CTA Form No. 8

22-000449-0074

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10978

HELIX RESOURCES AND DEVELOPMENT CORPORATION (formerly HOLCIM RESOURCES AND DEVELOPMENT CORPORATION),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati CIty

ATTY. SHERYL P. CACAYURAN
ATTY. ANNA KARENINA S. PABRUA
Bureau of Internal Revenue
Legal Division, Revenue Region No.8B
2nd Floor, BIR Regional Office Building
No.313 Sen. Gil Puyat Ave., Makati City

MATA-PEREZ, TAMAYO & FRANCISCO ATTORNEYS-AT-LAW
Unit 1002, One Corporate Plaza
845 A. Arnaiz Avenue, Legazpi Village
Makati City

GREETINGS:

You are hereby notified by these presents that on **July 7, 2026**, a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 9, 2026.**

Atty. Mary Grace S. Ringpis
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

HELIX RESOURCES AND DEVELOPMENT CORPORATION (formerly "HOLCIM RESOURCES AND DEVELOPMENT CORPORATION"), Petitioner,	**CTA CASE NO. 10978** Members: **BACORRO-VILLENA,** *Acting Chairperson, and* **CUI-DAVID,** *JJ.*
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 07 2026; 3:30PM

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Helix Resources and Development Corporation (formerly "Holcim Resources and Development Corporation") (**petitioner**), pursuant to Section 3(a),[2]

[1] Filed on 15 September 2022, Division Docket, Volume I, pp. 6-39.

[2] **SEC. 3.** *Who may appeal; period to file petition.* —

(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments.

Rule 8 in relation to Section 3(a)(1),[3] Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**).[4]

Petitioner essentially prays for the cancellation of its alleged deficiency tax liabilities for taxable year (**TY**) 2017 amounting to ₱183,242,968.78, inclusive of surcharges and interests.[5]

PARTIES TO THE CASE

Petitioner is a corporation duly organized and existing under the laws of the Philippines, with registered address at 7th Floor, Two World Square, McKinley Hill, Fort Bonifacio, City of Taguig.[6] Petitioner's primary business is operating coal mines and mineral claims containing lime, limestone, shale, silica, gypsum, marble, granite and all other cement material or building stone and clay, and of prospecting, exploration and of mining, milling, concentrating, converting, smelting, treating, refining, preparing for market, manufacturing, buying, selling, exchanging and otherwise producing and dealing in all other kinds of minerals, and minerals hydrocarbons, acids and chemicals, and in the products and by-products of every kind and description and by whatsoever process the same can be produced.[7] Petitioner could also purchase, lease, develop, locate or otherwise acquire, own, exchange, sell or otherwise dispose of, pledge, mortgage, execute deeds in trust, hypothecate, and deal in mines, mining claims, mineral lands, coal lands, and timber lands, water and water rights, and other kinds of property, both real and personal.[8]

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**) vested with the

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3 SEC. 3. *Cases within the jurisdiction of the Court in Division.* — The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

4 A.M. No. 05-11-07-CTA.

5 Prayer, Petition for Review, supra at note 1, p. 36.

6 See par. 1, Summary of Admitted Facts, Joint Stipulation of Facts and Issues (**JSFI**), Division Docket, Volume II, p. 925.

7 Amended Articles of Incorporation of Helix Resources and Development Corporation, id., Volume IV, p. 1479.

8 Id.

authority to carry out the functions, duties, and responsibilities of the said office including, *inter alia*, the power to decide disputed assessments, refunds of internal revenue taxes, fees, other charges, and penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code (**NIRC**) of 1997, as amended, or other laws or portions thereof administered by the Bureau of Internal Revenue (**BIR**).[9]

FACTS OF THE CASE

On 26 June 2019, petitioner, through Gilbert M. Dagami (**Dagami**), received Letter of Authority (**LOA**) No. LOA-044-2019-00000524/eLA201600069402 which authorized Revenue Officer (**RO**) Mohammad Ali Rodi (**Rodi**) and Group Supervisor (**GS**) Ma. Cristina Carsolin (**Carsolin**) to examine its books of accounts and other accounting records for all internal revenue taxes for the period of 01 January 2017 to 31 December 2017, or TY 2017.[10]

On 24 July 2019 and 04 September 2019, petitioner received the First Request for Presentation of Records[11] and Second and Final Notice for Presentation of Records,[12] respectively, which requested petitioner to submit the documents listed in the Checklist of Audit Requirements.[13]

On 23 September 2019, respondent issued the Notice for Informal Conference[14] (**NIC**), together with the Details of Discrepancies,[15] which initially found petitioner liable for the alleged deficiency taxes of ₱170,017,085.49. On 27 October 2019, petitioner filed its Reply to the NIC[16] and argued that the tax assessments had no factual and legal bases.

On 02 December 2019, respondent, through then Regional Director (**RD**) of Revenue Region 8B South NCR, Glen A. Geraldino

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9 See par. 2, Summary of Admitted Facts, JSFI, Division Docket, Volume II, pp. 925-926.
10 Exhibit "R-1" BIR Records, p. 3.
11 Id., p. 6.
12 Id., p. 7.
13 Id., pp. 1-2.
14 Exhibit "R-2", id., pp. 201-202.
15 Exhibit "R-3", id., pp. 198-200.
16 Exhibit "P-4", id., pp. 203-210.

(**Geraldino**), issued the Preliminary Assessment Notice[17] (**PAN**) and the Details of Discrepancies[18] which partially reduced the alleged tax liabilities to ₱144,840,677.23. Petitioner received the PAN on 06 December 2019.[19] Aggrieved, on 17 December 2019, petitioner, through its counsel, Mata-Perez, Tamayo & Francisco (**MT&F**), filed a Request for Reinvestigation[20] on the findings contained in the PAN and claimed that the tax assessments should be cancelled. It further averred that it would submit all supporting documents relevant to its counter defenses within sixty (**60**) days from the filing of the said request.

Without acting on petitioner's Request for Reinvestigation of the PAN, on 27 December 2019, respondent, through RD Geraldino, issued the Formal Letter of Demand[21] (**FLD**), Details of Discrepancies,[22] and Assessment Notices[23] (**ANs**) which maintained the alleged basic tax deficiencies and adjusted the interests thereon, thus totaling to the tax liabilities of ₱146,489,855.39. Petitioner, through Arriane Bono (**Bono**), received them on 08 January 2020.

Undeterred, on 07 February 2020, petitioner filed its Protest by way of a request for reinvestigation[24] (**Protest**) and contended that the assessments for income tax (**IT**) and value-added tax (**VAT**) have no legal basis, whereas the assessments for expanded withholding tax (**EWT**) and final withholding tax (**FWT**) have no factual basis as it paid the correct amount of the said taxes for TY 2017.

Acting on the Protest, in the letter dated 05 March 2020,[25] respondent granted the request for reinvestigation and directed petitioner to submit the supporting documents within 60 days from the filing of its Protest. Petitioner received the said letter on 05 June 2020.[26] Subsequently, through the letter dated 25 June 2020,[27] petitioner

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17 Exhibit "R-6", id., pp. 297-298.
18 Exhibit "R-7", id., pp. 294-296.
19 Id.
20 Exhibit "P-6", Division Docket, Volume IV, pp. 1519-1528.
21 Exhibit "R-8", BIR Records, pp. 335-336.
22 Exhibit "R-9", id., pp. 332-334.
23 Exhibits "R-8-2", "R-8-3", "R-8-4" and "R-8-5", id., pp. 309-312.
24 Exhibits "P-8", id., pp. 383-394.
25 Exhibit "R-13", id., p. 398.
26 Exhibit "P-9", Division Docket, Volume IV, p. 1607.
27 Exhibit "P-10", id., pp. 1608-1609.

submitted its supporting documents to respondent. On even date, RO Rodi received them as evidenced by his signature on the said letter.[28]

On 21 October 2020, respondent issued LOA No. LOA-044-2020-00000323/eLA201700005422[29] (**second LOA**) which authorized RO Rodjyl Joseph Arboleda (**Arboleda**) and GS Carsolin to investigate petitioner's books of accounts and accounting records for TY 2017. Petitioner, through MT&F, received the second LOA on 05 November 2020.

On 04 August 2022, respondent issued the Final Decision on Disputed Assessment[30] (**FDDA**), together with the Details of Discrepancies,[31] which assessed petitioner with the alleged deficiency taxes of ₱183,242,968.78 comprised of IT, VAT, EWT, FWT and their corresponding surcharges and interests. Respondent demanded the payment of the said tax liabilities on or before 02 September 2022. Through the parties' admission, petitioner received the FDDA on 16 August 2022.[32]

PROCEEDINGS BEFORE THE COURT

Aggrieved with respondent's tax assessments, on 15 September 2022, petitioner filed the instant Petition for Review.[33] The case was docketed as CTA Case No. 10978 and raffled to the Court's Second Division.[34]

In its petition, petitioner sought the cancellation of the alleged tax liabilities on the grounds that: (1) respondent failed to give due consideration to its arguments in its Reply to the NIC, Request for Reinvestigation of the PAN and Protest; (2) the tax notices did not indicate the due date and the definite amount payable; (3) the IT and

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28 Id.
29 Exhibit "R-12", BIR Records, p. 448.
30 Exhibit "P-1", Division Docket, Volume I, pp. 42-43.
31 Exhibit "P-1-a", id., pp. 44-47.
32 See par. 9, Summary of Admitted Facts, JSFI, id., Volume II, p. 927; *cf.* see par. 9, Summary of Admitted Facts, Pre-Trial Order, id., p. 975; *cf.* see par. 9, Summary of Admitted Facts, Amended Pre-Trial Order, id., Volume III, p. 1263.
33 Supra at note 1.
34 Then composed of Associate Justice Erlinda P. Uy (Ret.) as Chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.

VAT assessments were based on unverified information obtained from third-party information (**TPI**); (**4**) it properly declared the sales and paid the IT for TY 2017; (**5**) the disallowance of tax credits of ₱18,126,843.00 is based on a mere presumption; (**6**) the deduction of excess input tax of ₱7,721,762.64 is unfounded and baseless; (**7**) the deferred input tax of ₱18,544,533.89 is a valid creditable withholding tax (**CWT**); and (**8**) there is no factual and legal bases for the EWT and FWT deficiency assessments.[35]

On 23 September 2022, the Summons was issued.[36] After a request for extension of time was granted, respondent filed his or her Answer on 28 November 2022.[37] In the Answer, respondent argues that: (**1**) there was no violation of due process as he or she granted petitioner's request for reinvestigation (but it was petitioner who failed to submit the supporting documents); (**2**) the FLD and ANs contain the due date and a definite demand for payment of the tax liabilities; and (**3**) the deficiency tax assessments have factual and legal bases as reflected in the FDDA and the corresponding Details of Discrepancies.[38]

Thereafter, on 26 April 2023, the Court set the Pre-Trial Conference.[39] In the *interim*, respondent elevated the BIR records[40] and thereafter, both parties filed their Pre-Trial Briefs.[41] On 26 April 2023, pre-trial proceeded[42] where the parties were directed to appear before the Philippine Mediation Center of the Court of Tax Appeals (**PMC-CTA**) and to file their Joint Stipulation of Facts and Issues (**JSFI**).

Accordingly, on 26 May 2023, the parties filed their JSFI.[43] On even date, petitioner filed a Motion for the Commissioning of an Independent Certified Public Accountant (**ICPA**) praying for the appointment of Madonna Mia S. Dayego (**Dayego**) as the ICPA for the case.[44]

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35 See Petition for Review, supra at note 1.
36 Division Docket, Volume I, p. 398.
37 See Order dated 07 November 2022, id., p. 405; see also pp. 406-421.
38 See Answer, id.
39 See Notice of Pre-Trial Conference dated 16 December 2022, id., Volume II, pp. 500-501.
40 See Compliance filed on 09 December 2022, id., pp. 503-506. The Court noted the Compliance in the Minute Resolution of 04 January 2023, id., p. 507.
41 See Respondent's Pre-Trial Brief (with Attached Special Power of Attorney) filed on 19 April 2023, id., pp. 508-520. See also Petitioner's Pre-Trial Brief filed on 20 April 2023, id., pp. 523-547.
42 See Order dated 26 April 2023, id., pp. 906-908.
43 Id., pp. 925-936.
44 Id., pp. 909-913.

On 29 May 2023, the case was transferred from the Second Division to the First Division,[45] pursuant to Administrative Circular No. 01-2023 (Reorganizing the Divisions of the Court).[46]

Thereafter, in the Resolution dated 19 June 2023,[47] the First Division approved the JSFI and terminated the pre-trial stage of the proceedings. On 04 September 2023, the Pre-Trial Order[48] was issued. Subsequently, petitioner moved for the substitution of a witness.[49] The First Division granted the same and the Amended Pre-Trial Order was issued.[50]

After the parties agreed not to have the case mediated,[51] the hearing on petitioner's Motion to Commission an ICPA proceeded where Dayego was duly commissioned for the case. Later, ICPA Dayego filed the ICPA Report[52] for CTA Case No. 10978 and a universal serial bus[53] (**USB**) on 09 November 2023.

In the trial that ensued, petitioner presented its witnesses, namely: (1) Lambert L. Aguisanda (**Aguisanda**), its Chief Finance Officer; (2) Dennis G. Segovia, Jr., (**Segovia**), its authorized representative for tax matters; and (3) ICPA Dayego.

Aguisanda testified first. By way of his Judicial Affidavit,[54] he declared that: (1) petitioner operates a quarry operation in Northern Mindanao, the products of which are sold to Holcim Philippines, Inc. (**HPI**); (2) in TY 2017, HPI paid petitioner a total of ₱231,147,609.00 for the supply of quarry resources; and (3) apart from selling quarry

45 Then composed of Presiding Justice Roman G. Del Rosario (Ret.) as Chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.
46 See Notice dated 29 May 2023, Division Docket, Volume II, p. 937.
47 Id., p. 940.
48 Id., pp. 963-986.
49 See Omnibus Motion (1) To Allow Substitution of Witness; and (2) To Reset Presentation of Witness, id., pp. 950-953.
50 See Motion to Amend Pre-Trial Conference Order, id., Volume III, pp. 988-997; Resolution dated 03 October 2023, id., p. 1235; and Amended Pre-Trial Order dated 20 October 2023, id., pp. 1251-1275.
51 See No Agreement to Mediate dated 27 June 2023, id., Volume II, p. 941.
52 See ICPA Report, Exhibit "P-47", id., Volume III, pp. 1298-1394.
53 Exhibit "P-49."
54 See Exhibit "P-25", Judicial Affidavit of Lambert L. Aguisanda dated 15 September 2022, Division Docket, Volume I, pp. 386-397.

resources, petitioner also earns rental income from the lease of real properties to HPI.

On cross-examination, Aguisanda claimed that it was after 2017 when petitioner changed its name from "Holcim Resources and Development Corporation" to "Helix Resources and Development Corporation." He also declared that in 2017, petitioner's sole client for the sale of quarry resources was HPI. According to him, HPI owns 40% of Helix Mining and Development Corporation (**HMDC**), petitioner's parent company. He also clarified that petitioner's sales for TY 2017 are composed of sale of quarry resources, rental income and subject asset's revenue[55] tagged as "Others" in its Audited Financial Statement (**AFS**) ending 31 December 2017.[56]

No redirect examination was conducted.[57]

Next, Segovia took the witness stand to testify *via* his Judicial Affidavit[58] where he declared that: (1) while he became petitioner's authorized representative for tax matters only from July 2023, he is familiar with the circumstances of the case since he reviewed the documents left in his custody; (2) from his review, he confirmed that petitioner received the NIC, PAN, FLD, second LOA, and FDDA during the course of the BIR's audit; (3) in response to the said notices, petitioner filed a Reply to the NIC, Request for Reinvestigation of the PAN and Protest (against the FLD); and (4) the tax assessments contained in the FDDA have no factual and legal bases for the following reasons: (***a***) petitioner properly reported its gross income and sales in its 2017 AFS and Annual Income Tax Return (**ITR**); (***b***) it is erroneous for BIR to deduct the input taxes since these were carried over to the

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55 As lifted from the TSN dated 17 April 2024, p. 12:
ATTY. PABRUA:
Q: In your Answer to Question 33, you stated that petitioner also earns rental income from lease of real properties to HPI. Does petitioner have other income other than the sale of power resources to HPI and lease of property to HPI?
MR. AGUISANDA:
A. I Think, just to distinguish a bit on our AFS because part of our tax re-price is the raw materials prices but also part of our apprising formula is the standard cost. So, you can see in our AFS, there is the sale of raw materials, there is rental income and others. **Others refers to the subject asset's revenue.** (Emphasis supplied)

56 TSN dated 17 April 2024, pp. 10-12.

57 Id.

58 See Exhibit "P-24", Judicial Affidavit of Dennis G. Segovia dated 14 September 2023, Division Docket, Volume III, pp. 1001-1016.

succeeding period; (*c*) based on the EWT returns, petitioner properly withheld and remitted the taxes; and (*d*) there is no rule that imposes FWT on mining and concessions.

During cross-examination, Segovia declared that petitioner's Protest was denied. According to him, there was no proper reinvestigation as the parties did not meet to discuss the tax assessments for the purposes of removing or reducing the deficiency tax liabilities. When asked about the documents submitted during the reinvestigation, he went on to confirm that petitioner's documents submitted during the reinvestigation were also previously submitted to the BIR during the audit.[59]

No redirect examination was conducted.[60]

Upon the Court's clarificatory question, Segovia claimed that his knowledge of the case arose from the relevant documents in his custody.[61]

ICPA Dayego took the stand as the last witness. Along with her testimony, she also identified the ICPA Report[62] and the USB[63] that she submitted. According to ICPA Dayego, as a result of her examination of petitioner's accounts, she was able to: (1) reconcile the income payments between the BIR Forms. No 2307 for TYs 2016 and 2017 and Annual ITR for the same years; (2) reconcile the net sales between the Annual ITR for TYs 2016 and 2017 and AFS ending 31 December 2017 together with the general ledger (**GL**); thereafter, recommended that IT deficiency assessment should be reversed; (3) determine that the discrepancy in the reported revenue between the AFS and the VAT returns pertains to timing differences in the recording of the transaction, thus there is no basis for the VAT deficiency assessment; and (4) retain the EWT deficiency assessment of ₱352,436.02 and FWT deficiency assessment of ₱7,584.48 due to petitioner's failure to provide an explanation on the noted discrepancies. She added that the documents she examined are

59 TSN dated 17 April 2024, pp. 19-22.
60 Id., p. 22.
61 Id., pp. 23-24.
62 Supra at note 52.
63 Supra at note 53.

the originals, certified true copies (**CTCs**) and original computer printouts (**OCPOs**).[64]

On cross-examination, Dayego maintained that petitioner earned ₱536,259,400.03 which HPI had declared as its income payments to the former. When asked about timing differences, she explained that they occur when a company recognizes the income is earned but withholds the taxes only upon the payment thereof.[65]

Again, petitioner did not conduct any redirect examination.[66]

After the presentation of witnesses, petitioner filed its "Formal Offer of Documentary Exhibits with Motion to Admit"[67] (**FODE**), offering Exhibits "**P-1**" to "**P-49**", inclusive of sub-markings. Petitioner also moved for the admission of Exhibit "**P-20**"[68] despite being a photocopy on the ground that it could no longer retrieve the original thereof despite exercising diligent effort. On, 08 May 2024, respondent filed his or her "Comment/Opposition (To Petitioner's [FODE] dated 06 May 2024)"[69] (**Comment**) and interposed an objection to the admission of Exhibit "**P-20**" for being a photocopy. Likewise, respondent objected to the purposes for which the other exhibits were being offered.[70]

Thereafter, on 03 July 2024, petitioner filed a "Motion to Admit Documentary Evidence"[71] (**Motion to Admit**) and submitted a copy of Lease Agreement (Exhibit "**P-20**") which was certified by the notary public. It then prayed that the said document be admitted.

Without respondent's comment on the Motion to Admit,[72] in the Resolution of 15 November 2024, except for Exhibits "**P-29**" and "**P-33**",[73]

[64] See Exhibit "P-28", Judicial Affidavit of Independent Certified Public Accountant Madonna Mia S. Dayego, Division Docket, Volume III, pp. 1419-1433.
[65] TSN dated 17 April 2024, pp. 29-32.
[66] Id., p. 32.
[67] Filed on 06 May 2024, Division Docket, Volume IV, pp. 1439-1463.
[68] Offered as "Lease Agreement dated June 26, 2016".
[69] Division Docket, Volume V, pp. 1962-1965.
[70] Id.
[71] Id., pp. 1970-1974.
[72] See Records Verification dated 09 August 2024, id., p. 1989.
[73] Offered as "Comparison of Revenues per AITR against AFS and GL Account Classification of Revenues for the TY 2017" and "Validation of Schedule of Sales not Subjected to VAT, GL Account Classification of Revenues and JVs for the TY 2017", respectively.

the First Division admitted petitioner's offered exhibits. Further, it admitted Exhibit "**P-20**" in view of petitioner's submission of a certified copy thereof.[74]

For respondent's part, he or she presented RO Rodi and RO Arboleda as the witnesses.

On 21 January 2025, RO Rodi assumed the witness stand first. Testifying by way of his Judicial Affidavit,[75] he declared that: (1) he is among the authorized BIR officers named in the LOA[76] to investigate petitioner's books; (2) in the course of the audit, when BIR issued the NIC,[77] petitioner merely submitted its opinion on the proposed deficiency taxes without attaching any supporting document in its letter; (3) he submitted a Memorandum[78] recommending the issuance of the PAN;[79] and (4) upon the BIR's issuance of the FLD,[80] petitioner filed its Protest.

On cross-examination, RO Rodi confirmed that the basic deficiency taxes for IT, VAT, EWT and FWT are the same for both PAN and FAN. Moreover, while he agreed that the contents of the Details of Discrepancies for PAN and FAN are substantially the same, he averred that petitioner failed to submit the supporting documents for its arguments. When he was shown of the different letters which petitioner had filed with the BIR, such as the Request for Reinvestigation of the PAN[81] and the Protest,[82] RO Rodi said that he recognized the receiving stamp of RD Geraldino's office placed thereon. On the noted discrepancy in petitioner's income allegedly arising from HPI's purchases, RO Rodi explained that even if HPI did not reply to the Discrepancy Notice sent to it, HPI provided the BIR Forms No. 2307 which he assumed to be a sufficient basis to compare and countercheck petitioner's sales to HPI.[83]

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74 See Resolution dated 15 November 2024, Division Docket, Volume V, pp. 1995-1997.
75 See Exhibit "R-11", Judicial Affidavit of Mohammad Ali Rodi dated 01 December 2022, Division Docket, Volume I, pp. 443-453.
76 Supra at note 10.
77 Supra at note 14.
78 Exhibit "R-5", BIR Records, pp. 322-331.
79 Supra at note 17.
80 Supra at note 21.
81 Supra at note 20.
82 Supra at note 24.
83 TSN dated 21 January 2025, pp. 11-27.

No redirect examination was conducted.

For his part, RO Arboleda testified in his Judicial Affidavit[84] that he is the officer who handled petitioner's Protest by virtue of the second LOA.[85] While he considered petitioner's arguments and defenses in the Protest, the latter failed to submit the supporting documents relevant thereto. Thus, in the Memorandum,[86] he recommended the issuance of the FDDA against petitioner.

On cross-examination, RO Arboleda shared that he only participated in the reinvestigation of petitioner's audit. To apprise himself of the prior assessment, he reviewed the PAN and the FLD enclosed in the case docket that was forwarded to him. As to the alleged discrepancy in the petitioner's income, RO Arboleda maintained that petitioner failed to submit the supporting documents within the 60-day period from the grant of the reinvestigation.[87]

No redirect examination was conducted.[88]

After the presentation of the testimonial evidence, respondent filed his or her "Formal Offer of Evidence"[89] (**FOE**) offering Exhibits "**R-1**" to "**R-17**",[90] with sub-markings. The First Division, over petitioner's

84 See Exhibit "R-17", Judicial Affidavit of Rodjyl Joseph Arboleda dated 25 November 2022, Division Docket, Volume I, pp. 423-431.
85 Supra at note 29.
86 Exhibit "R-14" BIR Records, pp. 427-430.
87 TSN dated 21 January 2025, pp. 33-39.
88 Id., p. 40.
89 Filed on 23 January 2025, Division Docket, Volume V, pp. 2005-2010.
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Exhibit No.	Description
"R-1"	Letter of Authority dated 19 June 2019
"R-2"	Notice for Informal Conference dated 23 September 2019
"R-2-1"	Name and signature of then Revenue District Officer Editha A. Calipusan
"R-3"	Details of Discrepancies dated 23 September 2019
"R-4"	Letter dated 25 October 2019
"R-4-1"	Note
"R-5"	Memorandum
"R-6"	PAN dated 02 December 2019
"R-6-1"	Name and signature of then Regional Director Glen A. Geraldino
"R-7"	Details of Discrepancies dated 02 December 2019
"R-7-1"	Name and signature of then Regional Director Glen A. Geraldino
"R-8"	FAN dated 27 December 2019
"R-8-1"	Name and signature of then Regional Director Glen A. Geraldino

objections as to the purposes for which they were offered,[91] admitted the documents.[92] In the same resolution, the First Division directed the parties to file their respective memoranda.[93]

In compliance thereto, respondent filed his or her Memorandum[94] on 27 May 2025 through registered mail, while petitioner filed its Memorandum[95] on 05 June 2025. Subsequently, on 09 July 2025, the case was submitted for decision.[96]

ISSUE

The lone issue[97] forwarded for the Court's resolution is —

WHETHER PETITIONER HELIX RESOURCES AND DEVELOPMENT CORPORATION IS LIABLE TO PAY THE ASSESSED DEFICIENCY TAXES IN THE AGGREGATE AMOUNT OF ₱183,242,968.78, ALLEGEDLY REPRESENTING PETITIONER'S INCOME TAX,

"R-8-2"	Name and signature of Arianne Bono on Assessment Notice for Income Tax
"R-8-3"	Name and signature of Arianne Bono on Assessment Notice for Value Added Tax
"R-8-4"	Name and signature of Arianne Bono on Assessment Notice for Expanded Withholding Tax
"R-8-5"	Name and signature of Arianne Bono on Assessment Notice for Final Withholding Tax
"R-9"	Details of Discrepancies dated 27 December 2019
"R-9-1"	Name and signature of then Regional Director Glen A. Geraldino
"R-10"	Protest with Request for Reinvestigation dated 07 February 2020
"R-11"	Judicial Affidavit of Mohammad Ali Rodi
"R-11-1"	Signature of Mohammad Ali Rodi
"R-12"	LOA dated 21 October 2020
"R-13"	Letter with Subject Action on Protest Letter
"R-14"	Memorandum
"R-15"	FDDA dated 04 August 2022
"R-15-1"	Name and signature of Regional Director Jethro M. Sabariaga
"R-16"	Details of Discrepancies dated 04 August 2022
"R-16-1"	Name and signature of Regional Director Jethro M. Sabariaga
"R-17"	Judicial Affidavit of Rodjyl Joseph Arboelda
"R-17-1"	Signature of Rodjyl Joseph Arboelda

91 See "Comment/Opposition (Re: Respondent's Formal Offer of Evidence dated January 23, 2025)", Division Docket, Volume V, pp. 2013-2017.
92 See Resolution dated 25 April 2025, id., pp. 2028-2029.
93 Id.
94 Id., pp. 2030-2050.
95 Id., pp. 2053-2104.
96 See Minute Resolution dated 09 July 2025, id., p. 2106.
97 See Issue to be tried or resolved in the Amended Pre-Trial Order dated 20 October 2023, supra at note 50, p. 1265.

VALUE-ADDED TAX (VAT), EXPANDED WITHHOLDING TAX (EWT) AND FINAL WITHHOLDING TAX (FWT), INCLUSIVE OF SURCHARGES AND INTEREST FOR THE TAXABLE YEAR (TY) 2017.

ARGUMENTS

In praying for the cancellation of the tax assessments, petitioner mainly argues that its right to due process was violated since respondent did not consider its arguments and explanations raised in the Reply to the NIC, Request for Reinvestigation of the PAN and Protest against the FLD.

Petitioner adds that a simple comparison of the PAN, FLD and FDDA reveals that, except for the interests, the amount of basic deficiency taxes of IT, VAT, EWT and FWT are identical. Even the Details of Discrepancies attached to the FLD and FDDA show that they are a *verbatim* of the PAN's Details of Discrepancies. Moreover, petitioner claims that in a span of only ten (10) days (including the legal holidays) from the filing of the Request for Reinvestigation of the PAN on 17 December 2019, respondent had already issued the FLD on 27 December 2019, thus reinforcing its assertion that respondent indeed failed to consider its defenses.

As to its resubmission of documents, petitioner explains that it only did so since the BIR did not consider them in the first instance that they were presented to it. Faced with the same insufficient explanation for the deficiency tax assessments, petitioner stresses that it had no option but to re-submit the same pieces of evidence as it was not informed of the reason and basis for the denial of its arguments and defenses raised in the Reply to the NIC and Request for Reinvestigation of the PAN.

Citing *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[98] (**Avon**) where the Supreme Court determined that the FLD therein reiterated the audit findings in the PAN without addressing the taxpayer's defenses and documents, petitioner asserts that it was also deprived of due process since respondent similarly failed

[98] G.R. Nos. 201398-99 & 201418-19, 03 October 2018.

to address its arguments and documents. It maintains that respondent violated the mandate of Section 228[99] of the NIRC of 1997, as amended, which should result in the invalidation of the tax assessments against it.

Petitioner also argues that the LOA was improperly served considering that the person who received it was HPI's employee and not petitioner's. The recipient, Dagami, was never authorized to receive the LOA on its behalf. Thus, without the valid service of LOA unto it, the subsequent issuances of the NIC, PAN, FLD and FDDA are void and without effect.

Additionally, petitioner points out that the FLD and ANs bore no definite due date for the payment of taxes but only a request for petitioner to pay the taxes. Without a categorical demand to pay the alleged deficiency taxes, its duty to pay never arose and, thus, this should also support the cancellation of the FLD and ANs.

On the items of tax assessments, petitioner insists that these have no factual and legal bases for the following reasons: (1) the alleged undeclared income of ₱268,938,453.03 and undeclared sales of ₱316,317,162.66 were based on an unverified TPI; (2) respondent did not proffer any justifiable ground for the disallowance of the tax credits of ₱18,126,843.00 and the deduction of creditable input tax of ₱7,721,762.64; (3) it is not liable for the deficiency EWT since all income payments for TY 2017 were duly subjected to withholding taxes; and (4) it is not liable for FWT erroneously assessed on mining and concessions.

On the other hand, respondent counters that the assigned BIR personnel gave due considerations to petitioner's arguments and supporting documents contained in the responses against the tax notices. Respondent maintains that *Avon* is inapplicable since respondent therein did not consider everything that petitioner therein had submitted and raised. As against the factual *milieu* of this case, respondent had granted petitioner's Protest (by way of request for reinvestigation). However, despite being given an ample opportunity, petitioner failed to submit the documents in support of the said Protest.

[99] SEC. 228. *Protesting of Assessment.*

Respondent also contends that the FLD and ANs explicitly provide the due dates for the payment of the taxes, that is, 27 January 2020. Thus, petitioner's contention is baseless and unfounded.

Lastly, addressing petitioner's allegation that the tax assessments are without factual and legal bases, respondent declares the following: (1) the undeclared income of ₱268,938,453.03 is based on HPI's BIR Forms No. 2307, thus, is not an unverified TPI; (2) the tax credits of ₱18,126,843.00 were disallowed since these were already credited against the estimated quarterly IT; (3) the undeclared sales of ₱316,317,162.66 is based on HPI's BIR Forms No. 2550-Q submitted to the BIR, thus, is not unverified; and (4) petitioner failed to dispute the EWT and FWT deficiency assessments for lack of controverting evidence.

With the foregoing, respondent insists that the instant Petition for Review should be denied and that petitioner be required to pay the assessed deficiency tax liabilities.

RULING OF THE COURT

Before the Court can proceed to discuss the merit in the parties' arguments, it deems it proper to first determine whether it has jurisdiction over the instant petition.

THE COURT HAS JURISDICTION OVER
THE INSTANT PETITION.

The CTA, being a court of special jurisdiction, can only take cognizance of matters which are clearly within its jurisdiction.[100] In this connection, Section 11 of the Republic Act (**RA**) No. 1125,[101] as amended by RA 9282,[102] in relation to Section 3(a), Rule 8 of the RRCTA, provides for the proper period during which a party may bring an appeal before

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100 *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, 25 March 2019, citing *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, 22 October 2014.

101 AN ACT CREATING THE COURT OF TAX APPEALS.

102 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

the CTA in order to question the CIR's decision on a disputed assessment, to wit –

> ...
>
> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — **Any party adversely affected by a decision, ruling** or inaction **of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **may file an appeal with the CTA <u>within thirty (30) days</u> after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.**
>
> ...
>
> SEC. 3. *Who may appeal; period to file petition.* —
>
> (a) **A party adversely affected by a decision, ruling** or the inaction **of the Commissioner of Internal Revenue on disputed assessments** or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction **may appeal to the Court by petition for review filed <u>within thirty days</u> after receipt of a copy of such decision or ruling,** or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.[103]
>
> ...

Accordingly, in case of the CIR's adverse decision or ruling, the taxpayer is given thirty (30) days to file a Petition for Review with the CTA. Here, through the parties' admission and as adopted in the Pre-Trial Order and Amended Pre-Trial Order, petitioner received the FDDA on 16 August 2022.[104] Counting 30 days therefrom, petitioner had until 15 September 2022 to file an appeal before this Court. As petitioner filed the instant Petition for Review on 15 September 2022,[105] the same

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[103] Italics in the original text, emphasis and underscoring supplied.
[104] Supra at note 32.
[105] Supra at note 1.

has been timely filed and the Court has successfully acquired jurisdiction over the case.

Proceeding to the merits of the case, We shall first tackle petitioner's main argument, that is, whether respondent violated its right to due process?

A thorough examination of the parties' conflicting positions, the admitted evidence and the public documents available on record reveals that there is indeed, an evident violation of petitioner's right to due process. The reasons for such conclusion are essayed below.

THE TAX ASSESSMENTS ARE VOID FOR HAVING BEEN ISSUED IN VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS.

Section 228 of the NIRC of 1997, as amended, as implemented by Revenue Regulations (**RR**) No. 12-99,[106] and as amended by RR No. 18-2013,[107] outlines the due process requirements for the issuance of deficiency tax assessments.

Section 228 of the NIRC of 1997, as amended, states:

> ...
>
> SEC. 228. *Protesting of Assessment*. - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings[.] ...
>
> ...
>
> **The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.**
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice.

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106 Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

107 Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

> If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.[108]
>
> ...

On the other hand, relevant portions of Section 3 of RR No. 12-99, as amended by RR No. 18-2013, state:

> ...
> SEC. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —
>
> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
>
> 3.1.1 *Preliminary Assessment Notice (PAN).* — If after review and evaluation by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer a Preliminary Assessment Notice (PAN) for the proposed assessment. **It shall show in detail, the facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based** (see illustration in ANNEX "A" hereof).
>
> If the taxpayer fails to respond within fifteen (15) days from date of receipt of the PAN, he shall be considered in default, in which case, a Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.
>
> **If the taxpayer, within fifteen (15) days from date of receipt of the PAN, responds that he/it disagrees with the findings of deficiency tax or taxes, an FLD/FAN shall be issued within fifteen (15) days from filing/submission of the taxpayer's response, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.**
>
> ...
>
> 3.1.3 *Formal Letter of Demand and Final Assessment Notice (FLD/FAN).*— The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued by the Commissioner or his duly authorized representative. **The FLD/FAN calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the**

108 Emphasis supplied and italics in the original text.

> **law, rules and regulations, or jurisprudence on which the assessment is based; otherwise, the assessment shall be void** (see illustration in ANNEX "B" hereof).[109]
>
> ...

In the landmark case of *Avon*,[110] citing *Ang Tibay, represented by Toribio Teodoro, manager and proprietor, and National Workers' Brotherhood v. The Court of Industrial Relations and National Labor Union, Inc.*,[111] the Supreme Court emphasized the CIR's duty to: (1) inform the taxpayer of the legal and factual bases of the assessment; (2) consider the taxpayer's explanations or defenses regarding the assessment; and (3) provide reasons for rejecting such explanations or defenses. Failure to comply with these requirements renders the assessment void, *viz*:

> ...
> The facts demonstrate that Avon was deprived of due process. It was not fully apprised of the legal and factual bases of the assessments issued against it. The Details of Discrepancy attached to the Preliminary Assessment Notice, as well as the Formal Letter of Demand with the Final Assessment Notices, did not even comment or address the defenses and documents submitted by Avon. **Thus, Avon was left unaware on how the Commissioner or her authorized representatives appreciated the explanations or defenses raised in connection with the assessments.** There was clear inaction of the Commissioner at every stage of the proceedings.
>
> ...
>
> Upon receipt of the Preliminary Assessment Notice, Avon submitted its protest letter and supporting documents, and even met with revenue examiners to explain. Nonetheless, the Bureau of Internal Revenue issued the Final Letter of Demand and Final Assessment Notices, merely reiterating the assessments in the Preliminary Assessment Notice. There was no comment whatsoever on the matters raised by Avon, or discussion of the Bureau of Internal Revenue's findings in a manner that Avon may know the various issues involved and the reasons for the assessments.
>
> ...
>
> **The Notice of Informal Conference and the Preliminary Assessment Notice are a part of due process. They give both the taxpayer and the Commissioner the opportunity to settle the**

109 Emphasis supplied and italics in the original text.
110 Supra at note 98.
111 G.R. No. 46496, 27 February 1940.

> **case at the earliest possible time without the need for the issuance of a Final Assessment Notice.** However, this purpose is not served in this case because of the Bureau of Internal Revenue's inaction or failure to consider Avon's explanations.
>
> ...
>
> Indeed, the Commissioner's inaction and omission to give due consideration to the arguments and evidence submitted before her by Avon are deplorable transgressions of Avon's right to due process. **The right to be heard, which includes the right to present evidence, is meaningless if the Commissioner can simply ignore the evidence without reason.**
>
> ...
>
> In this case, Avon was able to amply demonstrate the Commissioner's disregard of the due process standards raised in *Ang Tibay* and subsequent cases, and of the Commissioner's own rules of procedure. **Her disregard of the standards and rules renders the deficiency tax assessments null and void.**[112]
>
> ...

Verily, in *Commissioner of Internal Revenue v. Yumex Philippines Corporation,*[113] the Supreme Court reaffirmed *Avon* and emphasized the importance of observing procedural due process:

> ...
>
> In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (*Avon case*), the Court enjoined strict observance by the BIR of the prescribed procedure for issuance of the assessment notices with due regard for the taxpayers' constitutional rights. It is mandatory that the BIR not only inform the taxpayer through the PAN, FLD, and FAN of the facts, law and regulations, and jurisprudence on which the assessment against it is based, but it must also accord the taxpayer the opportunity to be heard through the entire process, *i.e.*, from tax investigation until tax assessment.
>
> ...

The dates when the tax notices were issued and the dates when petitioner filed the corresponding responses thereto are summarized below:

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112 Citations omitted and emphasis supplied.

113 G.R. No. 222476, 05 May 2021 citing G.R. Nos. 201398-99 & 201418-19; Citation omitted and italics in the original text.

Date	Description of Document
23 September 2019	Respondent issued the NIC[114] and Details of Discrepancies[115] which petitioner received on 24 September 2019.
27 October 2019	Petitioner filed its Reply to the NIC[116] dated 25 October 2019.
02 December 2019	**Respondent issued the PAN[117] and the Details of Discrepancies[118] which petitioner received on 06 December 2019.**
17 December 2019	**Petitioner filed its Request for Reinvestigation of the PAN.[119]**
27 December 2019	**Respondent issued the FLD[120], Details of Discrepancies[121] and ANs[122] which petitioner received on 08 January 2020.**
07 February 2020	Petitioner filed its Protest against the FLD.[123]
05 March 2020	Respondent granted petitioner's prayer of reinvestigation as contained in the Protest against the FLD.[124]
25 June 2020	Petitioner submitted the supporting documents for its Protest, which RO Rodi received.[125]
04 August 2022	Respondent issued the FDDA[126] and Details of Discrepancies,[127] which petitioner (through the parties' admission) received on 16 August 2022.

The controversy lies in the PAN and the FLD. A simple side-by-side comparison of both reveals that, except for the computation of the interests, the latter merely reiterates the items of the tax assessments set forth in the former. Even the FLD's Details of the Discrepancies is a *verbatim* reproduction of the PAN's Details of Discrepancies. Significantly, this observation is further confirmed by respondent's own

114 Supra at note 14.
115 Supra at note 15.
116 Supra at note 16.
117 Supra at note 17.
118 Supra at note 18.
119 Supra at note 20.
120 Supra at note 21.
121 Supra at note 22.
122 Supra at note 23.
123 Supra at note 24.
124 Supra at note 25.
125 Supra at note 27.
126 Supra at note 30
127 Supra at note 31.

witness, RO Rodi, who admitted that the FLD substantially reproduced the contents of the PAN. His cross-examination tells[128] –

> ...
> ATTY. GREFIEL:
> Q. So, in page 1 of the PAN, is it correct that the amount of the alleged basic income tax due stated therein is the same amount of the alleged basic income tax stated in page 1 of the FAN?
>
> MR. RODI:
> A. For the basic tax, yes.
>
> ATTY. GREFIEL:
> Q. And in page 1 of the PAN, is it also correct that the deficiency VAT is same as that stated in page 2 of the [AN] and page 1 of the FLD?
>
> MR. RODI:
> A. Yes, for [the] basic tax.
>
> ATTY. GREFIEL:
> Q. In page 2 of the PAN, is the alleged basic expanded withholding tax[,] the same as the amount provided in page 3 of the [AN] and page 2 of the FLD?
>
> MR. RODI:
> A. For [the] basic tax, yes.
>
> ATTY. GREFIEL:
> Q. And in page 2 of the PAN, is the alleged basic final withholding tax[,] the same as the amount provided in page 4 of the [AN] and in page 2 of the FLD?
>
> MR. RODI:
> A. Yes, for [the] basic tax due.
>
> ATTY. GREFIEL:
> Q. So, Mr. Witness, do you confirm that except for the interest the FAN and the FLD merely reiterated the findings in the PAN?
>
> MR. RODI:
> A. Yes.
> ...

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[128] TSN dated 21 January 2025, pp. 12-15; Emphasis supplied.

ATTY. GREFIEL:
Q. Is it correct that the Details of Discrepancy attached in the [AN] is a repetition of the Details of Discrepancy attached in the PAN?

MR. RODI:
A. Yes.

ATTY. GREFIEL:
Q. **So, Mr. Witness, is it correct that in issuing the [AN] or the FLD, the BIR did not consider the defenses and supporting documents of the petitioner?**

MR. RODI:
A. **Yes, but I mentioned in the letter of the taxpayer that no document was submitted.**

...

Notably, the FLD is devoid of any reference to petitioner's Request for Reinvestigation of the PAN. While it did not escape Our attention that respondent's witnesses made no mention of petitioner's supposed response to the PAN, the records of the case show otherwise. The case docket carries the Request for Reinvestigation of the PAN dated 02 December 2019,[129] which petitioner filed with respondent on 17 December 2019, as shown by the receiving stamp of RD Geraldino's office.

Further, during cross-examination, RO Rodi acknowledged and recognized the receiving stamp of the RD's office appearing on the Request for Reinvestigation of the PAN, *viz* –

...
ATTY. GREFIEL:

Mr. Witness, I am showing you the transmittal receipt dated December 17, 2019 for the Request for Reinvestigation of the PAN dated December 2, 2019 which was duly stamped and received by the BIR on December 17, 2019.

Q. Mr. Witness, do you recognize the stamp of the BIR?

129 Supra at note 20.

MR. RODI:

A. The stamp is from [the] Office of the Director.[130]

...

Relevant thereto, citing Revenue Memorandum Circular (**RMC**) No. 39-2013,[131] RMC No. 11-2014[132] requires an aggrieved taxpayer to file his or her response to the PAN and/or protest with the CIR's duly authorized representative who signed the PAN and/or FLD. The relevant parts provide –

> ...
>
> (1) RR 12-99, as amended by RR 18-2013, provides that the Commissioner or his duly authorized representative shall issue the Preliminary Assessment Notice (PAN), Formal Letter of Demand/Final Assessment Notice (FLD/FAN) and Final Decision on Disputed Assessment (FDDA). **The term "duly authorized representative" therein refers to Revenue Regional Directors**, Assistant Commissioner-Large Taxpayers Service, and Assistant Commissioner-Enforcement and Advocacy Service.
>
> Accordingly, pursuant to Revenue Memorandum Circular No. 39-2013, **taxpayers shall submit/file their responses to the PAN and protests (requests for reconsideration/ reinvestigation) to the FLD/FAN with the duly authorized representative of the Commissioner who signed the PAN and FLD/FAN.**[133]
>
> ...

Here, the PAN was issued and signed by RD Geraldino. Consequently, petitioner filed its Request for Reinvestigation of the PAN with RD Geraldino's office, as evidenced by the receiving stamp of his office. Thus, there can be no dispute that petitioner duly responded to the PAN and availed itself of the opportunity to contest the findings stated therein.

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130 TSN dated 21 January 2025, pp. 17-18; Emphasis supplied.

131 Receipt of Protest Letter on Final Assessment Notices and Final Decision on Disputed Assessments.

132 Clarifying Certain Issues Relative to Due Process Requirement in the Issuance of a Deficiency Tax Assessment Pursuant to Revenue Regulations (RR) 12-99, as Amended by RR 18-2013.

133 Emphasis supplied.

Applying *Avon*, it was incumbent upon respondent to consider petitioner's response. However, as petitioner correctly observed, on 27 December 2019, or merely ten (10) calendar days after its receipt of the Request for Reinvestigation of the PAN, respondent already issued the FLD, ANs and Details of Discrepancies.[134]

Conspicuously, nothing in the FLD indicates that petitioner's Request for Reinvestigation was considered, much less evaluated. On the contrary, both the PAN and the FLD (and their Details of Discrepancies) reveal that the latter substantially reproduces the former, with no meaningful discussion of petitioner's objections. Further, it is observed that while RO Rodi declared that the FLD is a reproduction of the PAN due to petitioner's alleged failure to submit supporting documents, such fact was not made known in the FLD. These circumstances cast serious doubt on whether respondent genuinely considered petitioner's response prior to issuing the FLD, as part of the due process requirement in Section 228[135] of the NIRC of 1997, as amended.

As thoroughly discussed in *Avon*, it is an indispensable requirement of due process not only to consider the taxpayer's explanations, but more importantly, to inform the taxpayer of the reasons for rejecting its explanations or defenses.

Similarly, in *Mannasoft Technology Corporation v. Commissioner of Internal Revenue*,[136] the Supreme Court ruled that a defect in complying with the due process requirement in sending the Final Assessment Notice (**FAN**) is not cured by the fact that the taxpayer is able to file a protest thereto. The Supreme Court adheres to the strict observance of the requirements to uphold the taxpayer's right to due process. The relevant parts of the decision declare –

> ...
> Notably, this defect in complying with the requirements of due process was not cured by the fact that the taxpayer was able to file a protest to the FAN. This Court has repeatedly enjoined strict observance by the BIR of the prescribed procedure for issuance of the

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134 Supra at notes 21, 22 and 23.
135 Supra at note 99.
136 G.R. No. 244202, 10 July 2023; Citations omitted.

assessment notices in order to uphold the taxpayers' constitutional rights.

...

By analogy, in this case, respondent's failure to consider the arguments in the petitioner's Request for Reinvestigation of the PAN prior to issuing the FLD is not cured by the fact that respondent appears to have addressed the arguments raised in petitioner's Protest when it issued the FDDA.[137] Simply put, a decision on the disputed assessment is different from the assessment itself.[138] The Court is, thus, constrained to declare the tax assessments void due to respondent's failure to comply with such requirement which, ultimately, translated in a violation of petitioner's right to due process.

Well-settled is the rule that an assessment that fails to strictly comply with the due process requirements set forth in Section 228[139] of the NIRC of 1997, as amended and RR No. 12-99,[140] as amended by RR No. 18-2013,[141] is void and produces no effect.[142] Consequently, given that the tax assessments contained in FLD and ANs are void *per se*, the resulting FDDA becomes invalid and without effect.

With the foregoing, the Court finds it unnecessary to resolve the other issues raised by the parties as they could no longer change the outcome of the case.

WHEREFORE, the foregoing premises considered, the present Petition for Review filed by petitioner Helix Resources and Development Corporation (formerly "Holcim Resources and Development Corporation") on 15 September 2022 is hereby **GRANTED**. Accordingly, respondent Commissioner of Internal Revenue's Formal Letter of Demand dated 27 December 2019 is declared **VOID** and henceforth **CANCELLED**. Consequently, the Final Decision and Disputed Assessment dated 04 August 2022 covering the assessed deficiency tax liabilities against petitioner for the taxable year 2017, in

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137 Supra at note 30.

138 See *Commissioner of Internal Revenue v. Liquigaz Philippines Corporation*, G.R. No. 215534 & 215557, 18 April 2016.

139 Supra at note 99.

140 Supra at note 106.

141 Supra at note 107.

142 See *Mannasoft Technology Corporation v. Commissioner of Internal Revenue*, supra at note 136.

the aggregate amount of ₱183,242,968.78, is also **CANCELLED** and **SET ASIDE.**

Respondent Commissioner of Internal Revenue or any person duly acting on his behalf is hereby **ENJOINED** and **PROHIBITED** from collecting the said amount against petitioner.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

ATTESTATION

I attest 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's Division.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 1st Division Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special 1st Division Acting Chairperson's Attestation, 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's Division.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice