REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB NO. 3039
(CTA Case No. 10095)

Present:

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

\- versus -

PLASTIC CONTAINER PACKAGING CORPORATION,
Respondent.

Promulgated:
APR 2 2 2026 3:50

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DECISION

RINGPIS-LIBAN, *J.*:

Before the Court *En Banc* is a Petition for Review[1] filed by petitioner Commissioner of Internal Revenue (CIR) against respondent Plastic Container Packaging Corporation (PCPC) within an extended period[2] granted by the Court,[3] seeking to set aside the assailed Decision of this Court's Special First Division dated May 23, 2024[4] granting the Petition for Review of PCPC and cancelling and setting aside the Formal Letter of Demand (FLD) and Final Assessment Notices (FANs) dated December 19, 2014 and the Final Decision on Disputed Assessment (FDDA) dated April 5, 2019, for deficiency Income Tax (IT), Value-Added Tax (VAT), and Expanded Withholding Tax (EWT), with interests, covering Calendar Year (CY) 2010.

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[1] Rollo, pp. 6-21, with Annexes "A" to "C" at pp. 22-54; Resubmitted in compliance with the Court's Order dated January 20, 2025, pp. 59-74, with Annexes "A" to "C" at pp. 75-107.
[2] *Id.*, pp. 1-3.
[3] *Id.*, pp. 4.
[4] *Id.*, pp. 23-46; pp.76-98.

The CIR likewise assails the Resolution dated November 7, 2024[5] which denied his motion for reconsideration.

The Parties

Petitioner is the Commissioner of Internal Revenue, the official vested by law with the power, among others, to assess and collect all internal revenue taxes, fees, and charges, and to enforce all forfeitures, penalties, and fines connected therewith. He holds office at the Bureau of Internal Revenue (BIR) National Office Building, Sen. Miriam P. Defensor-Santiago Avenue (formerly Agham Road), Diliman, Quezon City, where he may be served with summons, notices, and other court processes.[6]

Respondent PCPC is a corporation duly organized and existing under Philippine laws, engaged in the manufacture of plastic container packaging products, with principal office address at PCPC Building, No. 25 Madison Street, Barangka Ilaya, Mandaluyong City.[7] It is registered with the Securities and Exchange Commission (SEC) per SEC Registration No. 28738,[8] and with the BIR Revenue District Office (RDO) No. 41 – Mandaluyong City, under Tax Identification Number 000-060-001-000.[9]

The Facts[10]

On September 6, 2011, PCPC received Letter of Authority (LOA) No. 041-2011-00000915 (eLA201000083537) dated September 2, 2011, issued by Regional Director Nestor S. Valeroso, authorizing Revenue Officer (RO) Dalisay Co and Group Supervisor (GS) Flora Abtahi to examine its books of accounts and other accounting records for all internal revenue taxes for the period January 1, 2010 to December 31, 2010.[11]

On June 18, 2013, PCPC received a Notice of Informal Conference dated June 14, 2013,[12] issued by Revenue District Officer Isabel A. Paulino of RDO No. 41 – Mandaluyong City.

On June 21, 2013, the parties executed a Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code (Waiver).[13] The Waiver pertained to the investigation of PCPC's *all internal revenue tax liabilities* for taxable year 2010, without specifying the particular kind

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[5] *Id.* pp. 48-51; pp. 101-104.
[6] Docket, par. 2, Stipulation of Facts (SOF), Joint Stipulations of Facts and Issues (JSFI), id. at p. 844.
[7] *Id.*, see par. 1, SOF, JSFI, *id.* at p. 844.
[8] *Id.*, par. 3, SOF, JSFI, id. at p. 845.
[9] *Id.*, see par. 4, SOF, JSFI. Ibid.
[10] As found by the Special First Division and as culled from the records of the case.
[11] Exhibit "P-4", supra at Note 6, p. 482.
[12] Exhibits "P-11," "P-11-1," and "P-11-2", id. at pp. 492-494.
[13] Exhibit "P-12", id. at pp. 495-496; and Exhibits "R-5" and "R-5-A", id. at pp. 753-754.

and amount of taxes covered thereby, and purported to extend the BIR's prescriptive period to assess until December 31, 2014.

On December 4, 2014, PCPC received the PAN dated December 3, 2014,[14] together with the Details of Discrepancies,[15] issued by Regional Director Alfredo V. Misajon (RD Misajon), containing the proposed deficiency IT, VAT, and EWT assessments for CY 2010, in the total amount of ₱51,434,818.07, inclusive of interests, broken down as follows:

Tax Type	Basic Tax	Interest	Tax Due
IT	₱21,671,212.63	₱15,733,894.10	₱37,405,106.73
VAT	7,285,837.02	5,613,088.68	12,898,925.70
EWT	637,136.09	493,649.55	1,130,785.64
TOTAL			**₱51,434,818.07**

On December 12, 2014, PCPC filed its Reply to the PAN,[16] contesting the proposed assessments and providing schedules in support of its defenses, specifically: (1) reconciliation of purchases of goods, services, professional fees, and rental expenses per financial statements and income tax return with the Expanded Withholding Tax alpha list; (2) reconciliation of direct labor, indirect labor, and employees cost with the withholding tax on compensation alpha list; and (3) explanation that certain importations flagged by the BIR were duly accounted for in its VAT returns for the 3rd and 4th quarters of 2010.[17]

On December 19, 2014, PCPC received RD Misajon's FLD[18] with Details of Discrepancies,[19] and FANs[20], all of even date, assessing it for deficiency IT, VAT, and EWT for CY 2010, in the total amount of ₱52,229,401.69, inclusive of interests. Notably, the FLD/FAN merely reiterated the findings in the PAN, without addressing any of the defenses PCPC raised in its Reply to the PAN.[21]

On December 22, 2014, PCPC filed its Administrative Protest by way of a Request for Reinvestigation.[22] By Letter dated January 29, 2015, RD Misajon granted PCPC's request for reinvestigation.[23]

[14] Exhibits "P-13" and "P-13-2", id. at pp. 536-537.
[15] Exhibit "P-13-1", id. at pp. 538-539.
[16] *Id.* (Vol. I), pp. 13 and 404, respectively. Exhibits "P-14," "P-14-1," "P-14-2," and "P-14-3", *id.* (Vol. II), pp. 540- 543.
[17] Exhibit "P-14," Docket (Vol. II), pp. 540-543.
[18] Exhibit "P-15", id. (Vol. II), pp. 554-555.
[19] Exhibit "P-16", id. at pp. 556-557.
[20] Exhibit "P-17" to "P-19", id. at pp. 558-560; and Exhibits "R-13" to "R-16," id. at pp. 766- 769.
[21] See Note 4, pp. 21-23; *Rollo*, pp. 44-45.
[22] *Id.* (Vol. I), pp. 13 and 404, respectively. Exhibits "P-20," "P-20-1," "P-20-2," and "P-20-3," id. (Vol. II), pp. 561- 565.
[23] Exhibits "P-21" and "P-22", *id.* (Vol. II), p. 573.

On February 11, 2015, PCPC received the letter dated February 10, 2015 from Revenue District Officer Corazon M. Montes[24] of RDO No. 41 – Mandaluyong City, requiring it to submit documents in support of its protest to RO Rolando Fernandez, under GS Flora B. Abtahi.

On May 27, 2019, PCPC received the FDDA dated April 5, 2019,[25] issued by Regional Director Romulo L. Aguila, Jr., with Details of Discrepancies,[26] informing it that it still failed to refute the validity of the BIR's findings, and demanding payment of deficiency IT, VAT, and EWT for CY 2010 in the aggregate amount of ₱69,508,589.91, plus interests.

On June 25, 2019, PCPC filed a Petition for Review[27] before the Court in Division, docketed as CTA Case No. 10095, to which the CIR filed his Answer[28] on October 15, 2019. After due proceedings, including pre-trial, trial, and submission of memoranda, CTA Case No. 10095 was submitted for decision on May 26, 2023.[29]

On May 23, 2024, the Court in Division rendered the Assailed Decision granting PCPC's Petition for Review and cancelling and setting aside the FLD/FAN dated December 19, 2014 and the FDDA dated April 5, 2019, on two grounds: *first*, the BIR's right to assess PCPC for deficiency IT, VAT, and EWT for CY 2010 was barred by prescription, as the Waiver dated June 21, 2013 was void for failure to specify the particular kind and amount of taxes subject thereof; and *second*, the BIR violated PCPC's right to due process when it issued the FLD/FAN without addressing the defenses raised in PCPC's Reply to the PAN.[30]

On June 13, 2024, the CIR filed his Motion for Reconsideration,[31] arguing that: (1) RMO No. 14-2016 dispenses with the requirement that the particular kind and amount of taxes to be assessed be stated in the waiver; and (2) PCPC's right to due process was observed as it was afforded opportunity to answer the BIR notices during various segments of the assessment process.[32]

On November 7, 2024, the Court in Division issued the Assailed Resolution denying the CIR's Motion for Reconsideration for lack of merit, holding that: (1) RMO No. 14-2016 was issued only on April 4, 2016, and cannot be made to operate retroactively on the Waiver executed on June 21, 2013; and (2) it is not enough that PCPC was afforded opportunity to answer the BIR notices — the

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[24] Exhibits "P-23" and "P-23-1", *id.* (Vol. II), p. 574.
[25] Exhibits "P-56" and "P-56-1", id. at pp. 504-505.
[26] Exhibit "P-57", id. at pp. 506-509.
[27] *Id.* (Vol. 1), pp. 10-70.
[28] *Id.*, pp. 404-418.
[29] Notice dated May 26, 2023. *Id.* (Vol. V), unpaginated.
[30] See Note 4, pp. 16-23; *Rollo*, pp. 38-45.
[31] *Id.* (Vol. V), unpaginated. *Rollo*, p. 49.
[32] See Note 5; *Rollo*, p. 49.

CIR, when unpersuaded by the taxpayer's defenses, must provide the corresponding reasons therefor in the FLD/FAN, which he failed to do.[33]

Aggrieved, the CIR filed a Motion for Extension of Time to File Petition for Review[34] on December 3, 2024. Through a Minute Resolution[35] dated December 9, 2024, the Court *En Banc* granted the CIR a non-extendible period of fifteen (15) days from December 4, 2024, or until December 19, 2024, within which to file his Petition for Review.

On December 19, 2024, the CIR filed the instant Petition for Review.[36] Through a Minute Resolution[37] dated January 20, 2025, however, the CIR was ordered to submit a Petition for Review with corrected caption within five (5) days from notice, before the Court *En Banc* would act on the Petition. In compliance therewith, the CIR filed his Compliance with Attached Petition for Review[38] on January 30, 2025.

On February 6, 2025, PCPC filed its Comment (Re: Petition for Review Dated December 17, 2024).[39]

Through a Minute Resolution[40] dated February 17, 2025, the Court *En Banc*: (1) noted the CIR's Compliance with Attached Petition for Review dated January 30, 2025 and admitted the Petition for Review with corrected caption as part of the initially filed petition; (2) noted PCPC's Comment; and (3) referred the case to the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA) for mediation, directing the parties to personally appear before Mediation Staff Assistant Ms. Avigail B. Sanchez on March 26, 2025.

On March 26, 2025, the PMC-CTA filed a No Agreement to Mediate,[41] stating that the parties decided not to have their case mediated.

Through a Minute Resolution[42] dated April 23, 2025, the Court *En Banc* noted the No Agreement to Mediate and submitted the instant Petition for Review for decision.

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[33] *Id.* at pp. 3-4, *Rollo*, p. 49.
[34] *Rollo*, pp. 1-3.
[35] *Id.*, p. 4.
[36] See Note 1.
[37] *Rollo*, p. 55.
[38] *Id.*, pp. 57-74, with attached Annexes "A" to "C", pp. 75-107.
[39] *Id.*, pp. 108-117,
[40] *Id.*, p. 118.
[41] *Id.*, p. 119.
[42] *Id.*, p. 120.

Assignment of Errors

Petitioner CIR claims that the Special First Division erred in cancelling and setting aside the FLD/FAN dated December 19, 2014 and the FDDA dated April 5, 2019, issued against PCPC for deficiency IT, VAT, and EWT, with interests, covering CY 2010, and in denying the Motion for Reconsideration of the Assailed Decision for lack of merit.[43]

The Arguments of the Parties

The CIR argues that the Waiver dated June 21, 2013 is valid and effectively extended the BIR's prescriptive period to assess PCPC for CY 2010 until December 31, 2014. He contends that Revenue Memorandum Order (RMO) No. 14-2016 dispenses with the requirement that the particular kind and amount of taxes to be assessed be stated in the waiver; hence, the FLD/FAN dated December 19, 2014 was timely issued within the extended prescriptive period. The CIR further argues that PCPC's right to due process was duly observed, as it was afforded ample opportunity to answer the BIR notices at various stages of the assessment process.[44]

For its part, PCPC maintains that the Court in Division committed no reversible error in nullifying the BIR's deficiency tax assessments covering CY 2010. It insists that the Waiver is void for failure to specify the particular kind and amount of taxes subject thereof, rendering the FLD/FAN time-barred. PCPC further contends that the CIR's reliance on RMO No. 14-2016 is misplaced, as said issuance was promulgated only on April 4, 2016 — long after the Waiver was executed on June 21, 2013 — and cannot be applied retroactively thereto. Finally, PCPC avers that its right to due process was violated when the BIR issued the FLD/FAN without addressing the defenses it raised in its Reply to the PAN.[45]

The Ruling of the Court

The Petition is denied.

The BIR's right to assess PCPC for deficiency IT, VAT, and EWT for CY 2010 is barred by prescription.

Well-settled is the rule that the BIR's right to assess internal revenue taxes is not imprescriptible. Section 203 of the National Internal Revenue Code (NIRC) of 1997, as amended, categorically provides that internal revenue taxes

[43] *Rollo*, pp. 6-21; pp. 59-74.
[44] *Id.*, pp. 59-74; See Note 5, pp. 2-3.
[45] *Id.*, pp. 112-113.

must be assessed within three (3) years from the last day prescribed by law for the filing of the return, or from the date of actual filing thereof, whichever is later. This prescriptive period is not a mere procedural technicality — it is a substantive right granted by law to the taxpayer, intended to protect it from belated and oppressive tax investigations.[46]

Section 222(b) of the NIRC, as amended, carves out an exception to this rule, allowing the BIR and the taxpayer to agree in writing to extend the prescriptive period to assess, provided such agreement is made before the expiration of the original three (3)-year period. However, this exception is not without conditions. For a waiver to validly extend the prescriptive period, it must strictly comply with the requirements prescribed by RMO No. 20-90 and Revenue Delegation Authority Order (RDAO) No. 05-01, as expounded in prevailing jurisprudence.[47]

It bears stressing that the Supreme Court, in *Commissioner of Internal Revenue v. First Philippine Industrial Corporation* (FPIC),[48] has definitively settled the requirements for a valid waiver, among which is that the waiver must specify the kind and amount of tax due. This requirement is not a mere formality — it is a substantive condition *sine qua non* for the waiver's validity. As the Supreme Court explained in *FPIC*, the definite article "the" preceding the word "tax" in Section 222(b) of the NIRC, as amended, manifests the legislative intent that the tax subject of the waiver must be particularized and referred to in the definite sense. Without this specificity, there can be no meeting of minds between the BIR and the taxpayer as to the scope and extent of the extension being agreed upon, thereby rendering the waiver void.[49]

This Court has consistently applied this rule. In *Commissioner of Internal Revenue v. Standard Chartered Bank*,[50] *Commissioner of Internal Revenue v. Systems Technology Institute, Inc.*,[51] and most recently in *Commissioner of Internal Revenue v. GMA Network Films, Inc.*,[52] waivers that failed to specify the particular kind and amount of taxes to be assessed were uniformly struck down as void and ineffectual to extend the prescriptive period.

Here, the Waiver executed by the parties on June 21, 2013 pertained to the investigation of PCPC's *all internal revenue tax liabilities* for CY 2010, without any express mention of: (1) the particular taxes covered; and (2) the respective amounts thereof. The Waiver is thus fatally defective under *FPIC* and the line of cases cited above and must be struck down as void. Consequently, it failed to

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[46] See Section 203, NIRC of 1997, as amended; *Commissioner of Internal Revenue v. Kudos Metal Corporation*, G.R. No. 178087, May 5, 2010.
[47] *Commissioner of Internal Revenue v. First Philippine Industrial Corporation*, G.R. No. 266409, August 23, 2023.
[48] *Id.*
[49] *Id.* Citations omitted.
[50] G.R. No. 192173, July 29, 2015.
[51] G.R. No. 220835, July 26, 2017.
[52] CTA EB No. 2441, October 17, 2022.

extend the BIR's prescriptive period to assess PCPC for CY 2010 beyond the original three (3)-year period under Section 203 of the NIRC, as amended.[53]

WAIVER OF THE DEFENSE OF PRESCRIPTION UNDER THE STATUTE OF LIMITATIONS OF THE NATIONAL INTERNAL REVENUE CODE

> I, **RICHARD S. CHUA, JR.**, Vice-President for Finance of **PLASTIC CONTAINER PACKAGING CORPORATION**, request for approval by the Commissioner of Internal Revenue for more time to submit the documents required in connection with theinvestigation/reinvestigation/reevaluation/collection/enforcement of my/its *all internal revenue tax liabilities* for the taxable year 2010. I/We hereby waive the defense of prescription under the statute of limitations prescribed in Sections 203 and 222, and other related provisions of the National Internal Revenue Code, and consent to the assessment and/or collection of tax or taxes of said year which may be found due after investigation/reinvestigation/re-evaluation at any time before or after the lapse of the period of limitations fixed by said sections of the National Internal Revenue Code but not later than December 31, 2014.

The CIR's invocation of RMO No. 14-2016 to salvage the Waiver is unavailing. It bears stressing that RMO No. 14-2016 was issued only on April 4, 2016 — almost three (3) years after the Waiver was executed on June 21, 2013, and more than a year after the FLD/FAN was issued on December 19, 2014. Basic is the rule 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.[54] To apply RMO No. 14-2016 to a waiver executed in 2013 would not only offend this well-entrenched principle of prospectivity — it would also effectively divest PCPC of a right, *i.e.*, the right to invoke prescription, that had already vested in its favor long before RMO No. 14-2016 came into existence. This the Court cannot countenance.[55]

As the Court in Division correctly computed, the prescriptive periods for the assessment of PCPC's deficiency IT, VAT, and EWT for CY 2010 had already lapsed well before the FLD/FAN was served upon PCPC on December 19, 2014, as shown below:[56]

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[53] See Waiver dated June 21, 2013, Exhibit "P-12," Docket (Vol. II), pp. 495-496.
[54] *Spouses Curato, et al. v. Philippine Ports Authority*, G.R. Nos. 154211-12, June 22, 2009, citing *Lintag v. National Power Corporation*, G.R. No. 158609, July 27, 2007.
[55] See Note 5, p. 2 of 4.
[56] See Note 4, pp. 14-16; *Rollo*, pp. 36-37.

2010 IT Assessment

Actual Date of Filing of AITR	Last Day Prescribed by Law for Filing of AITR	Start of Prescriptive Period	Last Day to Assess	Date when Assessment was Made	Remarks
April 15, 2011	April 15, 2011	April 15, 2011	**April 15, 2014**	December 19, 2014	Prescribed

2010 VAT Assessment

Quarter	Actual Date of Filing of VAT Return	Last Day Prescribed by Law for Filing of VAT Return	Start of Prescriptive Period	Last Day to Assess	Date when Assessment was Made	Remarks
1st	April 20, 2010	April 25, 2010	April 25, 2010	**April 25, 2013**	December 19, 2014	Prescribed
2nd	July 22, 2010	July 25, 2010	July 25, 2010	**July 25, 2013**	December 19, 2014	Prescribed
3rd	October 19, 2010	October 25, 2010	October 25, 2010	**October 25, 2013**	December 19, 2014	Prescribed
4th	January 25, 2011	January 25, 2011	January 25, 2011	**January 25, 2014**	December 19, 2014	Prescribed

2010 EWT Assessment

Month	Actual Date of Filing of EWT Return	Last Day Prescribed by Law for Filing of EWT Return	Start of Prescriptive Period	Last Day to Assess	Date when Assessment was Made	Remarks
January	February 8, 2010	February 10, 2010	February 10, 2010	**February 10, 2013**	December 19, 2014	Prescribed
February	March 5, 2010	March 10, 2010	March 10, 2010	**March 10, 2013**	December 19, 2014	Prescribed
March	April 8, 2010	April 10, 2010	April 10, 2010	**April 10, 2013**	December 19, 2014	Prescribed
April	May 7, 2010	May 10, 2010	May 10, 2010	**May 10, 2013**	December 19, 2014	Prescribed

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May	June 5, 2010	June 10, 2010	June 10, 2010	**June 10, 2013**	December 19, 2014	Prescribed
June	July 7, 2010	July 10, 2010	July 10, 2010	**July 10, 2013**	December 19, 2014	Prescribed
July	August 9, 2010	August 10, 2010	August 10, 2010	**August 10, 2013**	December 19, 2014	Prescribed
August	September 8, 2010	September 10, 2010	September 10, 2010	**September 10, 2013**	December 19, 2014	Prescribed
September	October 7, 2010	October 10, 2010	October 10, 2010	**October 10, 2013**	December 19, 2014	Prescribed
October	November 9, 2010	November 10, 2010	November 10, 2010	**November 10, 2013**	December 19, 2014	Prescribed
November	December 7, 2010	December 10, 2010	December 10, 2010	**December 10, 2013**	December 19, 2014	Prescribed
December	January 15, 2011	January 15, 2011	January 15, 2011	**January 15, 2014**	December 19, 2014	Prescribed

The foregoing tables unmistakably show that by the time the FLD/FAN was served upon PCPC on December 19, 2014, the BIR's right to assess had long prescribed for all three (3) tax types. The void Waiver having failed to extend this period, the FLD/FAN is consequently void and of no force and effect.

The BIR violated PCPC's right to due process when it issued the FLD/FAN without addressing the defenses raised in the Reply to the PAN.

The foregoing notwithstanding, the Court finds it necessary to likewise address the due process issue, if only to emphasize the BIR's correlative duty to observe procedural due process in the exercise of its assessment powers.

Section 228 of the NIRC, as amended, expressly mandates that the taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void. This requirement is not a superfluity — it is the bedrock of the taxpayer's constitutional right to due process in tax assessments. The BIR's power to assess, formidable as it is, must always be exercised within the bounds of this guarantee.[57]

The components of administrative due process relevant to tax assessments have long been settled. In *Ang Tibay v. Court of Industrial Relations*,[58] the Supreme Court laid down the cardinal requirements of due process in administrative proceedings, among which are: *first*, the tribunal must consider the evidence presented; and *second*, the decision must be rendered in a manner that the parties may know the various issues involved and the reasons for the decision rendered. These requirements apply with equal, if not greater, force to tax assessments, where the financial stakes for the taxpayer are often considerable.

The Supreme Court, in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (*Avon*),[59] applied these cardinal requirements to the BIR's assessment process and decreed that the BIR's failure to comment on or address the defenses and documents submitted by the taxpayer in its reply to the PAN — and its mere reiteration of the PAN's findings in the FLD/FAN — constitutes a violation of the taxpayer's right to due process. The Court further explained in *Avon* that while the CIR is not obliged to accept the taxpayer's explanations, when he or she rejects them, the corresponding reasons must be provided. He or she must give the particular facts upon which his or her conclusions are based, and those facts must appear in the record.[60]

This doctrine was reiterated and further entrenched in *Commissioner of Internal Revenue v. Unioil Corporation* (*Unioil*),[61] where the Supreme Court distilled the ruling in *Avon* as follows: the CIR, in exercising its power to assess and collect taxes, ought to give due consideration to the arguments and evidence submitted by the affected party. The right to be heard, which includes the right to present evidence, is rendered meaningless if the CIR can simply ignore the taxpayer's submissions without reason.

It bears stressing that the instant case presents a textbook violation of the *Avon-Unioil* doctrine. The records plainly show that on December 12, 2014, PCPC filed its Reply to the PAN, raising specific defenses and submitting supporting schedules therefor.[62] Yet, without batting an eye, the BIR issued the FLD/FAN dated December 19, 2014 — a mere seven (7) days after PCPC's Reply — merely reiterating the findings in the PAN, with nary a word addressing PCPC's defenses. The Details of Discrepancies attached to the FLD/FAN likewise emulated those in the PAN, without any discussion of PCPC's submissions.[63] PCPC's Reply was not even mentioned in the FLD/FAN.

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[57] Section 228, NIRC of 1997, as amended.
[58] G.R. No. L-46496, February 27, 1940.
[59] G.R. Nos. 201398-99, October 3, 2018.
[60] *Id.*
[61] G.R. No. 204405, August 4, 2021.
[62] Exhibits "P-14," "P-14-1," "P-14-2," and "P-14-3," Docket (Vol. II), pp. 540-543.
[63] See Note 4, pp. 21-22 of 24; *Rollo*, pp. 43-44.

The CIR's argument that PCPC's right to due process was observed because it was afforded opportunity to answer the BIR notices at various stages of the assessment process utterly misses the point. The opportunity to be heard is but one aspect of due process — equally indispensable is the right to a reasoned decision. A hollow opportunity to speak, met with complete silence on the part of the decision-maker, is no opportunity at all. As *Avon* and *Unioil* make abundantly clear, the BIR's duty does not end with the receipt of the taxpayer's defenses — it must actually consider them, and when it finds them unpersuasive, it must say why.[64]

This the BIR manifestly failed to do. The FLD/FAN dated December 19, 2014 is therefore void, not only for having been issued beyond the prescriptive period as discussed above, but independently and equally, for violation of PCPC's right to due process under Section 228 of the NIRC, as amended, and the *Avon-Unioil* doctrine.

A void assessment bears no valid fruit.[65] The FDDA dated April 5, 2019, having been issued on the basis of the void FLD/FAN, is likewise void and of no force and effect.

In fine, the Court finds no reversible error in the Assailed Decision and the Assailed Resolution. The CIR's arguments before this Court *En Banc* are a mere rehash of the same grounds already thoroughly considered and correctly rejected by the Court in Division. No new arguments have been advanced, no new evidence has been presented, and no compelling reason has been shown to warrant a reversal of the well-reasoned conclusions of the Special First Division. The instant Petition must therefore be denied.

WHEREFORE, premises considered, the Petition for Review filed by petitioner Commissioner of Internal Revenue is hereby **DENIED** for lack of merit. The Decision dated May 23, 2024 and the Resolution dated November 7, 2024 of this Court's Special First Division in CTA Case No. 10095 are hereby **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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[64] See Notes 51 and 69.
[65] See *Commissioner of Internal Revenue v. Unioil Corporation*, supra note 61.

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

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
Presiding Justice