REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

GLEND AGNES LLANTADA (SERVIPLUS MEDICAL EQUIPMENT SERVICES & SUPPLY),

Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

CTA CASE NO. 10468

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

JAN 0 8 2025 9:20 AM

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RESOLUTION

RINGPIS-LIBAN, J.:

Submitted before this Court is respondent's **Motion for Reconsideration (Re: Decision dated 26 July 2024)** filed on August 21, 2024, with petitioner's **Comment (Re: Respondent's Motion for Reconsideration dated 21 August 2024)** filed through an accredited courier on September 23, 2024 and received by the Court on September 24, 2024.

On July 26, 2024, the Court promulgated a Decision cancelling respondent's Warrant of Distraint and/or Levy (WDL) dated January 19, 2021 against petitioner for violating the latter's right to administrative due process of law, the dispositive portion of which reads as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**. Accordingly, the WDL No. RR7A-01-08-2021-0009 dated January 19, 2021 issued against petitioner is **CANCELLED** and **SET ASIDE**.
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> Moreover, while the LOA with SN: eLA201500079628 / LOA-028-2018-00000120 dated April 25, 2018 is valid, the FLD *(Parts I and*

II), with *Details of Discrepancy*, all dated June 17, 2019, is likewise **CANCELLED** and **SET ASIDE**, for being void.

SO ORDERED."

In his Motion, respondent raises the lone argument that petitioner's right to due process of law was not violated since it was afforded due opportunity to respond and assail the deficiency income tax and value-added tax (VAT) assessments in the aggregate amount of ₱4,336,365.82 for taxable period January 1, 2015 to July 19, 2016.

Respondent points out that not addressing any of the arguments raised by petitioner in its *Reply to the Preliminary Assessment Notice* dated June 4, 2019 does not automatically mean that he disregarded petitioner's right to administrative due process. Respondent expounds that he simply did not agree with and, concomitantly, consider petitioner's arguments in issuing the *Formal Letter of Demand and Final Assessment Notices* (FLD/FAN) on June 17, 2019. In any case, respondent maintains that the *Preliminary Assessment Notice* (PAN) as well as the FLD/FAN clearly and distinctly stated the facts, laws, and rules and regulations upon which the assessments were based.

Moreover, respondent asserts that when petitioner received the FLD/FAN, it was able to timely file a *Protest Letter* dated July 15, 2019 thereto and was in fact given due course by respondent. This eventually led in the issuance of the *Final Decision on Disputed Assessment* (FDDA) dated December 17, 2019 which effectively reduced the deficiency taxes of petitioner from ₱7,665,672.50 to ₱4,342,320.67. Hence, respondent contends that petitioner was never deprived of its right to due process and was actually afforded all possible opportunity to assail the deficiency assessments issued against it.

Lastly, respondent cites the Court of Tax Appeals (CTA) *En Banc* case of *Commissioner of Internal Revenue v. Ajinomoto Philippines Corporation (CTA EB Nos. 1010 and 1015, May 26, 2015)*, wherein the Court *En Banc* ruled that "xxx there is no violation of the cardinal principle in administrative investigations — that taxpayers should be able to present their case and adduce supporting evidenced. While the FAN was issued before the period to response to PAN has expired, Ajinomoto nevertheless received the PAN and FAN, was informed of the factual and legal bases of the assessments, and was able to intelligently response to the PAN and FAN in a Letter dated December 23, 2008."

On the other hand, in its Comment, petitioner asserts that respondent neither raised any significant or new arguments nor presented controverting evidence, other than the reiteration that he did not violate petitioner's right to due process of law. As such, petitioner claims that the present Motion for Reconsideration is not impressed with merit.

Petitioner cites the case of *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc., et seq.,*[1] when the Supreme Court clarified that administrative due process is violated when a taxpayer: "xxx 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 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. xxx The Commissioner's total disregard of due process rendered the identical Preliminary Assessment Notice, Final Assessment Notices, and Collection Letter null and void, and of no force and effect."

Applying the foregoing, petitioner reiterates that respondent violated its right to due process of law since respondent was unable to give any reason and particular facts upon which his conclusions were based. Petitioner further points out that even in the instant Motion for Reconsideration, respondent was unable to provide any acceptable explanation on why the amounts stated in the basic tax assessments both in the PAN and FLD/FAN were identical. Petitioner continues that the *pro forma* response contained in the FLD reiterating the amounts of assessment for income tax and VAT without stating the factual and legal bases for the assessment and without addressing the arguments raised by petitioner in his *Reply to PAN,* constitute a violation of its right to due process of law.

With regard to the CTA *En Banc* Case cited by respondent, which considered that the taxpayer therein was informed of the factual and legal bases of the assessments since it was able to intelligently respond to the PAN and FLD, petitioner submits that that while the cited CTA *En Banc* case has persuasive authority, it is only decisions of the Supreme Court establish jurisprudence and are binding on all courts pursuant to Article 8 of the New Civil Code of the Philippines. As such, petitioner contends that it is not enough that the taxpayer was able to intelligently respond to the PAN and protest the FLD. Violation of due process is still present when there is failure on the part of respondent to give some reason for rejecting the taxpayer's explanations and he must give the particular facts upon which his conclusion is based and those facts must appear in the record.

After due consideration, the Court finds respondent's Motion for Reconsideration bereft of merit.

It must be emphasized that the Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is; it is the final arbiter of any justiciable controversy. There is only one Supreme Court from

[1] G.R. Nos. 201398-99, October 03, 2018.

whose decisions all other courts should take their bearings.[2] Incidentally, the Supreme Court has already clearly declared in the *Avon* case that when respondent rejects the taxpayer's explanations, he must give some reason for doing so and the particular facts and law upon which his conclusion are based, to wit:

> "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 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.
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> x x x
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> It is true that the Commissioner is not obliged to accept the taxpayer's explanations, as explained by the Court of Tax Appeals. **However, when he or she rejects these explanations, he or she must give some reason for doing so. He or she must give the particular facts upon which his or her conclusion are based, and those facts must appear in the record.**
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> x x x
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> **The Commissioner's total disregard of due process rendered the identical Preliminary Assessment Notice, Final Assessment Notices,** and Collection Letter **null and void, and of no force and effect.**" *(Emphases and underscoring supplied)*

Herein, while the *aggregate* amount of taxes being assessed increased from the PAN dated May 17, 2019 to the FLD dated June 17, 2019, a comparison of the figures stated in the PAN vis-à-vis the figures in the FLD, easily reveal that the respective amounts of basic taxes, twenty percent (20%) interest, and compromise penalty remain unchanged –it was only the twelve percent (12%) interest being imposed that was adjusted. In fact, the *Details of Discrepancies* attached to the said FLD merely reiterated in verbatim those in the *Details of Discrepancies* attached to the PAN. In addition, not addressing any of the refutations made by petitioner in his *Reply to Preliminary Assessment Notice (PAN)* is a clear indication that respondent did not consider the same when it issued the subject FLD.

As to CTA *En Banc* Case cited by respondent, the facts and issues in the said case is not on all fours with the present case. A reading of the said case shows that the issue therein is the Bureau of Internal Revenue (BIR)'s issuance

[2] *Commissioner of Internal Revenue v. Michel J. Lhuillier Pawnshop, Inc.*, G.R. No. 150947, July 15, 2003.

of the FAN before the expiration of the period within which the taxpayer may respond to the PAN. Furthermore, suffice it to state that CTA decisions do not constitute precedents. That is why CTA decisions are appealable to the Supreme Court, which may affirm, reverse, or modify said decisions as the facts and the law may warrant. Only decisions of the Supreme Court constitute binding precedents, forming part of the Philippine legal system.[3]

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by respondent in his Motion for Reconsideration, the Court finds no compelling reason to reverse or modify the Decision promulgated on July 26, 2024.

WHEREFORE, premises considered, respondent's Motion for Reconsideration (Re: Decision dated 26 July 2024) is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

(On Leave)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

[3] *Commissioner of Internal Revenue v. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196113 and 197156, February 12, 2013.