirement outlined in Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, and RR No. 12-99, in serving the NIC, PAN, and FAN, renders the said assessment notices void and of no effect.

Moreover, petitioner likewise contends that respondent violated its constitutional right to speedy disposition of cases due to the inordinate delay in the issuance of the NIC, PAN and FAN, since it took more than two (2) years and four (4) months for respondent to issue the FAN on December 23, 2020 from the date of the issuance of the LOA on August 22, 2018.

Lastly, petitioner asserts that the FAN is void for failure to state the definite amount of tax liability vis-à-vis the interest accrued for which petitioner is accountable, and that the Court erred in concluding that the entire EWT assessment shall be considered as pertaining to the month of December 2017, despite the fact that the EWT for the months of January to November 2017 had already prescribed.

On the other hand, in his Comment, respondent points out that for petitioner's *Motion for Partial Reconsideration* to succeed, it must establish that the award is excessive, the evidence does not justify the decision, or the decision is contrary to law, as enumerated under Rule 37 of the Rules of Court. Respondent continues that petitioner's Motion does not mention what evidence was not presented or was erroneously considered; and by failing to comply with the grounds required for a motion for reconsideration, respondent asserts that

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[5] 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, dated September 6, 1999.

[6] G.R. No. 263811, November 26, 2024.

[7] G.R. No. 244202, July 10, 2023.

petitioner's Motion should be denied for being *pro forma*. Respondent also insists that all arguments raised in the present Motion are mere reiteration of the arguments previously raised in the *Petition for Review*, which were already considered and extensively discussed by the Court in the assailed Decision.

Furthermore, respondent maintains that he was able to establish that the LOA was served to petitioner on September 10, 2018. Conversely, respondent expounds that petitioner submitted no evidence that would support its allegation that the LOA was served beyond the prescribed 30-day period. Respondent also submits that the rulings in cases cited by petitioner are inapplicable as the factual antecedents in said cases are different from the present case. He explains that in the cases of *Mannasoft* and *Fort 1*, there was a categorical denial of receipt of the NIC and other assessment notices by the taxpayer, while in the present case, petitioner acknowledged its receipt of the subject LOA, NIC, PAN, and FAN. Respondent further emphasizes that petitioner did not present any evidence to establish that the individuals who received the aforementioned notices are not its authorized representatives.

Lastly, respondent maintains that there is no inordinate delay in conducting the assessments since petitioner was afforded sufficient opportunity to controvert the deficiency income tax, VAT, EWT, and IAET assessments for taxable year 2017. Respondent likewise insists that the BIR records, as well as the testimony of petitioner's witness, would clearly show that petitioner was fully appraised of the legal and factual bases on how and why the BIR has arrived at its findings in assessing petitioner.

After due consideration, the Court finds petitioner's Motion for Partial Reconsideration bereft of merit.

As correctly pointed out by respondent, petitioner's arguments in its Motion are mere reiteration of the arguments it previously raised in its *Petition for Review*, which were already considered and extensively discussed in the Court's Decision.

Again, Section 1, Rule 131 of the Revised Rules on Evidence, as amended,[8] provides that:

> "Section 1. *Burden of proof and burden of evidence.* <u>Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his or her claim or defense by the amount of evidence required by law. Burden of proof never shifts</u>.
>
> Burden of evidence is the duty of a party to present evidence sufficient to establish or rebut a fact in issue to establish a prima facie

[8] A.M. No. 19-08-15-SC ("2019 PROPOSED AMENDMENTS TO THE REVISED RULES ON EVIDENCE"), took effect on May 1, 2020.

> case. Burden of evidence may shift from one party to the other in the course of the proceedings, depending on the exigencies of the case. (1a)" *(Underscoring supplied)*

The rule dictates that whoever alleges the affirmative of an issue bears the burden of proof. In civil cases, this duty devolves upon the plaintiff because the burden of proof never parts. Nonetheless, once the plaintiff is able to prove by preponderance of evidence, their cause of action during the trial, the burden of evidence shifts to the defendant to controvert plaintiff's *prima facie* case. Should the defendant fail, the trial court must resolve the controversy in favor of the plaintiff.[9]

Corrolary thereto, tax assessments by tax examiners are presumed correct and made in good faith and that the taxpayer has the duty to prove otherwise.[10] In the absence of proof of any irregularities in the performance of duties, an assessment duly made by a BIR examiner and approved by his superior officers will not be disturbed because presumptions are in favor of the correctness of tax assessments.[11] Simply stated, the BIR, whose determinations and assessments are presumed correct and made in good faith, the taxpayer has the duty of proving otherwise. In the absence of proof of any irregularities in the performance of official duties, an assessment will not be disturbed. Even an assessment based on estimates is *prima facie* valid and lawful where it does not appear to have been arrived at arbitrarily or capriciously. The burden of proof is upon the petitioner to show clearly that the assessment is erroneous. Failure to present proof of error in the assessment will justify the judicial affirmance of said assessment.[12]

Guided by the foregoing legal precepts, petitioner has the burden to prove the following as facts: (i) that the LOA was received by petitioner beyond the 30-day period; (ii) that the subject LOA, NIC, PAN and FAN were not properly served to petitioner's duly authorized representative; (iii) that respondent's resort to the conduct of audit or investigation based on best evidence obtainable/available was arbitrary and in bad faith; (iv) that respondent violated petitioner's constitutional right to speedy disposition of cases due to the inordinate delay in the issuance of the NIC, the PAN and FAN; (iv) that the FAN is void for failure to state the definite amount of tax liability vis-à-vis the interest accrued, for which petitioner is accountable; and (v) that petitioner is not liable for the subject deficiency taxes.

However, as pointed out in the assailed Decision, no document was proffered by petitioner that could prove the fact that those individuals who received the LOA, NIC, PAN and FAN are not duly authorized to receive any letters or communications on behalf of petitioner. More so, assuming arguendo that they are not duly authorized, the fact still remains that the said notices were

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9 *Substituted Heirs of Jaime S.T. Valiente, et al. v. Virginia A. Valiente, et al.*, G.R. No. 194897, November 13, 2023.
10 *Cagayan Robina Sugar Milling Co. v. Court of Appeals*, G.R. No. 122451, October 12, 2000.
11 *Sy Po v. Honorable Court of Tax Appeals*, G.R. No. 81446, August 18, 1988.
12 *Commissioner of Internal Revenue v. Traders Royal Bank*, G.R. No. 167134, March 18, 2025, citing *Marcos II v. Court of Appeals, et al.*, G.R. No. 120880, June 5, 1997.

still received by petitioner, as testified to by its Finance Associate, Ms. Regine F. Nonato.[13] And, based on the testimony of RO Ifurung, petitioner did not "raise the issue that it did not receive the LOA, NIC, and the PAN in this case", and that "there is no issue on the receipt of the LOA, NIC, PAN and FAN" during the administrative process.[14]

It equally bears noting that the Court finds both *Fort 1 Global City Center*[15] and *Mannasoft Technology Corp.*[16] cases as inapplicable herein. Perforce, in *Fort 1 Global* case, there was a finding by the Court that "the revenue officer who served the notices did not ascertain the authority of the persons who received the notices on behalf of" *Fort 1 Global City Center, Inc.*, while in this case, RO Ifurung testified that he inquired into the authority of the person who will receive the notice on behalf of petitioner, to wit:

> "Q: So, when you served this Letter of Authority, you testified that certain Mr. Hagosojos received the Letter of Authority, is that correct?
>
> A: Yes Sir.
>
> Q: Do you have any proof that Mr. Jaloslos was the authorized representative of IBMS or petitioner?
>
> A: I cannot vividly remember but since I personally served the Letter of Authority in the premises of the taxpayer and the person who received the Letter of Authority stated to me that he's [a]n authorized representative. So, I have it received by him."[17]

Moreover, in *Fort 1 Global* case, the taxpayer therein claimed that the assessments were invalid on the ground that the notices were "served to the wrong address" while conversely, in the present case, RO Ifurung personally delivered the same "in the premises" of petitioner and, thus, is justified in believing that the persons who received the same are "authorized representative of the company".[18]

As for the *Mannasoft* case, the taxpayer therein questions the validity of the assessment due to non-receipt of the NIC and PAN, while in this case, petitioner's witness, Ms. Nonato, acknowledged receipt of the subject assessment notices by petitioner. Clearly, there was no violation of petitioner's right to due process as it was duly notified of the subject assessments and was given ample opportunities to defend its position before the BIR.

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[13] Decision, pp. 11 to 13.
[14] Transcript of Stenographic Notes (TSN) during the hearing held on January 30, 2024, p. 41.
[15] Supra Note 6.
[16] Supra Note 7.
[17] TSN during the hearing held on January 30, 2024, p. 6.
[18] TSN during the hearing held on January 30, 2024, p. 23.

With regard to the date of receipt by petitioner of the subject LOA dated August 22, 2018, suffice is it to state that in the weighing of evidence, documentary evidence prevails over testimonial evidence.[19] As such, between the testimony of Ms. Nonato who simply testified that the LOA was received in "September 2018"[20] vis-à-vis the LOA itself, attached to the BIR Records, showing the same was received by petitioner, through Mr. John Anthony Hagosojos, on September 10, 2018,[21] the said documentary prevails over the bare verbal statements of Ms. Nonato, especially so that human memory on dates is frail and there is no reasonable assurance of its correctness unless the date is an extraordinary or unusual one for the witness.[22]

Similarly, the Court likewise finds no merit in petitioner's claim that the respondent's resort to the conduct of audit or investigation based on best evidence obtainable/available was arbitrary and in bad faith, as the same was merely based on petitioner's bare allegations, which the Court cannot give credence to. Once again, the Court reiterates that bare and unsubstantiated allegations do not constitute substantial evidence and have no probative value.[23]

As for petitioner's claim that respondent violated its constitutional right to speedy disposition of cases due to the inordinate delay in the issuance of the FAN, the Court quotes the ruling of the Supreme Court in the case of *Ombudsman v. Ben C. Jurado*,[24] on the concept of the right to speedy disposition of cases, as follows:

> "Article III, Section 16 of the Constitution provides that, all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies. The constitutional right to a 'speedy disposition of cases' is not limited to the accused in criminal proceedings but extends to all parties in all cases, including civil and administrative cases, and in all proceedings, including judicial and quasi-judicial hearings. Hence, under the Constitution, any party to a case may demand expeditious action from all officials who are tasked with the administration of justice.
>
> It bears stressing that although the Constitution guarantees the right to the speedy disposition of cases, it is a flexible concept. Due regard must be given to the facts and circumstances surrounding each case. The right to a speedy disposition of a case, like the right to speedy trial, is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays, or when unjustified postponements of the trial are asked for and secured, or when without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried. **Just like the constitutional**

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19 *Dick L. Go v. Court of Appeals et al.,* G.R. No. 112550, February 5, 2001.
20 TSN during the hearing held on February 28, 2023, p. 11.
21 Exhibit "R-2", BIR Records (Exhibit "R-1"), p. 462.
22 *Heirs of Eliseo Bagaygay v. Heirs of Anastacio Paciente,* G.R. No. 212126, August 4, 2021, citing the case of *People vs. Dasig,* 93 Phil. 618, 632 (1953).
23 *Loadstar International Shipping, Inc. et al. v. Pablo P. Erispe, Jr.*, G.R. No. 221227, February 19, 2020.
24 G.R. No. 154155, August 6, 2008.

> **guarantee of 'speedy trial,' 'speedy disposition of cases' is a flexible concept. It is consistent with delays and depends upon the circumstances. What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory."** *(Emphasis supplied and citations omitted)*

Herein, the Court does not find the length of time from the issuance of the LOA to the issuance of FAN to be unreasonable, arbitrary, and oppressive, which renders petitioner's right nugatory. Records of the case are bereft of any showing that respondent's audit of petitioner's books for taxable year 2017 was attended by vexatious, capricious, and oppressive delays, or unjustified postponements. Moreover, the Court agrees with respondent that petitioner was fully informed of the legal and factual bases on how and why the BIR arrived at its conclusions in assessing petitioner and was likewise duly afforded an opportunity to controvert the same, as shown by the fact that it was able to contest the NIC through a letter dated August 28, 2020,[25] its *Request for Reinvestigation* against the FAN on January 21, 2021,[26] and by being able to submit supporting documents thereon on March 18, 2021.[27]

Hence, considering that petitioner failed to offer any substantive argument or evidence in support of its claim, its bare allegations should therefore not override the settled presumption of good faith and regularity in the performance of tax authorities' official duties in relation to tax investigation and assessment.[28]

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner in its *Motion for Partial Reconsideration*, the Court finds no compelling reason to reverse or modify the conclusions reached in the Decision promulgated on July 30, 2025.

WHEREFORE, premises considered, petitioner's Motion for Partial Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RIGPIS-LIBAN
Presiding Justice

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25 Exhibit "P-3", Docket – Vol. I, p. 29.

26 Par. 4, Statement of the Facts and of the Case Common to All Issues/Causes of Action, *Petition for Review*, vis-à-vis par. 10, *Answer (with Special and Affirmative Defenses)*, Docket – Vol. I, pp. 11 and 92, respectively; Exhibit "P-6", Docket – Vol. I, pp. 386 to 404.

27 Exhibit "P-7", Docket – Vol. I, pp. 405 to 500 and Docket – Vol. 2, pp. 501 to 1234.

28 Refer to *AFP General Insurance Corp. v. Commissioner of Internal Revenue*, G.R. No. 222133, November 4, 2020, citing *Commissioner of Internal Revenue v. Hantex Trading Co., Inc.*, 494 Phil. 306, 335 (2005).

We Concur:

MARIA ROWENA MODESTO SAN-PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice