REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

**SECOND DIVISION**

| | |
|---|---|
| **MY SOLID TECHNOLOGIES AND DEVICES CORPORATION,** *Petitioner,* | **CTA CASE NO. 10598** |
| | Members: |
| - versus - | **RINGPIS-LIBAN**, *Chairperson,* **MODESTO-SAN PEDRO**, *and* **FERRER-FLORES**, *JJ.* |
| **COMMISSIONER OF INTERNAL REVENUE,** *Respondent.* | Promulgated: MAY 15 2025 4:20 p.m. |

x - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - x

# DECISION

***MODESTO-SAN PEDRO, J.*:**

## The Case

The Petition for Review prays that this Court render judgment ordering the cancellation and withdrawal of respondent's assessments for deficiency income tax, value-added tax ("VAT"), expanded withholding tax ("EWT"), and withholding tax on compensation ("WTC") for taxable year ("TY") 2016 in the aggregate amount of PhP45,414,139.25, inclusive of interest.[1]

## The Parties

Petitioner My Solid Technologies and Devices Corporation is a corporation duly organized and existing under the laws of the Republic of the Philippines, with a registered address at 3rd Floor, Green Sun Building, 2285 Don Chino Roces Avenue Extension, Makati City. It may be served orders, notices, resolutions, and other court processes of this Court through its counsel at its office address. It is a registered taxpayer of the Bureau of Internal

[1] Statement of the Case, Amended Pre-Trial Order, Docket – Vol. 2, p. 658.

Revenue ("BIR") Revenue Region No. 8A – Makati City, Revenue District Office ("RDO") No. 48 with Taxpayer Identification No. 007-283-114-0000.[2]

Respondent is the duly appointed Commissioner of Internal Revenue ("CIR") vested under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of said office including, *inter alia*, the power to examine the books of accounts and other accounting records of a particular taxpayer to determine the correct amount of the tax liability, the power to decide disputed assessments and to cancel and abate tax liabilities, pursuant to the provisions of the *National Internal Revenue Code of 1997, as amended* (the "*Tax Code*"), and other laws, rules, and regulations.[3]

## The Facts

On October 20, 2017, petitioner received a copy of the Letter of Authority ("LOA") No. AUDM35/014648/2017 (SN: eLA201500049023) with attached Checklist of Requirements, both dated October 10, 2017.[4]

On November 22, 2018, petitioner received a copy of respondent's Notice of Informal Conference ("NIC").[5]

On October 9, 2019, petitioner received a copy of respondent's Preliminary Assessment Notice ("PAN") dated October 9, 2019 with attached Details of Discrepancies and Schedule 3.[6]

On October 24, 2019, petitioner filed its Reply to the PAN with the BIR, Revenue Region No. 8.[7]

On January 9, 2020, petitioner received a copy of respondent's Assessment Notices and Formal Letter of Demand ("FLD") with attached Details of Discrepancies and Schedule 3, all dated January 8, 2020.[8]

On February 7, 2020, petitioner filed with the BIR, Revenue Region No. 8 a Request for Reinvestigation of the FLD, in which it prayed for the cancellation and withdrawal of respondent's deficiency tax assessments for TY 2016.[9]

---

2 Pars. 1 and 2, Summary of Admitted Facts, Joint Stipulation of Facts and Issues ("JSFI"), Docket – Vol. 2, p. 611.
3 Par. 3, *id.* at p. 612.
4 Par. 4, *id.*
5 Par. 5, *id.*; Exhibit "P-3", Docket – Vol. 2, pp. 819 to 830.
6 Par. 6, *id.*; Exhibit "P-5", Docket – Vol. 2, pp. 832 to 840.
7 Exhibit "P-6", Docket – Vol. 2, pp. 841 to 861.
8 Par. 7, Summary of Admitted Facts, JSFI", Docket – Vol. 2, p. 612; Exhibit "P-7", Docket – Vol. 2, pp. 862 to 875.
9 Exhibit "P-8", Docket – Vol. 2, pp. 876 to 890.

On June 25, 2020, petitioner submitted to BIR, Revenue Region No. 8 additional documents in support of its Request for Reinvestigation.[10]

On June 25, 2021, petitioner received a copy of respondent's Final Decision on Disputed Assessment ("FDDA"), dated June 21, 2021.[11]

Petitioner thus filed a Petition for Review ("Petition") before this Court on July 26, 2021,[12] to which respondent filed his Answer on February 17, 2022.[13] Meanwhile, respondent transmitted the BIR Records on March 1, 2022.[14]

The Pre-Trial Conference was set and held on June 14, 2022.[15] Prior thereto, the petitioner's and respondent's respective Pre-Trial Briefs were filed on June 10, 2022 and June 9, 2022, respectively.[16]

On July 14, 2022, the parties submitted their Joint Stipulation of Facts, which was approved and admitted on July 21, 2022.[17] The Pre-Trial Order was then issued on August 4, 2022.[18]

Trial then ensued, with the parties presenting and offering their respective documentary and testimonial evidence.

Petitioner filed its Memorandum on May 10, 2024,[19] while respondent's Memorandum was submitted on March 4, 2024.[20] Thus, in the Resolution dated May 15, 2024, the case was deemed submitted for decision.

Hence, this Decision.

## The Issues

The parties submitted the following issues for the Court's resolution:

(A) WHETHER OR NOT THIS COURT HAS JURISDICTION OVER THE SUBJECT MATTER OF THIS PETITION; AND

---

10 Exhibit "P-9", Docket – Vol. 2, pp. 918 to 919.
11 Par. 8, Summary of Admitted Facts, JSFI", Docket – Vol. 2, p. 612; Exhibit "P-10", Docket – Vol. I, pp. 250 to 252.
12 Docket – Vol. I, pp. 9 to 60.
13 *Id.* at 372 to 404.
14 Docket – Vol. 2, pp. 528 to 529.
15 *Id.* at 592 to 594.
16 *Id.* at 580 to 590 and 556 to 573.
17 *Id.* at 611 to 634.
18 *Id.* at 658 to 667.
19 Docket – Vol. 3, pp.1369 to 1419.
20 *Id.* at 1322 to 1363.

(B) WHETHER OR NOT PETITIONER IS LIABLE TO PAY THE ASSSESSED DEFICIENCY INCOME TAX, VALUE-ADDED TAX, EXPANDED WITHHOLDING TAX AND WITHHOLDING TAX ON COMPENSATION FOR TAXABLE YEAR 2016.[21]

## Arguments of the Parties

### Petitioner's Arguments:

Petitioner argues that the deficiency tax assessments were issued in violation of petitioner's right to due process because respondent failed to consider and address the explanations raised in the Reply to NIC, Reply to PAN, and Request for Reinvestigation; and because the FDDA was served by a Revenue Officer who was not authorized under the LOA. Assuming the assessments were issued without violation of petitioner's right to due process, the same are nevertheless invalid because respondent's right to assess petitioner already prescribed and the tax assessments have no legal and factual bases.

### Respondent's Counter-arguments:

Respondent counter-argues that the Court has no jurisdiction over the subject matter since BIR's assessment is already final, executory, and demandable; assuming the Court has jurisdiction herein, the assessments are valid as petitioner was accorded with its right to due process because respondent's authorized representative considered the explanations and/or defenses raised and documents submitted, if any, in petitioner's Reply to NIC, Reply to PAN, and Request for Reinvestigation; and the revenue officer was duly authorized to serve the FDDA pursuant to the Memorandum of Assignment dated June 22, 2021 duly approved by then Regional Director for that purpose.

## The Ruling of the Court

The Petition must be **GRANTED**.

[21] Issues, JSFI, Docket – Vol. 2, pp. 611 to 612.

*The Court has jurisdiction over the case*

Respondent argues that the present Petition was belatedly filed on the thirty-first (31st) day, or on July 26, 2021, from the date the FDDA was received on June 25, 2021, thereby making the assessment final, executory, and demandable, and the Court is devoid of jurisdiction thereof.

Respondent cites *Section 7(a)(1)*[22] *and 11*[23] *of Republic Act (R.A.) No. 1125*, as amended by *R.A. No. 9282*, which provides the Court's jurisdiction on decisions of the CIR in cases involving disputed assessments, among others, where any adverse party adversely affected by the decision may file an appeal with the Court within thirty (30) days after receipt of such decision. Failure to comply with such, *Section 228 of the Tax Code*[24] provides that the decision shall become final, executory, and demandable.

Since the basis of the 30-day period to appeal is a law, respondent argues that it cannot be modified by any rules issued by the court.

While respondent is aware that the thirtieth (30th) day from receipt of the FDDA herein, or on July 25, 2021, falls on a Sunday, respondent nevertheless argues that the "next working day" extension under the Rules of Court cannot be applied herein since the 30-day period to appeal is provided by law and not by the Rules of Court.

Respondent also raised that even when the "next working day" extension applies, filing the Petition via electronic mail on July 26, 2021 is not allowed under the present Rules. He cites *CTA En Banc Resolution No. 04-2021*, which excluded filing initiatory pleadings among those which can be filed electronically and *CTA En Banc Resolution No. 09-2020*, which adopted *Section 14, Rule 13 of Administrative Matter (A.M.) No. 19-10-20-*

---

22 SEC. 7. *Jurisdiction*. - The CTA shall exercise:
a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

23 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 within thirty (30) days 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.

24 SEC. 228. *Protesting of Assessment*. – . . .
If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

*SC (2019 Proposed Amendments to the 1997 Rules of Civil Procedure)*,[25] which provides that initiatory pleadings, among others, shall not be served or filed electronically.

Respondent is mistaken.

*Section 28, Chapter VII, Book I of Executive Order No. 292 of The Administrative Code of 1987* provides that where the day, or the last day, for doing any act required or *permitted by law* falls on a regular holiday or special day, *the act may be done on the next succeeding business day.*

Hence, contrary to respondent's assertion, the "next working day" extension does not apply only on legal proceedings governed by the Rules of Court, but also on periods provided by laws by virtue of the *Administrative Code*.

Further, respondent overlooked that *CTA En Banc Resolution No. 04-2021* was issued pursuant to *Supreme Court Administrative Circular 45-2020*, dated August 18, 2020, which, under paragraph 5 thereof, specifically allows the Court of Appeals, the Sandiganbayan and the CTA to continue to receive *petitions* and pleadings electronically in accordance with their respective internal rules. As such, the *CTA En Banc Resolution No. 04-2021*[26] is intended to cover filing petitions for review through electronic means.

Petitioner received the FDDA on June 25, 2021. It thus had until July 25, 2021 to file its Petition for Review before the Court. Since July 25, 2021 fell on a Sunday, petitioner had until July 26, 2021 (the immediately following working day) to file the same. Petitioner filed the present Petition on July 26, 2021 via electronic mail, as authorized under *CTA En Banc Resolution No. 04-2021* and eventually personally filed the same on July 27, 2021. Clearly, the Court has jurisdiction over the present case.

---

25 Section 14. *Conventional service or filing of orders, pleadings and other documents.* — Notwithstanding the foregoing, the following orders, pleadings, and other documents must be served or filed personally or by registered mail when allowed, and shall not be served or filed electronically, unless express permission is granted by the Court:
(a) Initiatory pleadings and initial responsive pleadings, such as an answer. . .

26 1. Pleadings, motions, and other court submissions may be filed by email through the official address of the CTA Judicial Records Division jrd@judiciary.gov.ph copy furnished the official email address of the CTA *En Banc* enbanc.cta@judiciary.gov.ph for *en banc* cases or the email of the concerned CTA Division for Division cases. . .

. . .

3. Considering that pleadings, motions, and other court submissions filed with the CTA oftentimes consist of a large number of pages including the annexes appended thereto and that each pleading, motion, and other court submission is required to be filed with the CTA, at the very least, in four (4) copies for Division cases and ten (10) copies for *En Banc* cases, litigants shall submit, by personal filing or licensed courier, the required number of hard copies of the pleadings, motions, and other court submissions within five (5) calendar days from date of filing by email. . .

*Failure to give due consideration to the arguments and evidence submitted in petitioner's Reply to PAN and Request for Reinvestigation is violative of its right to due process, thereby rendering the assessments void*

Petitioner asserts that respondent violated its right to due process when he issued the deficiency tax assessments without considering and addressing the arguments and the explanations that were raised in its Reply to PAN and Request for Reinvestigation.

On the other hand, respondent countered that he cannot be faulted for reiterating the findings in the FLD when petitioner did not submit relevant supporting documents to controvert said findings and only made essentially the same arguments without introducing something new and substantial. Respondent thus claims that it provided legal and factual basis in reiterating the deficiency taxes in the FDDA, which states that "*During the conduct of reinvestigation, you failed to provide Relevant Documents to support your contentions set forth in the aforesaid Protest Letter within the reglementary period provided by RR No. 18-2013...*"

We find for petitioner.

In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[27] ("*Avon*"), the High Court ruled that it is true that [respondent] is not obliged to accept the taxpayer's explanations. 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.

Respondent's duty to give reason arises as early as when the taxpayer files a Reply to PAN wherein it is given an opportunity under *Section 3.1.1 of RR No. 18-2013*[28] to respond to the proposed assessment against it by stating its legal and factual arguments before the same is finalized by the issuance of the FLD. To interpret it otherwise would render the opportunity respond against the PAN a useless remedy.

---

[27] G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

[28] 3.1.1 *Preliminary Assessment Notice (PAN)*. — . . .
If the taxpayer, within fifteen (15) days from date of receipt of the PAN, responds that he/it disagrees with the findings of deficiency tax or taxes, an FLD/FAN shall be issued within fifteen (15) days from filing/submission of the taxpayer's response, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.

As emphasized in *Avon*, the Preliminary Assessment Notice is a part of due process. They give both the taxpayer and the Commissioner the opportunity to settle the case at the earliest possible time without the need for the issuance of a Final Assessment Notice. However, this purpose is not served in this case because of the Bureau of Internal Revenue's inaction or failure to consider Avon's explanations.

A perusal of petitioner's Reply to PAN shows that it accordingly laid down legal and factual arguments against the proposed assessments against it. However, a perusal of the FLD and the attached Details of Discrepancies shows that they state identical information and computations of the deficiency tax assessments in the PAN. Nowhere therein can We find any explanation as to why respondent did not give consideration to petitioner's explanations and evidence submitted in the Reply to PAN.

To Our mind, this is the precise reason why petitioner merely repeated its arguments against the alleged deficiency tax assessments when it filed the Request for Reinvestigation—because its arguments in the Reply to PAN were disregarded.

It is only in the FDDA where a brief explanation was provided by respondent stating "*During the conduct of reinvestigation, you failed to provide Relevant Documents to support your contentions set forth in the aforesaid Protest Letter within the reglementary period provided by RR No. 18-2013...*" However, said statement is far from compliance with his duty to give reason in rejecting petitioner's explanation and evidence submitted in the Reply to PAN and Request for Reinvestigation. As an overly-general statement, it fails to give specific reasons for the rejection of petitioner's specific arguments.

Indeed, as ruled in *Avon*:

> [Respondent's] inaction and omission to give due consideration to the arguments and evidence submitted before her by [the taxpayer] are deplorable transgressions of [the taxpayer's] right to due process. The right to be heard, which includes the right to present evidence, is meaningless if the [respondent] can simply ignore the evidence without reason.

Respondent exercises an administrative adjudicatory power or quasi-judicial function in adjudicating the rights and liabilities of persons under the *Tax Code*, especially in terms of tax investigation. 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 investigations and assessments necessarily demand the observance of due process because they affect the proprietary rights of specific persons.[29]

Administrative due process 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.[30] This was not complied with by respondent in this case. Merely stating that petitioner failed to introduce sufficient evidence is not a reason. Respondent did not even bother to communicate to petitioner which documents it would require to come up with a fair investigation or assessment of petitioner's explanations in its Reply and Protest. All this suggests is that respondent is fixated on a predetermined assessment and does not intend to consider the latter's explanation and evidence.

Consequently, respondent's total disregard of petitioner's explanations and evidence submitted with the Reply to PAN and Request for Reinvestigation is in violation of the latter's right to administrative due process and renders the resulting FLD and FDDA null, void, and of no force and effect.

Considering that the deficiency tax assessments against petitioner is rendered void in its entirety, the Court deems it no longer necessary to further discuss the other issues alleging violation of petitioner's right to due process, issues on prescription and merits of the tax assessments.

**ACCORDINGLY**, the *Petition for Review* is **GRANTED**. The assessment for deficiency income tax, VAT, EWT, and WTC in the aggregate amount of ₱45,414,139.25 for TY 2016 is hereby declared **NULL** and **VOID** and is thus **CANCELLED** and **SET ASIDE**. Further, respondent is **ENJOINED** and **PROHIBITED** from collecting the said amount against petitioner.

**SO ORDERED**.

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

---

[29] *Id.*
[30] *Id.*

***WE CONCUR:***

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

**CORAZON G. FERRER-FLORES**
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.

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

**ROMAN G. DEL ROSARIO**
Presiding Justice