REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

REGUS PLT CENTRE, INC., *Petitioner,*

CTA Case No. 10778

- *versus*-

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

COMMISSIONER OF INTERNAL REVENUE, *Respondent.*

Promulgated:

MAR 1 1 2025
8:00 a.m.

x- -x

DECISION

MANAHAN, *J.*:

Before this Court is a *Petition for Review with Urgent Motion to Suspend Collection of Taxes and to Lift Warrant of Garnishment and Dispense with Payment of Bond* filed on February 21, 2022, praying as follows:

(1) To grant the motion and to issue an Order suspending the collection of taxes and lifting the Warrant of Garnishment (WOG) and dispensing with the payment of the bond;

(2) To declare as null and void, and to set aside, the WOG and Assessment Notices issued by respondent, for having been issued in violation of Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended, and Revenue Regulations (RR) No. 12-99; and

(3) To declare that the three (3)-year period to issue a valid assessment against the petitioner for taxable year (TY) 2017 has already prescribed.

THE PARTIES

Petitioner Regus PLT Centre, Inc. is a domestic corporation, organized and existing under Philippine laws.[1]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) vested under the law with the authority to carry out the functions, duties, and responsibilities of said office, including *inter* alia, the power to decide, approve, and grant refunds and/or tax credits of overpaid and erroneously paid or collected internal revenue taxes.[2]

THE FACTS

On April 16, 2019, petitioner received the Letter of Authority (LOA) eLA201600034348 (LOA-050-2019-0000190) dated April 8, 2019, authorizing Revenue Officer (RO) Raffella Theriz Pagdilao / Group Supervisor (GS) Afrecy Barbiran of Revenue District Office (RDO) No. 50 – South Makati, Bureau of Internal Revenue (BIR) to examine the books of accounts and other accounting records of petitioner for all internal revenue taxes for the period from January 1, 2017 to December 31, 2017. The Checklist of Requirements of the same date was attached to the LOA.[3]

Petitioner received on June 10, 2019, the Second and Final Notice dated June 6, 2019, giving the company ten (10) days from receipt to present the books of accounts and other source documents.[4]

On September 11, 2020, petitioner received the undated Notice of Informal Conference, informing petitioner that RO Raffella Theriz Pagdilao and GS Joselyn E. Tan submitted the report of investigation pursuant to LOA-050-2019-0000190, and inviting the company to present its side and discuss the

---

[1] Par. 1, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 336.

[2] Par. 2, Stipulation of Facts, JSFI, Docket – Vol. I, p. 336.

[3] Par. 8, Statement of Facts, *Petition for Review*, vis-à-vis par. 9, Admissions and Denials, *Answer*, Docket – Vol. I, pp. 9 and 181, respectively; Exhibits "P-4", and "P-4-A", Docket – Vol. I, pp. 28 to 32; and Exhibits "R-1", "R-1-B", and "R-2"BIR Records (Exhibit "R-12"), pp. 1 to 2.

[4] Par. 10, Statement of Facts, *Petition for Review*, vis-à-vis par. 9, Admissions and Denials, *Answer*, Docket – Vol. I, pp. 9 and 181, respectively.

discrepancies found and the computation of the deficiency taxes, as follows:[5]

Tax Type	Amount
Income tax	₱ 11,955,470.43
Value-added tax (VAT)	17,114,415.14
Expanded withholding tax	2,505,082.41
Total	**₱ 31,574,967.98**

Respondent then issued the Preliminary Assessment Notice (PAN) Parts I and II with Details of Discrepancies, all dated December 14, 2020,[6] finding due from petitioner deficiency income tax and VAT, totalling ₱35,131,512.01, inclusive of interests and compromise penalties. However, petitioner denies receipt of the said PAN.[7]

Subsequently, respondent issued the Formal Letter of Demand Parts I and II with Details of Discrepancies and Final Assessment Notices (FLD/FAN), all dated January 12, 2021,[8] assessing petitioner for deficiency income tax and VAT, in the aggregate amount of ₱35,378,902.78, inclusive of interests and compromise penalties. However, petitioner also denies receipt of the said FLD/FAN.[9]

Thereafter, the Memorandum of Assignment dated September 16, 2021[10] was issued to RO Tara P. Areopagita by Officer-In-Charge, Anne M. Reyes of the Collection Division of Revenue Region No. 8A-Makati City.

Subsequently, respondent issued the Warrant of Distraint and/or Levy (WDL) dated October 28, 2021 against petitioner.[11] Thereafter, respondent issued the assailed WOG against petitioner's account in the Hong Kong and Shanghai Banking

[5] Par. 17, Statement of Facts, *Petition for Review*, vis-à-vis par. 9, Admissions and Denials, *Answer*, Docket – Vol. I, pp. 10 to 11 and 181, respectively; Exhibit "R-3", BIR Records (Exhibit "R-12"), p. 755.

[6] Exhibit "R-5", BIR Records (Exhibit "R-12"), pp. 829 to 834.

[7] Pars. 32 and 42, Discussion, *Petition for Review With Urgent Motion to Suspend Collection of Taxes and to Lift Warrant of Garnishment and Dispense with Payment of Bond*, Docket – Vol. I, pp. 16 and 18, respectively.

[8] Exhibit "R-6" (and submarkings), BIR Records (Exhibit "R-12"), pp. 836 to 844.

[9] Pars. 32 and 42, Discussion, *Petition for Review With Urgent Motion to Suspend Collection of Taxes and to Lift Warrant of Garnishment and Dispense with Payment of Bond*, Docket – Vol. I, pp. 16 and 18, respectively.

[10] Exhibit "R-8", BIR Records (Exhibit "R-12"), p. 953.

[11] Exhibit "R-9", BIR Records (Exhibit "R-12"), p. 964.

Corporation (HSBC).[12] The said WOG was served to petitioner on January 26, 2022.[13]

Petitioner filed the present Petition for Review with Urgent Motion to Suspend Collection of Taxes and to Lift Warrant of Garnishment and Dispense with Payment of Bond on February 21, 2022.[14]

At the hearing held for the Urgent Motion to Suspend Collection of Taxes and to Lift Warrant of Garnishment and Dispense with Payment of Bond on March 31, 2022, petitioner presented the testimony of Atty. Rowena Angela Salanga,[15] its Corporate Secretary.

On April 11, 2022, petitioner filed its Formal Offer of Evidence.[16] Respondent posted his Comment/Opposition (to Petitioner's Formal Offer of Evidence) on April 18, 2022.[17]

Respondent, however, failed to file his comment on petitioner's Urgent Motion to Suspend Collection of Taxes and to Lift Warrant of Garnishment and Dispense with Payment of Bond.[18]

On May 24, 2022, Respondent posted his Answer with Motion to Dismiss.[19]

On June 3, 2022, the BIR Records for this case were transmitted to this Court.[20]

Petitioner then filed its Reply and Opposition to Motion to Dismiss on June 15, 2022.[21]

---

[12] Exhibit "R-10", BIR Records (Exhibit "R-12"), p. 1012.
[13] Exhibit "P-1", Docket – Vol. I, p. 25; Exhibit "R-10-C", BIR Records (Exhibit "R-12"), p. 1012.
[14] Docket – Vol. I, pp. 7 to 22.
[15] Exhibit "P-18", Docket – Vol. I, pp. 71 to 83; Minutes of the hearing held on, and Order dated, March 31, 2022, Docket – Vol. I, pp. 90 to 91-A.
[16] Docket – Vol. I, pp. 96 to 107.
[17] Docket – Vol. I, pp. 169 to 171.
[18] Records Verification dated April 19, 2022 issued by the Judicial Records Division of this Court, Docket – Vo. I, p. 168.
[19] Docket – Vol. I, pp. 180 to 191.
[20] *Compliance* dated June 3, 2022, Docket – Vol. I, p. 179.
[21] Docket – Vol. I, pp. 256 to 263.

In the Resolution dated July 6, 2022,[22] the Court admitted petitioner's offered exhibits, except Exhibits "P-4", "P-4-A", and "P-5-B", for failure to present the originals thereof for comparison. In the same Resolution, the Court: (1) partially granted petitioner's Urgent Motion to Suspend Collection of Taxes and to Lift Warrant of Garnishment and Dispense with Payment of Bond, prohibiting respondent and any of the BIR officers and/or employees from issuing, executing, enforcing, implementing, or otherwise giving effect to any WDL or WOG, and from collecting or attempting to collect on the basis of the subject assessments in this case, and from doing any and all acts relative thereto, until further orders from the Court, and (2) ordered petitioner to post a cash or surety bond equivalent to the amount of the basic deficiency tax assessed which is ₱22,258,957.59, within ten (10) days from receipt thereof.

Petitioner then filed on July 20, 2022 its Compliance,[23] praying that the Court note its posting of a cash bond equivalent to ₱22,258,957.59, in compliance with the said Resolution dated July 6, 2022.

In the Resolution dated July 21, 2022,[24] the Court denied respondent's Motion to Dismiss.

Later, in the Resolution dated August 18, 2022,[25] the parties were ordered to appear before the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA). However, the parties eventually decided not to have their case mediated by the PMC-CTA.[26]

Thus, the Pre-Trial Conference was set and held on November 17, 2022.[27] Prior thereto, respondent's Pre-Trial Brief was filed on November 11, 2022,[28] while petitioner's Pre-Trial Brief was submitted on November 14, 2022.[29]

---

[22] Docket – Vol. I, pp. 266 to 274.
[23] Docket – Vol. I, pp. 277 to 279.
[24] Docket – Vol. I, pp. 284 to 288.
[25] Docket – Vol. I, p. 292.
[26] *No Agreement to Mediate* dated September 13, 2022, Docket- Vol. I, p. 293.
[27] Resolution dated September 20, 2022, Docket – Vol. I, p. 295; Notice of Pre-Trial Conference dated November 8, 2022, Docket – Vol. I, pp. 296 to 298; Minutes of the hearing held on, and Order dated, November 17, 2022, Docket – Vol. I, pp. 330 to 330-B, and 333 to 334, respectively.
[28] Docket – Vol. I, pp. 302 to 309.
[29] Docket – Vol. I, pp. 313 to 328.

On November 28, 2022, the parties submitted their Joint Stipulation of Facts and Issues,[30] which was approved by the Court in the Resolution dated December 13, 2022,[31] thereby deeming the termination of the Pre-Trial.

As trial ensued, the parties presented their respective testimonial and documentary evidence.

Petitioner again offered the testimony of its Corporate Secretary, Atty. Rowena Angela Salanga.[32]

On March 20, 2023, petitioner filed its Formal Offer of Evidence,[33] to which respondent filed his Comment/Opposition (on Petitioner's Formal Offer of Evidence) on March 30, 2023.[34] In the Resolution dated May 26, 2023,[35] the Court admitted petitioner's offered exhibits, except Exhibits "P-19", "P-20", "P-21", and "P-22-1 to P-22-166", for failure of petitioner's witness to identify said documents.

In the meantime, the Pre-Trial Order dated April 18, 2023 was issued.[36]

The case was transferred from the First Division to the Third Division pursuant to CTA Administrative Circular No. 01-2023 dated May 23, 2023, which reorganized the Divisions of this Court.[37]

For his part, respondent offered the testimonies of ROs Josalyn E. Tan[38] and Tara P. Areopagita.[39]

On July 26, 2023, Respondent's Formal Offer of Evidence was filed.[40] Petitioner filed its Comment to Respondent's

---

[30] Docket – Vol. I, pp. 336 to 349.
[31] Docket – Vol. I, p. 352.
[32] Exhibit "P-18", Docket – Vol. I, pp. 71 to 83; Minutes of the hearing held on, and Order dated, March 9, 2023, Docket – Vol. I, pp. 405 to 409.
[33] Docket – Vol. I, pp. 426 to 439.
[34] Docket – Vol. 2, pp. 669 to 671.
[35] Docket – Vol. 2, pp. 716 to 718.
[36] Docket – Vol. 2, pp. 680 to 713.
[37] Resolution dated May 30, 2023, Docket – Vol. 2, p. 719.
[38] Exhibit "R-13", Docket – Vol. I, pp. 223 to 240; Minutes of the hearing held on, and Order dated, July 11, 2023, Docket – Vol. 2, pp. 722 to 724.
[39] Exhibit "R-14", Docket – Vol. I, pp. 241 to 252; Minutes of the hearing held on, and Order dated, July 11, 2023, Docket – Vol. 2, pp. 722 to 724.
[40] Docket – Vol. 2, pp. 725 to 732.

Formal Offer of Evidence on August 10, 2023.[41] In the Resolution dated October 27, 2023,[42] the Court admitted all of respondent's exhibits.

Respondent's Memorandum was posted on February 12, 2024,[43] while petitioner's Memorandum was filed on February 21, 2024.[44]

The present case was submitted for decision on March 12, 2024.[45]

THE ISSUE

> "Whether or not Petitioner was duly served with a PAN, FAN and/or FLD, WDL and WOG for taxable year (TY) 2017, making the Petitioner liable to pay deficiency taxes in the FLD issued on 12 January 2021 with interest incidental to the delinquency."[46]

Petitioner's arguments:

Petitioner alleges non-receipt of the PAN, FLD/FAN subject of the WOG and WDL in violation of the clear provisions of Section 228 of the 1997 NIRC, as amended, making the same void *ab initio* citing as a ground the lack of due process. Petitioner further claims that respondent's failure to validly serve said notices, deprived it of the opportunity to challenge and question the assessments. Petitioner narrates that it had two registered addresses, one in Philamlife Tower (Philam Office) in Paseo de Roxas, Makati as its main office and the other in PBCom Tower as its branch office. It claims that it already closed its Philam office and that respondent should have served the official notices to its branch office as it had previous information and knowledge already of its existence due to prior registration with the same Revenue District Office (RDO) No. 50.

---

[41] Docket – Vol. 2, pp. 736 to 740.
[42] Docket – Vol. 2, pp. 744 to 745.
[43] Docket – Vol. 2, pp. 746 to 757.
[44] Docket – Vol. 2, pp. 761 to 781.
[45] Minute Resolution dated March 12, 2024, Docket – Vol. 2, p. 783.
[46] Stipulation of Issues, JSFI, Docket – Vol. I, p. 337.

Respondent's counter-arguments:

Respondent contends that petitioner's Petition for Review was filed out of time depriving the Court of jurisdiction to take cognizance of the case. He alleges that petitioner was already informed of the existence of the tax deficiency assessments as early as December 27, 2021, thus, the thirty-day period to appeal to this Court should have commenced on this latter date and not on January 26, 2022 as claimed by petitioner. The Petition for Review filed on February 21, 2022 was thus filed out of time. Respondent points out that when petitioner requested a copy of the WOG from the Bureau of Internal Revenue (BIR) on January 26, 2022, it already had knowledge of its existence because clearly, it was already informed by its counsel as early as December 27, 2021 that a tax deficiency assessment has already been issued and served. Respondent theorizes that the thirty-day period to appeal to this Court should have been reckoned from December 27, 2021, hence, the filing of the Petition for Review with this Court on February 21, 2022, was already filed out of time. Respondent believes that actual physical possession of the WOG is not a necessity for the thirty-day period to run.

On the closure of its Philam Office, respondent maintains that the BIR was not informed of this development pursuant to the requirements of Section 236 of the 1997 NIRC, as amended, which makes it incumbent upon the petitioner to make the necessary update on its registration, such as a change of office address.

Respondent opines that the FLD/FAN have become final and executory since no reply or protest was filed by the petitioner within the thirty (30) day period from the service of such notices.

THE RULING OF THE COURT

The present Petition for Review is meritorious.

This Court has jurisdiction over the present case. am

Sections 7(a)(1) and 11 of Republic Act (RA) No. 1125[47], as amended by RA No. 9282[48], state as follows:

> "SEC. 7. *Jurisdiction.* – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (1) **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or **other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;"** *(Emphases added)*
>
> "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any party adversely affected by a decision, ruling** or inaction of the Commissioner of Internal Revenue ... **may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein." *(Emphases added)*

The Supreme Court, in *Commissioner of Internal Revenue vs. Hambrecht & Quist Philippines, Inc.*,[49] interpreted the above-quoted provisions in this wise, to wit:

> "Anent the first issue, petitioner argues that the CTA had no jurisdiction over the case since the CTA itself had ruled that the assessment had become final and unappealable. Citing *Protector's Services, Inc. vs. Court of Appeals*,[50] the CIR argued that, after the lapse of the 30-day period to protest, respondent may no longer dispute the correctness of the assessment and its appeal to the CTA should be dismissed. The CIR took issue with the CTA's pronouncement that it had jurisdiction to decide 'other matters' related to the tax assessment such as the issue on the right to collect the same since the CIR maintains that when the law says that the CTA has jurisdiction over 'other matters,' it presupposes that the tax assessment has not become final and unappealable.
>
> We cannot countenance the CIR's assertion with regard to this point. The jurisdiction of the CTA is governed by

---

[47] AN ACT CREATING THE COURT OF TAX APPEALS.
[48] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.
[49] G.R No. 169225, November 17, 2010.
[50] 386 Phil. 661 (2000).

Section 7 of Republic Act No. 1125, as amended, and the term 'other matters' referred to by the CIR in its argument can be found in number (1) of the aforementioned provision, to wit:

xxx xxx xxx

Plainly, the assailed CTA *En Banc* Decision, was correct in declaring that there was nothing in the foregoing provision upon which petitioner's theory with regard to the parameters of the term 'other matters' can be supported or even deduced. What is rather clearly apparent, however, is that the term 'other matters' is limited only by the qualifying phrase that follows it.

Thus, **on the strength of such observation, we have previously ruled that the appellate jurisdiction of the CTA is not limited to cases which involve decisions of the CIR on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the National Internal Revenue Code (NIRC) or related laws administered by the Bureau of Internal Revenue (BIR)**.

xxx xxx xxx

Furthermore, **the phraseology of Section 7, number (1), denotes an intent to view the CTA's jurisdiction over disputed assessments and over 'other matters' arising under the NIRC or other laws administered by the BIR as separate and independent of each other.** This runs counter to petitioner's theory that the latter is qualified by the status of the former, *i.e.*, an 'other matter' must not by a final and unappealable tax assessment or, alternatively, must be a disputed assessment.

Likewise, the first paragraph of Section 11 of Republic Act No. 1125, as amended by Republic Act No. 9282, belies petitioner's assertion as the provision is explicit that, for as long as a party is adversely affected by any decision, ruling or inaction of petitioner, said party may file an appeal with the CTA within 30 days from receipt of such decision or ruling. **The wording of the provision does not take into account the CIR's restrictive interpretation**

> **as it clearly provides that the mere existence of an adverse decision, ruling or inaction along with the timely filing of an appeal operates to validate the exercise of jurisdiction by the CTA.**" *(Emphases supplied)*

Based on the foregoing, the appellate jurisdiction of this Court is not limited to cases which involve decisions of respondent on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the BIR.[51] In addition, any party adversely affected by the said decisions or ruling, may file an appeal to this Court within thirty (30) days from receipt thereof.

The primordial issue in this case is the validity of the issuance of the assessment, and whether the taxes subject of the same may be collected. These are matters which are provided for in Sections 207(A), 208, and 228 of the 1997 NIRC, as amended, *viz*:

> "SEC. 207. *Summary Remedies.* —
>
> (A) *Distraint of Personal Property.* — Upon the failure of the person owing any delinquent tax or delinquent revenue to pay the same at the time required, the Commissioner or his duly authorized representative, if the amount involved is in excess of One million pesos (P1,000,000), or the Revenue District Officer, if the amount involved is One million pesos (P1,000,000) or less, shall seize and distraint any goods, chattels, or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property of such persons in sufficient quantity to satisfy the tax, or charge, together with any increment thereto incident to delinquency, and the expenses of the distraint and the cost of the subsequent sale.
>
> xxx xxx xxx
>
> SEC. 208. *Procedure for Distraint and Garnishment.* — The officer serving the warrant of distraint shall make or cause to be made an account of the goods, chattels, effects or other personal property distrained, a copy of which, signed by himself, shall be left either with the owner or person from whose possession such goods, chattels, or effects or other personal property were taken, or at the dwelling or

---

[51] *Commissioner of Internal Revenue vs. Hambrecht & Quist Philippines, Inc.*, G.R. No. 169225, November 17, 2010.

> place of business of such person and with someone of suitable age and discretion, to which list shall be added a statement of the sum demanded and note of the time and place of sale.
>
> xxx xxx xxx
>
> Bank accounts shall be garnished by serving a warrant of garnishment upon the taxpayer and upon the president, manager, treasurer or other responsible officer of the bank. Upon receipt of the warrant of garnishment, the bank shall turn over to the Commissioner so much of the bank accounts as may be sufficient to satisfy the claim of the Government."

In *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue,*[52] the taxpayer therein denied receiving the assessment and filed the Petition for Review with this Court after receipt of the WDL. The Supreme Court ruled that this Court has jurisdiction to determine the validity of the WDL, thus:

> "The appellate jurisdiction of the CTA is not limited to cases which involve decisions of the Commissioner of Internal Revenue on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the Bureau of Internal Revenue. The wording of the provision is clear and simple. **It gives the CTA the jurisdiction to determine if the warrant of distraint and levy issued by the BIR is valid** and to rule if the Waiver of Statute of Limitations was validly effected." *(Emphasis supplied)*

Similar to the taxpayer in the *Philippine Journalists* case, petitioner herein did not receive the assessment and brought the case to this Court after notice of the issuance of the WOG on its HSBC accounts. Thus, the reckoning of the thirty (30)-day reglementary period under Section 11 of RA No. 1125, as amended by RA No. 9282, is based on petitioner's receipt of the WOG on January 26, 2022,[53] pursuant to the above-quoted Section 208 of the 1997 NIRC, as amended, stating that bank accounts shall be garnished by serving a WOG upon the taxpayer and upon the president, manager, treasurer or other responsible officer of the bank. As such, there is no merit in respondent's argument that it is not a requirement for the seizure agent to inform or serve the petitioner a copy of the WOG

---

[52] G.R. No. 162852, December 16, 2004.
[53] Exhibit "P-1", Docket – Vol. I, p. 25.

and that even without the physical copy of the WOG, petitioner should have been prompt in observing the thirty (30)-day period to file the instant petition once it was made aware of its existence.

Therefore, this Court rules that the Petition for Review was timely filed on February 21, 2022,[54] reckoned from January 26, 2022, thus, giving this Court the requisite jurisdiction to take cognizance of this case.

We now proceed to the issue of non-receipt of the PAN and the FLD/FAN for TY 2017.

Petitioner submits that respondent improperly served the subject PAN and FLD/FAN by substituted service. Consequently, petitioner alleges that it never received the PAN and FLD/FAN, and the thirty (30)-day period to file a protest has not commenced. Thus, it bears no other conclusion but to rule that the FLD/FAN never became final and executory. Petitioner also contends that there can be no final and executory assessment if the assessment is a nullity.

We rule in favor of petitioner. The subject notices were not properly served by respondent or the BIR in accordance with law.

Section 228 of the 1997 NIRC, as amended, mandates the following, *viz.*:

> "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 taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.**
>
> **Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.**

[54] Docket – Vol. I, pp. 7 to 24.

xxx xxx xxx." *(Emphasis supplied)*

Based on the said provisions, part of the due process requirements in the issuance of tax assessments is that the concerned taxpayer be informed in writing of the law and the facts upon which the assessment was made, and that the same taxpayer must be given the opportunity to respond and contest the said assessment.

Implementing the said provision is Section 3.1.6 of Revenue Regulations (RR) No. 12-99,[55] as amended by RR No. 18-2013,[56] which reads, 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
>
> 3.1.6 ***Modes of Service.*** – **The notice (PAN/FLD/FAN/FDDA) to the taxpayer herein required may be served by the Commissioner or his duly authorized representative through the following modes**:
>
> (i) The notice shall be served through **personal service by delivering personally a copy thereof to the party at his registered or known address or wherever he may be found. A *known address* shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.**
>
> In case personal service is not practicable, the notice shall be served by substituted service or by mail.
>
> (ii) **Substituted service can be resorted to when the party is not present at the registered or known address under the following circumstances**:

---

[55] 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.

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

The notice may be left at the party's registered address, with his clerk or with a person having charge thereof.

If the known address is a place where business activities of the party are conducted, the notice may be left with his clerk or with a person having charge thereof.

If the known address is the place of residence, substituted service can be made by leaving the copy with a person of legal age residing therein.

If no person is found in the party's registered or known **address, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses to the address** so that they may personally observe and attest to such absence. **The notice shall then be given to said barangay official. Such facts shall be contained in** the bottom portion of **the notice, as well as the names, official position and signatures of the witnesses**.

Should the party be found at his registered or known address or any other place but refuse to receive the notice, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses in the presence of the party so that they may personally observe and attest to such act of refusal. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.

'*Disinterested witnesses*' refers to persons of legal age other than employees of the Bureau of Internal Revenue.

(iii) Service by mail is done by sending a copy of the notice by registered mail to the registered or known address of the party with instruction to the Postmaster to return the mail to the sender after ten (10) days, if undelivered. A copy of the notice may also be sent through reputable professional courier service. If no registry or reputable professional courier service is available in the locality of the addressee, service may be done by ordinary mail.

The server shall accomplish the bottom portion of the notice. He shall also make a written report under oath before a Notary Public or any person authorized to administer oath under Section 14 of

> the NIRC, as amended, setting forth the manner, place and date of service, the name of the person/barangay official/ professional courier service company who received the same and such other relevant information. The registry receipt issued by the post office or the official receipt issued by the professional courier company containing sufficiently identifiable details of the transaction shall constitute sufficient proof of mailing and shall be attached to the case docket.
>
> xxx xxx xxx." *(Emphases supplied)*

Based on the foregoing provisions, the service of notices to the taxpayer may be made through: (1) personal service to the concerned party; (2) substituted service, in specific instances; or (3) service by mail.

Critical to the resolution of the main issue is the determination of whether or not substituted service of these official notices such as the PAN, and the FLD/FAN was compliant with the law and its implementing regulations.

Respondent claims in his Answer that RO Rafella Pagdilao, initially served the PAN by personal service but since no one was found in its Philam Office in Makati, she resorted to serving the same by substituted service through a barangay official in accordance with Revenue Memorandum Order (RMO) No. 40-2019.

The aforequoted RR No. 12-99 as amended by RR No. 18-2013 provides that substituted service can be availed of only in specific instances depending on whether the concerned party is present or not, or in case the said party is present, but the same party refuses to receive the notice. If the party is not present, the notice may be left at the party's registered or known address, with his/her/its clerk or with a person having charge thereof. If no person is found in the party's registered or known address, or the party or its representative present refuses to receive the notice, the ROs concerned shall bring a barangay official and two (2) disinterested witnesses to the address so that they may personally observe and attest to such absence or refusal to receive. In these instances, the notice shall be given to the said barangay official.

As for the service through registered mail, the same must be made by sending the notice "with instruction to the Postmaster to return the mail to the sender after ten (10) days, if undelivered." The registry receipt issued by the post office containing sufficiently identifiable details of the transaction shall constitute sufficient proof of mailing and shall be attached to the case docket.

In any of the above-stated modes of services, "[t]he server shall accomplish the bottom portion of the notice" and "shall also make a written report under oath before a Notary Public or any person authorized to administer oath[s] under Section 14 of the 1997 NIRC, as amended, setting forth the manner, place and date of service, the name of the person who received the same and such other relevant information."

This mode of substituted service further underwent amendments under RMO No. 40-2019[57] which provides the following guidelines:

> "**II. Guidelines and Procedures**
>
> 1. The assessment notice shall be served to the taxpayer through personal service by delivering personally a copy of the assessment notice at his registered or known address or wherever he may be found. A known address shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.
>
> 2. **In case personal service is not possible, the assessment notice shall be served either by substituted service or by mail. However, substituted service can only be resorted to when the party is not present at the registered or known address.**
>
> xxx xxx xxx
>
> 4. **For assessment notices that are served to the taxpayer through personal or substituted service,** the following statement shall be indicated at the lower portion of the notice:

---

[57] SUBJECT: Prescribing the Procedures for the Proper Service of Assessment Notices in Accordance with the Provisions of Section 3.1.6 of Revenue Regulations (RR) No. 18-2013. an

ACKNOWLEDGEMENT OF RECEIPT

(To be accomplished by recipient)

	_______________ Date of Receipt
_______________ Printed Name, with Position/Designation/ Relationship if Made on Behalf of the Taxpayer Named in the Assessment Notice	_______________ Signature of Person Acknowledging Receipt
_______________ Printed Name and Position of Barangay Official	_______________ Signature of Barangay Official
_______________ Signature Over Printed Name of Witness	_______________ Signature Over Printed Name of Witness

(To be accomplished by the server)

Please check: [ ] No person found in the taxpayer's registered or known address
[ ] Party refused to receive the assessment notice

I hereby certify that the original copy of this (PAN/FLD/FAN/FDDA) was duly served by me, same having been received by _______________ on the date mentioned above.

____
Signature Over Printed Name of the Revenue
Officer Who Served the Assessment Notice

5. Personal or substituted service of assessment notice shall be effected by the RO assigned to the case. However, such service may also be made by any BIR employee duly authorized for the purpose.

6. In compliance with Section 3.1.6 (iii) of Revenue Regulations No. 18-2013, the server shall prepare the following written reports in triplicate copies, which shall be under oath before a Notary Public or any person authorized to administer oath under Section 14 of the NIRC, as amended, setting forth the manner, place and date of service, the name of the person/barangay official/professional courier service company who received the same and such other relevant information.

6.1 Report on Personal/Substituted Service (Annex A)

6.2 Report on Service by Mail/Courier (Annex B)

6.3 Distribution of copies:

> Original — Assessment Division/Reviewing Office
> Duplicate — File copy of the Office where the RO/BIR employee who made the service is assigned, whether through personal service, substituted service or service by mail
>
> Triplicate — Server's copy
>
> xxx xxx xxx" *(Emphases supplied)*

As can be gleaned from the foregoing, substituted service can only be resorted to when the party is not present at the registered or known address. The server, who is the RO assigned to the case or any BIR employee duly authorized for the purpose, shall also prepare a written report in triplicate copies, which shall be under oath before a Notary Public or any person authorized to administer oath under Section 14 of the 1997 NIRC, as amended, setting forth the manner, place and date of service, the name of the person/barangay official/professional courier service company who received the same and such other relevant information.

In arguing against the availment of the substituted service of official notices, petitioner contends that the BIR representatives should not have served the PAN and the FLD/FAN to its Philamlife office as it had already closed said office and instead should have served them at its branch office located at the PBCom Tower.

We disagree with petitioner.

The cancellation of registration/closure of business requires the filing of an *Application for Registration Information Update/Correction/Cancellation* (BIR Form 1905), among others. Further, the cancellation of the head office registration shall result in the cancellation of all its registered branches. If at least one branch will continue its operations, the taxpayer shall file an application for update, making one of its existing branches as its head office. All taxpayers who filed for cancellation of registration due to closure/cessation or termination of business, except for branches, shall be immediately investigated by the BIR office concerned to determine the taxpayer's tax liabilities.

This case is bereft of any documentary evidence on the effectivity of petitioner's alleged closure of its head office with registered address at the 18th Floor Philamlife Tower 6787 Paseo de Roxas, Makati City 1226.[58] The bare allegation of petitioner's witness, Atty. Rowena Angela Salanga, that petitioner closed the same on October 31, 2020[59] without any submission of a duly-filled up and filed BIR Form 1905 must fail.

During the hearing for petitioner's Urgent Motion to Suspend Collection of Taxes and to Lift Warrant of Garnishment and Dispense with Payment of Bond, Atty. Salanga admitted that petitioner did not update the BIR relative to the closure of its head office, to wit:

"JUSTICE FAJARDO:

> I did notice though that you were still corresponding with BIR even after the closure of the Philam Life office?

ATTY. SALANGA:

> Yes, your Honors, through our branch office.

JUSTICE FAJARDO:

> **Was there any update to BIR about the closure of this registered address?**

ATTY. SALANGA:

> **Update of the Form 1905 not yet**, but **I did inform some BIR Officers that we** communicated **interact with that Philam has been closed**, we weren't able to renew and all communications be directed to PBCOM so that they could continue whatever audit.

JUSTICE FAJARDO:

> Is there any evidence that you actually mentioned this?

ATTY. SALANGA:

> For this particular case, your Honors, which is a 2017, I didn't know that there was PAN, no information was sent to us. Although, BIR has my number, my cellphone number and my email address.

JUSTICE FAJARDO:

> Yes. Because you were saying, while you were corresponding by email, 'cause you were corresponding

---

[58] Exhibit "P-2", Docket – Vol. I, p. 26.
[59] Exhibit "P-18", Docket – Vol. I, p. 79.

by email even after the closure of your office. **Was there any update?**

ATTY. SALANGA:

To?

JUSTICE FAJARDO:

BIR.

ATTY. SALANGA:

That we closed?

JUSTICE FAJARDO:

Yes.

ATTY. SALANGA:

Specifically that mentioning, your Honors, **no**.

JUSTICE FAJARDO:

But they never also corresponded to you by email after the NIC?

ATTY. SALANGA:

After the NIC, no, your Honors. The ones that corresponded with me were for years 20, latter years, so we have I think three (3) outstanding tax years in audit. Aside from the 2017, the two (2) other Officers were able to reach me and we continue these questions through the branch office.

JUSTICE FAJARDO:

Because you mentioned in the question propounded here, why you closed your office in Philam Life, it's just because of the non-renewal of the lease. But, you were saying it's actually because you didn't have tenants anymore.

ATTY. SALANGA:

We do, your Honors, we still have. But, currently it has been, it was dwindling down because of the pandemic and also our lease was off for renewal and then we weren't able to renew with Philam Life. So, that's primarily the reason why we have to closed down.

JUSTICE FAJARDO:

Yes, what's the bigger rental space, Philam Life or PBCom.

ATTY. SALANGA:

Philam Life, your Honors.

JUSTICE FAJARDO:

So, in terms of rental space, is this your main?

ATTY. SALANGA:

That's our main, your Honors, Philam Life, your Honors."[60]

Atty. Salanga again admitted upon clarificatory questioning from the Court during the hearing for the main case that petitioner did not update the BIR when it closed its head office, to wit:

"JUSTICE MANAHAN:

May I just clarify. Atty. Salanga, **when you closed your office, did you submit the necessary taxpayer's record update, BIR Form 1905**.

ATTY. ROWENA ANGELA SALANGA (PETITIONER'S WITNESS):

A. **No**, Your Honors, during that time. So, that was during the height of the pandemic.

JUSTICE MANAHAN:

So, **how did you officially notify BIR that you were closing your first office and retaining only your branch**?

ATTY. ROWENA ANGELA SALANGA (PETITIONER'S WITNESS):

A. At that time, Your Honors?

JUSTICE MANAHAN:

Yes.

---

[60] Transcript of Stenographic Notes during the hearing held on March 31, 2022, pp. 16 to 19.

ATTY. ROWENA ANGELA SALANGA (PETITIONER'S WITNESS):

A. **At that time when we closed it, none yet**, and then, I think, it happened afterwards.

JUSTICE MANAHAN:

And you were no longer connected with the office when you said, it happened afterwards, meaning the official filing, to officially notify that you have closed your registered business, your office address?

ATTY. ROWENA ANGELA SALANGA (PETITIONER'S WITNESS):

A. I wouldn't know, Your Honors. **I didn't handle** that one, **the official closure with BIR**.

JUSTICE MANAHAN:

So, you were no longer connected with Regus?

ATTY. ROWENA ANGELA SALANGA (PETITIONER'S WITNESS):

A. I'm not sure, Your Honors, if that happened during the (Interrupted).

JUSTICE MANAHAN:

I thought you mentioned in your Judicial Affidavit that all communications passed through you that you are in-charge (Interrupted).

ATTY. ROWENA ANGELA SALANGA (PETITIONER'S WITNESS):

A. Yes (Interrupted).

JUSTICE MANAHAN:

This is an important step that you didn't, so you decided to not to monitor or know about the official closure?

ATTY. ROWENA ANGELA SALANGA (PETITIONER'S WITNESS):

A. In terms of the process, Your Honors, in the business, we do have other team that handles all of those and then, **as far as I know when I was still there, there was no request of any corporate document, formal or corporate secretary document in relation to the actual filing of the closure**.

JUSTICE MANAHAN:

So, could it have been possible because you did not notify the BIR that the said (Inaudible) receipt, it was sent to your first office that was closed?

ATTY. ROWENA ANGELA SALANGA (PETITIONER'S WITNESS):

> A. Sorry, Your Honors?

JUSTICE MANAHAN:

> Because you mentioned something about not receiving the other notices from the BIR. My question is **if you did not officially inform the BIR that you closed your first registered business at Philam Life Tower, is it possible that (Inaudible) communications sent to the Post Office?**

ATTY. ROWENA ANGELA SALANGA (PETITIONER'S WITNESS):

> A. **There is a possibility that communications were sent to that office**, Your Honors, **when we closed**. I think, that's what happened in this case. However, we do have that other branch wherein some other BIR Officers because we do have other tax audit, years ongoing, they were able to serve it in our branch office."[61] *(Emphases added)*

From the foregoing, it is apparent that petitioner did not comply with the procedures for cancellation of business registration under RR No. 7-2012, as amended, by failing to file the prescribed registration updates form relative to the closure/cessation of business operation of its head office at Philam Life Tower. We quote relevant portions of RR No. 7-2012, *viz:*

> "SECTION 3. *Definition of Terms.* — For purposes of these Regulations, the following words and/or phrases shall be defined as follows:
>
> xxx xxx xxx
>
> 6. *'Head Office (HO)'* — refers to the declared specific or identifiable principal place/head office of business as stated in the Articles of Incorporation/Articles of Partnership/Articles of Cooperation/DTI Certificate of Registration, as the case may be, or, in the absence thereof, the place where the complete books of accounts are kept. It is the fixed place of business, whether rented or owned, and whether or not the products/services being sold are actually located or displayed thereat. For persons who conduct business in a nomadic or roving manner, such as peddlers, *'tiangges',* mobile store operators, common carriers/school bus operators without

[61] Transcript of Stenographic Notes during the hearing held on March 9, 2023, pp. 13 to 16.

designated garages/terminals, etc., their place of residence shall be considered as the HO.

7. *'Branch'* — means a separate or distinct establishment or place of business where sales transactions are conducted independently from the HO. For purposes of these Regulations, branch shall include the following:

    i. Sales outlet or establishment situated in another location/address other than at the HO;

    ii. Facility with sales activity;

    iii. Real properties for lease including car parks, with Administrative Office shall be considered as a branch. If Cash Register Machines (CRM)/Point-of-Sales Machines (POS) are used thereat, the same shall be registered under existing CRM/POS policies and procedures prescribed under the regulations on secondary registration process;

    xxx xxx xxx

    vii. Other separate or distinct establishment/s which conduct sales transactions independent of the HO.

xxx xxx xxx

8. *'Facility'* - may include but not limited to place of production, showroom, warehouse, storage place, garage, bus terminal, or real property for lease *with no sales activity*. A facility shall be registered as a branch whenever sales transactions/activities are conducted thereat. Registration of the "Facility" with no sales activity is not subject to payment of Annual Registration Fee (ARF).

xxx xxx xxx

14. *'Updates'* — shall mean the process by which the information previously supplied during the Primary Registration process are changed or modified (*e.g.,* surname, address within same district office, exemption status and qualified dependents, etc.) either upon the taxpayer's or BIR's initiative. It shall include end dating the registered tax types of a business of an individual on the occasion of such individual's cancellation of his or her business registration or during temporary non-operations (*e.g.,* labor disputes, business reverses, etc.).

xxx xxx xxx

16. *'Cancellation'* — shall mean the process by which the information pertaining to Primary Registration of a taxpayer is tagged as "cancelled" but nevertheless remains as part of the BIR's registration database.

xxx xxx xxx

21. *'Ceased/Dissolved'* — shall refer to the status of a registered taxpayer who has completed the requirements for cancellation of registration prior to the termination of audit.

xxx xxx xxx

SECTION 12. *Cancellation of Registration.* — The cancellation of registration may either pertain to cancellation of business registration and/or the assigned TIN. Application for TIN/Registration cancellation shall take place upon:

1. Death of individual;
2. Full settlement of the tax liabilities of the estate;
3. Discovery of a taxpayer having multiple TINs; and
4. Dissolution, merger or consolidation of juridical person.

The forms and requirements for the request for cancellation of TIN/Registration are listed in Annex 'A' of these Regulations.

xxx xxx xxx

4. *Dissolution, merger or consolidation of juridical persons*

The cancellation of the HO registration shall result to the cancellation of all its registered branches. Thus, **if at least one (1) branch will continue its operations, the taxpayer shall file an application for update, making one of its existing branches as its HO**. If the location of the branch selected as the HO is under a different BIR district office, the rules on transfer of registration shall apply.

All taxpayers who filed for cancellation of registration due to closure/cessation or termination of business, except for branches, shall be subjected to immediate investigation by the BIR office concerned to determine the taxpayer's tax liabilities.

xxx xxx xxx"

Corollarily, Annex "A11" of RMO No. 93-16[62] lists the following documentary requirements for the cancellation of TIN/registration/closure of business: (1) BIR Form 1905; (2) list of ending inventory of goods, supplies, including capital goods; (3) inventory of unused sales invoices/official receipts (SI/OR); and (4) unused sales invoices/official receipts and all other unutilized accounting forms (*e.g.*, vouchers, debit/credit memos, delivery receipts, purchase orders, etc.) including business notices and permits as well as Certificate of Registration, which shall be subject to destruction to be witnessed by BIR personnel and officials.

For failure of the petitioner to inform the BIR of the closure of its head office located at the Philamlife Tower in accordance with the required procedure, respondent's availment of substituted service of the PAN and the FAN/FLD at petitioner's Philam office is justified. This, notwithstanding, the Court also finds that the substituted service availed of by the BIR representatives did not follow the proper procedure as elucidated below.

Records show that attached to the PAN dated December 14, 2020[63] is an Acknowledgment Receipt,[64] stating that RO Rafella Theriz D. Pagdilao served the PAN through substituted service to a certain Araceli Canlas, Asst. Barangay Secretary, witnessed by two other individuals. However, the part pertaining to the reason for substituted service, *i.e.*, (1) no person found in the taxpayer's registered or known address or (2) party refused to receive the Assessment Notice, was unaccomplished. Neither were the official positions of the witnesses indicated in the Acknowledgment Receipt in violation of subsection 3.1.6 of RR No. 18-2013 and subsection 2.1.4 of RMO No. 40-19.

Furthermore, records also show that the Written Report on Personal Service or Substituted Service dated December 17, 2020, setting forth the manner, place and date of service, the name of the barangay official who received the same and such

---

[62] SUBJECT: Streamlining the Business Registration Process and Documentary Requirements by Further Amending the List of Documentary Requirements for the Registration of Each Type of Application under "Annex A" of Revenue Regulations (RR) No. 7-2012, as clarified under Revenue Memorandum Circular (RMC) No. 70-2013 and RMC No. 37-2016.

[63] Exhibit "R-5", BIR Records (Exhibit "R-12"), pp. 829 to 834.

[64] Exhibit "R-5-D", BIR Records (Exhibit "R-12"), p. 835.

other relevant information, required under Section 6 of RMO No. 40-2019, was prepared by RO Pagdilao relative to the substituted service of the subject PAN.[65] In this regard, the written report states that substituted service was resorted to "because the building administrative personnel do not allow [~~to~~] entry of the undersigned due to COVID 19 restriction".

Unfortunately, the evidence presented by respondent hardly suffices to prove that the PAN was indeed served by substituted service to and received by the said barangay official because no person was found in petitioner's registered address. The glaring fact remains that nowhere can it be seen from the evidence presented by respondent that the said PAN was actually served by substituted service to and received by the barangay official indicated in the Acknowledgment Receipt and written report. Neither did respondent's witnesses identify and authenticate the signature of the barangay official and witnesses indicated in the Acknowledgment Receipt.

More importantly, on the substituted service of the subject FLD/FAN, respondent only offered the Written Report on Personal or Substituted Service[66] prepared by RO Pagdilao. Respondent failed to submit the Acknowledgment Receipt containing the required details under subsection 3.1.6 of RR No. 18-2013 and subsection 2.1.4 of RMO No. 40-19 to prove that substituted service was properly effected.

Evidently, respondent failed to show compliance with the requirements under the BIR's own rules and regulations. Thus, the fact of substituted service to or receipt by petitioner of the subject notices was never established by respondent.

In *Commissioner of Internal Revenue vs. Metro Star Superama, Inc.*,[67] the Supreme Court ruled that failure to strictly comply with the notice requirements prescribed under Section 228 of the 1997 NIRC, as amended, and RR No.12-99 is tantamount to denial of due process, to wit:

> **"Indeed, Section 228 of the Tax Code clearly requires that the taxpayer must first be informed that he is liable for deficiency taxes through the sending of a PAN.**

---

[65] Exhibit "P-20", Docket – Vol. 2, p. 501; BIR Records (Exhibit "R-12"), pp. 827 to 828.
[66] Exhibit "R-7", BIR Records (Exhibit "R-12"), pp. 845 to 846.
[67] G.R. No. 185371, December 8, 2010.

He must be informed of the facts and the law upon which the assessment is made. 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 xxx xxx

From the provision quoted above, it is clear that the sending of a PAN to taxpayer to inform him of the assessment made is but part of the 'due process requirement in the issuance of a deficiency tax assessment,' the absence of which renders nugatory any assessment made by the tax authorities. The use of the word *'shall'* in subsection 3.1.2 describes the mandatory nature of the service of a PAN. The persuasiveness of the right to due process reaches both substantial and procedural rights and **the failure of the CIR to strictly comply with the requirements laid down by law and its own rules is a denial of Metro Star's right to due process. Thus, for its failure to send the PAN stating the facts and the law on which the assessment was made as required by Section 228 of R.A. No. 8424, the assessment made by the CIR is void.**" *(Emphasis supplied)*

In light of the foregoing, the Court finds that no competent evidence whatsoever was presented by respondent to prove actual receipt of the subject notices. As already emphasized, strict compliance with the due process requirement is necessary for a valid tax assessment. Having failed to prove that petitioner actually received the subject notices, petitioner has been denied of its right to due process.

Well-settled is the rule that an assessment that fails to strictly comply with the due process requirements set forth in Section 228 of the 1997 NIRC, as amended, and RR No. 12-99 is void and produces no effect.[68] As held by the Supreme Court in *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., et seq.*:[69]

"**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 is officers and agents cannot be overreaching in their efforts, but must**

---

[68] *Mannasoft Technology Corp. vs. Commissioner of Internal Revenue*, G.R. No. 244202, July 10, 2023.
[69] G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

> **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 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.**" *(Emphasis supplied)*

Consequently, given that the assessment notices are void, the issuance of the WDL and WOG are likewise invalid and devoid of any legal foundation. In view of this finding, it becomes unnecessary to discuss whether petitioner is liable to pay the subject deficiency taxes for TY 2017.

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

Accordingly, the WDL dated October 28, 2021 and the undated WOG issued against petitioner are **WITHDRAWN** and **SET ASIDE**.

Moreover, the PAN dated December 14, 2020 and FLD/FAN dated January 12, 2021 issued against petitioner, for TY 2017, are **CANCELLED** and **SET ASIDE**.

Accordingly, respondent is **ENJOINED** and **PROHIBITED** from collecting or taking further action on the subject deficiency taxes against petitioner for TY 2017.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
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.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice