REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Second Division

SABRE TRAVEL NETWORK (PHILIPPINES), INC. (Formerly ABACUS DISTRIBUTION SYSTEMS PHILIPPINES INC.),

Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

CTA CASE NO. 10848

Members:

RINGPIS-LIBAN, ***P.J.*** *& Chairperson*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

3:10 pm

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RESOLUTION

RINGPIS-LIBAN, ***P.J.*****:**

Before this Court is respondent's **Motion for Reconsideration (Re: Decision dated November 4, 2025)** filed through registered mail on November 27, 2025, and received by the Court on December 3, 2025, with petitioner's **Comment/Opposition (Re: Respondent's Motion for Reconsideration dated 27 November 2025)** filed on December 12, 2025.

On November 4, 2025, the Court promulgated a Decision nullifying respondent's assessment notices and *Warrant of Distraint and/or Levy* (WDL) issued on March 29, 2022 against petitioner, for failing to comply with the requirements for a valid service by mail of the *Preliminary Assessment Notice* (PAN) and substituted service of both the PAN and the *Formal Letter of Demand and Assessment Notices* (FLD/FAN) in violation of petitioner's right to due process, the dispositive portion of which reads as follows:

"**ACCORDINGLY**, premises considered, the Petition for Review is **GRANTED**.

The FLD/Assessment Notices and WDL No. RR8A-WDL-2022-01-015, in the aggregate amount of ₱27,146,305.44 issued against petitioner for alleged deficiency taxes for taxable year 2017, are **CANCELLED** and **SET ASIDE**.

SO ORDERED."

In his Motion, respondent insists that his deficiency income tax, value added tax (VAT), expanded withholding tax (EWT), withholding tax on compensation (WTC), documentary stamp tax (DST) assessments, and compromise penalty for taxable year 2017, in the aggregate amount of ₱27,146,305.44, were properly served to petitioner. Respondent asserts that his revenue officer (RO) Valcu Karl Ferrer validly served the PAN to petitioner in accordance with Revenue Memorandum Order (RMO) No. 40-2019,[1] which essentially provides that in case no person was found in the registered business address of the taxpayer at the time of service of the assessment notice, the concerned revenue officer may resort to service by mail or substituted service of the assessment notice by bringing a barangay official and two (2) disinterested witnesses to the address of the taxpayer so that they may personally observe and attest to such absence and, thereafter, giving a copy thereof to the concerned barangay official.

Respondent reiterates that there was no person present at petitioner's registered business address at 3/F Trafalgar Bldg., HV Dela Costa, Salcedo Village Makati City, at the time RO Ferrer effectuated personal service of the PAN, thereby compelling RO Ferrer to resort to service by mail and substituted service thereof. Respondent expounds that during trial, RO Ferrer testified that he was informed by the security guard of the building where petitioner is holding its office that there was no person to receive the PAN on behalf of petitioner since petitioner was operating in an alternative work arrangement (work-from-home) due to rising cases of the 2019 Corona Virus Disease (COVID-19) infection in Metro Manila. Hence, RO Ferrer was constrained to resort to service by mail, through LBC Express Inc., a reputable professional courier service.

Respondent argues that RO Ferrer's substituted service of the PAN was likewise validly made in accordance with the provisions of Item II.2.1.4 of RMO

[1] "SUBJECT: PRESCRIBING THE PROCEDURES FOR THE PROPER SERVICE OF ASSESSMENT NOTICES IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3.1.6 OF REVENUE REGULATIONS (RR) NO. 18-2013," dated May 30, 2019.

No. 40-2019. Respondent explains that the PAN dated December 7, 2020 was given to Ms. Paz Ortega, barangay staff of Barangay Bel-Air, on January 8, 2021, as witnessed by Ms. Annelyn Manero and Ms. Myra Bulan, both disinterested witnesses, and not employees of the Bureau of Internal Revenue (BIR). Respondent points out that the Acknowledgment Receipt portion of the PAN shows that Ms. Paz Ortega accepted receipt thereof in the presence of Ms. Manero and Ms. Bulan since no person was found in petitioner's registered business address.

Similarly, respondent also avers that the FLD/FAN dated February 3, 2021 was validly served to petitioner via the same substituted service pursuant to Item II.2.1.4 of RMO No. 40-2019. Respondent maintains that RO Ferrer was again constrained to resort to substituted service by giving the FLD/FAN to Ms. Araceli M. Canlas, Asst. Barangay Secretary of Barangay Bel-Air Makati, in the presence of the same two disinterested witnesses, Ms. Annelyn Manero and Ms. Myra Bulan. In the same manner, the Acknowledgment Receipt portion of the FLD/FAN states that Ms. Araceli M. Canlas accepted receipt thereof in the presence of Ms. Manero and Ms. Bulan since no person was found in petitioner's registered business address.

Respondent further contends that while petitioner claims that there were employees present in its office premises at the time of service of the PAN and FLD/FAN, it however failed to provide sufficient and convincing evidence to support the same. Respondent continues that petitioner only presented and offered in evidence its Daily Time Record (DTR),[2] but the latter however should not be given evidentiary weight considering that: (1) it was not properly authenticated in accordance with Section 20, Rule 132 of the Rules of Court as the person who prepared the same was not presented in court; and (2) it fails to satisfy the purposes for which it is offered. Respondent submits that petitioner's assertion that its employees were present in its office cannot overcome the presumption of regularity of RO Ferrer's performance of official function. As such, respondent maintains that RO Ferrer cannot be faulted in resorting to substituted service of the PAN and FLD/FAN as the aforementioned circumstances make personal service impracticable.

On the other hand, in its Comment, petitioner asserts that the Court correctly cancelled respondent's deficiency assessments for taxable year 2017, as well as the WDL dated March 29, 2022, for being issued in clear violation of its right to due process of law. Petitioner reiterates that the substituted service of the PAN and FLD/FAN were invalid since RO Ferrer admitted that he merely assumed there were no employees present in petitioner's office, despite the evident fact that its offices were manned even though it was the pandemic.

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[2] Exhibit "P-6", Docket – Vol. I, pp. 43 to 50.

Petitioner contends that RO Ferrer should never have simply relied on the statement of the lobby guard that there were no personnel in its office since the lobby guard had no authority to represent petitioner in the subject assessment. Being a third party to the matter, petitioner submits that its right to be informed of the deficiency assessments should not be prejudiced, thereby resulting in its non-receipt of any assessment notice.

Petitioner further avers that having denied receipt of the PAN, respondent then has the burden to prove actual receipt of the same. In doing so, petitioner recalls that respondent's own witness, RO Ferrer, admittedly stated that the only proof that the PAN was properly served was the LBC receipt. However, petitioner points out that nowhere in the LBC receipt does it show that petitioner actually received the same. It merely stated in the receipt that the LBC Express, Inc. personnel received some documents labeled as "DOCS ONLY", as a package to be delivered to petitioner. No direct proof was presented which would show petitioner's actual receipt of the PAN.

In any case, assuming substituted service is applicable, petitioner asserts that the records of the case are bereft of evidence that shows RO Ferrer had executed a written report under oath regarding the service through mail of the PAN. Petitioner continues that the substituted service of the PAN was also served to a barangay staff member and not a barangay officer, and that RO Ferrer admitted that he did not bring any barangay official to petitioner's office during the service of the assessment notices. Simply put, there was no barangay official present when physical inspection of the place was conducted and to confirm the absence of office personnel in petitioner's registered address, as required by respondent's own RMO No. 40-2019.

After due consideration, the Court finds respondent's Motion for Reconsideration bereft of merit. Notably, the grounds raised by respondent in the present Motion are mere rehash of the same issues and arguments which have already been thoroughly addressed and discussed in the assailed Decision.

To reiterate, respondent failed to prove that the PAN was properly served to petitioner either through mail or substituted service, thereby depriving the latter of its right to due process. Respondent failed to establish that personal service of the PAN was not practicable under the given circumstances to warrant substituted service thereof.

The Court also agrees with petitioner that the supposed statement of the lobby guard, a third party herein, should not prejudice petitioner. Even though there is a presumption of regularity in the performance of official duties, the same, however, is a disputable presumption under Rule 131 of the Rules of Court, which may be rebutted by affirmative evidence.[3] As found in the assailed Decision, respondent failed to strictly comply with its own rules. Hence, the presumption of regularity in the performance of the Commissioner's official duties cannot stand in the face of positive evidence of irregularity or failure to perform a duty.[4]

It has been held time and again that the Commissioner and his revenue officers must strictly comply with the requirements of the law, with the BIR's own rules, and with due regard to taxpayers' constitutional rights.[5] The High Court has enjoined strict observance by the BIR of the prescribed procedure for the issuance of assessment notices in order to uphold the taxpayer's constitutional rights.[6] Indeed, while the government cannot be estopped by the negligence or omission of its agents, the mandatory provision on Section 228 of the NIRC cannot be rendered nugatory by the mere act of the Commissioner.[7]

More so, even assuming that service by mail or substituted service may be resorted to in this case, respondent still failed to comply with the prescribed procedures for effecting the same.

Respondent failed to prove that the PAN was served to petitioner, through a reputable professional courier service. Respondent presented the LBC official receipt, which merely stated "Said to Contain: DOCS ONLY".

With regard to the substituted service of the PAN, the Court found that Ms. Paz Ortega was not a barangay official as required by Revenue Regulations (RR) No. 12-99,[8] as amended, and RMO No. 40-2019, and as defined under Section 387 of Republic Act No. 7160 or "the Local Government Code of 1991". Respondent's witness, RO Ferrer, admitted that he was only able to bring the two witnesses, without any barangay official, when he served the FLD/FAN at petitioner's address to personally observe and attest to the absence of petitioner's employees.

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[3] *Genato Investments, Inc. v. Barrientos*, et al., G.R. No. 207443, July 23, 2014.

[4] *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc., et seq.*, G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

[5] *Ibid.*

[6] *Commissioner of Internal Revenue v. Telstar Manufacturing Corporation, et seq.*, G.R. Nos. 249239 and 250286, and 249241-42, February 10, 2025.

[7] *Commissioner of Internal Revenue v. Unioil Corporation*, G.R. No. 204405, August 4, 2021.

[8] "SUBJECT: 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 TAXPAYER'S CRIMINAL VIOLATION OF THE CODE THROUGH PAYMENT OF A SUGGESTED COMPROMISE PENALTY", dated on September 6, 1999.

In sum, respondent failed to observe the requirements necessary to validly effect the service by mail of the PAN and substituted service of the PAN and FLD/FAN. Correspondingly, due process was not accorded to petitioner in the issuance of the subject assessment notices thereby rendering the deficiency tax assessments, as well as the WDL, void.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by respondent in his Motion for Reconsideration, the Court finds no compelling reason to reverse or modify the Decision promulgated on November 4, 2025.

WHEREFORE, premises considered, respondent's Motion for Reconsideration (Re: Decision dated November 4, 2025) is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:

MARIA ROWENA A. MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice