REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

CHERIE MARIE T. CHAN,
Petitioner,

- versus -

COMMISSIONER OF THE BUREAU OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10640

Members:

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

Promulgated:

APR 07 2025
11:06 a.m.

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RESOLUTION

REYES-FAJARDO, *J.*:

On July 26, 2024, a Decision[1] was rendered, disposing CTA Case No. 10640, in the following manner:

> **WHEREFORE**, the Petition for Review dated August 23, 2021, filed by Cherie Marie T. Chan is **GRANTED**. Accordingly, the Bureau of Internal Revenue's Formal Letters of Demand dated November 9, 2020 and May 3, 2021, and Final Decision on Disputed Assessment dated July 23, 2021, all issued against petitioner, are **CANCELLED** and **SET ASIDE**.
>
> Respondent, his representatives, agents, or other persons acting in his behalf, are **PROHIBITED** from collecting on petitioner, the assessed deficiency VAT in the amount of ₱4,572,117.97 for TY 2017, inclusive of surcharge, interest, and compromise penalty.
>
> **SO ORDERED.**

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1 Docket, pp. 547-565.

In so ruling, we found that a facet of petitioner's right to due process on assessment enshrined under Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended, as interpreted in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc. (Avon)*[2] and *Commissioner of Internal Revenue v. Unioil Corporation (Unioil)*[3] was offended by respondent. Particularly, the Bureau of Internal Revenue (BIR) failed to explain in the Formal Letter of Demand (FLD) dated November 9, 2020 and FLD (After Reconsideration) dated May 3, 2021, why petitioner's defenses stated in her respective response on the Preliminary Assessment Notice (PAN) and PAN (After Reconsideration) are wanting in merit.

On August 16, 2024, respondent filed a Motion for Reconsideration (Re: Decision dated 26 July 2024),[4] arguing in the main that: (1) there was no violation of petitioner's right to due process on assessment because the legal and factual bases can substantially be found in the FLD dated November 9, 2020 and FLD (After Reconsideration) dated May 3, 2021; and (2) she failed to substantiate her claim during administrative remedies. On these accounts, respondent declares that petitioner should be held accountable for the deficiency internal revenue tax covering Taxable Year (TY) 2017.

On October 8, 2024, petitioner posted her Comment/Opposition (To Respondent's Motion for Reconsideration),[5] pointing out that the Court is correct in finding that the deficiency internal revenue tax for TY 2017 should be nullified, for being violative of her right to due process on assessment.

The Motion lacks merit.

True, the factual and legal bases of the deficiency VAT assessment covering TY 2017 were stated in the FLD dated November 9, 2020 and FLD (After Reconsideration) dated May 3, 2021. Yet, this alone is *not* enough.

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[2] G.R. Nos. 201398-99, October 3, 2018.
[3] G.R. No. 204405, August 4, 2021.
[4] Docket, pp. 566-585.
[5] *Id.* at pp. 588-591.

As extensively discussed in pages 15-17 of the impugned Decision, *Avon* and *Unioil additionally* enjoin that if the BIR rejects the position of the taxpayer in its reply or response on the PAN, it must give reason for doing so, lest there be violation of the latter's right to due process.

Petitioner lodged her respective response on the BIR's PAN and PAN (After Reconsideration). Here however, the FLD dated November 9, 2020 and FLD (After Reconsideration) dated May 3, 2021 essentially mimicked the PAN and PAN (After Reconsideration), *sans* any explanation why petitioner's defenses found in her response on said pre-assessment notices were lacking in merit. Therefore, respondent transgressed the facet of due process acknowledged by *Avon* and *Unioil*, justifying the nullification of the deficiency internal revenue tax assessment for TY 2017, issued against petitioner.

WHEREFORE, respondent's Motion for Reconsideration (Re: Decision dated 26 July 2024), filed on August 16, 2024 is **DENIED**, for lack of merit. The Decision dated July 26, 2024 in CTA Case No. 10640 is **AFFIRMED**.

SO ORDERED.

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

WE CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
Associate Justice