CTA Form No. 8 (For DCC)

19-000082-0116

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10040

BETA ELECTROMECHANICAL 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. MARVEEN B. DE LA PAZ
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

OLALIA DELA CRUZ LAW OFFICE
(Counsel for the petitioner)
Unit 506, Taipan Place, J. Ortigas Jr. Avenue
Ortigas Center, Pasig City

TIONGCO SIAO BELLO & ASSOCIATES LAW OFFICES
(Collaborating counsel for the petitioner)
Units 2104-2105, Robinson's Equitable Tower,
4 ADB Avenue, Ortigas Center
1605 Pasig City

GREETINGS:

You are hereby notified by these presents that on **June 18, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **June 19, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

BETA ELECTROMECHANICAL CORPORATION,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10040

Members:

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

Promulgated:

JUN 18 2024; 2:30PM

x - x

R E S O L U T I O N

MANAHAN, *J.*:

For resolution of the Court is respondent's *Motion for Reconsideration (Re: Decision dated 5 March 2024)* filed on April 4, 2024, with petitioner's *Comment and Opposition (To the Motion for Reconsideration of Respondent)* filed on May 2, 2024.

Respondent asserts in the instant motion that:

(1) The Court has no jurisdiction over the present case;

(2) The requirement of due process was properly complied with in issuing the Formal Letter of Demand (FLD); and

(3) The assessment issued against petitioner is valid and lawful.

On its part, petitioner counters that:

(1) The assessment has not attained finality as a result of the timely protest to the FLD/Final Assessment Notice (FAN) filed by petitioner and the respondent is estopped from assailing and challenging such fact;

(2) The tax assessments and all subsequent acts of respondent CIR are void for lack of a valid Letter of Authority (LOA) and the Letter of Re-assignment did not cure such patent defect;

(3) The issuance of the Warrant of Distraint and/or Levy (WDL) and its precursor Collection Letter emanated from a void tax proceedings as it is tainted with patent violations of the right to due process of petitioner BEC;

(4) The respondent Commissioner of Internal Revenue (CIR) failed to issue to petitioner BEC a Final Decision on Disputed Assessment (FDDA) required under Revenue Regulations (RR) No. 12-99, as amended and Revenue Memorandum Order No. 026-16;

(5) The Collection Letter issued by respondent CIR to petitioner BEC is not the FDDA contemplated under RR No. 12-99, as amended; and,

(6) The failure of respondent CIR and its duly authorized representative to consider the overwhelming evidence submitted to reconcile the discrepancies and/or to dispute the assessments constitutes a grave violation of the right to due process of petitioner BEC.

After careful consideration of the merits, the Court resolves to deny the instant motion for reconsideration.

Petitioner timely filed its protest

Respondent asserts that petitioner, through a certain Medellin Penecilla, received the FLD/FAN on October 26, 2015. Meanwhile, petitioner's protest dated November 23, 2015 was stamped received by the Large Taxpayer's Service on December 1, 2015, or thirty-six (36) days after petitioner's receipt of the FLD/FAN.

On the other hand, petitioner counters that it timely filed its protest before the Excise Large Taxpayers Audit Division (ELTAD) as shown in the transmittal sheet.

After scrutiny of the records, the transmittal sheet,[1] which forms part of the BIR Records collectively marked and offered as respondent's Exhibit "R-11", reveals that the subject protest

---

[1] Exhibit "R-11", BIR Records, p. 336.

was stamped received by the BIR-ELTAD on November 24, 2015. As such, the Court agrees with petitioner that it timely filed its protest.

The subject assessments are void

Finally, respondent argues that all presumptions are in favor of the correctness of the assessment.

However, this presumption cannot be applied when there is patent violation of a taxpayer's right to due process, *i.e.*, right to be informed of the reason for the denial of a protest. As held by this Court in the assailed Decision:

> "Notwithstanding the foregoing arguments, the subject FLD did not address any of them. The BIR only reiterated *verbatim* in the *Details of Discrepancy* of the said FLD, what it stated in the *Details of Discrepancy* of the undated PAN, save for the adjustments in one basic income tax due and basic deficiency VAT only.
>
> To emphasize, pursuant to the *Avon* case, the concerned taxpayer must be fully apprised of the factual and legal bases of the assessments, and must not be left unaware on how respondent or his authorized representatives appreciated the explanations or defenses raised by petitioner in connection with the assessments. Correspondingly, as part of the due process requirement in the issuance of tax assessments, respondents must give reason(s) for rejecting petitioner's refutations, and must give the particular facts upon which the conclusions for assessing petitioner are based, and those facts must appear on record. Respondent has obviously not observed such requirement in the issuance of the subject FLD.
>
> xxx xxx xxx
>
> To reiterate, tax assessments issued in violation of the due process rights of a taxpayer are null and void. Furthermore, a void assessment bears no valid fruit. Such being the case, the subject tax assessments cannot be enforced against petitioner, and respondent or the BIR has no right to collect the same.

Considering that the subject assessment is void, the Court need not belabor on the other issues raised in the instant motion. Hence, the denial thereof is in order.

FOR THESE REASONS, respondent's Motion for Reconsideration (Re: Decision dated 5 March 2024) is **DENIED**, for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice