REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

BIO-RESOURCE POWER GENERATION CORPORATION,
Respondent.

CTA *EB* NO. 3021
(CTA Case No. 10372)

Present:

RINGPIS-LIBAN, *Acting P.J.*,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:

NOV 27 2025 4:15p.m.

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DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Petition for Review*,[1] seeking the reversal and setting aside of the *Decision* dated July 30, 2024 (assailed *Decision*)[2] and the *Resolution* dated October 4, 2024 (assailed *Resolution*)[3] of the Court's Second Division (Court in Division), which cancelled and set aside the deficiency income tax (IT), value-added tax (VAT), expanded withholding tax (EWT), and compromise penalties in the aggregate amount of ₱33,468,709.51, for the fiscal year (FY) ending September 30, 2016.

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[1] *En Banc* (*EB*) Docket, pp. 9–29.
[2] *Id.* at 18–34.
[3] *Id.* at 36–39.

THE PARTIES

Petitioner, Commissioner of Internal Revenue (CIR), is the chief of the Bureau of Internal Revenue (BIR), vested under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of his office, including, among others, the power to decide disputed assessments and to cancel and abate tax liabilities, pursuant to the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended, and other laws, rules and regulations.[4]

Respondent, Bio-Resource Power Generation Corporation, is a corporation duly organized and existing under the laws of the Republic of the Philippines, with a registered address at URC-Sonedco Sugar Mill Compound, Camugao, Negros Occidental, Philippines. It is a registered taxpayer of the BIR Large Taxpayers Service, with Taxpayer Identification No. 000-285-515-00000.[5]

THE FACTS AND THE PROCEEDINGS

The facts, as found by the Court in Division, are as follows:

> A Letter of Authority ("LOA") with SN: eLA201600026888, dated May 18, 2018, was issued for the examination and investigation of [respondent]'s books of accounts and other accounting records, and received by [respondent] on June 5, 2018.
>
> A Notice of Informal Conference ("NIC"), dated December 18, 2018, was issued to and received by [respondent]. The informal conference was held on January 11, 2019.
>
> A Preliminary Assessment Notice ("PAN"), dated March 4, 2019, with Details of Discrepancies was issued to and received by [respondent] on March 5, 2019, assessing [respondent] with deficiency income tax, value-added tax, and expanded withholding tax, and compromise penalties, aggregating ₱30,442,299.39, inclusive of interest and surcharges, computed as follows:

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[4] *Id.* at 42, Decision dated July 30, 2024.
[5] *Id* at 41–42.

Tax Type	Basic	Interest	Surcharge	Compromise	Total
Income Tax	₱12,562,123.28	₱4,160,854.39	₱3,140,530.82	₱ -	₱19,863,508.49
VAT	5,036,070.27	1,891,883.73	1,259,017.57	-	8,186,971.57
EWT	1,163,904.12	446,939.18	290,976.03	-	1,901,819.33
Administrative penalties	-	-	-	490,000.00	490,000.00
TOTAL	**₱18,762,097.67**	**₱6,499,677.30**	**₱4,690,524.42**	**₱490,000.00**	**₱30,442,299.39**

[Respondent] filed its Reply to the PAN on March 20, 2019.

A Formal Letter of Demand/Final Assessment Notice ("FLD/FAN") with Details of Discrepancies and Assessment Notices, dated April 4, 2019, was issued to and received by [respondent] on April 29, 2019, reiterating the assessments in the PAN, except for the adjusted interest. The total amount thus assessed aggregated to ₱30,830,049.40, inclusive of interest and surcharges.

[Respondent] filed a Protest against the FLD/FAN, through a request for reconsideration, on May 29, 2019.

An undated Final Decision on Disputed Assessment ("FDDA") with Assessment Notices was issued to and received by [respondent] on September 9, 2020, denying [respondent]'s Protest and upholding and reiterating the assessments in the FLD/FAN, except for the adjusted interest. The total amount thus assessed aggregated to ₱33,468,709.51, inclusive of interest and surcharges.

[Respondent] thus filed a Petition for Review ("Petition") before this Court on October 8, 2020, praying for the cancellation of [petitioner]'s assessment for deficiency income tax, VAT, and EWT for FY ending September 30, 2016 in the aggregate amount of ₱33,468709.51, inclusive of compromise penalties, surcharge, and interest. On the other hand, [petitioner]'s Answer, belatedly filed on January 4, 2021, was admitted.

The case was set and held for mediation before the Philippine Mediation Center-Court of Tax Appeals ("PMC-CTA") on March 18, 2021, but the parties did not agree to mediate.

After a series of resettings, the Pre-Trial Conference was set and held on April 28, 2022. Prior thereto, [respondent]'s and [petitioner]'s respective Pre-Trial Briefs were filed on October 25, 2021 and April 21, 2022, respectively.

Meanwhile, [petitioner] transmitted the BIR Records on March 10, 2022.

On May 26, 2022, the parties submitted their Joint Stipulation of Facts, which was approved, admitted and adopted in the Pre-Trial Order issued and dated July 12, 2022. Upon motion of [respondent], an Amended Pre-Trial Order was issued on October 24, 2022.

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

[Respondent] offered the testimony of Mr. Danilo M. Timbang and thereafter filed its Formal Offer of Exhibits on August 18, 2022, with [petitioner]'s Comment/Opposition (on [Respondent]'s Formal Offer of Evidence) filed on September 2, 2022. In the Resolution dated September 20, 2022, the Court admitted all of [respondent]'s offered exhibits, except for Exhibits "P-15-1" and "P-15-3", for failure to present the originals for comparison.

For his part, [petitioner] offered the testimonies of Revenue Officers Ana Veronica A. Asis and Mary Ann R. Balubal. [Petitioner] then submitted his Formal Offer of Evidence on March 29, 2023, with [respondent]'s Comment (Re: [Petitioner]'s Formal Offer of Evidence dated March 29, 2023) filed on April 11, 2023. In the Resolution dated June 13, 2023, the Court admitted all of [petitioner]'s offered exhibits.

[Respondent] filed its Memorandum on July 17, 2023, while [petitioner]'s Memorandum was submitted on July 20, 2023. Thus, in the Resolution dated August 4, 2023, the case was deemed submitted for decision.

On July 30, 2024, the Court in Division promulgated the assailed *Decision,* the dispositive portion of which reads:

FOR THESE REASONS, the *Petition for Review* is **GRANTED**. Accordingly, the assessment for deficiency income tax, VAT, EWT, and compromise penalties in the aggregate amount of ₱33,468,709.51 for the FY ending September 30, 2016 is hereby declared **NULL** and **VOID** and is thus **CANCELLED** and **SET ASIDE**. Further, [petitioner] is **ENJOINED** and **PROHIBITED** from collecting the said amount against [respondent].

SO ORDERED.

On August 16, 2024, petitioner filed a *Motion for Reconsideration (Re: Decision dated 30 July 2024),*[6] to which respondent filed a *Comment (Re: Respondent's Motion for*

[6] Division Docket – Vol. 2. pp. 953–963.

Reconsideration dated August 16, 2024)[7] by registered mail on September 11, 2024.

On October 4, 2024, the Court in Division rendered the assailed *Resolution,* denying petitioner's motion for reconsideration, the *fallo* of which reads:

> **ACCORDINGLY,** [petitioner]'s *Motion for Reconsideration (Re: Decision dated 30 July 2024),* filed on August 16, 2024, is hereby **DENIED** for lack of merit. The Decision, dated July 30, 2024, is **AFFIRMED**.
>
> **SO ORDERED.**

On November 4, 2024, petitioner filed a *Motion for Extension of Time to File Petition for Review,*[8] which the Court granted on November 6, 2024, subject to the condition that the motion was timely filed. As a result, the deadline for filing the petition for review was extended by fifteen (15) days, or until November 20, 2024.[9]

On November 19, 2024, petitioner filed the present *Petition for Review.*

Pursuant to the Court *En Banc*'s directive,[10] respondent filed a *Comment (Re: Petition for Review dated November 19, 2024)*[11] on January 2, 2025.

On January 17, 2025, the Court *En Banc* referred the case to the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA) for mediation.[12]

On February 28, 2025, the Court *En Banc* received PMC-CTA Form No. 6—No Agreement to Mediate, dated February 26, 2025, stating that the parties decided not to submit the case for mediation.[13]

On March 13, 2025, the Court *En Banc* noted the PMC-CTA report and submitted this case for decision.[14]

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[7] *Id.* at 994–1006.
[8] *EB* Docket, pp. 1–4.
[9] *Id.* at 8. Notice of Resolution.
[10] *Id.* at 56. Notice of Resolution.
[11] *Id.* at 57–70.
[12] *Id.* at 73. Notice of Resolution.
[13] *Id.* at 74.
[14] *Id.* at 75. Notice of Resolution.

THE ISSUES

Petitioner assigns the following errors allegedly committed by the Court in Division:[15]

I.

THE HONORABLE COURT ERRED IN DECLARING IN ITS DECISION NULL AND VOID THE ASSESSMENTS AGAINST PETITIONER.

II.

WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED WHEN IT STATED IN ITS DECISION THAT RESPONDENT VIOLATED PETITIONER'S RIGHT TO DUE PROCESS.

III.

WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED WHEN IT ENJOINED THE RESPONDENT FROM COLLECTION OF THE ASSESSED TAX IN THE AMOUNT OF ₱33,468,709.51.

Petitioner's arguments

Petitioner contends that both the Formal Letter of Demand (FLD) and the Final Decision on Disputed Assessment (FDDA) contained a demand for payment and a definite amount of tax liability. He argues that the phrase "requested to pay" is equivalent to a demand, and the interest adjustment clause does not render the assessment indefinite.

Petitioner also argues that the Preliminary Assessment Notice (PAN), FLD, and FDDA provided factual and legal bases for the assessment. Respondent was given opportunities to present evidence, which were reviewed but found insufficient.

Further, petitioner posits that the assessments were issued within the ten (10)-year prescriptive period under Section 222 of the NIRC of 1997, as amended, due to substantial underdeclaration of taxable sales, receipts or income and substantial overstatement of deductions, which constitute *prima facie* evidence of a false or fraudulent return.[16] Petitioner asserts that the assessments were based on third-party information (TPI) showing discrepancies in respondent's sales/income and costs/expenses as reported in its tax returns.

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[15] *Id.* at 12, Petition for Review, Assignment of Errors.

[16] *Id.* at 23, Petition for Review, par. 3.

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Finally, petitioner insists that respondent is liable for compromise penalty and that assessments are presumed correct and made in good faith and it is respondent that has the duty to prove otherwise.

Respondent's arguments

Respondent counters that petitioner's arguments are mere repetition of those previously raised in his Answer and Motion for Reconsideration, which were found to be without merit in both the assailed *Decision* and *Resolution.*

Respondent maintains that petitioner failed to consider its explanations and supporting documents in its Reply to the PAN and Protest to the FLD. Even the FDDA lacked specific reasons for rejecting its evidence.

Respondent opines that the VAT and EWT assessments for the first two quarters of FY 2016 were issued beyond the three (3)-year prescriptive period under Section 203 of the NIRC of 1997, as amended, and that it did not execute any valid waiver to extend the period.

Moreover, respondent contends that the assessments were based solely on unverified TPI, without proper validation or sworn statements, in violation of Revenue Memorandum Order No. 46-04 and established jurisprudence. It explains that it was non-operational during FY 2016 and was only engaged in the collection of its remaining receivables. It insists that the CIR failed to explain how the alleged discrepancies were verified.

THE COURT *EN BANC*'S RULING

After a thorough review, the Court *En Banc* finds no reversible error in the findings of the Court in Division.

The instant Petition for Review was filed out of time.

Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) states:

SEC. 3. *Who may appeal; period to file petition.* —

...

> (b) **A party adversely affected by a** decision or **resolution of a Division of the Court on a motion for reconsideration** or new trial **may appeal to the Court by filing before it a petition for review <u>within fifteen days from receipt</u> of a copy of the questioned** decision or **resolution**. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (*Emphasis supplied*)

Jurisprudence has consistently held that, in cases involving the government, the counting of the reglementary period to appeal, and the determination of when a decision becomes final, is based on the date the Office of the Solicitor General (OSG),[17] as the government's principal counsel, receives the decision or resolution. Receipt by a lawyer merely deputized by the OSG does not bind the government for purposes of reckoning the appeal period, since the OSG retains full supervision and control over such deputized counsel.[18] As such, parties must always refer to the OSG's date of receipt for computing deadlines.

This principle was articulated in *Baldovino-Torres v. Torres*,[19] where the Supreme Court affirmed its earlier rulings on the matter:

> In the case of *National Power Corporation v. National Labor Relations Commission* (*NAPOCOR*), the Court held that **the proper basis for computing the reglementary period to file an appeal and in determining whether a decision had attained finality is service on the OSG**. In holding so, the Court emphasized that the lawyer deputized by the OSG is considered as a mere representative of the latter who retains supervision and control over the deputized lawyer. As a consequence, copies of orders and decisions served on the deputized counsel, acting as agent or representative of the Solicitor General, are not binding until they are actually received by the latter.
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> The *NAPOCOR* case was cited in the subsequent case of *Commissioner of Customs v. Court of Tax Appeals*, where it was reiterated that **although the OSG may have deputized the**

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17 *Republic v. Viaje, et al.*, G.R. No. 180993, January 27, 2016 [Per J. Reyes, Third Division], citing *National Power Corporation v. National Labor Relations Commission, et al.*, G.R. Nos. 90933–61, May 29, 1997 [Per J. Romero, Second Division].

18 *Baldovino-Torres v. Torres, et al.*, G.R. No. 248675, July 20, 2022 [Per J. Inting, Third Division]; *Commissioner of Customs v. Court of Tax Appeals, et al.*, G.R. No. 132929, March 27, 2000 [Per J. Mendoza, Second Division]; *National Power Corporation v. National Labor Relations Commission, et al.*, G.R. Nos. 90933–61, May 29, 1997 [Per J. Romero, Second Division].

19 G.R. No. 248675, July 20, 2022 [Per J. Inting, Third Division].

> **lawyers in a government agency represented by it, the OSG continues to be the principal counsel and, therefore, service on it of legal processes, and not that on the deputized lawyers, is decisive.**
>
> In the same vein, the period to file a motion for reconsideration in the present case should be counted from the receipt by the OSG of a copy of the RTC Decision on April 4, 2017. Consequently, the filing by the OSG of its Motion for Reconsideration questioning the RTC Decision on April 18, 2017 was well within the reglementary period for filing such motion. **The counting of the period for its filing should be reckoned from the date of receipt of the assailed decision by the OSG** and not by the public prosecutor. This is because the public prosecutor acted as a mere representative of the OSG which, in turn, retained supervision and control over the former. *(Emphasis supplied; Citations omitted)*

A government lawyer deputized by the OSG is merely a representative, while the OSG retains supervision and control over the deputized counsel.[20] Thus, copies of court decisions served on a deputized counsel are not binding until they are received by the OSG, as the principal counsel.

In this case, petitioner erroneously relied on the date of receipt by the BIR's deputized counsel of the assailed *Resolution* on October 21, 2024.[21] However, records show that the OSG received the same *Resolution* earlier, on **October 15, 2024**.[22]

Thus, the 15-day reglementary period to file a petition for review or move for an extension, reckoned from October 15, 2024 under Section 3(b), Rule 8[23] of the RRCTA, expired on **October 30, 2024**. However, petitioner filed a *Motion for Extension of Time to File Petition for Review* only on **November 4, 2024**, and the instant *Petition for Review* on **November 19, 2024**, both beyond the allowable period. Consequently, the assailed *Resolution* of the Court in Division became *ipso facto* final and executory by operation of law due to petitioner's failure to perfect an appeal within the prescribed period.[24]

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20 *Baldovino-Torres v. Torres, et al.*, G.R. No. 248675, July 20, 2022 [Per J. Inting, Third Division]; *Commissioner of Customs v. Court of Tax Appeals, et al.*, G.R. No. 132929, March 27, 2000 [Per J. Mendoza, Second Division]; *National Power Corporation v. National Labor Relations Commission, et al.*, G.R. Nos. 90933-61, May 29, 1997 [Per J. Romero, Second Division].

21 *EB* Docket, p. 10, Petition for Review.

22 Division Docket – Vol. 2, p. 1012.

23 SEC. 3. *Who may appeal; period to file petition.* – .... (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

24 *Brual v. Contreras, et al.*, G.R. No. 205451, March 7, 2022 [Per J. Hernando, Second Division].

It is well-settled that failure to perfect an appeal within the prescribed period is not a mere technicality but jurisdictional.[25] Once the period lapses, the Court loses jurisdiction to review the assailed *Resolution*, thereby precluding petitioner from challenging it.

The Court in Division did not err in cancelling the assessment for violating respondent's right to due process.

Even assuming the present appeal was timely filed, the assessment remains void for failure to comply with the due process requirements mandated by law and jurisprudence.

The Supreme Court has constantly nullified tax assessments that infringe on a taxpayer's right to due process,[26] as the law imposes a substantive, not merely a formal, requirement.[27] Due process in tax proceedings requires the CIR to state with particularity the reasons for rejecting the taxpayer's explanations, citing specific facts and evidence on record.[28] Failure to comply with this requirement renders the assessment null and void.[29]

A perusal of the records shows that petitioner disregarded respondent's explanations in its Reply to the PAN[30] filed on March 20, 2019. A comparison of the PAN[31] and the FLD[32] reveals that the FLD merely replicated the PAN, with the only difference being the updated interest amount. Likewise, the Details of Discrepancies attached to both notices are also identical. The FLD's Details of Discrepancies did not acknowledge or address respondent's arguments in its Reply to the PAN.

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25 *Id.*
26 *Commissioner of Internal Revenue v. Unioil Corporation*. G.R. No. 204405. August 4. 2021 [Per J. Hernando. Second Division]: *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*. G.R. No. 185371. December 8. 2010 [Per J. Mendoza. Second Division]: *Commissioner of Internal Revenue v. Enron Subic Power Corporation*. G.R. No. 166387. January 19. 2009 [Per J. Corona. First Division].
27 *Commissioner of Internal Revenue v. Unioil Corporation*. G.R. No. 204405. August 4. 2021 [Per J. Hernando. Second Division].
28 *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*. G.R. Nos. 201398–99 & 201418–19. October 3. 2018 [Per J. Leonen. Third Division].
29 *Id.*
30 Division Docket – Vol. 2. pp. 648–680. Exhibit "P-6".
31 *Id.* at 643–647. Exhibit "P-5": BIR Records. pp. 184–189. Exhibit "R-5".
32 Division Docket – Vol. 2. pp. 681–689. Exhibit "P-7": BIR Records. pp. 262–270. Exhibit "R-7". including sub-markings.

In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (*Avon*),[33] the Supreme Court emphasized that a taxpayer must not only be given an opportunity to present defenses and evidence, but also that the CIR and his subordinates must give due consideration to these. While the CIR is not required to accept the taxpayer's explanations, any rejection must be backed by a clear and reasoned basis.

> The facts demonstrate that Avon was deprived of due process. It was not fully apprised of the legal and factual bases of the assessments issued against it. The Details of Discrepancy attached to the Preliminary Assessment Notice, as well as **the Formal Letter of Demand with the Final Assessment Notices, did not even comment or address the defenses and documents submitted by Avon.** Thus, Avon was left unaware on how the Commissioner or her authorized representatives appreciated the explanations or defenses raised in connection with the assessments. There was clear inaction of the Commissioner at every stage of the proceedings.
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> ....
>
> **Upon receipt of the Preliminary Assessment Notice, Avon submitted its protest letter and supporting documents**, and even met with revenue examiners to explain. Nonetheless, **the Bureau of Internal Revenue issued the Final Letter of Demand and Final Assessment Notices, merely reiterating the assessments in the Preliminary Assessment Notice. There was no comment whatsoever on the matters raised by Avon, or discussion of the Bureau of Internal Revenue's findings in a manner that Avon may know the various issues involved and the reasons for the assessments.**
>
> Under the Bureau of Internal Revenue's own procedures, the taxpayer is required to respond to the Notice of Informal Conference and to the Preliminary Assessment Notice within 15 days from receipt. **Despite Avon's timely submission of a** Reply to the Notice of Informal Conference and **protest to the Preliminary Assessment Notice, together with supporting documents, the Commissioner and her agents violated their own procedures by refusing to answer or even acknowledge the submitted** Reply and **protest.**
>
> The Notice of Informal Conference and **the Preliminary Assessment Notice are a part of due process. They give both the taxpayer and the Commissioner the opportunity to settle the case at the earliest possible time without the**

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[33] G.R. Nos. 201398-99 & 201418-19, October 3, 2018 [Per J. Leonen, Third Division].

> **need for the issuance of a Final Assessment Notice.** However, this purpose is not served in this case because of the Bureau of Internal Revenue's inaction or failure to consider Avon's explanations.
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> ....
>
> It is true that **the Commissioner is not obliged to accept the taxpayer's explanations**, as explained by the Court of Tax Appeals. **However, when he or she rejects these explanations, he or she must give some reason for doing so. He or she must give the particular facts upon which his or her conclusions are based, and those facts must appear in the record.**
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> Indeed, **the Commissioner's inaction and omission to give due consideration to the arguments and evidence submitted before her by Avon are deplorable transgressions of Avon's right to due process. The right to be heard, which includes the right to present evidence, is meaningless if the Commissioner can simply ignore the evidence without reason.** *(Emphasis supplied)*

Indeed, the issuance of an FLD that merely replicates the PAN, without any indication that respondent's arguments were considered, constitutes a blatant disregard of due process.

A side-by-side review of the PAN and the FAN, including their respective "Details of Discrepancies," readily reveals that no meaningful evaluation of respondent's arguments was undertaken.

The PAN is not a mere procedural formality but an integral part of procedural due process.[34] It gives both the taxpayer and the BIR a genuine opportunity to resolve issues before a final assessment is made.[35] Ignoring the taxpayer's reply reduces this safeguard to an empty ritual, thereby undermining the integrity of the assessment process.

While petitioner was not required to accept respondent's explanations, it was duty-bound to provide reasons for rejecting them. Due process demands that the CIR specify the factual and legal grounds for the tax assessment, which must be reflected in the record.

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[34] *Commissioner of Internal Revenue v. Unioil Corporation*, G.R. No. 204405, August 4, 2021 [Per J. Hernando, Second Division].

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

Here, however, petitioner merely stated in the FLD that "[t]he records of the case disclosed that you have not introduced sufficient evidence to throw the validity of our findings." As aptly explained by the Court in Division, this statement is not sufficient to address any of the substantive points raised by respondent in its Reply to the PAN:

> ...However, said statement is far from compliance with [petitioner]'s duty to give reason in rejecting [respondent]'s explanation and evidence submitted in the Reply and Protest. As an overly-general statement, it fails to give specific reasons for the rejection of [respondent]'s specific arguments.

Indeed, this shows that the FLD was issued without due consideration of respondent's Reply to the PAN, in clear violation of due process.

The right to be heard, including the right to present evidence, becomes meaningless if the CIR can arbitrarily ignore a taxpayer's submissions without reason.[36] Petitioner's failure to consider respondent's defenses, explanations, and supporting documents when concluding that respondent had deficiency tax liabilities does not constitute substantial compliance with due process.[37] The fact that respondent subsequently filed a Protest against the FLD does not negate the due process violation.[38]

In sum, the FAN is **void** for failure to comply with the due process requirements under the law and relevant jurisprudence. Accordingly, even if the *Petition for Review* had been timely filed, it must still be denied for lack of merit.

WHEREFORE, premises considered, the instant *Petition for Review* is **DISMISSED** for having been filed out of time and for lack of merit.

Accordingly, the *Decision* dated July 30, 2024, and the Resolution dated October 4, 2024, of the Court's Second Division are **AFFIRMED**.

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[36] *Commissioner of Internal Revenue v. Maxicare Healthcare Corporation*, G.R. No. 261065, July 10, 2023 [Per J. Singh, Third Division], citing *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398–99 & 201418–19, October 3, 2018 [Per J. Leonen, Third Division].

[37] *Id.*

[38] *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*, G.R. No. 249153, September 12, 2022 [Per J. Dimaampao, Third Division], citing *Commissioner of Internal Revenue v. Yumex Philippines Corporation*, G.R. No. 222476, May 5, 2021 [Per C.J. Gesmundo, First Division].

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SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

ON LEAVE
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice