REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

DMCI MASBATE POWER CORPORATION, *Petitioner,*	**CTA Case No. 10424**
	Members:
- versus -	**MANAHAN**, *Chairperson,* **REYES-FAJARDO**, and **ANGELES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 05 2026 1:48 p.m.

x---x

RESOLUTION

REYES-FAJARDO, *J.*:

In the Decision[1] dated March 13, 2025, respondent's deficiency Value-Added Tax (VAT) and Expanded Withholding Tax (EWT) assessments issued against petitioner for Taxable Year 2015 were declared null, for being offensive of petitioner's right to due process. Specifically:

> *One.* The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) was dated October 29, 2018, with an instruction that petitioner pay the assessed taxes found therein on or before October 31, 2018; yet, the FLD/FAN was served on November 5, 2018, thereby unilaterally depriving petitioner the period to pay the same.
>
> *Two.* Despite the reply to the Preliminary Assessment Notice (PAN) submitted by petitioner with the tax authorities, the basic taxes reflected for both PAN and FLD/FAN are the same, *sans* explanation why petitioner's defenses lack merit.
>
> *Three.* The BIR used information from MASELCO, an unrelated third-party, to justify the deficiency VAT assessment against petitioner. The latter pointed out the difficulty in preparing reconciliation and validating the VAT findings because it had no access to MASELCO's records. However, the Bureau of Internal

[1] Docket, pp. 3171-3195.

> Revenue (BIR) ignored petitioner's predicament and reiterated its vague explanation in both the FLD/FAN and Final Decision on Disputed Assessment.

Through these accounts, CTA Case No. 10424 was disposed as follows:

> **WHEREFORE**, in light of the foregoing considerations, the Petition for Review is **GRANTED**. The *Formal Letter of Demand* dated October 29, 2018 and *Final Decision on Disputed Assessment* dated August 5, 2020 against petitioner relative to taxable year 2015 are **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED.**

On April 3, 2025, respondent filed his Motion for Reconsideration (Re: Decision dated March 31[,] 2025).[2] He explains that the due date for payment indicated in the FLD/FAN, *i.e.*, October 31, 2018, was a result of a clerical error and does *not* affect the validity of the tax assessment.

Respondent as well asserts that the BIR adhered with the minimum requirements in Section 228 of the 1997 National Internal Revenue Code, as amended, with respect to the issuance of the PAN and FLD/FAN; hence, due process was afforded to petitioner. The defenses in the reply to the PAN need not be addressed in the FLD/FAN.

On April 14, 2025, petitioner filed its Comment/Opposition to the Motion for Reconsideration dated 03 April 2025 ...,[3] mainly countering that the 2015 assessed deficiency VAT and EWT assessments were aptly invalidated for being violative of its right to due process.

The Motion fails.

First. Jurisprudence requires a tax assessment to have a due date for payment of assessed taxes.[4] Respondent admitted[5] that an

---

2 Docket, pp. 3196-3219.
3 Docket, pp. 3223-3232.
4 See *Commissioner of Internal Revenue v. Fitness by Design, Inc.*, G.R. No. 215957, November 9, 2016.

erroneous due date, *i.e.*, on or before October 31, 2018, for payment of taxes was stated in the FLD/FAN,[6] albeit due to alleged clerical error. Despite said admission, the BIR did *not* even bother to rectify said error. The BIR further failed to previously inform petitioner of the mistake caused. Worse, he hastily served the FLD/FAN containing an erroneous due date upon petitioner on November 5, 2018, or past the supposed October 31, 2018 deadline to pay the assessed taxes. These observations fortify Our finding that petitioner was indeed deprived of a reasonable period to pay the 2015 assessed taxes found therein; thus, violative of its right to due process.

Second. Jurisprudence[7] also held that "[i]t 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."

As ruled in the assailed Decision, petitioner lodged its reply[8] to PAN. Instead of providing justification why such reply was without merit, the BIR mimicked the basic taxes per PAN, [9] in the FLD/FAN,[10] *sans* rhyme or reason. This, too, signifies a transgression of another facet of petitioner's right to due process.

WHEREFORE, respondent's Motion for Reconsideration (Re: Decision dated February 21, 2025) posted on March 14, 2025 is **DENIED**. The Decision dated February 21, 2025 is **AFFIRMED**.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

---

5 Docket, p. 3197.
6 Exhibit "R-8," "R-8-1," and "R-8-2." BIR Records (Folder 3), pp. 1897-1905.
7 *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99, October 3, 2018.
8 Exhibit "P-8-1." Docket, pp. 1455-1463.
9 Exhibit "P-8." Docket, pp. 1430-1454.
10 *Supra* note 6.

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
Associate Justice