REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

A & A SECURITIES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10866

Members:

REYES-FAJARDO, Chairperson, and,
ANGELES, JJ.

Promulgated:

APR 23 2026
11:52 a.m.

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RESOLUTION

REYES-FAJARDO, *J*.:

By Decision[1] dated January 20, 2026, it was found that in Regional Director Maridur V. Rosario (RD Rosario)'s Formal Letter of Demand and Final Assessment Notice (FLD/FAN), the deficiency Income Tax (IT) assessment on undeclared income covering Taxable year 2017 found against petitioner resulted from the comparison between the latter's sales per Valued-Added Tax (VAT) Returns and Annual Income Tax Return (AITR). Yet, said item of IT assessment *failed* to appear in the Notice of Informal Conference (NIC) and Preliminary Assessment Notice (PAN), effectively depriving petitioner to contest the same, during informal conference and pre-assessment stages of the assessment process. For this reason, petitioner's right to due process was offended; precisely, CTA Case No. 10866 was disposed as follows:

> **ACCORDINGLY**, We **RESOLVE** to:
>
> a. **GRANT** the Petition for Review in CTA Case No. 10866;
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> b. **OVERTURN** the Final Decision on Disputed Assessment dated April 13, 2022 issued by Regional Director Maridur V. Rosario;

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1 Docket, pp. 970-991.

c. **INVALIDATE** the Bureau of Internal Revenue's deficiency income tax assessment covering Taxable Year 2017, issued against A & A Securities, Inc.; and

d. **FORBID** the Commissioner of Internal Revenue, his agents, or other persons acting on his behalf from collecting on A & A Securities, Inc., the deficiency income tax assessment for Taxable Year 2017.

SO ORDERED.

Via Motion for Reconsideration (Re: Decision dated 20 January 2026),[2] respondent points out that the Bureau of Internal Revenue (BIR) issued the NIC, PAN, and FLD/FAN on petitioner for TY 2017. The latter was likewise afforded opportunity to ventilate its protestations on the foregoing notices, through the filing of the reply on the PAN, and administrative protest on the FLD/FAN. On these accounts, petitioner's right to due process was respected.

Through Opposition to Respondent's Motion for Reconsideration,[3] petitioner mainly retorts that no reversible error was committed in concluding that the BIR transgressed its right to due process on assessment.

The Motion lacks merit.

First. True, the BIR did issue the NIC, PAN, and FLD/FAN on petitioner for TY 2017. Yet, as discussed in pages 13 to 19[4] of the questioned Decision, the *sole* item of RD Rosario's 2017 deficiency IT assessment did *not* appear in said NIC and PAN. Petitioner was taken by surprise because it sprung for the first time in RD Rosario's FLD/FAN. It means that the absence thereof led to denial of petitioner's right to contest the same at multiple anterior stages of the assessment process. Without doubt, the BIR violated petitioner's right to due process.

Second. In *Commissioner of Internal Revenue v. Fort 1 Global City Center, Inc. (FGCCI),* [5] therein petitioner argued that "[therein respondent] cannot claim that it was denied due process when it was

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2 *Id.* at pp. 993-1000.
3 *Id.* at pp. 1006-1009.
4 *Id.* at pp. 982-988.
5 G.R. No. 263811, November 26, 2024.

given the opportunity to be heard during the BIR proceedings."[6] *FGCCI* found this argument wanting, with the following discourse:

> That [the taxpayer] was able to file its protests and responses to the BIR does not bar it from raising the issue of due process. In Mannasoft, We held that the BIR's defect in complying with the requirements of due process was not cured by the fact that the taxpayer could file a protest to the FAN. Moreover, the BIR was negligent in complying with its own rules; hence, it should not be allowed to benefit from the doctrine of estoppel.

The *rationale* for *FGCCI's* discourse harkens back to the following enunciation in *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue (PSPI)*[7] – "[w]hile [the taxpayer] indeed protested the formal assessment, such does not denigrate the fact that it was deprived of statutory and procedural due process to contest the assessment before it was issued."

Consistent with *FGCCI* and *PSPI*, petitioner's filing of a reply on the PAN, and administrative protest on RD Rosario's FLD/FAN did *not* cleanse the BIR's transgression of petitioner's right to due process.

ACCORDINGLY, respondent's Motion for Reconsideration (Re: Decision dated 20 January 2026) is **DENIED**, for lack of merit. The Decision dated January 20, 2026 is **AFFIRMED**.

SO ORDERED.

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

I CONCUR:

HENRY S. ANGELES
Associate Justice

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6 Penultimate sentence, paragraph 2, Arguments of the Parties, *supra* note 5.
7 G.R. No. 172598, December 21, 2007.