REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
QUEZON CITY

**FIRST DIVISION**

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| NEW FARMERS PLAZA, INC., Petitioner, | CTA Case No. 9475 |
| | Members: |
| - versus - | DEL ROSARIO, *PJ, Chairperson,* FABON-VICTORINO, *and* MANAHAN, *JJ.* |
| COMMISSIONER OF INTERNAL REVENUE, NATIONAL EVALUATION BOARD, AND REGIONAL EVALUATION BOARD OF REGION NO. 7 Respondents. | Promulgated: JUN 26 2020 10:13 am |

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**RESOLUTION**

***Fabon-Victorino, J.:***

Assailed in respondent Commissioner of Internal Revenue (CIR)'s Motion for Reconsideration dated February 3, 2020 is the Decision of January 14, 2020, the decretal portion of which states:

> **WHEREFORE**, finding merit in the appeal, the instant *Petition for Review* filed on September 22, 2016 by New Farmer's Plaza, Inc. is **PARTLY GRANTED**.
>
> Accordingly, the *Warrant of Distraint and Levy* dated October 22, 2013 issued against petitioner, is **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED**.

Respondent CIR maintains that the Court had no legal competence to adjudicate the present case. He claims that since he and petitioner failed to reach a consensus to the proposed Compromise Agreement, no Compromise Agreement materialized that may be the object of review by the Court, precisely dismissal of the present case is proper.

He further argues that the Court's legal competence to grant affirmative relief in the present case is confined to only those prayed for by the parties in a case.[1] With petitioner's failure to raise as an issue the validity of the assessment, the Court is without the requisite authority to declare it as null and void, and consequently strike down the subject WDL.

By way of Comment/Opposition,[2] petitioner claims that respondent CIR's Motion for Reconsideration failed to include an affidavit of service or indicate the registry receipt number evidencing such service, in violation of Section 13, Rule 13 and Section 6, Rule 15 of the Rules of Court. In view thereof, the Court is procedurally proscribed from taking cognizance of the same.

Further, the Court has legal authority to declare the subject WDL void consistent with its jurisdiction to adjudicate other matters arising from the implementation of the National Internal Revenue Code (NIRC) as provided in Section 7(a)(1), Republic Act (RA) No. 9282, as amended, states petitioner.

Petitioner as well retorts that since the parties jointly agreed on the issue of whether respondent may collect the balance of the purported assessment, it is well-within its power to declare the WDL null for transgressing due process on assessment enshrined in Section 228 of the NIRC, as amended.

The instant Motion must be denied.

Wanting in cogency is respondent CIR's posture that the Court had no jurisdiction over the given controversy. Section 7(a)(1) of RA No. 9282 provides that the Court's authority to exercise its power of review is not only confined

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1 Respondent cites *Chinatrust (Phils.) Commercial Bank vs. Truner,* G.R. No. 191558, July 3, 2017.

2 Re: Respondent's Motion for Reconsideration dated February 3, 2020.

to respondent's decisions relating to disputed assessments, or refund of internal revenue taxes, fees, and charges, but also to other matters arising from the enforcement of various provisions of the NIRC, as amended.[3] Since the validity and regularity of a Compromise Agreement is governed by Section 204(A) in relation to Section 7 of the NIRC, as amended, questions involving the propriety thereof is properly cognizable by the Court as obtaining in the instant case.[4]

Equally unavailing is respondent CIR's theory that the Court may not nullify the subject WDL they issued against petitioner since the validity of the assessment was not put in issue by in the latter's pleadings. It must be stressed that one of the matters raised by the parties in this case is whether the respondent may legally collect the balance of the purported assessment.[5] This in turn requires inquiry on requisites of a valid assessment. Among these requirements is that the taxpayer must be afforded a period of 15 days from receipt of the Preliminary Assessment Notice (PAN) to assail the same under the pain that the assessment be declared a patent nullity.[6]

On June 14, 2011, respondent CIR's PAN was received by petitioner. Consistent with Section 228 of the NIRC, as amended, as implemented by RR No. 12-99, petitioner had 15 days, or until June 29, 2011 to ventilate its objections to the PAN, if any. Given that respondent CIR prematurely issued the Formal Assessment Notice on June 24, 2011, or prior to the lapse of the 15-day period to file a reply to the PAN, he infringed on petitioner's right to due process on assessment, justifying cancellation thereof. And since the assessment is void, invalidation of the WDL dated October 22, 2013 is in order.

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3 See *Philippine Journalists, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 162852, December 16, 2004; *Pantoja vs. David,* G.R. No. L-10765, February 28, 1961.

4 See pages 11 to 12, assailed Decision.

5 Par. 2.2, Joint Stipulation of Facts and Issues (JSFI), docket, p. 370.

6 See Section 228 of the NIRC, as amended, as implemented by Section 3.1.2 of RR No. 12-99; and *Commissioner of Internal Revenue vs. Linde Philippines, Inc. (formerly, Consolidated Industrial Gases, Inc.),* CTA EB No. 1515, March 7, 2018.

**WHEREFORE**, respondent Commissioner of Internal Revenue's Motion for Reconsideration dated February 3, 2020 is **DENIED**. The assailed Decision dated January 14, 2020 is **AFFIRMED**.

**SO ORDERED**.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We concur:

*(I maintain my Dissenting Opinion)*
ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate justice