REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

LAKESIDE FOOD & BEVERAGES CORP., *Petitioner,*	**CTA CASE NO. 10627**
	Members:
-versus-	**RINGPIS-LIBAN,** *PJ, Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: 4:39 pm

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is respondent's *Motion for Reconsideration (Re: Decision promulgated on 17 September 2025)*, filed on October 9, 2025, with petitioner's *Comment/Opposition [to Respondent's Motion for Reconsideration (Re: Decision promulgated on 17 September 2025) date October 9, 2025]*, filed on December 22, 2025.

Respondent disagrees with this Court's Decision, dated September 17, 2025, where We found that he had violated petitioner's right to due process by failing to properly serve the subject Preliminary Assessment Notice ("PAN") upon petitioner. He first claims to have issued the PAN and even an additional PAN to petitioner. Furthermore, he argues that he substantially complied with due process requirements as petitioner was given a chance to protest the assessment. Finally, he argues that this Court's jurisdiction over his decisions on disputed assessments is appellate, and since the absence of a PAN was not brought up at the administrative level, it cannot be raised for the first time on appeal.

The Motion lacks merit.

The legal arguments raised by respondent are not new and have, in fact, been long since refuted by the Supreme Court in a variety of landmark cases. Landmark cases such as *Commissioner of Internal Revenue v. Yumex*

Philippines Corporation[1] ("*Yumex*"), *Manila Bankers' Life Insurance Corporation v. Commissioner of Internal Revenue*,[2] and *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*[3] ("*Prime Steel*") have affirmed this Court's power and authority to rule on issues not raised at the administrative or even issues not raised by either party at all. To quote *Prime Steel*:

> At the outset, the Court shall delve into the propriety of the CTA En Banc's action of entertaining petitioner's additional arguments, including the alleged violation of its right to due process when the BIR prematurely issued the FAN and FLD in this case, which were raised for the very first time on appeal, and only in its Supplemental Memorandum.
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> *As correctly held by the CTA En Banc, in deciding a case, the tax court "**may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.**"* However, this authority of passing upon additional arguments not expressly contained in the parties' joint stipulation of facts and issues submitted during the pre-trial stage is not unbridled. As the CTA En Banc itself recognized, such issues "should be dealt with, based not only on substantive law but in light of the relevant rules of evidence."
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> . . .
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> For tax cases before the CTA, the Court pronounced in Commissioner of Internal Revenue v. Eastern Telecommunications Phils., Inc. that "[t]he appellate court may, in the interest of justice, properly take into consideration in deciding the case matters of record having some bearing on the issue submitted which the parties failed to raise or the lower court ignored, although they have not been specifically raised as issues by the pleadings. This is in consonance with the liberal spirit that pervades the Rules of Court, and the modern trend of procedure which accord the courts broad discretionary power, consistent with the orderly administration of justice, in the decision of cases brought before them."
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> Conspicuously, it is this same spirit of liberality which impelled the Court to recognize that ***the CTA may even consider issues not specifically raised by the parties** at all in the disposition of tax cases so long as the same is related to the principal issue for its resolution and is necessary to achieve an orderly disposition of the matter at hand.*
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> *From the foregoing, the Court so holds that the CTA En Banc, or even a Division thereof, **may consider arguments raised for the first time on appeal or on motion for reconsideration***, respectively, only if two conditions concur: one, *these arguments are related to the principal issue to be resolved by the court and is necessary to achieve an orderly disposition of the case*; and two, *the resolution of these new arguments would not require the presentation of additional evidence, and must rely solely on factual bases that are already matters of record in the case.* (Citations omitted; emphasis and italics supplied.)

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[1] G.R. No. 222476, May 5, 2021.
[2] G.R. Nos. 199729-30 & 199732-33, February 27, 2019.
[3] G.R. No. 249153, September 12, 2022.

Conveniently, *Prime Steel*, citing *Yumex*, also thoroughly rejects the idea that respondent can "substantially" comply with due process requirements even in the absence of a PAN, so long as the taxpayer is able to protest the assessment, as follows:

> In several cases, this Court has enjoined strict observance by the BIR of the prescribed procedure for the issuance of assessment notices in order to uphold the taxpayers' constitutional rights.
>
> In the oft-cited case of Commissioner of Internal Revenue v. Metro Star Superama, Inc., the Court held that the sending of a PAN is part and parcel of the due process requirement in the issuance of a deficiency tax assessment and the BIR must strictly comply with the requirements laid down by the law and by its own rules.
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> The importance of the PAN stage of the assessment process cannot be discounted as it presents an opportunity for both the taxpayer and the BIR to settle the case at the earliest possible time without need for the issuance of a FAN.
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> In the very recent case of Commissioner of Internal Revenue v. Yumex Philippines Corp., the Court had occasion to state that *the 15-day period provided under Revenue Regulations No. 12-99 for a taxpayer to reply to a PAN should also be strictly observed by the BIR.* The Court highlighted that "*[o]nly after receiving the taxpayer's response or in case of the taxpayer's default can respondent issue the FLD/FAN.*"
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> While Yumex rests on slightly different factual circumstances, it may nevertheless apply analogously to the case at bench. *There can be no substantial compliance with the due process requirement when the BIR completely ignored the 15-day period by issuing the FAN and FLD even before petitioner was able to submit its Reply to the PAN.*
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> As the Court also held in Yumex, "[t]hat [the taxpayer] was able to file a protest to the FLD/FAN is of no moment." "Sec. 3.1.2 of RR No. 12-99 explicitly grants the taxpayer fifteen (15) days from receipt of the PAN to file a response."
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> In the same vein, it is beside the point that petitioner was able to submit a "well-prepared protest letter." *The fact remains that respondent violated petitioner's right to due process by issuing a FAN without even awaiting its reply to the PAN.*
>
> *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 Tax Code and Revenue Regulations No. 12-99 is void and produces no effect.*
> (Citations omitted; italics supplied.)

Considering that these declarations (a) are more specific to this case than the jurisprudence cited by respondent; (b) were promulgated later than such jurisprudence and thus supersede them; or (c) both, it is clear that respondent's legal arguments have no actual basis in law or jurisprudence.

As for respondent's factual argument, that he issued the PANs to petitioner, the same misses the point. There is no controversy as to whether or not respondent issued the PANs. The question is whether respondent properly *served* the PANs to petitioner, whether petitioner actually *received* them. This, respondent failed to prove. "Records disclose" that the PANs were issued but *not* that they were actually served or received. To repeat what We already said in the Decision that respondent conveniently ignores: respondent failed to provide "evidence such as a written report of service of the PAN to actually show that such PAN or additional PAN had indeed been served upon petitioner in its registered business address". By failing to address the actual violation cited in Our ruling, respondent misses the point entirely.

All told, We see no reason to disturb Our previous ruling.

ACCORDINGLY, respondent's *Motion for Reconsideration (Re: Decision promulgated on 17 September 2025)*, filed on October 9, 2025, is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CORAZON G. FERRER-FLORES
Associate Justice