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

***EN BANC***

**COMMISSIONER OF INTERNAL REVENUE,**
*Petitioner,*

**CTA EB NO. 2968**
(CTA CASE NO. 10222)

Present:

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

*-versus-*

**ROYAL PALM RESIDENCES CONDOMINIUM,**
*Respondent.*

Promulgated:
JAN 16 2026

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# DECISION

**ANGELES, *J.*:**

Before the Court *En Banc* is a *Petition for Review*[1] filed by the Commissioner of Internal Revenue (petitioner), praying for the reversal of the Decision[2] dated March 27, 2024 (assailed Decision) and Resolution[3] dated July 29, 2024 (assailed Resolution), both promulgated by the First Division (Court in Division) in CTA Case No. 10222, entitled *Royal Palm Residences Condominium, Inc. v. Commissioner of Internal Revenue.* The assailed Decision granted the *Petition for Review*[4] filed before the Court in Division by Royal Palm Residences Condominium, Inc. (respondent), and cancelled and withdrew the Preliminary Assessment Notice (PAN), Formal Assessment Notice (FAN) and other Assessment Notices (ANs), Final Notice Before Seizure (FNBS), and Warrant of Distraint

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[1] *En Banc* (EB) Docket, pp. 6-19, with Annexes.
[2] EB Docket, pp. 25-45.
[3] EB Docket, pp. 47-51.
[4] Division Docket - Vol. I, pp. 6-26.

and/or Levy (WDL), all issued by petitioner in relation to the present tax assessment case.

## FACTS

Petitioner is the Chief of the Bureau of Internal Revenue (BIR), the government agency charged with, among other powers and duties, the collection of all national internal revenue taxes.[5]

Respondent is a non-stock non-profit corporation organized pursuant to the provisions of Republic Act (RA) No. 4726, otherwise known as the "The Condominium Act",[6] and registered with the BIR with Tax Identification No. (TIN) 007-286-536-00000.[7]

The Court in Division narrated the facts of the case, in this wise:

> On May 18, 2016, [respondent], through Mr. Ronald Concillo, received from the BIR, through Revenue Region No. 8 - Makati City/Revenue District Office (RDO) No. 44 - Taguig - Pateros, Letter of Authority (LOA) No. AUDRO3/006713/2016 SŇ: eLA201200036823 dated May 11, 2016 authorizing Revenue Officer (RO) Helen Liquido, under the supervision of Group Supervisor Joriz Saldajeno to examine/audit [respondent's] internal revenue taxes for the period of January 1, 2014 to December 31, 2014.
>
> The BIR issued a Preliminary Assessment Notice (PAN) dated October 12, 2017 which was received by [respondent] on October 18, 2017.
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> On November 10, 2017, [respondent] filed with the BIR a Letter-Reply to the PAN dated November 9, 2017.
>
> Considering that [respondent] belatedly filed its Letter-Reply to the PAN, the BIR considered [respondent] to be in default and issued the Assessment Notices, the Formal Assessment Notice, and Details of Discrepancies (collectively, the FAN), on December 13, 2017, assessing [respondent] for alleged deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), and documentary stamp tax (DST), in the aggregate amount of ₱15,433,348.45, inclusive of surcharges and interests, for taxable year (TY) 2014 without considering [respondent's] arguments in its Letter-Reply. Said FAN was allegedly received on December 21, 2017 by a "Ms. Danica Ramboyong" with the position of administrative staff.

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[5] *Joint Stipulation of Facts and Issues* dated February 26, 2021, Division Docket - Vol. II, pp. 458-459.
[6] Exhibit "P-2", Division Docket - Vol. II, p. 608.
[7] *Id.*, note 5.

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On June 29, 2018, [respondent] received a Preliminary Collection Letter dated June 22, 2018 from the BIR, in relation to the FAN.

On July 6, 2018, [respondent] filed a Letter dated July 6, 2018 to Ms. Alicia SA. Gonzales, BIR Chief of Collection Division of Revenue Region No. 8, whereby [respondent] submitted a receiving copy of the November 9, 2017 Letter-Reply as well as the documentation for the November 27, 2017 voluntary payment of deficiency EWT.

On July 9, 2018, [respondent] received a Final Notice Before Seizure dated July 4. 2018.

On July 18, 2018, Mr. Joseph Carizo, [respondent's] Property Manager, issued an Authorization Letter authorizing Ms. Ma. Carmela Agena to get a copy of the FAN. The same was provided by RO Adrian Anthony Liwanag of BIR Revenue Region No. 8 on the same day.

On August 17, 2018, [respondent] filed before the BIR, Revenue Region No. 8 a "Protest to Formal Assessment Notice dated 13 December 2017."

On October 15, 2018, [respondent] submitted relevant documents in support of its Protest before the BIR, Revenue Region No. 8.

On November 6, 2019, [respondent] received the Warrant of Distraint and/or Levy (WDL) of even date.[8]

## PROCEEDINGS BEFORE THE COURT

The proceedings before the Court in Division were likewise recounted, to wit:

[Respondent] filed the present Petition for Review on December 6, 2019 before the Court of Tax Appeals (CTA) Second Division.

On February 20, 2020, [petitioner] posted his Answer *via* registered mail interposing the following special and affirmative defenses: *(i)* the Petition for Review states no cause of action; *(ii)* the Notice of Informal Conference (NIC) was not required during the period [respondent] was under audit; *(iii)* the PAN was duly received by [respondent]; *(iv)* [respondent] was duly informed of the facts, law, rules and regulations on which the assessment was based; *(v)* the assessment of [respondent's] books of accounts and other accounting records for TY 2014 was authorized by a duly issued LOA; *(vi)* the FAN was duly received by [respondent]; *(vii)*

[8] EB Docket, pp. 26-27.

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> the FAN has become final, executory, and demandable for [respondent's] failure to protest the same; and, *(vii)* the issuance of the WDL to enforce a final, executory and demandable FAN is proper.
>
> On October 7, 2020, [petitioner] filed his Pre-Trial Brief; while [respondent] filed its Pre-Trial Brief on October 9, 2020.
>
> The Pre-Trial Conference was held on February 10, 2021. The parties filed their Joint Stipulation of Facts and Issues on March 2, 2021. The Pre-Trial Order was issued on March 11, 2021.
>
> During trial, [respondent] presented testimonial and documentary evidence. [Respondent's] formally offered exhibits, as contained in its Formal Offer of Evidence filed on July 15, 2022, were admitted in the Resolution dated August 15, 2022.
>
> In turn, [petitioner] presented his testimonial and documentary evidence. [Petitioner's] formally offered exhibits, as contained in his Formal Offer of Evidence posted on November 3, 2022 were admitted in the Resolution dated January 5, 2023. In the same Resolution, the Court directed both parties to submit their respective memoranda within thirty (30) days from notice.
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> On May 29, 2023, the case was transferred from the CTA Second Division to the CTA First Division pursuant to Administrative Circular No. 01-2023 (Reorganizing the Divisions of the Court) dated May 23, 2023.
>
> After the posting of the Memorandum (For the Respondent) via registered mail on June 29, 2023, and without [respondent's] memorandum, the case was submitted for decision on July 25, 2023.[9]

The assailed Decision was promulgated on March 27, 2024, the dispositive portion of which reads:

> **WHEREFORE**, in light of the foregoing, the Petition for Review is hereby **GRANTED.** Accordingly, the following are hereby **CANCELLED** and **WITHDRAWN**: *(i)* Preliminary Assessment Notice No. P-LA-006713-44-2014; *(ii)* Formal Assessment Notice No. ELA36823-14-17 with Details of Discrepancies and the Assessment Notices, all dated December 13, 2017; *(iii)* Final Notice Before Seizure No. FNBS-2018-07-000194 dated July 4, 2018; and, *(iv)* Warrant of Distraint and/or Levy No. RR8B-09-16-00061 dated November 6, 2019, all issued by the Commissioner of Internal Revenue assessing [respondent] of deficiency income tax, value-added tax, expanded withholding tax, documentary stamp tax for taxable year 2014 in the total amount of Fifteen Million Four Hundred Thirty-Three Thousand

[9] EB Docket, pp. 28-29.

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Three Hundred Forty-Eight Pesos and 45/100 (₱15,433,348.45), inclusive of interest and surcharge.

[Petitioner] Commissioner of Internal Revenue, his authorized representatives or any other person acting on his behalf are hereby **ENJOINED** from enforcing the collection of aforesaid taxes covered by the Formal Assessment Notice No. ELA36823-14-17, Final Notice Before Seizure No. FNBS-2018-07-000194 dated July 4, 2018, and the Warrant of Distraint and/or Levy No. RR8B-09-16-00061 dated November 6, 2019.

Petitioner filed a *Motion for Reconsideration (of the Decision dated 27 March 2024)*[10] on April 16, 2024, while respondent filed its *Comment/Opposition (To Respondent's Motion for Reconsideration Dated 16 April 2024)*[11] on April 2, 2024.

The assailed Resolution was then promulgated on July 29, 2024, ultimately denying the aforesaid *Motion*.

Unrelenting, and after being granted an extension of time to file a Petition for Review,[12] petitioner filed the instant *Petition*[13] via registered mail on August 30, 2024, which was received by the Court on September 9, 2024. Respondent filed its Comment[14] thereto on November 7, 2024.

On January 6, 2025, the Court received from the Philippine Mediation Center Unit the parties' *No Agreement to Mediate*.[15]

Thus, on January 20, 2025, the case was submitted for decision.[16]

## ISSUES

Petitioner raises the following issues for this Court's resolution:

1. Whether or not the Honorable First Division of the CTA erred in cancelling the deficiency Income Tax (IT), Value-Added Tax (VAT), Expanded Withholding Tax

[10] Division Docket - Vol. II, pp. 872-882.
[11] Division Docket - Vol. II, pp. 886-898.
[12] *Resolution* dated August 20, 2024, EB Docket, p. 5.
[13] EB Docket, p. 6.
[14] EB Docket, p. 55.
[15] EB Docket, p. 71.
[16] EB Docket, p. 72.

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(EWT), and Documentary Stamp Tax (DST) assessments against respondent for taxable year (TY) 2014; and,

2. Whether or not respondent is liable for deficiency IT, VAT, EWT, and DST for TY 2014 in the aggregate amount of ₱15,433,348.45, inclusive of interest and surcharge.

## ARGUMENTS OF THE PARTIES

### *Petitioner's arguments*

Petitioner principally argues that that the Letter of Authority (LOA), PAN, ANs, and FAN were duly issued and duly received by respondent.

Petitioner avers that the fact of receipt by respondent of the LOA and PAN was admitted in the parties' *Joint Stipulation of Facts and Issues*[17] and such judicial admission requires no proof. Further, respondent's Reply to the PAN was filed out of time, for which reason respondent was considered in default, and the FAN was issued.

Petitioner also avers that the FAN was duly served to respondent through substituted service. Petitioner alleges that Ms. Danica Ramboyong who received the FAN is an Administrative Assistant who has a contractual obligation to foresee the day-to-day operations of respondent. Based on the enumeration of her functions as an Administrative Assistant, Ms. Ramboyong is in-charge of the office of respondent, hence, she is deemed as a clerk or person having charge of respondent. Thus, the service of the FAN to respondent, through Ms. Ramboyong, was proper.

Petitioner points out that even assuming that there was no valid substituted service of the FAN to respondent, the latter, through its Property Manager, Mr. Joseph Carizo, requested for a copy of the FAN from Revenue Officer (RO) Adrian Anthony Liwanag. Citing *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*,[18] petitioner posits that respondent's receipt of the FAN pursuant to such request, and the fact that respondent reckoned the period to file the protest to the FAN from

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[17] Division Docket - Vol. II, pp. 458-461.
[18] G.R. No. 221780, March 25, 2019.

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the date of such receipt, shows that the FAN was duly received by respondent.

Petitioner likewise argues that respondent's failure to file a protest to the FAN within thirty (30) days from Ms. Ramboyong's receipt thereof had caused the subject assessment to become final, executory and demandable. Furthermore, even assuming that respondent filed a protest to the FAN on August 17, 2018, such protest cannot be considered as valid because it was filed without the signature of respondent's authorized representative and special power of attorney authorizing such representative.

Petitioner finally argues that since the subject assessment had attained finality, its validity and correctness can no longer be assailed, and the issuance of the WDL was proper.

***Respondent's counter-arguments***

Respondent contends that petitioner's arguments are basically a rehash of the argument raised in his *Motion for Reconsideration*[19] filed before the Court in Division, which were adequately passed upon by the latter.

Respondent insists that was no valid service of the FAN, as Ms. Ramboyong has no authority to receive the same. Respondent alleges that petitioner failed to show that service to an "administrative officer" is service to a recipient who possesses the required degree of authority or discretion to grasp the gravity of the service of the FAN. Respondent emphasizes that a non-employee cannot be considered as an authorized representative in the absence of any showing of such authority.

Respondent submits that petitioner's improper substituted service of the FAN renders the subject assessment null and void. Consequently, the WDL issued pursuant thereto is also null and void.

**<u>RULING OF THE COURT *EN BANC*</u>**

Before We discuss the merits of the case, We shall first determine whether the instant *Petition* was timely filed.

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[19] *Supra*, note 10.

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Records show that petitioner, through the Office of the Solicitor General (OSG), received a copy of the assailed Resolution on August 1, 2024.[20] Petitioner had fifteen (15) days from such receipt, or until August 16, 2024, to file a Petition for Review before the Court *En Banc*, pursuant to Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA).[21]

Petitioner filed a *Motion for Extension to File Petition for Review*[22] on August 15, 2024. In a Resolution[23] dated August 20, 2024, this Court granted the said *Motion*, giving petitioner an additional period of fifteen (15) days from August 15, 2024, or until August 30, 2024, within which to file its Petition for Review.

Since the instant *Petition* was filed via registered mail on August 30, 2024, the same was timely filed.

Now, on the merits.

After a meticulous review of the parties' respective arguments and supporting evidence, We find the instant *Petition* bereft of merit.

There is no more issue on the receipt by respondent of the PAN as the Court *a quo* had already ruled in the assailed Decision that respondent is bound by its admission in the *Joint Stipulation of Facts and Issues*[24] that it received the PAN on October 18, 2017.[25]

The only issue that remains for this Court's resolution is whether respondent duly received the FAN.

Petitioner argues that the FAN was duly served on respondent through substituted service, particularly through Ms. Ramboyong who is an Administrative Assistant of respondent. Respondent counters that there was no valid service of the FAN, as Ms. Ramboyong has no authority to receive the same.

We agree with **respondent**.

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[20] Division Docket - Vol. II, p. 902.
[21] A.M. No. 05-11-07-CTA, November 22, 2005.
[22] EB Docket, pp. 1-2.
[23] *Supra*, note 12.
[24] *Supra*, note 17.
[25] EB Docket, pp. 35-37.

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The rules on service of the FAN on the taxpayer are governed by Section 3.1.6 of Revenue Regulations (RR) No. 18-13,[26] which provides:

> 3.1.6 *Modes of Service.—* The notice (PAN/FLD/FAN/FDDA) to the taxpayer herein required may be served by the Commissioner or his duly authorized representative through the following modes:
>
> > (i) The notice shall be served through personal service by delivering personally a copy thereof to the party at his registered or known address or wherever he may be found. A *known address* shall mean a place other than the registered address where business activities of the party are conducted or his place of residence.
> >
> > **<u>In case personal service is not practicable, the notice shall be served by substituted service or by mail.</u>**
> >
> > **<u>(ii) Substituted service can be resorted to when the party is not present at the registered or known address under the following circumstances:</u>**
> >
> > **<u>The notice may be left at the party's registered address, with his clerk or with a person having charge thereof.</u>**
> >
> > **<u>If the known address is a place where business activities of the party are conducted, the notice may be left with his clerk or with a person having charge thereof.</u>**
> >
> > If the known address is the place of residence, substituted service can be made by leaving the copy with a person of legal age residing therein.
> >
> > If no person is found in the party's registered or known address, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses to the address so that they may personally observe and attest to such absence. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.
> >
> > Should the party be found at his registered or known address or any other place but refuse to receive the notice, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses in the presence

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[26] Amending Certain Sections of Revenue Regulations No. 12-99, November 28, 2013.

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> of the party so that they may personally observe and attest to such act of refusal. The notice shall then be given to said barangay official. Such facts shall be contained in the bottom portion of the notice, as well as the names, official position and signatures of the witnesses.
>
> *"Disinterested witnesses"* refers to persons of legal age other than employees of the Bureau of Internal Revenue.
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> xxx xxx xxx
>
> *(Emphasis supplied)*

Based on the foregoing, service of the FAN on the taxpayer must be done primarily through personal service. It is only when personal service is not practicable that the FAN may be served by substituted service or by registered mail, subject to several conditions. Thus, if petitioner resorted to substituted service in serving the FAN to respondent, the former must prove that he met all the conditions necessary to be allowed to effect such service.

In *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*[27] the Supreme Court declared that taxing authorities may serve assessment notices on the taxpayer personally or through substituted service. It is incumbent upon them to prove the fact of such service, and strict compliance with the requirements of a valid substituted service is essential in ensuring the right of the taxpayer to due process.[28]

The High Court has also held that taxing authorities are not excused from complying with the requirements of a valid substituted service even if the taxpayer's registered or known address is located inside an establishment with a central receiving station.[29]

In this case, since the registered and known address of respondent is a place where its business activities are conducted, the FAN may be left with a clerk or a person having charge thereof, pursuant to Section 3.1.6 of RR No. 18-13. Accordingly, petitioner must prove that the FAN was given to a clerk of respondent, or a person having charge of its affairs. This issue is essentially a question of fact which requires an examination of the probative value of the evidence presented before the Court.[30]

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[27] G.R. No. 223767, April 24, 2023.
[28] *Id.*
[29] *Id.*
[30] *Macababbad, Jr. v. Masirag*, G.R. No. 161237, January 14, 2009.

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We therefore find relevant the following findings[31] of the Court *a quo*:

> [T]o prove that the FAN was properly served to [respondent] by substituted service, [petitioner] respondent presented the following: (*i*) the original of the FAN which indicates that it was received by Ms. Danica Ramboyong, Administrative Staff, on December 21. 2017 (Exhibit "R-4"); and, (*ii*) the Judicial Affidavit of RO Helen M. Liquido dated October 2, 2020 (Exhibit "R-10" and "R-10-A").
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> During the presentation of [petitioner's] witness, RO Liquido testified that she was the person who audited and served the FAN to [respondent]. She also testified that the service of the FAN was made through substituted service as no responsible officers of [respondent] were allegedly present at that time. She further testified that the FAN was received by Ms. Ramboyong who represented to her that she can receive the notices on behalf of [respondent].
>
> During her cross-examination, RO Liquido admitted that she failed to: (*i*) ascertain who are the responsible officers of [respondent] imbued with authority to receive the FAN on its behalf; (*ii*) check the General Information Sheet of [respondent] for that particular year; (*iii*) inquire whether Ms. Ramboyong is a "clerk" or "a person having charge" of [respondent's] office, with authority to receive notices from BIR on behalf of [respondent] xxx xxx xxx
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> xxx xxx xxx
>
> **Upon a careful evaluation of the parties' respective evidence, the Court holds that the FAN was not properly served to [respondent] as the person who received the same was not authorized to do so.** The service of the FAN to Ms. Ramboyong cannot be considered as valid service to [respondent].
>
> **First**, there is nothing in the Service Agreement that shows that an administrative assistant/staff, such as Ms. Ramboyong, is authorized to receive the FAN on behalf of [respondent]. Neither does it show that Ms. Romboyong is the person in charge of [respondent's] office in the absence of the duly-elected officers, its counsel, or the property manager.
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> **Second**, RR No. 12-99, as amended by RR No. 18-13, is clear on the procedure when to resort to substituted service and to whom the FAN should be given. Aside from her bare allegations, particularly on the instructions of [respondent's] alleged accountant, RO Liquido merely assumed that Ms. Ramboyong was the person in charge of [respondent's] office

[31] *Supra*, note 2, pp. 40-43.

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because she was sitting at the administrative table and that she was entertaining a unit owner.

**Third**, RO Liquido's testimony is without probative value in terms of the service of the FAN as her testimony in her Judicial Affidavit is inconsistent with her testimony during cross-examination. In her Judicial Affidavit, she avers that Ms. Ramboyong represented to her that she can receive the notices on behalf of [respondent]; while during cross-examination, RO Liquido claims that she spoke with [respondent's] accountant who allegedly said that Ms. Ramboyong has the authority to receive the FAN.

**Fourth**, the invalid substituted service could have been avoided if RO Liquido exercised prudence instead of simply assuming that a receptionist or administrative staff has the authority to receive the FAN. If there is any doubt as to the recipient's authority to receive the FAN, RO Liquido is not precluded from resorting to the next available mode of substituted service as provided under RR No. 12-99, as amended by RR No. 18-2013 *i.e.* "If no person is found in the party's registered or known address, the revenue officers concerned shall bring a barangay official and two (2) disinterested witnesses to the address so that they may personally observe and attest to such absence."

In *Mannasoft Technology Corporation vs. Commissioner of Internal Revenue*, the Supreme Court emphasized the importance of serving the assessment notice to the taxpayer itself or its duly authorized representative, to wit: xxx xxx xxx

**Taking all the foregoing into consideration, the Court finds that [petitioner] failed to prove by preponderance of evidence the actual receipt of [respondent] of the FAN.** It must be emphasized that strict compliance with due process requirement is necessary for a valid tax assessment. Failure to prove compliance therewith is fatal as [respondent's] right to due process was violated thereby. *(Emphasis supplied)*

In the assailed Resolution,[32] the Court *a quo* further stated:

Ms. Ramboyong has no authority to receive the subject FAN as: (*i*) she is not one of [respondent's] responsible officers; (*ii*) there was no written authority from [respondent's] Board of Directors; and, (*iii*) her functions, as listed in the "Service Agreement for Administrative and Messengerial Services" dated September 19, 2016 entered into between [respondent] and Joblink Business Solutions Inc. (formerly Professional Cleaners and Manpower Services, Inc.) do not include the authority to receive the FAN on [respondent's] behalf.

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[32] *Supra*, note 3, pp. 49-50.

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> The testimony of RO Helen Liquido in terms of the substituted service of the FAN reveals two things: *First*, there was no valid substituted service of the FAN as RO Liquido did not follow the proper procedure under Revenue Regulation (RR) No. 12-99, as amended by RR No. 18-2013. *Second*, RO Liquido's testimony has no probative value as her testimony in her Judicial Affidavit is grossly inconsistent with her testimony during cross-examination as elucidated on pages 16 to 17 of the assailed Decision. **In evaluating the totality of the evidence presented by both parties, the same leads the Court to conclude that Ms. Ramboyong is not authorized to receive the subject FAN, and that there is no valid substituted service of the FAN.** *(Emphasis supplied)*

As the Court *En Banc* is not a trier of facts, its jurisdiction over the present case being merely appellate,[33] We defer to the factual findings of the Court *a quo* which heard the witnesses, and had more opportunity and facilities to examine and evaluate the evidence. Upon finding that Ms. Ramboyong was neither a clerk of respondent, nor a person having charge of its affairs, the Court *a quo* was correct in ruling that substituted service of the FAN on her was improper.

We likewise adhere to the Court a *quo*'s ruling that the defect in petitioner's substituted service of the FAN may have been overcome had RO Liquido shown more prudence and circumspection in effecting such service, instead of being apparently careless of the applicable rules in effecting the same, considering the taxpayer's due process rights in the issuance of deficiency tax assessments.

In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*,[34] the Supreme Court enjoined the BIR to strictly observe the prescribed procedure for the issuance of assessment notices. It proclaimed that the BIR must perform their duties in accordance with law, with their own rules of procedure, and always with regard to the basic tenets of due process. It further held that tax assessments issued in violation of the due process rights of a taxpayer are null and void.[35]

Furthermore, in *Mannasoft Technology Corp. v. Commissioner of Internal Revenue*,[36] the High Court emphasized that the rules on service of assessment notices on the taxpayer are

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[33] Section 2(a), Rule 4, A.M. No. 05-11-07-CTA, November 22, 2005.
[34] G.R. Nos. 201398-99 & 201418-19, October 3, 2018.
[35] *Id.*
[36] G.R. No. 244202, July 10, 2023.

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there to ensure that the recipient thereof possesses a certain degree of authority or discretion that would allow him or her to grasp the gravity of the service of such notices and the potential financial impact it would have to the taxpayer he or she purports to serve and represent. This is especially relevant to juridical entities who can only act through its officers and employees, and who would otherwise be prejudiced by such recipient's simple ignorance.[37]

Thus, in *Commissioner of Internal Revenue v. Fort 1 Global City Center, Inc.*,[38] the Supreme Court declared the deficiency tax assessments issued against the taxpayer as void, for the reason that the BIR violated its right to due process for improper service of the assessment notices upon it. In this case, the Supreme Court similarly pointed out that the RO who served the assessment notices did not ascertain the authority of the persons who received the notices on behalf of the taxpayer. As such, the said RO miserably failed to comply with the requirements under RR No. 18-13.

Applying the foregoing, We find the FAN dated December 13, 2017, which was improperly served on respondent, to be void and without effect, for being violative of respondent's due process rights.

Anent petitioner's argument that respondent's actual receipt of the FAN upon the request of its Property Manager, Mr. Carizo, serves as due receipt thereof, and that respondent reckoned the filing of its protest to the FAN from such receipt, suffice it to say that such circumstances do not cure petitioner's failure to strictly comply with the rules for a valid substituted service of the FAN. Verily, that respondent was able to file its protest to the FAN with the BIR does not bar it from raising the issue of due process.[39]

It bears stressing that petitioner has not raised any substantial argument that has not yet been exhaustively passed upon by the Court *a quo* in the assailed Decision and Resolution, or that would warrant a reversal or modification of the same.

As the power of taxation is also the power to destroy, it should be exercised with caution to minimize injury to the proprietary rights of a taxpayer. Hence, the BIR must exercise this power fairly, equally, and uniformly, lest it kill the "hen that lays the golden egg".[40]

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[37] *Id.*
[38] G.R. No. 263811, November 26, 2024.
[39] *Supra*, note 38.
[40] *Roxas v. Court of Tax Appeals*, G.R. No. L-25043, April 26, 1968.

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**WHEREFORE,** premises considered, the instant *Petition for Review* is **DENIED** for lack of merit. Accordingly, the assailed Decision dated March 27, 2024, and the assailed Resolution dated July 29, 2024, are hereby **AFFIRMED**.

**SO ORDERED.**

**HENRY S. ANGELES**
Associate Justice

**WE CONCUR:**

**MA. BELEN M. RINGPIS-LIBAN**
Presiding Justice

**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

## 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