**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

## SECOND DIVISION

**CHUN LANG CHAN, then operating under Business Name TOKAI RUBBER PRODUCTS represented by LI CHUAN CHANG,**
Petitioner,

- versus -

**COMMISSIONER OF INTERNAL REVENUE & MYRNA S. LEONIDA, Regional Director, RR5, Caloocan City,**
Respondents.

**CTA CASE NO. 9758**

Members:

**CASTAÑEDA, JR.,** *Chairperson,* and
**BACORRO-VILLENA,** *JJ.*

Promulgated:

MAY 26 2021

2:30 p.m.

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## RESOLUTION

***CASTAÑEDA, JR., J.:***

Submitted before this Court are respondents' **Motion for Reconsideration (Notice of Decision promulgated on December 3, 2020)** filed on December 21, 2020, with petitioner's **Comment/Opposition (To Respondents' Motion for Reconsideration)** filed on January 13, 2021.

On December 3, 2020, the Court promulgated a Decision cancelling respondents' deficiency income tax and value-added tax (VAT) assessments against petitioner for failure to state the facts and the law on which they were based. The dispositive portion of which reads as follows:

> "**WHEREFORE**, the instant *Petition for Review* is **GRANTED**. Accordingly, the assailed FLD and *Assessment*

> *Notices*, all dated June 16, 2017, holding petitioner liable for deficiency income tax and VAT, for taxable period January 1, 2014 to November 13, 2014 (retirement), in the total amount of ₱13,104,242.28, inclusive of interests, are **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED**."

In their Motion, respondents claim that the Court erred in finding that petitioner was not accorded due process of law considering that it was properly furnished with copies of the Preliminary Assessment Notice (PAN) and Formal Letter of Demand with Final Assessment Notice (FLD-FAN). Respondents continue that the reiteration of the same findings in the PAN and FLD-FAN, despite petitioner's protest, simply means that petitioner failed to refute the findings contained in the assessments. As such, respondents assert that they cannot be faulted for arriving at a similar conclusion and thus they could not be considered to have failed to accord due process to petitioner; especially when it was petitioner itself who did not submit sufficient documents to support its protest (that would have upended the findings in their assessments).

On the other hand, in its Comment, petitioner insists that respondents violated its right to due process of law when they deprived it of its right to be heard. Petitioner continues that respondents apparently ignored the voluminous documents it submitted and did not even bother to read and act on the said documents. Nonetheless, petitioner again points out that Revenue Officer Rafael Lentejas II acted beyond his authority in continuing with the audit of its books of accounts beyond the prescribed period of one hundred twenty (120) days without submitting a progress report and not surrendering the Letter of Authority (LOA) for revalidation. Thus, petitioner asserts that the LOA is invalid and the assessment is consequently void.

The Court finds the instant Motion for Reconsideration bereft of merit.

At the onset, a perusal of the arguments that respondents raised in their Motion reveals that they are mere rehash of the issues which have already been extensively discussed in the Decision they presently assail.

Again, in the landmark case of *Ang Tibay, et al. v. The Court of Industrial Relations, et al.,*[1] the Supreme Court *en banc* enumerated the fundamental requirements of administrative due process or the cardinal primary rights in administrative proceedings. One of which is that the administrative tribunal should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, **and the reasons for the decision rendered**. The performance of this duty is inseparable from the authority conferred upon it.

Perforce, the Supreme Court in the case of *Joselito R. Mendoza v. Commission on Elections, et al.,*[2] explained that the aforementioned fundamental requirement, relating to the form and substance of the decision of a quasi-judicial body, further complements the hearing and decision-making due process rights and is similar in substance to the constitutional requirement that a decision of a court must state distinctly the facts and the law upon which it is based. As a component of the rule of fairness that underlies due process, this is the "duty to give reason" to enable the affected person to understand how the rule of fairness has been administered in his case, to expose the reason to public scrutiny and criticism, and to ensure that the decision will be thought through by the decision-maker.

In the present case, respondents ascertained via the PAN dated September 5, 2016 that petitioner had deficiency taxes. In reply thereof, petitioner filed a letter on October 4, 2016 refuting and giving explanations against the findings contained in the PAN, and further offering certain documents in support thereof. However, in the FLD-FAN dated June 16, 2017, petitioner was still assessed of the same deficiency tax liabilities without providing particular facts upon which the conclusion were based. As such, this Court cancelled respondents' deficiency assessments holding in the assailed Decision as follows:

> "It is noteworthy that the foregoing assessments are exactly based on the above-stated significant findings as stated in the PAN dated September 5, 2016. If at all, in terms of the amounts indicated, the only difference between the said PAN and the subject FLD/*Assessment Notices* is that the amounts of interest were adjusted. It must be emphasized that the respective basic tax due

[1] G.R. No. L-46496, February 27, 1940.
[2] G.R. No. 188308, October 15, 2009.

> substantially remained the same. In other words, the BIR merely reiterated the same findings as stated in the said PAN, without giving any reason for rejecting the refutations and explanations made by petitioner in its letter dated October 3, 2016. To stress, without addressing the said refutations and explanations, the BIR did not give the particular facts upon which the FLD/*Assessment Notices* are based. Consequently, petitioner was left unaware on how respondent or the BIR appreciated the explanations or defenses he raised against the subject PAN, in clear violation of petitioner's right to administrative due process, thereby rendering the subject tax assessments void."[3]

As to respondents' assertion that sending copies of the PAN and FLD-FAN to petitioner is already deemed sufficient to accord it due process of law, this Court does not agree.

To reiterate, without addressing petitioner's refutations in its protest, petitioner was not informed of the particular facts upon which the FLD-FAN was based pursuant to Section 228 of the National Internal Revenue Code of 1997, as amended, and as implemented by Revenue Regulations No. 12-99, as amended. By failing to do so, petitioner was left unaware on how respondents appreciated the explanations or defenses it raised against the subject PAN. Accordingly, such is in clear violation of petitioner's right to administrative due process thereby rendering the subject tax assessments void.

On the final note, while the government has an interest in the swift collection of taxes, its assessment and collection should be exercised justly and fairly, and always in strict adherence to the requirements of the law and of the Bureau of Internal Revenue's own rules.[4]

In view of the foregoing discussions, this Court finds that no new or substantial matter was raised in the present Motion to justify any modification or reversal of the Decision assailed by respondents. *gc*

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[3] Decision, p. 17.
[4] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99, October 03, 2018.

**WHEREFORE**, premises considered, respondents' Motion for Reconsideration (Notice of Decision promulgated on December 3, 2020) is **DENIED** for lack of merit.

**SO ORDERED**.

Juanito C. Castañeda, Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

I Concur:

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice