CTA Form No. 8 (For DCC)

19-000283-0091

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10095

PLASTIC CONTAINER PACKAGING CORPORATION,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. LIEZL G. BOHOL
Legal Division, Bureau of Internal Revenue
Revenue Region No. 7B- East NCR
25th Floor, The Podium West Tower
ADB Avenue, Ortigas Center, Mandaluyong City

JL MARTINEZ LAW OFFICES
Penthouse 5 VGP Center
6772 Ayala Avenue
1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **November 7, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **November 8, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
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PLASTIC CONTAINER PACKAGING CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10095

Members:

DEL ROSARIO, *PJ, Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

Promulgated:

NOV 0 7 2024 3:50PM

x- -x

RESOLUTION

REYES-FAJARDO, *J.*:

In the Decision dated May 23, 2024,[1] the deficiency Income Tax, Value-Added Tax, and Expanded Withholding Tax assessments, issued by the Bureau of Internal Revenue (BIR) against petitioner for Calendar Year (CY) 2010 were nullified because: (1) the BIR's right to assess petitioner for said internal revenue taxes is barred by prescription under Section 203 of the 1997 National Internal Revenue Code (NIRC), as amended. Petitioner's waiver is void for failure to specify the particular kind and amount of taxes subject of such waiver; and, (2) the BIR failed to provide reason in the Formal Letter of Demand and Final Assessment Notice (FLD/FAN), why the petitioner's defenses posed in its Reply on the Preliminary Assessment Notice are without merit. Precisely, CTA Case No. 10095 was disposed as follows:

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1 Docket (Vol. V), unpaginated.

> **WHEREFORE**, the Petition for Review dated June 25, 2019, filed by Plastic Container Packaging Corporation is **GRANTED**. Accordingly, the Formal Letter of Demand and Final Assessment Notices dated December 19, 2014 and the Final Decision on Disputed Assessment dated April 5, 2019, all issued against Plastic Container Packaging Corporation, for deficiency Income Tax, Value-Added Tax, and Expanded Withholding Tax, with interests, covering Calendar Year 2010, are **CANCELLED** and **SET ASIDE**.
>
> Respondent, his representatives, agents, or other persons acting in his behalf, are **PROHIBITED** from collecting on Plastic Container Packaging Corporation, the subject deficiency tax assessments covering Calendar Year 2010.
>
> **SO ORDERED**.

On June 13, 2024, respondent filed his Motion for Reconsideration (on the Decision dated May 23, 2024),[2] advancing the following arguments for our consideration:

> *One*. The valid waiver stretched respondent's period to assess petitioner under Section 222(b) of the NIRC, as amended. Specifically, Revenue Memorandum Order (RMO) No. 14-2016[3] dispenses with the requirement that the particular kind and amount of taxes to be assessed be found in the waiver.
>
> *Two*. Petitioner's right to due process was observed because it was afforded opportunity to answer the BIR notices during various segments of the assessment process.

Through Comment (Re: Motion for Reconsideration dated June 13, 2024),[4] petitioner states that the Court committed no reversible error in nullifying the BIR's deficiency tax assessments covering CY 2010, issued against it because of prescription and violation of due process.

The Motion lacks merit.

First. RMO No. 14-2016 was only issued on April 4, 2016; hence, it cannot be made to operate on the waiver executed by petitioner on

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[2] *Id.*

[3] SUBJECT: Guidelines for the Execution of Waivers from the Defense of Prescription Pursuant to Section 222 of the National Internal Revenue Code of 1997, as Amended.

[4] Docket (Vol. V), unpaginated.

June 21, 2013.[5] To hold otherwise would offend the rule against retroactive application of laws and regulations.[6] *Spouses Curata, et al. v. Philippine Ports Authority*[7] is enlightening:

> It is well-entrenched principle that statutes, including administrative rules and regulations, operate prospectively unless the legislative intent to the contrary is manifest by express terms or by necessary implication because the retroactive application of a law usually divests rights that have already become vested. This is based on the Latin maxim: *Lex prospicit non respicit* (the law looks forward, not backward).

Second. True, the PAN and FLD/FAN were duly served to petitioner. Equally true is that petitioner was able to challenge the PAN and FLD/FAN. However, this is not enough. To be precise, *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc. (Avon)*[8] and *Commissioner of Internal Revenue v. Unioil Corporation (Unioil)*[9] additionally commands that when respondent is unpersuaded by petitioner's defenses, the corresponding reasons therefor must be provided.

As found in pages 18-23 of the challenged Decision, petitioner replied to the PAN. Given that respondent upheld the results of the PAN, the latter must appraise petitioner in the FLD/FAN as to why its positions and arguments in the reply on the PAN are unavailing. Respondent did no such thing; hence, petitioner's right to due process was indeed violated, pursuant to *Avon* and *Unioil*.

WHEREFORE, respondent's Motion for Reconsideration (on the Decision dated May 23, 2024) is **DENIED**, for lack of merit. The Decision dated May 23, 2024 is **AFFIRMED**.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

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5 Exhibit "P-12." Docket, pp. 495-496.

6 See *Home Development Mutual Fund v. Commission on Audit*, G.R. No. 157001, October 19, 2004.

7 G.R. Nos. 154211-12, June 22, 2009, citing *Lintag v. National Power Corporation*, G.R. No. 158609, July 27, 2007.

8 G.R. Nos. 201398-99, October 3, 2018.

9 G.R. No. 204405, August 4, 2021.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice