REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

ESS MANUFACTURING, COMPANY INC., *Petitioner,*	**CTA Case No. 10763**
	Members:
- versus -	**REYES-FAJARDO,** *Acting Chairperson, and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated:
	JAN 2 1 2026 4:20 p.m.

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RESOLUTION

REYES-FAJARDO, *J.*:

For the Court's resolution is respondent's *Motion for Reconsideration*[1] filed on September 12, 2025. It mainly seeks to reverse the Court's Decision promulgated on August 14, 2025,[2] which granted petitioner's Petition for Review, and found petitioner not liable for the assessed internal revenue taxes for taxable year 2016 due to violation of its right to due process and for failure of the Formal Letter of Demand/Final Assessment Notice (FLD/FAN) to contain categorical demand for payment. The *fallo* of which reads:[3]

> **WHEREFORE,** the Petition for Review dated February 9, 2022, filed by ESS Manufacturing Company, Inc., in CTA Case No. 10763, is **GRANTED.** Accordingly, We **RESOLVE** to:
>
> a. **CANCEL** the Final Decision on Disputed Assessment FDDA-095-RR8A-RDO50-2016-eLA201500084254-A.N. 306 dated June 4, 2021, issued by Regional Director Maridur V. Rosario, finding due from petitioner, deficiency IT, EWT

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1 *Rollo,* pp. 464 - 477.
2 *Id.* at pp. 442 - 459.
3 *Id.* at pp. 458 - 459.

and WTC in the total amount of P37,756,661.02, for Taxable Year 2016;

b. **NULLIFY** the Bureau of Internal Revenue's Warrants of Garnishment dated January 3, 2022, implementing the collection of the deficiency internal revenue taxes per Final Decision on Disputed Assessment FDDA-095-RR8A-RDO50-2016-eLA201500084254-A.N. 306 dated June 4, 2021, issued by Regional Director Maridur V. Rosario;

c. **CANCEL** the Formal Letter of Demand with Details of Discrepancies, and Final Assessment Notices dated January 14, 2020, issued by Regional Director Maridur V. Rosario, for failure to contain a categorical demand for payment; and

d. **FORBID** the Commissioner of Internal Revenue, his agents, or other persons acting on his behalf, from collecting on petitioner, the deficiency internal revenue tax liabilities for Taxable Year 2016.

SO ORDERED.

In its Motion for Reconsideration, respondent reiterates that: (1) Revenue Officer Raymond Pasco (RO Pasco) validly resorted to substituted service when he served the Final Decision on Disputed Assessment (FDDA) in view of petitioner's absence in its registered business address; (2) the FLD/FAN contains a categorical demand for payment despite the use of the phrase "requested to pay"; and (3) that even if the FDDA is void for lack of due process, the underlying tax assessment remains valid.

Petitioner, through its *Comment/ Opposition (To Respondent's Motion for Reconsideration Dated 11 September 2025)*[4] filed on October 3, 2025, reiterates the ruling of the Court, which comprehensively considered and resolved respondent's claim.

We sustain the assailed Decision.

Respondent avers that substituted service was validly conducted by RO Pasco pursuant to RMO No. 40-2019, as there is no person found at the petitioner's address to receive the FDDA.

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4 *Rollo*, pp. 482 – 494.

Respondent's argument is misplaced.

While substituted service may be resorted to, it must comply with the conditions for its validity under subsection 3.1.6 of Revenue Regulation No. 18-2013. RO Pasco failed to comply with these requirements.

Specifically, We found that: (1) there was no showing that RO Pasco was accompanied by a barangay official from Barangay San Lorenzo and two disinterested witnesses to personally attest and observe on the fact of absence of any person; (2) the FDDA was left with a barangay official of a different barangay, not the barangay where the taxpayer's registered address is located; (3) only one witness signed the Acknowledgment of Receipt, and his status as "disinterested" was not established, and (4) the Acknowledgment of Receipt failed to state the factual basis justifying resort to substituted service. Hence, the FDDA is void for being violative of petitioner's right to due process.

Moreover, the Court appositely found that the subject FLD/FAN is void in the absence of a categorical demand for payment enjoined by the recent Supreme Court case of *Commissioner of Internal Revenue v. Telstar Manufacturing Corporation (Telstar).*[5]

In *Telstar*, the Supreme Court held that:

> ...the Formal Letter of Demand/Final Assessment Notice must contain a categorical demand for payment of assessed tax with factual and legal bases. This is because an obligation to pay the tax is being imposed upon the taxpayer. **Such obligation must be stated in a clear and plain language to properly apprise the taxpayer.**[6]

We find that the subject FLD/FAN falls short of the standard laid down in *Telstar*. Here, the subject FLD/FAN used the phrase "[petitioner is] <u>requested</u> to pay [its] aforementioned deficiency tax liabilities ...."[7] The use of the word "requested" denotes a permissive act, rather than an unequivocal command to pay. Such language fails to impose a definite obligation upon the taxpayer, thereby negating the existence of the categorical demand indispensable to a valid assessment.

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5 G.R. Nos. 249239 and 250286, February 10, 2025.

6 Emphasis supplied.

7 Exhibit "P-7." *Id.* at pp. 67-75. See also Exhibits "R-9" to "R-14," BIR Records, pp. 666-674.

WHEREFORE, respondent's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

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

HENRY S. ANGELES
Associate Justice