REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

OZAMIZ CITY as represented by MAYOR SANCHO FERNANDO F. OAMINAL, *Petitioner,*	**CTA CASE NO. 10828**
	Members:
- *versus* -	**REYES-FAJARDO,** *Chairperson, and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUN 18 2026 3:58 p.m.

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DECISION

ANGELES, J.:

Before this Court is a *Petition for Review*[1] filed by petitioner Ozamiz City, as represented by Mayor Sancho Fernando F. Oaminal, through registered mail on November 29, 2021, assailing the validity of the assessments[2] issued by respondent against petitioner for the latter's alleged deficiency income tax and compromise penalty for taxable year (TY) 2017, in the aggregate amount of ₱2,430,483.56, inclusive of surcharge and interest.

THE PARTIES

Petitioner is the Local Government Unit (LGU) of Ozamiz (Ozamiz City), with address at Ozamiz City Hall Building, Don Anselmo Bernad Avenue, Aguada, Ozamiz City, Misamis Occidental. It must be served with court processes and pleadings through the Ozamiz City's legal counsel at the City Legal Office, City Hall Building of the same address.[3]

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[1] Docket – Vol. 1, pp. 12 to 34.
[2] Exhibit "P-6;" Exhibits "R-7," "R-8," and "R-8-A."
[3] Docket – Vol. I, *Pre-Trial Order*, Stipulation of Facts, p. 442, par. 1.

Respondent is the duly appointed Commissioner of Internal Revenue [CIR], vested with authority and powers under his office including *inter alia* the power to conduct investigation of the internal revenue taxes paid by taxpayers, issues deficiency income tax assessments[,] and decide on any disputed internal revenue tax assessments. He must be served with summons, notices, and other processes of this Court at the Bureau of Internal Revenue (BIR), Revenue Region No. 8A, Legal Division, 36th Floor Exportbank Plaza, Chino Roces Avenue corner Sen. Gil Puyat Avenue, Makati City.[4]

THE FACTS

On March 01, 2019, respondent issued a Letter of Authority (LOA),[5] authorizing Revenue Officer (RO) John Will Tan and Group Supervisor (GS) Al Philip Agad to examine petitioner's books of accounts and other accounting records covering the period from January 01 to December 31, 2017.

Pursuant thereto, respondent issued a Notice of Informal Conference (NIC) dated August 13, 2019,[6] which was subsequently followed by an Amended NIC dated September 26, 2019.[7]

Thereafter, on September 29, 2020, respondent issued a Preliminary Assessment Notice (PAN),[8] proposing the assessment of deficiency taxes against petitioner for TY 2017 in the total amount of ₱2,399,296.71, inclusive of surcharge, interest, and penalties. In response, petitioner filed its Reply to PAN[9] on November 13, 2020.

Despite petitioner's explanations, respondent proceeded to issue on November 24, 2020 a Formal Letter of Demand and Final Assessment Notices (FLD/FANs),[10] assessing petitioner for alleged deficiency taxes and compromise penalty in the aggregate amount of ₱2,430,483.56.

Aggrieved, petitioner filed its Protest by way of a Request for Reconsideration dated January 21, 2021,[11] assailing the validity and propriety of the assessments.

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4 *Id.* at par. 2.
5 Exhibit "P-2;" Exhibit "R-1."
6 Exhibit "P-3."
7 Exhibit "R-5."
8 Exhibit "P-4;" Exhibit "R-6."
9 Exhibit "P-5."
10 Exhibit "P-6;" Exhibits "R-7," "R-8," and "R-8-A."
11 Exhibit "P-7."

Subsequently, on October 28, 2021, petitioner received a Letter dated October 19, 2021[12] from Revenue Region No. 16 Regional Director Esmeralda M. Tabule. Uncertain as to the nature and import of said communication, petitioner allegedly wrote the BIR on November 08, 2021, seeking clarification on whether the same constituted a Preliminary Collection Letter.

No response having been received from the BIR within thirty (30) days from petitioner's receipt of the October 19, 2021 letter,[13] petitioner deemed it necessary to elevate the matter to the Court of Tax Appeals (CTA) through the instant *Petition for Review*[14] on November 29, 2021.

Thereafter, respondent, through Regional Director Emir U. Abutazil, issued a Letter dated December 27, 2021,[15] expressly clarifying that the BIR was sustaining the denial of petitioner's Request for Reconsideration, as earlier conveyed in the Letter dated October 19, 2021.[16]

PROCEEDINGS BEFORE THIS COURT

On November 29, 2021, petitioner commenced the instant *Petition for Review*[17] by registered mail, the hard copies of which were received by the Court on April 04, 2022. Petitioner seeks the cancellation of the assessments issued by respondent in the aggregate amount of ₱2,430,483.56. It likewise prays that respondent be enjoined from collecting income and withholding taxes from petitioner in its capacity as an LGU.[18]

Upon initial evaluation of the *Petition*,[19] the Court, on April 13, 2022, issued a letter[20] directing petitioner's counsel to settle the deficiency in the payment of the prescribed docket fees in the amount of ₱56.00 within three (3) days from receipt thereof. Petitioner complied therewith on May 02, 2022 by submitting a photocopy of the official receipt[21] evidencing payment of the corresponding deficiency in docket fees.

[12] Exhibit "P-1;" Exhibit "R-10."
[13] *Ibid.*
[14] Docket – Vol. I, pp. 12 to 34.
[15] Exhibit "P-1-A."
[16] Exhibit "P-1;" Exhibit "R-10."
[17] Docket – Vol. I, pp. 12 to 34.
[18] *Id.* at 33.
[19] *Id.* at 12 to 34.
[20] *Id.* at 156.
[21] *Id.* at 161.

While said payment was noted in the Court's Resolution dated May 13, 2022,[22] petitioner was further directed to submit: *(1)* the names of its intended witnesses, together with summaries of their respective testimonies and corresponding judicial affidavits; *(2)* a list of documentary exhibits intended to be presented; and *(3)* proof of authority authorizing its counsel to execute the Verification and Certification against Forum Shopping on petitioner's behalf, in accordance with Sections 5 and 6, Rule 7 of the Revised Rules of Court.

Petitioner complied on June 06, 2022, and such *Compliance*[23] was subsequently noted by the Court in its Resolution dated June 24, 2022.[24]

Thereafter, on June 29, 2022, the Court issued summons,[25] directing respondent to file an Answer within thirty (30) days from receipt thereof. Petitioner was informed, on July 27, 2022 that the summons had been duly served upon respondent.[26]

On July 28, 2022, respondent moved[27] for an extension of time within which to file his Answer. Finding the motion meritorious, the Court, in its Resolution dated August 04, 2022,[28] granted the requested extension and afforded respondent until August 29, 2022 within which to submit his responsive pleading. In the same Resolution, the Court likewise directed respondent to certify and elevate, within ten (10) days from filing of his Answer, the complete BIR records pertinent to the present case.

Respondent filed his *Answer*[29] and *Offer of Testimony of Revenue Officer Ryan Joe [sic] Labares*[30] *(with Attached Judicial Affidavit of Revenue Officer Ryan Joe Labares)*[31] on August 30 and September 07, 2022, respectively.

In its Resolution dated September 13, 2022,[32] the Court noted respondent's *Answer*[33] and referred the case to mediation.

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[22] *Id.* at 163 to 166.
[23] *Id.* at 167 to 172.
[24] *Id.* at 263.
[25] *Id.* at 264.
[26] *Id.* at 266.
[27] *Id.* at 267 to 270.
[28] *Id.* at 273.
[29] *Id.* at 274 to 286.
[30] *Id.* at 288 to 290.
[31] *Id.* at 292 to 299.
[32] *Id.* at 302.
[33] *Id.* at 274 to 286.

On September 14, 2022, respondent likewise elevated the complete BIR records[34] to the Court pursuant to its directive. Such compliance was duly noted in the Court's Minute Resolution dated September 19, 2022.[35]

Meanwhile, petitioner posted a *Motion to Suspend Warrant of Distraint and/or Levy dated 21 July 2022 with Prayer for Issuance of Injunctive Relief*[36] on September 05, 2022. Acting thereon, the Court, in its Resolution dated October 19, 2022,[37] directed respondent to file his comment within five (5) days from notice, and set the *Motion*[38] for hearing on November 15, 2022. The hearing was subsequently reset to November 29, 2022.[39]

On October 25, 2022, respondent filed his *Comment/Opposition (Re: Petitioner's Motion to Suspend Warrant of Distraint and/or Levy dated 21 July 2022 with Prayer for Issuance of Injunctive Relief).*[40]

Thereafter, on November 17, 2022, the Court was informed by the mediation staff that the parties had executed the Agreement to Mediate Form and were scheduled to appear for a mediation conference on November 18, 2022 before retired Justice Amelia R. Cotangco-Manalastas (Mediator Cotangco-Manalastas), who had been designated as Mediator.[41] The Court subsequently noted the same in its Minute Resolution dated November 28, 2022.[42]

On November 28, 2022, petitioner filed, both by registered and electronic mail, a *Motion for Hearing via Videoconferencing*,[43] the hard copy of which was received by the Court on December 15, 2022.[44]

In its Order dated November 29, 2022,[45] the Court denied petitioner's *Motion to Suspend Warrant of Distraint and/or Levy with Prayer for the Issuance of Injunctive Relief*,[46] holding that petitioner had effectively waived its right to present evidence thereon for failure to appear at the scheduled hearing,[47] and to substantiate its

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[34] *Id.* at 303 to 305.
[35] *Id.* at 307.
[36] *Id.* at 309 to 320.
[37] *Id.* at 326 to 327.
[38] *Id.* at 309 to 320.
[39] *Id.* at 343.
[40] *Id.* at 328 to 341.
[41] *Id.* at 346.
[42] *Id.*, unpaginated.
[43] *Id.* at 351 to 352.
[44] *Id.* at 354 to 355.
[45] *Id.*, unpaginated.
[46] *Id.* at 309 to 320.
[47] *Id.*, unpaginated.

motion. In the same Order, the Court likewise denied petitioner's *Motion for Hearing via Videoconferencing*,[48] considering that it was filed only a day before the scheduled hearing.

Subsequently, on December 15, 2022, Mediator Cotangco-Manalastas requested an extension of the mediation period until January 17, 2023 to afford the parties additional opportunity to explore an amicable settlement.[49] Finding the request justified, the Court granted the same in its Resolution dated January 09, 2023.[50]

In its Resolution dated February 13, 2023,[51] the Court set the case for a pre-trial conference on April 27, 2023, after taking note of the Records Verification Report dated February 01, 2023,[52] which indicated that the parties failed to apprise the Court of the status of any prospective compromise agreement, and considering further that the period allotted for mediation had already lapsed.

Pursuant thereto, the Court issued a *Notice of Pre-Trial Conference*[53] on February 15, 2023, directing the parties to file their respective pre-trial briefs.

Thereafter, on February 22, 2023, Mediator Cotangco-Manalastas submitted a Mediator's Report dated February 21, 2023, informing the Court that the mediation proceedings had terminated without a settlement between the parties.[54] The Court noted the report in its Resolution dated March 07, 2023.[55]

In compliance with the Court's directive, respondent filed his Pre-Trial Brief[56] on April 19, 2023. Petitioner also posted and electronically filed its *Pre-Trial Brief*[57] on April 24 and 25, 2023, respectively, the hard copies of which were received by the Court on May 05, 2023.

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[48] *Id.* at 351 to 352.
[49] *Id.* at 357.
[50] *Id.* at 359.
[51] *Id.* at 362.
[52] *Id.* at 360.
[53] *Id.* at 363 to 365.
[54] *Id.* at 366.
[55] *Id.* at 373.
[56] *Id.* at 374 to 378.
[57] *Id.* at 382 to 391; 396 to 405; 407 to 416.

The pre-trial conference was conducted on April 27, 2023.[58] On the same date, petitioner filed a *Formal Entry of Appearance/Manifestation*.[59]

Subsequently, on May 26, 2023, the parties submitted their *Joint Stipulation of Facts and Issues*.[60] Finding the same in order, the Court, through its Minute Resolution dated June 16, 2023,[61] admitted and approved the stipulations embodied therein.

Meanwhile, in a Resolution dated May 31, 2023,[62] the Court apprised the parties that, pursuant to CTA Administrative Circular No. 01-2023 dated May 23, 2023, which effected a reorganization of the Court's Divisions, the instant case had been transferred from the First Division to Third Division.

On July 21, 2023, the Court issued the corresponding *Pre-Trial Order*,[63] defining and limiting the issues for trial, thereby paving the way for the reception of evidence on the merits.

On August 18, 2023, petitioner moved[64] for the postponement of the scheduled hearing. The Court granted the motion in its Order dated August 22, 2023,[65] subject to the payment of a fine of ₱2,000.00 within ten (10) days from notice. A proof of subsequent compliance[66] was posted on September 14, 2023. In the same Order, the Court reset the presentation of petitioner's evidence to September 27, 2023.

Trial proceeded.

In support of its case, petitioner presented its sole witness, Ms. Easy Xaflavaire Hope E. Dimal,[67] its City Accountant. Thereafter, on October 05, 2023, petitioner filed *via* accredited courier service provider a compliant Judicial Affidavit of said witness, accompanied by proof of payment of the ₱1,000.00 fine previously imposed by the Court.[68]

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[58] *Id.*, Minutes of the Hearing held on April 27, 2023, pp. 417 to 419; Order dated April 27, 2023, pp. 422 to 423.
[59] *Id.* at 392 to 393.
[60] *Id.* at 427 to 435.
[61] *Id.* at 438.
[62] *Id.* at 436.
[63] *Id.* at 441 to 447.
[64] *Id.* at 454 to 455.
[65] *Id.* at 457 to 458.
[66] *Id.* at 467 to 468.
[67] *Id.* at 257 to 261; Exhibit "P-12;" Minutes of the Hearing held on September 27, 2023, p. 464; Order dated September 27, 2023, pp 465 to 466.
[68] *Id.* at 473 to 485.

After the petitioner had rested its case, it filed its *Formal Offer of Evidence*[69] through an accredited courier service provider on October 11, 2023. In due course, respondent submitted his comment[70] thereto on October 12, 2023.

Acting on petitioner's *Formal Offer of Evidence*,[71] the Court, in its Resolution dated January 31, 2024,[72] admitted petitioner's documentary exhibits, except: *(i)* Exhibits "P-1-A," "P-5," "P-5-A," "P-5-A1," "P-5-A2," and "P-8," for failure to submit the documents duly marked and compared during the Commissioner's Hearing held on July 25, 2023; and *(ii)* Exhibit "P-5-A3," for failure to produce the original thereof for comparison.

On February 01, 2024, petitioner filed *via* accredited courier service provider a *Motion to be Furnished a Copy of Respondent's Answer with Motion to Postpone Scheduled Hearing Date*,[73] the hard copies of which were received by the Court on February 05, 2024. In response, respondent submitted a *Manifestation*[74] before the Court on February 02, 2024, stating that his *Answer*[75] had already been duly served upon petitioner by registered mail on August 30, 2022.

In its Minute Resolution dated February 08, 2024,[76] the Court denied petitioner's *Motion*,[77] and, at the same time, took note of respondent's *Manifestation*.[78]

Meanwhile, on February 07, 2024, petitioner filed through an accredited courier service provider a *Motion for Partial Reconsideration with Motion to Tender Excluded Evidence*.[79]

On the other hand, respondent presented his only witness, Revenue Officer Ryan Joe Labares[80] of the Assessment Division, Revenue Region No. 16 – Cagayan de Oro City.

Subsequently, on February 15, 2024, respondent filed a *Manifestation with Omnibus Motion*,[81] praying for the following: *(1)*

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[69] *Id.* at 491 to 496.
[70] *Id.* at 486 to 489.
[71] *Id.* at 491 to 496.
[72] Docket – Vol. II, 507 to 508.
[73] *Id.* at 528 to 530.
[74] *Id.* at 509 to 511.
[75] Docket – Vol. I, pp. 274 to 286.
[76] Docket – Vol. II, p. 533.
[77] *Id.* at 528 to 530.
[78] *Id.* at 509 to 511.
[79] *Id.* at 534 to 537.
[80] *Id.* at 606 to 613; Exhibit "R-15;" Minutes of the Hearing held on February 13, 2024, p. 597; Order dated February 13, 2024, pp. 598 to 599.
[81] *Id.* at 600 to 603.

his manifestation be noted that, in lieu of filing a comment on petitioner's *Motion for Partial Reconsideration with Motion to Tender Excluded Evidence*, he was submitting the resolution thereof to the sound discretion of the Court; *(2)* the filing of his Amended Judicial Affidavit and Official Receipt be deemed compliant with the Court's directive issued in open court on February 13, 2024; *(3)* he be granted an additional setting for a Commissioner's Hearing to facilitate the marking of certain documentary exhibits; and *(4)* he be afforded a period of ten (10) days from the conduct of such Commissioner's Hearing within which to submit his Formal Offer of Evidence. In its Minute Resolution dated February 22, 2024,[82] the Court duly noted respondent's manifestation and granted the reliefs prayed for therein.

Thereafter, upon consideration of petitioner's comment[83] on *Respondent's Formal Offer of Evidence*,[84] the Court, by Resolution,[85] admitted respondent's documentary exhibits into evidence. In the same Resolution, the Court resolved to: *(1)* grant petitioner's *Motion for Partial Reconsideration*; *(2)* render moot petitioner's *Motion to Tender Excluded Evidence*; *(3)* direct the parties to file their respective memoranda within thirty (30) days from notice.

On June 03, 2024, petitioner's counsel posted a *Motion to Withdraw as Counsel for the Petitioner*,[86] which was granted by the Court in its Minute Resolution dated July 26, 2024.[87] The Court then ordered the petitioner to cause the appearance of its new counsel within ten (10) days from notice.

Respondent then filed his *Memorandum*[88] on September 05, 2024, which the Court noted in its Minute Resolution dated September 17, 2024.[89] However, respondent subsequently filed a *Motion to Strike Off Pleading from the Records of the Case*[90] on September 23, 2024, alleging that the *Memorandum* filed on September 05, 2024[91] was merely an initial draft, and praying that the same be expunged from the records in favor of the *Memorandum*[92] filed on September 10, 2024.

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[82] *Id.* at 614 to 615.
[83] *Id.* at 631 to 633.
[84] *Id.* at 618 to 628.
[85] *Id.* at 641 to 643.
[86] *Id.* at 636 to 637.
[87] *Id.* at 644.
[88] *Id.* at 647 to 660.
[89] *Id.* at 681.
[90] *Id.* at 703 to 706.
[91] *Id.* at 647 to 660.
[92] *Id.* at 664 to 678.

In the interim, petitioner's new counsel posted an *Entry of Appearance*[93] on September 03, 2024, and later moved[94] for an extension of time within which to file its memorandum.

On October 07, 2024, petitioner posted its memorandum,[95] which the Court noted in its Minute Resolution dated December 23, 2024.[96]

By way of a Minute Resolution dated October 09, 2024,[97] the Court: *(1)* noted respondent's *Memorandum*[98] filed on September 10, 2024, and petitioner's *Entry of Appearance*;[99] *(2)* granted petitioner's *Motion for Extension of Time to File Memorandum*,[100] thereby allowing it to submit its memorandum until October 06, 2024; and *(3)* directing respondent to file a comment on petitioner's *Motion to Strike Off Pleading from the Records of the Case*[101] within five (5) days from notice.

On October 14, 2024, petitioner posted its *Formal Entry of Appearance/Manifestation*[102] and its *Comment/Opposition (Motion to Strike Off Pleading from the Records of the Case)*.[103]

The Court, in a Minute Resolution dated November 20, 2024,[104] directed petitioner to submit: *(1)* an additional copy of its memorandum;[105] and *(2)* the hard copies of its *Comment/Opposition*[106] and *Notice of Appearance*.[107] Petitioner then complied with the foregoing directives through a *Manifestation (Compliance to the Minute Resolution dated 20 November 2024)*[108] filed *via* an accredited courier service provider on November 25, 2024.

Finally, in its Resolution dated April 07, 2025,[109] the Court granted respondent's *Motion to Strike Off Pleading from the Records of the Case*,[110] thereby expunging from the case records the

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[93] *Id.* at 685.
[94] *Id.* at 692 to 693.
[95] *Id.* at 711 to 737.
[96] *Id.* at 769 to 770.
[97] *Id.* at 739 to 740.
[98] *Id.* at 664 to 678.
[99] *Id.* at 685.
[100] *Id.* at 692 to 693.
[101] *Id.* at 703 to 706.
[102] *Id.* at 744 to 745.
[103] *Id.* at 752 to 756.
[104] *Id.* at 760.
[105] *Id.* at 711 to 737.
[106] *Id.* at 752 to 756.
[107] *Id.* at 744 to 745.
[108] *Id.* at 763 to 765.
[109] *Id.* at 778 to 780.
[110] *Id.* at 703 to 706.

memorandum filed on September 05, 2024.[111] With both parties having already submitted their respective memoranda, the case was thereafter deemed submitted for decision.

ISSUE BEFORE THE COURT

The sole issue submitted for the Court's resolution is stated as follows:

> Whether or not petitioner is liable for the payment of Two Million Four Hundred Ten Thousand Four Hundred Eighty-Three and 56/100 (PhP2,410,483.56) representing alleged deficiency Income Tax, including compromise penalties, inclusive of surcharges and interest, for Taxable Year 2017.[112]

ARGUMENTS OF THE PARTIES

Petitioner's arguments

First. Petitioner assails that the deficiency assessment arising from alleged undeclared sales, contending that the same rests solely on presumptions unsupported by competent factual and legal bases. According to petitioner, respondent failed to establish any factual foundation to support the conclusion that the purported unaccounted source of cash constituted taxable net income. Petitioner maintains that such conclusion was derived merely from inference and speculation, which, standing along, cannot validly sustain a deficiency tax assessment.

Second. Petitioner argues that the City of Ozamiz did not realize any undeclared taxable income upon which income tax could lawfully be imposed.

Third. Petitioner asserts that no provision of law authorizes the imposition of income taxes upon LGUs or political subdivisions of the State.

Fourth. Corollary to the foregoing, petitioner contends that it cannot be held liable for the compromise penalty assessed by respondent, considering that such penalty is predicated upon the allegedly erroneous deficiency tax assessment. Petitioner further posits

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[111] *Id.* at 647 to 660.
[112] Docket – Vol. I, p. 442.

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that, absent its voluntary agreement or consent thereto, the compromise penalty cannot be validly imposed.

Fifth. Petitioner likewise challenges the assessment of statutory increments, arguing that these additions to the tax have neither factual nor legal basis. Petitioner maintains that it properly reported its receipts or income and remitted all taxes lawfully due thereon. Consequently, the imposition of statutory increments should also be cancelled.

Sixth. Finally, petitioner claims that respondent violated its right to due process in the administrative proceedings. It argues, *first*, that the BIR erred in treating its Request for Reconsideration as no longer susceptible to consideration on the ground that petitioner failed to submit a waiver, thereby declaring the assessments final, executory, and demandable. *Second*, petitioner contends that the factual and legal grounds it raised in support of the cancellation of the assessments were never squarely addressed by respondent. Instead, respondent allegedly merely reiterated in the FLD/FANs the findings previously set forth in the PAN, with only the corresponding interest computations being updated. According to petitioner, such failure to meaningfully consider and rule upon its defense constitutes a denial of due process.

Respondent's counter-arguments

First. Respondent, for his part, maintains that the deficiency tax assessment issued against petitioner was lawfully made and is both factually and legally justified.

Second. Respondent posits that LGUs are not beyond the reach of taxation, arguing that every LGU possesses a dual character—a political subdivision of the State and as a corporate entity—and may therefore be subjected to income taxation in its corporate capacity.

Third. Respondent further contends that petitioner's right to due process was fully observed throughout the administrative proceedings, asserting that petitioner was afforded ample opportunity to contest, explain, and refute the findings upon which the assessments were predicated.

Fourth. Respondent maintains that petitioner is liable for the assessed deficiency income tax, the same having been determined through a reconciliation and matching of petitioner's accounting records with the information reflected in its tax returns, which allegedly disclosed unreported taxable income.

Fifth. Respondent likewise insists that petitioner is liable for the corresponding administrative penalties, owing to its failure to pay the deficiency income tax within the period prescribed by law and pertinent regulations.

Sixth. Finally, respondent argues that petitioner failed to discharge its burden of proving that the assessments were erroneous, arbitrary, or unlawful, and consequently failed to overcome the well-entrenched presumption of correctness and validity accorded to tax assessments issued by the taxing authority.

RULING OF THE COURT

The *Petition for Review* is impressed with merit.

The Court has jurisdiction over the instant Petition

Section 7 (a)(1) of Republic Act (R.A.) No. 1125,[113] as amended by R.A. No. 9282,[114] confers upon the CTA exclusive appellate jurisdiction to review decisions of the CIR in cases involving disputed assessments, among others, to wit:

> SEC. 7. Jurisdiction. – The CTA shall exercise:
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> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
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>> 1. **<u>Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments</u>**, 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; (Emphasis and underscoring supplied)

As correctly asserted by petitioner in its *Petition*,[115] and as unequivocally confirmed by the BIR through the Letter dated

[113] An Act Creating the Court of Tax Appeals.
[114] 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 of Republic Act No. 1125, As Amended, otherwise known as the Law Creating the Court of Tax Appeals, and for other purposes.
[115] Docket – Vol I, pp. 14 to 15, pars. 15 and 16.

December 27, 2021[116] signed by Regional Director Emir U. Abutazil, the BIR Letter dated October 19, 2021[117] constituted respondent's **final** determination on the matter. Being the final administrative action taken on petitioner's Protest,[118] the same is properly subject to review by this Court pursuant to the foregoing jurisdictional provision.

With respect to the timeliness of the appeal, petitioner alleges, and the records show, that it received the Letter dated October 19, 2021[119] on **October 28, 2021**. Counting thirty (30) days therefrom, the last day for filing the *Petition*[120] would have fallen on **November 27, 2021**, a Saturday. Petitioner thereafter filed the instant *Petition*[121] on **November 29, 2021**, the next working day.

Section 11 of R.A. No. 1125,[122] as amended by R.A. No. 9282,[123] explicitly provides that:

> 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. (Emphases and underscoring supplied)

This provision is echoed in Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA),[124] which likewise grants an aggrieved party thirty (30) days from receipt of the decision or

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[116] Exhibit "P-1-A."
[117] Exhibit "P-1;" Exhibit "R-10."
[118] Exhibit "P-7."
[119] Exhibit "P-1;" Exhibit "R-10."
[120] Docket – Vol I, pp. 14 to 15, pars. 15 and 16.
[121] *Ibid.*
[122] *Supra* note 113.
[123] *Supra* note 114.
[124] Revised Rules of the Court of Tax Appeals, Rule 8, Section 3(a) provides:

> SEC. 3. *Who may appeal; period to file petition.* —
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> (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. 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 taxes. *(n)*

ruling on disputed assessments within which to perfect an appeal before this Court.

Considering that petitioner filed the present *Petition*[125] on the next business day following the lapse of the thirtieth (30th) day, which fell on a weekend, the Court finds that the appeal was timely perfected. Consequently, the Court validly acquired jurisdiction over the subject matter of the case.

The Court's exercise of jurisdiction encompasses the determination of petitioner's liability for the compromise penalty

Having ascertained that this Court has properly acquired jurisdiction over the subject matter, it becomes imperative to determine whether the Court may lawfully exercise its authority to resolve issues either stipulated by the parties, or tried with their express or implied consent. This inquiry ensures that the Court's exercise of jurisdiction in the present case is both lawful and proper.

In evaluating the scope of this Court's authority, it is crucial to distinguish between **jurisdiction over the subject matter** and **jurisdiction over the issue**. The *former* pertains to the power of a court to hear and adjudicate cases of the general class to which the proceedings belong—a power conferred solely by law, and independent of any consent or waiver by the parties. The *latter*, by contrast, refers to the court's authority to resolve specific questions properly raised in the pleadings or those litigated with the express or implied consent of the parties during trial.

Unlike jurisdiction over the subject matter, which is fundamental and cannot be conferred by agreement, jurisdiction over the issue may arise from the acts, omissions, or acquiescence of the parties. Thus, issues not expressly pleaded may nonetheless be validly tried and resolved where evidence thereon is introduced without timely objection. This distinction was eloquently articulated in *Bernabe v. Vergara*,[126] where the Supreme Court held:

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[125] Docket – Vol I, pp. 14 to 15, pars. 15 and 16.
[126] G.R. No. 48652, September 16, 1942 [Per J. Moran, *En Banc*].

And, furthermore, the question of jurisdiction attempted to be raised in this case is not the kind of question that confers jurisdiction upon this Court. The jurisdiction involved is not one over the subject-matter but at most over the issue or over the persons of the parties. A Court of First Instance has jurisdiction over a case involving P200 or more, and therefore the Court of First Instance of Nueva Ecija had jurisdiction to render judgment in the amount of P350. The question of whether or not there was a proper issue raised in the pleading as to said amount, is not a question of jurisdiction over the subject-matter, but jurisdiction over the issue. In this regard we reiterate what we have said in Reyes vs. Diaz, G. R. No. 48754, November 26, 1941:

> "There is in our Constitution or in the law aforecited nothing which may lend the word 'jurisdiction' therein used a broader meaning than jurisdiction over the subject-matter. On the contrary, having due regard to the manifest purpose of the law, which is to confine the appellate jurisdiction of this Court to cases of vital importance involving questions of fundamental character, such, for instance, as the question of validity of statute, treaty or ordinance, or the legality of any tax, import or assessment which may affect the very existence of the government, or criminal cases wherein life imprisonment or death penalty is imposed, we are of the opinion and so hold, that the issue of jurisdiction which confers appellate powers upon this Court in a given case is not such question as is dependent exclusively upon minor matters of fact or upon a mere construction of the pleadings, but that which has reference to the more important question of jurisdiction of the trial court over the subject-matter as determined by law.
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> "Jurisdiction over the subject-matter is the power to hear and determine cases of the general class to which the proceedings in question belong (C. J. S. p. 36) and is conferred by the sovereign authority which organizes the court and defines its powers (Banco Español Filipino *vs.* Palanca, 37 Phil., 921; Perkins *vs.* Dizon, 40 Off. Gaz., No. 7, 3d Sup., p., 216; Ñg Si Chok *vs.* Vera, G.R. No. 45674). The question, therefore, of whether a court has jurisdiction over the subject-matter, calls for interpretation and application of the law of jurisdiction which distributes the judicial power among the different courts in the Philippines and since the ruling on the matter is of far-reaching consequences, affecting, as it may, the very life and structure of our judicial system, the law has deemed it wise to place the power and authority to act thereon in the highest court of the land."
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> xxx xxx xxx
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> . . . Whether certain ballots are or are not pertinent to the issue raised in the pleadings, is merely a question of relevancy of evidence. It may be true that the court

> by an erroneous ruling on such question may encroach upon issues completely foreign to those defined in the pleadings, but in such case the question of jurisdiction that may arise would not be one of jurisdiction over the subject-matter but of jurisdiction over the issue. In order that a court may validly try and decide a case, it must have jurisdiction over the subject-matter and jurisdiction over the persons of the parties. (Banco Español Filipino *vs.* Palanca, 37 Phil., 921; Perkins *vs.* Dizon, 40 Off. Gaz., No. 7, 3d Sup., p., 216.) But in some instances it is said that the court should also have jurisdiction over the issue (15 C. J., 734; Hutts *vs.* Martin, 134 Ind., 587; 33 N. E., 676), meaning thereby that the issue being tried and decided by the court be within the issues raised in the pleadings. But this kind of jurisdiction should be distinguished from jurisdiction over the subject-matter, the latter being conferred by law and the former by the pleadings. **<u>Jurisdiction over the issue</u>, unlike jurisdiction over the subject-matter, may be conferred by consent either express or implied of the parties.** (Rule 17, sec. 4, Rules of Court.) **Although an issue is not duly pleaded it may validly be tried and decided if no timely objection is made thereto by the parties.** This cannot be done when jurisdiction over the subject-matter is involved. In truth, jurisdiction over the issue is an expression of a principle that is involved in jurisdiction over the persons of the parties. Where, for instance, an issue is not duly pleaded in the complaint, the defendant cannot be said to have been served with process as to that issue. (Cf. Atkins, Kroll & Co. *vs.* Domingo, 44 Phil., 680.) At any rate, whether or not the court has jurisdiction over a specific issue is a question that requires nothing except an examination of the pleadings, and this function is without such importance as to call for the intervention of this court." (Emphases and underscoring supplied)

Applying the foregoing principles, the Court notes that while petitioner elevated to this Court the assessments in the aggregate amount of ₱2,430,483.56, the parties stipulated during pre-trial that the issue for resolution involved only the amount of ₱2,410,483.56,[127] thereby excluding the compromise penalty of ₱20,000.00.

The records, however, unmistakably reveal that both parties subsequently submitted the propriety of the compromise penalty for the Court's determination. Petitioner squarely challenged the imposition thereof in its *Petition*,[128] and adduced evidence[129] in support of its position, which the Court admitted in its Resolutions

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[127] Docket – Vol. I, *Joint Stipulation of Facts and Issues*, p. 428, par. 4; *Pre-Trial Order*, p. 442.
[128] *Id.*, p. 23, pars. 49 to 51.
[129] Exhibits "P-4," "P-5," "P-6," and "P-7."

dated January 31, 2024[130] and July 22, 2024.[131] Respondent, on the other hand, expressly sought the affirmation of the compromise penalty in his *Answer*,[132] and likewise presented evidence[133] intended to justify its imposition, which the Court admitted in its Resolution dated July 22, 2024.[134] Clearly, through their respective pleadings, arguments, and evidentiary submissions, the parties effectively joined issue on the matter and voluntarily submitted the same for judicial resolution.

This finds support in Section 5, Rule 10 of the Revised Rules of Court, as adopted by CTA *En Banc* Resolution No. 09-2020,[135] which provides:

> Section 5. *No amendment necessary to conform to or authorize presentation of evidence.* — When issues not raised by the pleadings are tried with the express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. No amendment of such pleadings deemed amended is necessary to cause them to conform to the evidence.

Equally significant is the fact that the docket fees ultimately paid[136] by petitioner corresponded to the entire assessments of ₱2,430,483.56, inclusive of the ₱20,000.00 compromise penalty. Although petitioner initially paid docket fees computed only in the amount of ₱2,410,483.56,[137] the Court subsequently required[138] the payment of the deficiency in the prescribed docket fees based on the full assessment. Petitioner duly complied[139] with such directive, and the payment was thereafter acknowledged by the Court in its Resolution dated May 13, 2022.[140]

Taken together, the parties' unequivocal submission of the issue during trial and petitioner's subsequent payment of the corresponding docket fees leave no room for doubt that the compromise penalty has been validly brought within the ambit of the Court's review. Consequently, notwithstanding the parties' earlier stipulation limiting the disputed amount to ₱2,410,483.56, the Court's authority to review the assessments necessarily extends to the entirety thereof, including

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[130] Docket – Vol. II, pp. 507 to 508.
[131] *Id.* at 641 to 643.
[132] Docket – Vol. I, pp. 82 to 83, pars. 27 to 28.
[133] Exhibits "R-6," "R-7," "R-8," and "R-8-A."
[134] Docket – Vol. II, pp. 641 to 643.
[135] August 07, 2020.
[136] Docket – Vol. I, p. 161.
[137] *Id.* at 2 to 4.
[138] *Id.* at 156.
[139] *Id.* at 161.
[140] *Id.* at 163 to 166.

the ₱20,000.00 compromise penalty, for a total assessment of ₱2,430,483.56.

Petitioner cannot be held liable under assessments issued in violation of due process

Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, unequivocally mandates that a taxpayer must be duly informed in writing of both the factual and legal bases of an assessment; otherwise, the assessment shall be void. Complementing this statutory mandate, Revenue Regulations (RR) No. 12-99,[141] as amended by RR No. 18-13,[142] prescribes the due process requirements governing the issuance of a PAN and a FLD/FAN, as follows:

> 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 xxx.
>
> 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, **<u>within fifteen (15) days from date of receipt of the PAN</u>, responds that he/it disagrees with the findings of deficiency tax or taxes, an FLD/FAN shall be issued <u>within fifteen (15) days from filing/submission of the taxpayer's response</u>**, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.
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[141] 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, Revenue Regulations No. 12-99, September 06, 1999.

[142] Amending Certain Sections of Revenue Regulations No. 12-99, Revenue Regulations No. 18-13, November 28, 2013.

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> 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 law, rules and regulations, or jurisprudence on which the assessment is based; *otherwise, the assessment shall be void*** x x x. (Emphases and underscoring supplied)

As may be gathered from the foregoing, a taxpayer is afforded a period of fifteen (15) days from receipt of the PAN within which to submit a written response thereto. Thereafter, the FLD/FAN must be issued within fifteen (15) days from the filing of such response. This prescribed period necessarily presupposes that, in issuing the FLD/FAN, the BIR has duly considered the taxpayer's response, including the arguments and evidence presented in reply to the PAN. Moreover, it is crucial that the FLD/FAN must clearly state the factual and legal bases of the assessment, citing the pertinent laws, rules, regulations, or jurisprudence upon which it rests. The omission to do so constitutes a fatal infirmity that renders the assessment void, in violation of the taxpayer's fundamental right to due process.

The significance of this procedural safeguard was emphatically recognized by the Supreme Court in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*,[143] where it ruled that the BIR's failure to duly consider and evaluate the taxpayer's arguments, as evidenced by the **issuance of identical assessment notices that merely reiterated prior findings without addressing the taxpayer's defenses**, constitutes a clear violation of the taxpayer's right to due process. Thus:

> **The Commissioner and revenue officers must strictly comply with the requirements of the law, with the Bureau of Internal Revenue's own rules, and with due regard to taxpayers' constitutional rights.**
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> x x x
>
> The importance of providing the taxpayer with adequate written notice of his or her tax liability is undeniable. Under Section 228, it is explicitly required that the taxpayer be informed in writing of the law and of the facts on which the assessment is made; otherwise, the assessment shall be void. Section 3.1.2 of Revenue Regulations No. 12-99 requires the Preliminary Assessment Notice to show in detail the facts and law, rules and regulations, or jurisprudence on which the proposed assessment is based. Further, **Section 3.1.4 requires that the Final Letter of Demand must state the facts and law on which it is based; otherwise, the Final Letter of Demand**

[143] G.R. Nos. 201398-99, 201418-19, October 03, 2018 [Per J. Leonen, Third Division].

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and Final Assessment Notices themselves shall be void. x x x

"The use of the word 'shall' in Section 228 of the [National Internal Revenue Code] and in [Revenue Regulations] No. 12-99 indicates that the requirement of informing the taxpayer of the legal and factual bases of the assessment and the decision made against him [or her] is mandatory." **This is an essential requirement of due process and applies to the Preliminary Assessment Notice, Final Letter of Demand with the Final Assessment Notices, and the Final Decision on Disputed Assessment.**

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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.** x x x

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, <u>merely reiterating the assessments in the Preliminary Assessment Notice</u>**. 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.

Under the Bureau of Internal Revenue's own procedures, the taxpayer is required to respond to the Notice of Informal Conference and to the Preliminary Assessment Notice within 15 days from receipt. **Despite Avon's timely submission of a Reply to the Notice of Informal Conference and protest to the Preliminary Assessment Notice, together with supporting documents, the <u>Commissioner and her agents violated their own procedures by refusing to answer or even acknowledge the submitted Reply and protest</u>**.

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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 conclusions are based, and those facts must appear in the record.**

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

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> heard, which includes the right to present evidence, is meaningless if the Commissioner can simply ignore the evidence without reason.
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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.**

The factual circumstances obtaining in the present case unmistakably reveal a similar transgression.

Records show that petitioner received the PAN[144] on November 05, 2020,[145] and timely filed its Reply[146] thereto on November 13, 2020,[147] well within the fifteen (15)-day period prescribed by the rules. Yet, on November 24, 2020, or merely eleven (11) calendar days after the filing of the Reply to PAN,[148] respondent issued the FLD/FANs.[149]

More tellingly, a careful perusal of the FLD/FANs[150] reveals that they are, for all intents and purposes, *verbatim* reproductions of the findings contained in the PAN.[151] Save for the recomputation of interest, the FLD/FANs[152] neither acknowledge nor discuss the factual and legal arguments advanced by petitioner in its Reply to PAN.[153] Neither do they disclose any evaluation of the evidence submitted in support thereof.

This conclusion is made all the more evident by a side-by-side comparison of the assessments, which demonstrates that the amounts of **basic deficiency tax, surcharge, and compromise penalty** reflected in the FLD/FANs[154] are identical to those stated in the PAN,[155] as shown below.

PAN		**FLD/FANs**	
Income Tax	₱1,530,000.00	Income Tax	₱1,530,000.00
Surcharge	382,500.00	Surcharge	382,500.00
Compromise Penalty	20,000.00	Compromise Penalty	20,000.00

144 Exhibit "P-4;" Exhibit "R-6."
145 Docket – Vol. I, p. 14, par. 9.
146 Exhibit "P-5."
147 Docket – Vol. I, p. 14, par. 10.
148 Exhibit "P-5."
149 Exhibit "P-6;" Exhibits "R-7," "R-8," and "R-8-A."
150 *Ibid.*
151 Exhibit "P-4;" Exhibit "R-6."
152 Exhibit "P-6;" Exhibits "R-7," "R-8," and "R-8-A."
153 Exhibit "P-5."
154 Exhibit "P-6;" Exhibits "R-7," "R-8," and "R-8-A."
155 Exhibit "P-4;" Exhibit "R-6."

Time and again, this Court has been called upon to reaffirm the enduring and time-honored doctrine of **administrative due process**, as eloquently laid down in the seminal case of *Ang Tibay v. Court of Industrial Relations*,[156] which mandates, among others, that "not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal ***must consider*** the evidence presented."

Indeed, due process is not satisfied by the mere ceremonial or mechanical grant of an opportunity to be heard. It imposes upon the administrative authority, such as the BIR, the duty to **actually and conscientiously** consider the evidence and arguments submitted before it. The right to be heard necessarily includes the correlative obligation of the adjudicator to give due consideration to what has been submitted, for due process is not an empty ritual nor a mere formality, but a living guarantee of fairness and reason, fulfilled only through a faithful, deliberate, and thorough engagement with the taxpayer's claims and defenses.

Here, the decisive consideration is not simply the brevity of time between the filing of petitioner's Reply to PAN[157] and the issuance of the FLD/FANs.[158] Rather, it is the palpable absence of any indication that the BIR gave due regard, must less thoughtful consideration, to the petitioner's arguments and supporting documents. This omission is fatal, for it effectively reduces the filing of the Reply to PAN[159] into a hollow formality and an exercise of futility. The sequence of events and the verbatim reiteration of findings in the FLD/FANs[160] unmistakably reveal that the BIR had predetermined the assessments without awaiting or evaluating the petitioner's explanations and evidence. Such a procedural shortcut strikes at the very heart of administrative due process and runs counter to the clear spirit of the law and rules—that the taxpayer must not only be given the opportunity to be heard, but that the taxing authority must actually and in good faith consider the defenses presented before rendering its assessment.

To sustain the validity of the FLD/FANs[161] in this case as compliant with Section 228 of NIRC of 1997, as amended, and RR No. 12-99,[162] as amended by RR No. 18-13,[163] would be to reduce the PAN process into a mere procedural charade—a hollow ritual devoid of

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[156] G.R. No. 46496, February 27, 1940 [Per J. Laurel, *En Banc*].
[157] Exhibit "P-5."
[158] Exhibit "P-6;" Exhibits "R-7," "R-8," and "R-8-A."
[159] Exhibit "P-5."
[160] Exhibit "P-6;" Exhibits "R-7," "R-8," and "R-8-A."
[161] *Ibid.*
[162] *Supra* note 138.
[163] *Supra* note 139.

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substantive value and stripped of legal consequence. Such an interpretation would undermine the very rationale of the PAN stage, which is not only to uphold the taxpayer's constitutional right to due process, but also to afford the BIR the opportunity to reexamine, and, if warranted, correct any errors in its preliminary findings before proceeding with the issuance of an FLD/FAN.

Verily, had the petitioner's arguments and supporting documents in its Reply to PAN[164] been given due consideration, the dispute could have been resolved at the earliest stage—either through the withdrawal or modification of the assessments, or through an amicable settlement—thereby sparing both the government and the taxpayer the needless expenditure of time, effort, and resources occasioned by protracted administrative and judicial proceedings.

In fact, the Supreme Court, in emphasizing the significance of the PAN in the audit process conducted by the BIR, pronounced as follows:

> A PAN merely informs the taxpayer of the initial findings of the Bureau of Internal Revenue. It contains the proposed assessment, and the facts, law, rules, and regulations or jurisprudence on which the proposed assessment is based. It does not contain a demand for payment but usually requires the taxpayer to reply within 15 days from receipt. Otherwise, the Commissioner of Internal Revenue will finalize an assessment and issue a FAN.
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> **The PAN is a part of due process. It gives both the taxpayer and the Commissioner of Internal Revenue the opportunity to settle the case at the earliest possible time without the need for the issuance of a FAN.**[165] (Emphasis supplied; citations omitted)

In fine, the Court finds that the respondent blatantly disregarded the petitioner's right to administrative due process, as evidenced by the issuance of the FLD/FANs,[166] which are identical in substance and contents to the previously issued PAN.[167] This unmistakably demonstrates that the respondent failed to consider the arguments and evidence presented by the petitioner in its Reply to PAN.[168] Consequently, the assessments so issued are void *ab initio*, having been tainted by a fundamental procedural infirmity. Corollarily, the subsequent letters[169] declaring that the assessments have become final and executory, being mere offshoots of void assessments, cannot stand

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[164] Exhibit "P-5."
[165] *Commissioner of Internal Revenue v. Transitions Optical Philippines, Inc.*, G.R. No. 227544, November 22, 2017 [Per J. Leonen, Third Division].
[166] Exhibit "P-6;" Exhibits "R-7," "R-8," and "R-8-A."
[167] Exhibit "P-4;" Exhibit "R-6."
[168] Exhibit "P-5."
[169] Exhibits "P-1," and "P-1-A;" Exhibit "R-10."

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on their own and are likewise null and void, without force or effect in law.

Having established that the subject assessments are void, the Court need not belabor the issue of petitioner's alleged tax liability, for it is axiomatic that a void assessment bears no valid fruit.[170]

WHEREFORE, premises considered, the instant *Petition for Review* filed by petitioner Ozamiz City, as represented by Mayor Sancho Fernando F. Oaminal, on November 29, 2021, is **GRANTED**. Accordingly, the deficiency income tax and compromise penalty stated in the Formal Letter of Demand/Final Assessment Notices dated November 24, 2020, in the aggregate amount of ₱2,430,483.56, inclusive of interest and surcharge, issued against petitioner for taxable year 2017, are hereby **CANCELLED** and **SET ASIDE** for being **NULL** and **VOID**.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

I CONCUR:

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

[170] *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, G.R. No. 185371, December 08, 2010 [Per J. Mendoza, Second Division].

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.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division 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