CTA Form No. 8

23-000187-0039

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11142

BUKIDNON II ELECTRIC COOPERATIVE, INC. (BUSECO),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
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Bureau of Internal Revenue
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Diliman, Quezon City

ATTY. ELEUTERIO F. DIAO IV
Room 220, Tomas Saco Scapes
Tomasco Street, Nazareth
Cagayan de Oro City

GREETINGS:

You are hereby notified by these presents that on **October 9, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **October 9, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

BUKIDNON II ELECTRIC COOPERATIVE, INC. (BUSECO), *Petitioner,*	**CTA CASE NO. 11142**
	Members:
-versus-	**BACORRO-VILLENA**, *Acting Chairperson, and* **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: OCT 09 2025 8:35AM

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DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review* filed on April 27, 2023,[1] by petitioner Bukidnon II Electric Cooperative, Inc. ("**BUSECO**" or "**Petitioner**"), against respondent Commissioner of Internal Revenue ("**CIR**" or "**Respondent**"), seeking the reversal and setting aside of the Final Decision on Disputed Assessment (**FDDA**) dated March 1, 2023, issued by respondent, which assessed petitioner for deficiency Income Tax and Compromise Penalty amounting to ₱46,495,354.79, inclusive of interest and surcharges, for calendar year (**CY**) 2017.[2]

THE PARTIES

Petitioner is a non-stock, non-profit electric cooperative, with principal office located at Manolo Fortich, Bukidnon.[3] It is registered with the National Electrification Administration

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[1] Docket, pp. 6–17, including annexes.
[2] Docket, pp. 236–242, Joint Stipulation of Facts and Issues (JSFI), Summary of Admitted Facts, par. 8; Exhibit "P-18", Docket, pp. 138–145.
[3] Par. 1, Petition for Review, Docket, p. 6, as admitted by respondent in Par. 2, Respondent's Pre Trial Brief, Docket, p. 208.

(**NEA**) pursuant to Presidential Decree (**PD**) No. 269,[4] which granted petitioner the authority to operate an electric light and power service for a period of fifty (50) years from June 10, 1981.[5]

Respondent CIR is empowered, among others, to decide disputed assessments, refunds of internal revenue taxes, fees and other charges, penalties in relation thereto, and other matters arising from the implementation of the National Internal Revenue Code (**NIRC**) and other laws administered by the Bureau of Internal Revenue (**BIR**). His office is located at the BIR National Office Building, BIR Road, Diliman, Quezon City.[6]

THE FACTS

On July 10, 2020, petitioner received Letter of Authority (**LOA**) No. 201200017606/eLA-099-2020-00000022 from Regional Director (**RD**) Florante R. Aninag of Revenue Region No. 16, Cagayan de Oro City. The LOA authorized Revenue Officer (**RO**) Muhammad Zakaria Gunting and Group Supervisor (**GS**) Camaroding Laut to examine petitioner's books of accounts and other accounting records for CY 2017.[7]

Following the initial examination, petitioner received a Notice of Discrepancy (**NOD**) dated March 3, 2020, outlining alleged deficiency taxes amounting to ₱630,846,942.30.[8] After petitioner submitted a *Protest Letter* dated March 5, 2021,[9] respondent issued an updated NOD dated May 24, 2021, reducing the alleged deficiency taxes to ₱17,919,037.82.[10]

Petitioner admitted and paid the amounts due for Value-Added Tax (**VAT**),[11] Expanded Withholding Tax (**EWT**),[12] Withholding Tax on Compensation (**WTC**),[13] and Documentary Stamp Tax (**DST**),[14] totaling ₱1,784,517.05.

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4 CREATING THE "NATIONAL ELECTRIFICATION ADMINISTRATION" AS A CORPORATION, PRESCRIBING ITS POWERS AND ACTIVITIES, APPROPRIATING THE NECESSARY FUNDS THEREFOR AND DECLARING A NATIONAL POLICY OBJECTIVE FOR THE TOTAL ELECTRIFICATION OF THE PHILIPPINES ON AN AREA COVERAGE SERVICE BASIS, THE ORGANIZATION, PROMOTION AND DEVELOPMENT OF ELECTRIC COOPERATIVES TO ATTAIN THE SAID OBJECTIVE, PRESCRIBING TERMS AND CONDITIONS FOR THEIR OPERATIONS, THE REPEAL OF REPUBLIC ACT NO. 6038, AND FOR OTHER PURPOSES.

5 Exhibit "P-2", Docket, p. 29.

6 Docket, pp. 236–242, JSFI, Summary of Admitted Facts, par. 2.

7 *Id.* at par. 3; Exhibit "P-4", Docket, p. 39.

8 *Id.* at par. 4; Exhibit "P-6", Docket, pp. 42–47.

9 *Id.* at par. 4; Exhibit "P-7", Docket, pp. 48–63.

10 *Id.* at par. 4; Exhibit "P-8", Docket, pp. 64–65.

11 *Id.* at par. 4; Exhibit "P-9-A", Docket, p. 68.

12 *Id.* at par. 4; Exhibit "P-9-C", Docket, p. 70.

13 *Id.* at par. 4

14 Exhibit "P-9-E", Docket, p. 72.

On February 11, 2022, petitioner received a Preliminary Assessment Notice (**PAN**) dated January 25, 2022,[15] assessing deficiency Income Tax and Compromise Penalty amounting to ₱46,327,944.87, broken down as follows:

	Income Tax	Compromise Penalty	Total
Basic Tax	₱27,177,896.40	₱25,000.00	₱27,202,896.40
Surcharge	6,794,474.10		6,794,474.10
Interest	12,330,574.37		12,330,574.37
Total	₱46,302,944.87	₱25,000.00	₱46,327,944.87

Contending that the income tax assessment lacked legal basis, petitioner submitted a *Protest Letter* with a Request for Reinvestigation regarding the PAN.[16]

On March 31, 2022, petitioner received a Formal Letter of Demand and Final Assessment Notice (**FLD/FAN**), bearing Assessment Number RR16-099-026-2022 dated March 8, 2022.[17] The FLD/FAN included a Computation Sheet and Basis of Assessment, and assessed petitioner for deficiency Income Tax and Compromise Penalty amounting to ₱46,703,223.22, itemized as follows:

	Income Tax	Compromise Penalty	Total
Basic Tax	₱27,177,896.40	₱25,000.00	₱27,202,896.40
Surcharge	6,794,474.10		6,794,474.10
Interest	12,705,852.72		12,705,852.72
Total	₱46,678,223.22	₱25,000.00	₱46,703,223.22

Petitioner then filed a *Protest Letter with Request for Reinvestigation* on April 12, 2022.[18] Respondent granted petitioner's *Request for Reinvestigation* through a Letter dated April 21, 2022.[19]

Subsequently, petitioner received another LOA, bearing No. 201900025326/eLA99-2022-00000222, dated November 10, 2022, issued by RD Emir U. Abutazil of Revenue Region No. 16, Cagayan de Oro City. This LOA authorized RO Aleah Gampong and GS Maricel Develos to scrutinize petitioner's

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[15] Docket, pp. 236–242, JSFI, Summary of Admitted Facts, par. 5; Exhibit "P-10", Docket, pp. 75–83.
[16] *Id.* at par. 5; Exhibit "P-11", Docket, pp. 84–91.
[17] *Id.* at par. 6; Exhibit "P-13", Docket, pp. 93–103.
[18] *Id.* at par. 6; Exhibit "P-14", Docket, pp. 104–111.
[19] *Id.* at par. 6; Exhibit "P-15", Docket, p. 113.

books of accounts and other accounting records for CY 2017, similar to the previous examination.[20]

On March 1, 2023, respondent issued the assailed FDDA, which petitioner received on April 4, 2023.[21] The FDDA imposed deficiency Income Tax and Compromise Penalty amounting to ₱46,495,354.79, inclusive of interest and surcharges, *viz.*:

	Income Tax	**Compromise Penalty**	**Total**
Basic Tax	₱25,321,608.57	₱25,000.00	₱25,346,608.57
Surcharge	6,330,402.14		6,330,402.14
Interest	14,818,344.08		14,818,344.08
Total	₱46,470,354.79	₱25,000.00	₱46,495,354.79

PROCEEDINGS BEFORE THE COURT

On April 27, 2023, petitioner filed a *Petition for Review*.[22] The Court, noting that the attached Board Resolution was not notarized, directed petitioner to submit a notarized Board Resolution authorizing Atty. Eleuterio F. Diao IV to act as counsel for petitioner, and authorizing Francis E. Boniao and Cristopher A. Dulfo, petitioner's President and General Manager, respectively, to sign the Verification and Certification of Non-Forum Shopping on behalf of petitioner.[23] Petitioner complied by filing a *Manifestation* dated August 8, 2023.[24]

Respondent filed a *Motion for Extension of Time to File Answer* on October 5, 2023,[25] which the Court granted.[26] Thus, on November 6, 2023, respondent filed his *Answer*.[27]

The case was referred to mediation pursuant to a *Resolution* dated November 14, 2023.[28]

On January 5, 2024, respondent elevated the BIR Records, consisting of one (1) folder containing 439 pages.[29]

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20 *Id.* at par. 7; Exhibit "P-17", Docket, p. 133.
21 *Id.* at par. 8; Exhibit "P-18", Docket, pp. 138–145.
22 Docket, pp. 6–17, including annexes.
23 *Id.* at 147–148, Resolution dated May 18, 2023.
24 *Id.* at 152–153.
25 *Id.* at 164–167.
26 *Id.* at 169, Resolution dated October 10, 2023.
27 *Id.* at 170–180.
28 *Id.* at 182.
29 *Id.* at 188–190, Compliance with Manifestation.

On January 16, 2024, the Philippine Mediation Center – Court of Tax Appeals filed a *Back to Court Notice*, stating that the mediation was refused by petitioner.[30] The *Pre-Trial Brief for the Petitioner* was filed on March 27, 2024,[31] while respondent filed his *Pre-Trial Brief* on April 1, 2024.[32] The Pre-Trial Conference was held on April 4, 2024.[33]

On May 10, 2024, both parties filed their *Joint Stipulation of Facts and Issues* (**JSFI**),[34] which the Court approved in a *Resolution* dated May 27, 2024.[35]

Trial ensued.

At the hearing held on June 5, 2024, petitioner presented its witness, Hazel C. Del Puerto, who testified by way of her Judicial Affidavit.[36] Petitioner filed its *Formal Offer of Evidence* on June 11, 2024,[37] which the Court resolved on September 6, 2024.[38] Accordingly, petitioner's exhibits were admitted, except for Exhibits "P-1", "P-3", "P-5" and "P-9-G".

The *Memorandum for Petitioner* was filed on August 6, 2024.[39] Respondent, on the other hand, manifested that he was adopting the arguments raised in his *Answer* as his *Memorandum*.[40]

The case was submitted for decision on November 11, 2024.[41]

THE ISSUE

The parties stipulated the following issue for resolution, *viz.*:[42]

> Whether or not petitioner is liable for deficiency Income Tax and Compromise Penalty in the total amount of ₱46,495,354.79 for the taxable year 2017.

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30 *Id.* at 192.
31 *Id.* at 202–206.
32 *Id.* at 207–212.
33 *Id.* at 218–220, Order dated April 4, 2024.
34 *Id.* at 236–242.
35 *Id.* at 245.
36 *Id.* at 250–251, Order dated June 5, 2024.
37 *Id.* at 253–257.
38 *Id.* at 290–291.
39 *Id.* at 276–285.
40 *Id.* at 292–293, Manifestation dated October 11, 2024.
41 *Id.* at 298.
42 Pre-trial Order, Issues to be Tried or Resolved, Docket, p. 265.

PETITIONER'S ARGUMENTS

In its *Memorandum,* petitioner maintains that it is permanently exempt from paying income tax pursuant to Section 39(a)(1) of PD No. 269.[43] Petitioner states that the specific provision has not been repealed by PD No. 1645,[44] Republic Act (**RA**) No. 6938,[45] and RA No. 10531.[46] Petitioner also cites as its basis Revenue Memorandum Circular (**RMC**) No. 72-2003,[47] where the CIR "recognized and [honored]" the "permanent income tax exemption of electric cooperatives."

Petitioner further notes that RMC No. 74-2013[48] appears to withdraw the income tax exemptions of cooperatives. However, petitioner argues that it does not repeal RMC No. 72-2003, cannot be construed to repeal PD No. 269, and is based on a misreading of *Maceda v. Macaraig, Jr.*[49] and *Davao Oriental Electric Cooperative v. The Province of Davao Oriental.*[50]

RESPONDENT'S ARGUMENTS

In his *Answer*, which he adopted as his Memorandum, respondent argues that petitioner is not exempt from payment of income tax. Respondent cites RMC No. 74-2013, PD No. 1955,[51] and Executive Order (**EO**) No. 93 series of 1986, as his bases.[52]

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43 CREATING THE "NATIONAL ELECTRIFICATION ADMINISTRATION" AS A CORPORATION, PRESCRIBING ITS POWERS AND ACTIVITIES, APPROPRIATING THE NECESSARY FUNDS THEREFOR AND DECLARING A NATIONAL POLICY OBJECTIVE FOR THE TOTAL ELECTRIFICATION OF THE PHILIPPINES ON AN AREA COVERAGE SERVICE BASIS, THE ORGANIZATION, PROMOTION AND DEVELOPMENT OF ELECTRIC COOPERATIVES TO ATTAIN THE SAID OBJECTIVE, PRESCRIBING TERMS AND CONDITIONS FOR THEIR OPERATIONS, THE REPEAL OF REPUBLIC ACT NO. 6038. AND FOR OTHER PURPOSES.

44 AMENDING PRESIDENTIAL DECREE NO. 269, INCREASING THE CAPITALIZATION AND BROADENING THE LENDING AND REGULATORY POWERS OF THE NATIONAL ELECTRIFICATION ADMINISTRATION AND FOR OTHER PURPOSES.

45 AN ACT TO ORDAIN A COOPERATIVE CODE OF THE PHILIPPINES

46 AN ACT STRENGTHENING THE NATIONAL ELECTRIFICATION ADMINISTRATION, FURTHER AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 269, AS AMENDED, OTHERWISE KNOWN AS THE "NATIONAL ELECTRIFICATION ADMINISTRATION DECREE"

47 SUBJECT: Tax Implications of Electric Cooperatives Registered with the National Electrification Administration and Cooperative Development Authority

48 SUBJECT: Circularizing the Tax Implications of Electric Cooperatives (EC) Registered with the National Electrification Administration (NEA) Pursuant to BIR Ruling No. 398-2013 Dated November 4, 2013

49 G.R. No. 88291, May 31, 1991 [Per J. Gancayco, *En Banc*].

50 G.R. No. 170901, January 20, 2009 [Per C.J. Puno, First Division].

51 WITHDRAWING, SUBJECT TO CERTAIN CONDITIONS, THE DUTY AND TAX PRIVILEGES GRANTED TO PRIVATE BUSINESS ENTERPRISES AND/OR PERSONS ENGAGED IN ANY ECONOMIC ACTIVITY, AND FOR OTHER PURPOSES.

52 WITHDRAWING ALL TAX AND DUTY INCENTIVES, SUBJECT TO CERTAIN EXCEPTIONS. EXPANDING THE POWERS OF THE FISCAL INCENTIVES REVIEW BOARD AND FOR OTHER PURPOSES.

THE COURT'S RULING

The instant *Petition for Review* is impressed with merit.

The Court has jurisdiction over the instant case.

Before delving into the merits, the Court must first resolve whether it has jurisdiction to take cognizance of the present case.

Section 7(a)(1) and (2) of RA No. 1125,[53] as amended by RA No. 9282,[54] confers upon this Court exclusive appellate jurisdiction over decisions and inactions of respondent, to wit:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
>
> (1) **Decisions of the [CIR] 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;
>
> (2) **Inaction by the [CIR] 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, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; *(Emphasis supplied)*

In addition, Section 11 of RA No. 1125, as amended by RA No. 9282, prescribes the period for filing an appeal before the Court of Tax Appeals (**CTA**), *viz.*:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any party adversely affected by a decision, ruling, or inaction of the [CIR]**...may file an **appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period**

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[53] An Act Creating the Court of Tax Appeals, June 16, 1954.

[54] 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, March 30, 2004.

> **fixed by law for action as referred to in Section 7(a)(2) herein. ...** *(Emphasis supplied)*

The above provisions are likewise provided under Section 3(a)(1) and (2), Rule 4,[55] and Section 3(a), Rule 8[56] of the Revised Rules of the CTA.

Based on the foregoing, the Court has exclusive jurisdiction to review decisions of the CIR by appeal, provided that the appeal is filed within thirty (30) days from receipt of the decision.

In the instant case, respondent issued the assailed FDDA on March 1, 2023, which was received by petitioner on **April 4, 2023.**[57] Petitioner filed its *Petition for Review* on **April 27, 2023,** within the prescribed 30-day period.[58] Accordingly, the Court finds that the *Petition for Review* was timely filed.

The FAN/FLD is void for violating petitioner's right to due process.

Section 228 of the NIRC of 1997, as amended,[59] mandates that the taxpayer must be informed in writing of the law and facts on which the assessment is based; otherwise, the assessment is void.[60] The requirement that the taxpayer be informed of the factual and legal bases of the assessment is

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[55] *Section 3. Cases Within the Jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:
(a) Exclusive original 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 <u>other matters</u> arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
(2) Inaction by 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, where the National Internal Revenue Code or other applicable law provides a specific period for action: ...

[56] 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. 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.

[57] Docket, pp. 236–242, JSFI, Summary of Admitted Facts, par. 8; Exhibit "P-18", Docket, pp. 138–145.

[58] Docket, pp. 6–17, including annexes.

[59] 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. (*Emphasis supplied*)

[60] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398–99 & 201418–19, October 3, 2018 [Per J. Leonen, Third Division].

mandatory. It cannot be presumed. As a requirement of due process, this rule allows the taxpayer to make an effective protest.[61] Moreso, it must be emphasized that failure to comply with Section 228 renders the assessment void and finds no validation in any provision of the Tax Code.[62]

To implement Section 228, Section 3 of Revenue Regulations (**RR**) No. 12-1999,[63] as amended by RR Nos. 18-2013[64] and 7-2018,[65] explicitly requires that the PAN and the FLD/FAN must state, among others, the factual and legal bases of the assessment; otherwise, they are void, *viz.*:

> SEC. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* –
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> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
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> ....
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> 3.1.2 *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).
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> ....
>
> 3.1.4 *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 **<u>shall state the facts, the law</u>, rules and regulations, or jurisprudence <u>on which the assessment is based, *otherwise, the assessment shall be void*</u>** (see illustration in ANNEX 'B' hereof). (*Emphasis supplied*)

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61 *Commissioner of Internal Revenue v. Spouses Magaan*, G.R. No. 232663, May 3, 2021 [Per J. Leonen, Third Division].

62 *Id.*, citing *Commissioner of Internal Revenue v. Reyes*, G.R. Nos. 159694 & 163581, January 27, 2006 [Per C.J. Panganiban, First Division].

63 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 Taxpayers Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty, September 6, 1999.

64 Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, November 28, 2013.

65 Amending Certain Sections of Revenue Regulations No. 12-99, as Amended by Revenue Regulations No. 18-13, Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, January 22, 2018.

While Section 228 does not require taxpayers to respond to a PAN, the BIR is nonetheless required to consider any reply received within the fifteen (15)-day period allotted to taxpayers.[66] This consideration is not merely procedural; rather, it serves to uphold the taxpayer's right to due process and to facilitate a more efficient resolution of tax disputes by streamlining the assessment procedure.

In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (*Avon*),[67] the Supreme Court held that:

> **Tax assessments issued in violation of the due process rights of a taxpayer are null and void**. While the government has an interest in the swift collection of taxes, the Bureau of Internal Revenue and its officers and agents cannot be overreaching in their efforts, but must perform their duties in accordance with law, with their own rules of procedure, and always with regard to the basic tenets of due process.
>
> The 1997 National Internal Revenue Code, also known as the Tax Code, and revenue regulations allow a taxpayer to file a reply or otherwise to submit comments or arguments with supporting documents at each stage in the assessment process. **Due process requires the Bureau of Internal Revenue to *consider* the defenses and evidence submitted by the taxpayer and to render a decision based on these submissions. Failure to adhere to these requirements constitutes a denial of due process and taints the administrative proceedings with <u>invalidity</u>.**
>
> ....
>
> The Bureau of Internal Revenue is the primary agency tasked to assess and collect proper taxes, and to administer and enforce the Tax Code. To perform its functions of tax assessment and collection properly, it is given ample powers under the Tax Code, such as the power to examine tax returns and books of accounts, to issue a subpoena, and to assess based on the best evidence obtainable, among others. However, these powers must 'be exercised reasonably and [under] the prescribed procedure.' **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 taxpayer's constitutional rights.**
>
> ....
>
> In carrying out these quasi-judicial functions, **the Commissioner is required to 'investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them as basis for their official action and exercise of discretion in a judicial nature.'** Tax investigation and

[66] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398–99 & 201418–19, October 3, 2018 [Per J. Leonen, Third Division].

[67] *Id.*

assessment necessarily demand the observance of due process because they affect the proprietary rights of specific persons.

....

In *Ang Tibay v. The Court of Industrial Relations*, this Court observed that **although quasi-judicial agencies 'may be said to be free from the rigidity of certain procedural requirements[, it] does not mean that it can, in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirements of due process in trials and investigations of an administrative character.'** It then enumerated the fundamental requirements of due process that must be respected in administrative proceedings:

(1) The party interested or affected must be able to present his or her own case and submit evidence in support of it.
(2) **The administrative tribunal or body must *consider* the evidence presented.**
(3) There must be evidence supporting the tribunal's decision.
(4) The evidence must be substantial or 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'
(5) The administrative tribunal's decision must be rendered on the evidence presented, or at least contained in the record and disclosed to the parties affected.
(6) The administrative tribunal's decision must be based on the deciding authority's own independent consideration of the law and facts governing the case.
(7) **The administrative tribunal's decision is rendered in a manner that the parties may *know* the various issues involved and the reasons for the decision.**

....

The last requirement relating to the form and substance of the decision is <u>the decision-maker's *'duty to give reason'*</u> to enable the affected person to understand how the rule of fairness has been administered in his [or her] case, to expose the reason to public scrutiny and criticism, and <u>to ensure that the decision will be thought through by the decision-maker</u>.

....

Administrative due process is anchored on fairness and equity in procedure. It is satisfied if the party is properly notified of the charge against it and is given a fair and reasonable opportunity to explain or defend itself. Moreover, it **demands that the party's defenses be *considered*** by the administrative body in making its conclusions, **and that the party be *sufficiently informed* of the reasons for its conclusions.**

....

The importance of providing 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 Regulation 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 the Final Letter of Demand must state the facts and law on which it is based; otherwise, the Final Letter of Demand and Final Assessment Notices themselves shall be void.** Finally, Section 3.1.6 specifically requires that the decision of the Commissioner or of his or her duly authorized representative on a disputed assessment shall state the facts and law, rules and regulations, or jurisprudence on which the decision is based. Failure to do so would invalidate the Final Decision on Disputed Assessment.

'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.

....

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, <u>Avon was left unaware on how the Commissioner or her authorized representatives appreciated the explanations or defenses raised in connection with the assessments</u>.** There was clear inaction of the Commissioner at every stage of the proceedings.

....

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. <u>He or she must give the particular facts upon which his or her conclusion are based, and those facts must appear in the record</u>.**

....

The Commissioner's total disregard of due process rendered the <u>identical</u> Preliminary Assessment Notice, Final Assessment Notices, and Collection Letter **null and void, and of no force and effect.** (*Citations omitted; Emphasis supplied*)

The *Avon* ruling underscores that the CIR or his duly authorized representative must perform assessment functions in strict adherence to the law and their own rules, always with due regard for the basic tenets of due process. This requires the BIR to consider the taxpayer's defenses and evidence, and to provide reasons for rejecting them, supported by facts and law appearing in the record.

If the CIR or his representative fails to observe due process, the deficiency tax assessment is rendered void and without legal effect. A crucial requirement of due process in tax assessment is that the taxpayer must be informed, in writing, of the legal and factual bases of the assessment. **These must be clearly stated in both the PAN and FLD/FAN**. If the CIR rejects the taxpayer's explanations, he must articulate his reasons for doing so, citing specific facts and legal provisions that support his conclusion. These facts must be reflected in the record. The taxpayer must not be left in the dark as to how the BIR evaluated the explanations or defenses presented in response to the assessment.

In the instant case, petitioner received a PAN dated January 25, 2022,[68] which assessed petitioner of the following:

	Income Tax	**Compromise Penalty**	**Total**
Basic Tax	₱27,177,896.40	₱25,000.00	₱27,202,896.40
Surcharge	6,794,474.10		6,794,474.10
Interest	12,330,574.37		12,330,574.37
Total	₱46,302,944.87	₱25,000.00	₱46,327,944.87

Petitioner filed a Protest Letter with a Request for Reinvestigation regarding the PAN,[69] yet the BIR issued an FLD/FAN dated March 8, 2022,[70] assessing petitioner of deficiency Income Tax and Compromise Penalty amounting to ₱46,703,223.22, *viz.*:

	Income Tax	**Compromise Penalty**	**Total**
Basic Tax	₱27,177,896.40	₱25,000.00	₱27,202,896.40
Surcharge	6,794,474.10		6,794,474.10
Interest	12,705,852.72		12,705,852.72
Total	₱46,678,223.22	₱25,000.00	₱46,703,223.22

68 Docket, pp. 236–242, JSFI, Summary of Admitted Facts, par. 5; Exhibit "P-10", Docket, pp. 75–83.
69 *Id.* at par. 5; Exhibit "P-11", Docket, pp. 84–91.
70 *Id.* at par. 6; Exhibit "P-13", Docket, pp. 93–103.

Notably, the amounts in the PAN and the FLD/FAN are **identical,** except for the recomputed interest. The Details of Discrepancy attached to the PAN and the FLD/FAN, including the discussion of the legal bases therein, are also identical in almost every word. There is a glaring lack of consideration given to petitioner's *Protest Letter* against the PAN.

Petitioner then filed a *Protest Letter with Request for Reinvestigation* against the FLD/FAN on April 12, 2022,[71] which respondent granted in a Letter dated April 21, 2022.[72] Despite this, respondent issued the assailed FDDA on March 1, 2023,[73] assessing petitioner of deficiency Income Tax and Compromise Penalty of ₱46,495,354.79, computed as follows:

	Income Tax	Compromise Penalty	Total
Basic Tax	₱25,321,608.57	₱25,000.00	₱25,346,608.57
Surcharge	6,330,402.14		6,330,402.14
Interest	14,818,344.08		14,818,344.08
Total	₱46,470,354.79	₱25,000.00	₱46,495,354.79

The Details of Discrepancy attached to the FDDA, including the discussion of the legal bases therein, are likewise identical in almost every word with the Details of Discrepancy of the PAN and the FLD/FAN. Similarly, there is also a glaring lack of consideration given to petitioner's *Protest Letter* against the FLD/FAN. While the FDDA shows a reduction in the income tax assessment, it offers no explanation as to the basis for such a reduction.

In essence, the BIR merely reiterated its findings in the PAN and ignored petitioner's rebuttals. This failure to address petitioner's arguments violated petitioner's right to administrative due process. As *Avon* makes clear, the CIR need not accept a taxpayer's explanation, but any rejection must be accompanied by reasons, with the supporting facts and law reflected in the record. The respondent's complete disregard of petitioner's defenses amounts to a denial of due process, rendering the assessment void.

The Supreme Court has emphasized that "between the power of the State to tax and an individual's right to due

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71 *Id.* at par. 6; Exhibit "P-14", Docket, pp. 104–111.
72 *Id.* at par. 6; Exhibit "P-15", Docket, p. 113.
73 *Id.* at par. 8; Exhibit "P-18", Docket, pp. 138–145.

process, the scale favors the right of the taxpayer to due process."[74]

Given that the deficiency tax assessment against petitioner is void, the Court finds no need to pass upon its merits, and the WDL issued pursuant thereto has no legal effect.

The principle of due process furnishes a standard to which governmental action should conform in order to impress it with the stamp of validity. Fidelity to such standards must be the overriding concern of government agencies.[75] While indeed the government has an interest in the swift collection of taxes, its assessment and collection should be exercised justly and fairly, and always in strict adherence to the requirements of the law and of the BIR's own rules.[76]

Petitioner is exempt from income tax.

Even if the Court has already ruled on the invalidity of the assessment, it is nonetheless proper to address and reiterate petitioner's exemption from income tax.

In its *Memorandum,* petitioner asserts that it is permanently exempt from income tax pursuant to Section 39(a)(1) of PD No. 269.[77] It emphasizes that this provision has not been repealed by PD No. 1645,[78] RA No. 6938,[79] or RA No. 10531.[80] Petitioner also invokes RMC No. 72-2003,[81] wherein the CIR "recognized and [honored]" the "permanent income tax exemption of electric cooperatives."

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[74] *Commissioner of Internal Revenue v. Villanueva*, G.R. No. 249540, February 28, 2024 [Per J. Caguioa, Third Division], citing *Commissioner of Internal Revenue v. Fitness by Design. Inc.*, G.R. No. 215957, November 9, 2016 [Per J. Leonen, Second Division].

[75] *Mabuhay Textile Mills Corp. v. Ongpin*, G.R. No. L-67784, February 28, 1986 [Per J. Gutierrez, Jr., First Division].

[76] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398–99 & 201418–19, October 3, 2018 [Per J. Leonen, Third Division].

[77] CREATING THE "NATIONAL ELECTRIFICATION ADMINISTRATION" AS A CORPORATION, PRESCRIBING ITS POWERS AND ACTIVITIES, APPROPRIATING THE NECESSARY FUNDS THEREFOR AND DECLARING A NATIONAL POLICY OBJECTIVE FOR THE TOTAL ELECTRIFICATION OF THE PHILIPPINES ON AN AREA COVERAGE SERVICE BASIS, THE ORGANIZATION, PROMOTION AND DEVELOPMENT OF ELECTRIC COOPERATIVES TO ATTAIN THE SAID OBJECTIVE, PRESCRIBING TERMS AND CONDITIONS FOR THEIR OPERATIONS, THE REPEAL OF REPUBLIC ACT NO. 6038, AND FOR OTHER PURPOSES.

[78] AMENDING PRESIDENTIAL DECREE NO. 269, INCREASING THE CAPITALIZATION AND BROADENING THE LENDING AND REGULATORY POWERS OF THE NATIONAL ELECTRIFICATION ADMINISTRATION AND FOR OTHER PURPOSES.

[79] AN ACT TO ORDAIN A COOPERATIVE CODE OF THE PHILIPPINES

[80] AN ACT STRENGTHENING THE NATIONAL ELECTRIFICATION ADMINISTRATION, FURTHER AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 269, AS AMENDED, OTHERWISE KNOWN AS THE "NATIONAL ELECTRIFICATION ADMINISTRATION DECREE"

[81] SUBJECT: Tax Implications of Electric Cooperatives Registered with the National Electrification Administration and Cooperative Development Authority

Respondent, on the other hand, argues that petitioner is not exempt from income tax, citing RMC No. 74-2013, PD No. 1955,[82] and EO No. 93, series of 1986.[83]

The Court finds for petitioner.

This issue is not novel. The Court has consistently upheld the income tax exemption of electric cooperatives.

Section 39 of PD No. 269 provides:

> SECTION 39. *Assistance to Cooperatives; Exemption from Taxes, Imposts, Duties, Fees; Assistance from the National Power Corporation.* — Pursuant to the national policy declared in Section 2, the Congress hereby finds and declares that the following assistance to cooperatives is necessary and appropriate:
>
> (a) Provided that it operates in conformity with the purposes and provisions of this Decree, a cooperative (1) shall be permanently exempt from paying income taxes, and (2) for a period ending on December 31; of the thirtieth full calendar year after the date of a cooperative's organization or conversion hereunder, or until it shall become completely free of indebtedness incurred by borrowing, whichever event first occurs, shall be exempt from the payment (a) of all National Government, local government and municipal taxes and fees, including franchise, filing, recordation, license or permit fees or taxes and any fees, charges, or costs involved in any court or administrative proceeding in which it may be a party, and (b) of all duties or imposts on foreign goods acquired for its operations, the period of such exemption for a new cooperative formed by consolidation, as provided for in Section 29, to begin from as of the date of the beginning of such period for the constituent consolidating cooperative which was most recently organized or converted under this Decree: Provided, That the Board of Administrators shall, after consultation with the Bureau of Internal Revenue, promulgate rules and regulations for the proper implementation of the tax exemptions provided for in this Decree.

In *Commissioner of Internal Revenue v. Samar-I Electric Cooperative, Inc.*,[84] the Court *En Banc* clarified that PD No. 269 was not repealed by the Cooperative Code:

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[82] WITHDRAWING, SUBJECT TO CERTAIN CONDITIONS, THE DUTY AND TAX PRIVILEGES GRANTED TO PRIVATE BUSINESS ENTERPRISES AND/OR PERSONS ENGAGED IN ANY ECONOMIC ACTIVITY, AND FOR OTHER PURPOSES

[83] WITHDRAWING ALL TAX AND DUTY INCENTIVES, SUBJECT TO CERTAIN EXCEPTIONS, EXPANDING THE POWERS OF THE FISCAL INCENTIVES REVIEW BOARD AND FOR OTHER PURPOSES.

[84] CTA *EB* Case No. 460 & 462, March 11, 2010 [Per J. Castaneda, Jr., *En Banc*].

Article 127 of the Cooperative Code reads:

> ARTICLE 127. Repeals. — Except as expressly provided by this Code, Presidential Decree No. 175 and all other laws, or parts thereof, inconsistent with any provisions of this Code shall be deemed repealed: Provided, however, That nothing in this Code shall be interpreted to mean the amendment or repeal of any provision of Presidential Decree No. 269: Provided, further, That the electric cooperatives which qualify as such under this Code shall fall under the coverage thereof.

A plain reading of the above provision shows that PD 269 is not amended nor repealed by the enactment of the Cooperative Code. Thus, the exemption from paying taxes of electric cooperatives under Section 39 of PD 269 still applies, which reads: ...

....

We, thus, agree with the following findings of the Court in division as follows:

> In the case at bar, it is undisputed that petitioner is registered with NEA on February 27, 1974, pursuant to PD 269; and was issued a Certificate of Provisional Registration by the CDA on March 16, 1993. This Court agrees with respondent's position that the provisional registration of petitioner is good only for two years, pursuant to Section 4 of the "Guidelines on the Provisional Registration of Electric Cooperatives with the CDA". **Obviously, the provisional registration of petitioner had already expired in 1995. However, the expiration of petitioner's provisional registration with the CDA is irrelevant to the issue on hand since petitioner remained registered with NEA; thus, governed by the provisions of PD 269. This being the case, Section 39 of PD 269 clearly grants tax exemption to electric cooperatives, such as petitioner, from income tax.** The Minimum Corporate Income Tax (MCIT) being an income tax; thus, petitioner is logically exempted from the payment of MCIT. (*Emphasis supplied*)

A plain reading of Article 127 of the Cooperative Code confirms that Section 39 of PD No. 269 remains effective; hence,

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the income tax exemption of electric cooperatives continues to apply.

The Court's ruling in *Misamis Oriental Rural Electric Service Cooperative I, Inc. v. Commissioner of Internal Revenue*[85] is likewise instructive:

> *Petitioner is exempt from income tax, so the assessment against it is void*
>
> Petitioner's other major argument is that it is permanently exempted from income tax. Respondent disagrees, quoting RMC No. 74-2013 and the jurisprudence cited by said circular.
>
> We find for petitioner.
>
> Under Section 39 of P.D. No. 269, a law issued on August 6, 1973, cooperatives registered with the National Electrification Administration ("NEA") are permanently exempted from paying income taxes:
>
> ....
>
> This was later withdrawn by Executive Order ("E.O.") No. 93 on December 17, 1986:
>
>> SECTION 1. The provisions of any general or special law to the contrary notwithstanding, all tax and duty incentives granted to government and private entities are hereby withdrawn. . .
>
> Then, Fiscal Incentive Review Board ("FIRB") Resolution No. 24-87, effective July 1, 1987, restored all tax exemptions granted by P.D. No. 269 except that on income tax:
>
>> BE IT RESOLVED, as it is hereby resolved, That the tax and duty exemption privileges of electric cooperatives granted under the terms and conditions of Presidential Decree No. 269 (creating the National Electrification Administration as a corporation, prescribing its powers and activities, appropriating the necessary funds therefor and declaring a national policy objective for the total electrification of the Philippines on an area coverage basis; the organization, promotion and development of electric cooperatives to attain the said objective, prescribing terms and conditions for their

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[85] CTA Case No. 10206, July 16, 2024 [Per J. Modesto-San Pedro, Second Division].

> operations, the repeal of Republic Act No. 6038, and for other purposes), as amended, are restored effective July 1, 1987: Provided, however, That income from their electric service operations and other sources including the interest income from bank deposits and yield or any other monetary benefit from bank deposits and yield or any other similar arrangements shall remain taxable: Provided, further, That the electric cooperatives shall furnish the FIRB on an annual basis or as often as the FIRB may require them to do so, statistical and financial statements of their operations and other information as may be required, for purposes of effective and efficient tax and duty exemption availment.

Finally, R.A. No. 6938 ("Cooperative Code") reinstated tax exemptions for cooperatives registered with the Cooperative Development Authority ("CDA").

The controversy arises mainly from the laws discussed. For petitioner, the permanent exemption granted to it by P.D. No. 269 persists to the present. For respondent, said exemption was withdrawn by E.O. No. 93 and not reinstated by FIRB Resolution No. 24-87, which left the income of cooperatives taxable. Further, tax exemptions under the Cooperative Code are granted only to cooperatives registered with the CDA, which petitioner is not.

Unfortunately for respondent, this Court has previously and consistently favored cooperatives when ruling on this issue. The case of *Samar-I Electric Cooperative, Inc. v. Commissioner of Internal Revenue ("Samar-I")* is informative here. There, the Court found an electric cooperative exempt from Minimum Corporate Income Tax under P.D. No. 269, even in the face of E.O. No. 93 and FIRB Resolution No. 24-87 and despite said cooperative not being registered with the CDA under the Cooperative Code. The ruling was reached via two conclusions: (1) registration with the CDA was optional for cooperatives already registered with the NEA; and (2) E.O. No. 93 is inconsistent with the Cooperative Code, which thus repealed the former.

The first conclusion was drawn from Rule III, Section 1 of the Omnibus Rules and Regulations on the Registration of Electric Cooperatives ("Omnibus Rules"), which uses the phrase "shall choose" when discussing registration with the CDA by already existing electric cooperatives. The Court then reasoned that an electric cooperative that had previously registered with the NEA could simply opt not to register with the CDA. Such a choice would keep them governed by the provisions of P.D. No. 269, not the Cooperative Code.

The second conclusion was made following Article 127 of the Cooperative Code:

> ARTICLE 127. Repeals. — Except as expressly provided by this Code, Presidential Decree No. 175 and all other laws, or parts thereof, inconsistent with any provisions of this Code shall be deemed repealed: Provided, however, That nothing in this Code shall be interpreted to mean the amendment of repeal of any provision of Presidential Decree No. 269: Provided, further, That the electric cooperatives which qualify as such under this Code shall fall under the coverage thereof.

The above repealed all previous laws inconsistent with the Cooperative Code while leaving P.D. No. 269 untouched. The Court in Samar-I found that E.O. No. 93 was "apparently" inconsistent with the Cooperative Code and thus deemed the former's withdrawal of tax exemptions repealed by the latter.

Combining these two conclusions, the Court in *Samar-I* found that therein petitioner still enjoyed the exemption from income tax granted by P.D. No. 269 even without registering with the CDA. The ruling has been reaffirmed by the Court multiple times, such as in the recent case of *Agusan del Norte Electric Cooperative, Inc. v. Commissioner of Internal Revenue.*

We follow this line of reasoning here. While the bodies with which cooperatives must register differ, P.D. No. 269 and the Cooperative Code share a similar principle: to grant tax exemptions to registered cooperatives. E.O. No. 93 contradicts this by withdrawing such tax exemptions. The Cooperative Code thus repeals said Order while refraining from modifying P.D. No. 269. By extension, the Cooperative Code also repeals FIRB Resolution No. 24-87, insofar as said Resolution reiterates E.O. No. 93's withdrawal of income tax exemptions for cooperatives. As such, the Code effectively reinstates the tax exemptions granted by P.D. No. 269 to electric cooperatives that had registered with the NEA, without further requiring them to register with the CDA.

....

We cannot give credence to the contentions respondent draws from RMC No. 74-2013 as the same contradict Our harmonization of the relevant laws. The law must prevail here.

The various jurisprudence cited by respondent cannot help him, either. *Maceda v. Hon. Catalino, Jr.* validated FIRB Resolution No. 24-87's restoration of tax exemptions but does not address said Resolution's affirmation of E.O. No. 93's withdrawal of tax exemptions. It is thus inapplicable here.

> Similarly, *Davao Oriental Electric Cooperative, Inc. v. The Province of Davao Oriental* simply states that FIRB No. 24-87 cannot be retroactively applied, an issue unrelated to those in the case at bar. Finally, both *Philippine Rural Electric Cooperatives Association, Inc. v. The Secretary, Department of the Interior and Local Government* ("*PHILRECA*") and *City of Iriga v. Camarines Sur III Electric Cooperative, Inc.* deal with the withdrawal of local taxes by the Local Government Code. The same is true even of *Benguet Electric Cooperative v. The Municipality of La Trinidad,* the latest Supreme Court ruling drawing from *PHILRECA*. The case at bar involves income tax, a national internal revenue tax, and is thus unaffected by these Decisions.
>
> From the above, none of the jurisprudence invoked by respondent is fully applicable here. We thus follow the past rulings of the Court of Tax Appeals and find petitioner exempt from income tax.
>
> Considering petitioner's exemption from income tax, the assessment against it for alleged deficiency income tax has no basis in law. An entity that is not required to pay any income tax in the first place obviously cannot accrue any deficiency income tax. The assessment must consequently be nullified.

In the instant case, petitioner has sufficiently established its entitlement to the income tax exemption under PD No. 269. First, respondent admits that petitioner is a non-stock, non-profit electric cooperative. [86] More importantly, petitioner presented Certificate of Franchise No. 076 dated August 6, 1973, issued by the NEA, [87] granting petitioner the authority to operate an electric light and power service for a period of fifty (50) years from June 10, 1981.

Accordingly, petitioner's status as a non-stock, non-profit electric cooperative duly franchised by the NEA entitles petitioner to the income tax exemption provided under Section 39 of PD No. 269.

WHEREFORE, in light of the foregoing, the instant *Petition for Review* is **GRANTED**.

Accordingly, the Formal Letter of Demand and Final Assessment Notice dated March 8, 2022, assessing petitioner for the alleged deficiency Income Tax and Compromise Penalty in the amount of ₱46,703,223.22 for the calendar year 2017,

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86 Par. 1, Petition for Review, Docket, p. 6, as admitted by respondent in Par. 2, Respondent's Pre Trial Brief, Docket, p. 208.

87 Exhibit "P-2", Docket, p. 29.

are hereby **DECLARED NULL AND VOID** and are consequently **CANCELLED** and **SET ASIDE**. The Final Decision on Disputed Assessment dated March 1, 2023, is **REVERSED** and **SET ASIDE**.

Further, respondent is **ENJOINED** and **PROHIBITED** from proceeding with the collection of taxes in the above-captioned case.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
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
Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the First 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
Acting Presiding Justice