REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

RITEGROUP INCORPORATED, *Petitioner,*	**CTA CASE NO. 10538**
	Members:
-versus-	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 20 2026 9:05 a.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

The instant Petition for Review ("Petition") was filed pursuant to *Rule 8, Section 3(a), in relation to Rule 4, Section 3(a)(2) of the Revised Rules of the Court of Tax Appeals, as amended ("RRCTA").* Petitioner prays that the assessment issued against it by respondent containing alleged deficiency income tax, value-added tax ("VAT"), expanded withholding tax ("EWT"), documentary stamp tax ("DST") and compromise penalty in the aggregate amount of Php7,973,392.86, inclusive of surcharges, interest and penalties for taxable year ("TY") 2010, be cancelled and declared null and void.[1]

[1] See Summary of the Case, Pre-Trial Order, *Rollo* Vol. II, at 524.

The Parties

Petitioner, **RITEGROUP INCORPORATED**, is a domestic corporation duly organized under Philippine laws, engaged in the business of supplying medical and laboratory products, with principal office at Unit 2202 Prestige Tower, F. Ortigas Jr. Road, Ortigas Center, Pasig City 1605.[2]

Meanwhile, respondent Commissioner of Internal Revenue ("CIR") is the Commissioner of the Bureau of Internal Revenue ("BIR") and duly appointed to perform the duties of his office, including, *inter alia*, the power to decide disputed assessments subject to the exclusive appellate jurisdiction of this Court, pursuant to *Section 4 of the National Internal Revenue Code, as amended, ("NIRC"), Section 7 of Republic Act No. ("RA") 1125, as amended by RA 9282.*[3]

The Facts

Respondent, through Revenue Region No. 7 – Quezon City ("RR 7") Regional Director Jonas D.P. Amora, issued a Letter of Authority ("LOA") No. SN: eLA20100006493/LOA-43A-2011-00000757, dated December 7, 2011, authorizing the audit and examination of petitioner's books of accounts and other accounting records for taxable year 2010.[4]

Afterwards, on January 6, 2014, respondent issued a Preliminary Assessment Notice ("PAN"), dated December 27, 2013, against petitioner finding the latter liable for deficiency income tax, VAT, EWT, DST, and compromise penalty in the aggregate amount of Php4,521,441.50, broken down as follows:[5]

Tax Type	Amount
Income tax	Php3,463,941.14
VAT	822,910.02
EWT	105,956.80
DST	28,633.54
Compromise penalty	100,000.00
Total	Php4,521,449.50

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2 See Stipulation of Facts, Pre-Trial Order, *Rollo* Vol. II, at 524.
3 See Stipulation of Facts, Pre-Trial Order, *Rollo* Vol. II, at 524-525.
4 See Stipulation of Facts, Pre-Trial Order, *Rollo* Vol. II, at 525; Exhibit "P-3".
5 See Stipulation of Facts, Pre-Trial Order, *Rollo* Vol. II, at 525; Exhibit "P-4".

In the PAN, petitioner was directed to file a reply within 15 days from from receipt thereof. Otherwise, petitioner would be considered in default and a Formal Letter of Demand ("FLD") and Final Assessment Notice ("FAN") would be issued.[6]

On January 15, 2014, respondent issued an FLD/FAN of even date finding petitioner liable for deficiency income tax, VAT, EWT, DST and compromise penalty in the aggregate amount of Php4,599,495.91, *viz.*:[7]

Tax Type	Amount
Income tax	Php3,525,555.18
VAT	837,142.29
EWT	107,784.27
DST	26,014.17
Compromise penalty	103,000.00
Total	Php4,599,495.91

On January 17, 2014, petitioner filed its Reply to the PAN.[8] On the other hand, petitioner filed a Protest to the FLD/FAN on February 11, 2014.[9]

On March 13, 2014, respondent issued a Letter signed by Regional Director Amora, dated March 5, 2014, acknowledging receipt of petitioner's Protest and informing it that its case will be forwarded to the district office for reconsideration.[10]

On April 26, 2021, respondent issued a Final Decision on Disputed Assessment ("FDDA") denying petitioner's Protest for allegedly failing to submit and/or present relevant documents within 60 days from filing of the Protest.[11]

Petitioner then filed the instant Petition before this Court on May 25, 2021.[12]

On June 14, 2021, Summons were issued to respondents to file an Answer to the Petition.[13] On November 19, 2021, respondents filed their Answer.[14]

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6 See Stipulation of Facts, Pre-Trial Order, *Rollo* Vol. II, at 525.
7 See Stipulation of Facts, Pre-Trial Order, *Rollo* Vol. II, at 525; Exhibit "P-5".
8 Exhibit "P-6".
9 Exhibit "P-7".
10 See Stipulation of Facts, Pre-Trial Order, *Rollo* Vol. II, at 526; Exhibit "P-8".
11 See Stipulation of Facts, Pre-Trial Order, *Rollo* Vol. II, at 526; Exhibit "P-2".
12 *Rollo* Vol. I, at 6-251.
13 *Rollo* Vol. I, at 252-253.
14 *Rollo,* Vol. I, at 262-273.

Thereafter, the case was referred for Mediation.[15] However, Mediation was terminated on July 7, 2022 as the parties did not reach an agreement to mediate.[16]

A Notice of Pre-Trial Conference was issued through a Resolution, dated January 12, 2024.[17] On March 5, 2024, respondent filed his Pre-Trial Brief.[18] Meanwhile, petitioner filed its Pre-Trial Brief on March 7, 2024.[19] On March 12, 2024, the Pre-Trial Conference ensued.[20]

Thereafter, on April 11, 2024, the parties filed their Joint Stipulation of Facts and Issues.[21] A Pre-Trial Order was then issued by this Court on June 3, 2024.[22]

On June 6, 2024, petitioner presented its witnesses, Ms. Gina T. Franco and Mr. Lawrence C. Domingo, before the Court.[23]

On June 26, 2024, petitioner filed its Formal Offer of Evidence.[24] In a Resolution, dated September 9, 2024, this Court admitted all of petitioner's Exhibits.[25]

During the Hearing, dated February 11, 2025, respondent presented his witness, Mr. Benedict R. Bacani.[26] On February 27, 2025, respondent filed his Formal Offer of Evidence.[27] Petitioner filed a Comment thereto on March 14, 2025.[28] In a Resolution, dated April 25, 2025, this Court admitted all of respondents' Exhibits.[29]

On June 30, 2025, petitioner filed its Memorandum.[30] Meanwhile, respondents failed to file a Memorandum.[31] Hence, on August 28, 2025, the case was submitted for Decision.[32]

Hence, this Decision.

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[15] *Rollo,* Vol. I, at 298-300.
[16] *Rollo,* Vol. I, at 313-314.
[17] *Rollo,* Vol. I, at 330-334.
[18] *Rollo,* Vol. I, at 344-348.
[19] *Rollo,* Vol. II, at 394-411.
[20] *Rollo,* Vol. II, at 487-489.
[21] *Rollo,* Vol. II, at 490-503.
[22] *Rollo,* Vol. II, at 523-531.
[23] *Rollo,* Vol. II, at 532.
[24] *Rollo,* Vol. II, at 539-574.
[25] *Rollo,* Vol. II, at 585-587.
[26] *Rollo,* Vol. II, at 589-593.
[27] *Rollo,* Vol. II, at 595-603.
[28] *Rollo,* Vol. II, at 605-610.
[29] *Rollo,* Vol. II, at 612-614.
[30] *Rollo,* Vol. II, at 618-680.
[31] *Rollo,* Vol. II, at 681.
[32] *Rollo* Vol. II.

The Issue

> "Whether or not petitioner is liable for deficiency income tax, [VAT, EWT, DST] and compromise penalty in the aggregate amount of Php 7,973,392.86, inclusive of interest and compromise penalties, for TY 2010."[33]

Arguments of the Parties

Petitioner's Arguments[34]

Petitioner avers the following in its Memorandum:

a) Petitioner submitted and timely filed/presented what it deemed to be the relevant and necessary documents in support of its Protest. As firmly established by jurisprudence, the decision and discretion on what type of supporting documents should be submitted remains with petitioner.

b) Respondent can only request that the taxpayer submit additional documents. Hence, respondent completely and patently made up the assertion in the FDDA that petitioner failed to submit and/or present relevant supporting documents to refute the validity of respondent's findings, just to resurrect an assessment that had already been lost to prescription.

c) The PAN and FLD with Assessment Notices are void for the following reasons:

> i. The PAN and FLD/FAN were signed by someone who is NOT authorized to sign, there being no valid assessments. The government's right to assess has prescribed.
>
> ii. In violation of *Revenue Regulations No. 18-2013* and the requirements of due process, the BIR served the PAN to petitioner by registered mail without showing impossibility of personal service.
>
> iii. Even assuming that the respondent's right to assess had not yet prescribed, the FLD/FAN are still NULL and VOID for having been prematurely issued and in egregious violation of petitioner's right to due process.

d) Respondent's right to collect had already prescribed. In its Protest, petitioner clearly asked for and was expressly granted a RECONSIDERATION by Revenue Regional Director Amora. Accordingly,

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[33] See Issue, Pre-Trial Order, *Rollo* Vol. II, at 526.
[34] See Memorandum, *Rollo* Vol. II at 625-678.

the running of the prescriptive period for collection was never interrupted or suspended.

e) Assuming merely for the sake of argument, and without admitting, that the FLD is valid and that BIR's period to collect from petitioner has not yet prescribed, there is no legal or factual basis for the alleged deficiency income tax for the following reasons:

i. The difference of Php28,893.33 between the declared sales per VAT returns and Audited Financial Statements ("AFS") and Income Tax Return ("ITR") is just the result of audit adjustments to properly report sales of goods that were delivered the following year. While the following year 2010, the revenue from these VAT transactions were reported and the income tax paid thereon.

ii. Contrary to the CIR's claim, the transaction covered by BIR Form No. 2307 pertaining to Victor R. Potenciano Medical Center were properly included in petitioner's income tax declaration.

iii. The difference between the Sales per VAT returns and those derived by extrapolating from the Total Creditable Tax Withheld from Sales to the Government can only be attributed to tax credits for a number of transactions in 2009 that were claimed in 2010. Records will show that these 2009 transactions were properly reported as income in 2009, and the related income tax was also paid in 2009.

iv. The CIR's assessment of deficiency income taxes arising from alleged unaccounted source of cash is without legal or factual basis. The mistaken premise for the CIR's conclusion has already been repeatedly struck down by the Court in a number of rulings.

v. As will be discussed in more detail in Ritegroup, Incorporated's argument against the alleged deficiency EWT, the latter has, as early as 2014, paid the alleged deficiency expanded withholding taxes in *toto*. Hence, without necessarily admitting the propriety of the CIR's assessment, there is no more basis to exclude the amount of Php2,337,147.60 in income payments as deductions from taxable income.

vi. The disallowed travel expenses amounting to Php550,202.40 as well as creditable tax withheld in the amount of Php19,622.65 are duly supported by adequate invoices and receipts, and other supporting documents.

f) Again, assuming merely for the sake of argument, that the FLD is valid and that BIR's period to collect from Petitioner has not yet prescribed, there is no legal or factual basis for the Alleged Deficiency Value Added Tax for the following reasons:

i. The transaction covered by BIR Form No. 2307 pertaining to Victor R. Potenciano Medical Center were properly included in petitioner's taxable sales for 2010 and included in the VAT returns for the period.

ii. Again, the difference between the Sales per VAT returns and those derived by extrapolating from the Total Creditable Tax Withheld from Sales to the Government is attributable only to tax credits for a number of transactions in 2009 that were claimed in 2010. Records will show that these 2009 transactions were reported as income and for VAT purposes in 2009.

g) Without admitting liability therefor, as regards the alleged EWT liability, petitioner has paid under protest the EWT on the income payments referred to by respondent.

h) Assuming merely for the sake of argument, that the FLD/FAN are valid and that BIR's period to collect from petitioner has not yet prescribed, there is no legal or factual basis for the alleged deficiency DST, considering that these advances from shareholders are in the nature of accumulated reimbursements for operating requirements.

i) The BIR erred in imposing compromise penalty. As has been emphatically held in the case of *Philippine International Fair, Inc. vs. The Collector of Internal Revenue,* a compromise is supposed to be a bilateral agreement freely and voluntarily entered into by both contracting parties, and perforce, cannot be imposed by one against the other. Petitioner never applied for a compromise, considering its firm belief that it has paid the correct amount of taxes, and, hence, it should not be made unilaterally liable for such.

Respondents' Arguments[35]

Respondents, meanwhile argue the following: a) its right to assess and collect petitioner's deficiency tax has not yet prescribed; b) there is no violation of petitioner's right to due process; c) the FLD/FAN are valid; and d) the assessments issued against petitioner for deficiency income tax, VAT, EWT, DST, inclusive of increments, and compromise penalty have factual and legal bases.

The Ruling of the Court

The instant Petition is meritorious.

[35] See Answer, *Rollo* Vol. I, at 263-269.

The Court has jurisdiction over the instant Petition.

Although not specifically raised as an issue in the instant case, this Court must first rule whether or not it has jurisdiction over the present controversy. Undoubtedly, this Court can take cognizance of the present controversy. Jurisdiction by this Court over the instant case is conferred by *Section 7 (1) of RA 1125*, to wit:

> ***SEC. 7. Jurisdiction. -*** The Court of Tax Appeals shall exercise 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 imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other laws or part of law administered by the Bureau of Internal Revenue:
> (Emphasis and underscoring, Ours)

In the instant case, petitioner is appealing an FDDA, dated April 26, 2021, which denied Petitioner's Protest and found it liable for deficiency income tax, VAT, EWT, DST and compromise penalties.[36] Clearly, the subject matter of the instant case is a disputed assessment referred to in the above cited provision that may be appealed before this Court. Accordingly, the said subject matter is within the jurisdiction of this Court and it may validly try the same as long as the appeal has been timely made.

As for whether or not petitioner timely filed its appeal, this Court rules in the affirmative. On April 26, 2021, Ritegroup Incorporated received the FDDA.[37] Under *Section 228 of the NIRC,* if an adverse decision is issued by the BIR on the Protest filed by a taxpayer, the taxpayer adversely affected by the decision may appeal to the Court of Tax Appeals within thirty days from receipt of the adverse decision. As petitioner received the FDDA on April 26, 2021, it had 30 days or until May 26, 2021 within which to file an appeal against the FDDA before this Court. Hence, this Petition was timely filed by petitioner on May 25, 2021.

[36] Exhibit "P-2".
[37] *Ibid.*

The present income tax assessment is void as respondent did not give petitioner the full 15 day period to file a Reply to the PAN.

Section 228 of the NIRC clearly requires provides that a taxpayer shall be required to respond to a pre-assessment notice within the time period provided under revenue regulations, and it is only if the taxpayer fails to respond to such pre-assessment notice that the CIR is authorized to issue an assessment based on his findings, to wit:

> Section 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...
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> ...
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> 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.
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> 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.

The time period for a taxpayer to respond to a PAN is 15 days from receipt of the same. This period was clearly delineated in *Revenue Regulation No. 12-99, as amended ("RR 12-99")*, as follows:

> SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment -*
>
> 3.1 Mode of procedures in the issuance of a deficiency tax assessment:
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> ...
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> 3.1.2 *Preliminary Assessment Notice (PAN).* — If after review and evaluation by the Assessment Division or by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer, at least by registered mail, a Preliminary Assessment Notice (PAN) for the proposed assessment, showing in detail, the facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based... If the taxpayer fails to respond within fifteen (15) days from date of receipt of the PAN, he shall be considered in default, in which case, a formal letter of demand and assessment notice shall be caused to be issued by the said Office, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.

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Accordingly, a taxpayer has a right to respond to a PAN issued by the BIR. This right to respond is expressed in the *NIRC* as an obligation to respond by a taxpayer. Given the time period provided under *Sec. 3.1.2. of RR 12-99,* a taxpayer's right to respond to a PAN is 15 days from receipt of thereof.

This time period is sacred and must be respected by respondent. It is given to the taxpayer as a guarantee of due process wherein the taxpayer is given such ample time to refute the pre-assessment findings. During this period, respondent cannot issue an FLD/FAN. Otherwise, the latter is deemed to have pre-judged the taxpayer who is under audit. Respondent is duty bound to wait within the aforementioned period for a Reply to the PAN which he issued and consider the arguments contained therein. It is only through such exercise that respondent is considered to have respected a taxpayer's right to be heard in assessment proceedings.

In *Commissioner of Internal Revenue v. Yumex Philippines Corporation,*[38] the High Court has clearly ruled that:

> [T]he taxpayer has fifteen (15) days from date of receipt of the PAN to respond to the said notice. Only after receiving the taxpayer's response or in case of the taxpayer's default can respondent issue the FLD/FAN.
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> ...
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> It is mandatory that the BIR not only inform the taxpayer through the PAN, FLD, and FAN of the facts, law and regulations, and jurisprudence on which the assessment against it is based, but it must also accord the taxpayer the opportunity to be heard through the entire process, i.e., from tax investigation until tax assessment.
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> ...
>
> [T]he importance of the PAN, in particular, [i]s a substantive, and not just a formal, due process requirement.

In the case at bar, respondents clearly violated petitioner's right to be heard. As shown by the PAN on record,[39] and as admitted by the parties in their stipulations of fact,[40] the same was by petitioner received on January 6, 2014. Following *Sec. 3.1.2. of RR 12-99,* petitioner had 15 days or until January 21, 2014 within which to file a Reply to PAN to refute the findings therein. However, respondents jumped the gun and hastily issued an FLD/FAN on January 15, 2014[41] without waiting for the expiration of petitioner's period to file a Reply to PAN.

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[38] G.R. No. 222476, May 5, 2021.
[39] Exhibit "P-4".
[40] Stipulation of Facts, Pre-Trial Order, *Rollo* Vol. II, at 525
[41] See Stipulation of Facts, Pre-Trial Order, *Rollo* Vol. II, at 525; Exhibit "P-5".

This shows that respondent failed to accord petitioner its right to due process as the former denied the latter the full 15-day period to file a Reply to the PAN. The PAN in the case at bar was effectively issued as a mere formality. Petitioner was not given the right to be heard in every stage of the assessment proceedings (*i.e.,* from tax investigation to tax assessment).

Consequently, the instant tax assessments are null and void as the same was issued in violation of petitioner's right to due process. With this definite finding, this Court deems it unnecessary to cover the other arguments raised by the parties.

ACCORDINGLY, the Petition for Review filed by petitioner **RITEGROUP INCORPORATED** is hereby **GRANTED.** The deficiency income tax, VAT, EWT, DST and compromise penalty assessments in the aggregate amount of Php7,973,392.86, inclusive of surcharges, interest and penalties for TY 2010 are hereby declared **NULL AND VOID.** The subject PAN, dated December 27, 2013, FLD/FAN, dated January 15, 2014, and the FDDA, dated April 26, 2021 are likewise declared **NULL and VOID.** Respondent is hereby **ENJOINED** from proceeding with the collection of the subject deficiency income tax assessment in whatever mode of collection.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

CORAZON G. FERRER-FLORES
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
Presiding Justice