22-000299-0072

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10898

REBECCA D. DUKA, OWNER/SOLE PROPRIETOR OF DUKA GENERAL MERCHANDISE, as represented by GIL D. DUKA AND/OR CELIA D. DUKA ,
Petitioner,

- versus -

NOTICE OF RESOLUTION

CAESAR R. DULAY, COMMISSIONER OF INTERNAL REVENUE, AND ROZIL R. LOZARES, REGIONAL DIRECTOR OF REVENUE REGION NO. 10, LEGAZPI CITY,
Respondents.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. NIKI BERYL B. DELA CRUZ
Bureau of Internal Revenue
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Bahayang Pag-asa Subdivision
Phase 8, Barangay Magdalo, Imus City, Cavite

GREETINGS:

You are hereby notified by these presents that on **November 21, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **November 25, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
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FIRST DIVISION

REBECCA D. DUKA, OWNER/SOLE PROPRIETOR OF DUKA GENERAL MERCHANDISE, as represented by **GIL D. DUKA AND/OR CELIA D. DUKA**, Petitioner,	CTA Case No. **10898**
	Members:
- versus -	**BACORRO-VILLENA**, *Acting Chairperson, and* **CUI-DAVID**, *JJ.*
CAESAR R. DULAY, COMMISSIONER OF INTERNAL REVENUE, AND ROZIL R. LOZARES, REGIONAL DIRECTOR OF REVENUE REGION NO. 10, LEGAZPI CITY, Respondents.	Promulgated: NOV 21 2025; 3:35PM

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is respondent Commissioner of Internal Revenue's (**CIR**'s) "Motion for Reconsideration (of the Decision dated April 15, 2025)"[1] (**MR**), filed on 06 May 2025 and emailed on 07 May 2025[2], with petitioner Rebecca D. Duka's (**petitioner**'s), as represented by Gil D. Duka and/or Celia D. Duka, "Opposition (To the Motion for Reconsideration Filed by Respondents)"[3] (**Comment**), filed on 09 June 2025 and emailed on 19 June 2025.[4]

Respondent CIR impugns this Court's Decision[5] promulgated on 15 April 2025 (**assailed Decision**). The dispositive portion of which states:

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1 Division Docket, Volume III, pp. 1208-1226.
2 Id., p. 1229.
3 Id., pp. 1232-1240.
4 Id., p. 1243.
5 Id., pp. 1174-1207.

> ...
>
> **WHEREFORE**, the foregoing premises considered, the present Petition for Review filed by petitioner Rebecca D. Duka on 23 June 2022 is hereby **GRANTED**. Accordingly, respondent Commissioner of Internal Revenue's notices and assessments are declared **VOID** and henceforth **CANCELLED**. Consequently, the Warrant of Distraint and/or Levy dated 13 May 2022, covering the assessed deficiency tax liabilities against petitioner for the calendar year 2018, in the aggregate amount of ₱69,976,123.84, inclusive of surcharge, interest and compromise penalty, is also **CANCELLED** and **SET ASIDE**.
>
> Respondent Commissioner of Internal Revenue or any person duly acting on his or her behalf is hereby **ENJOINED** from pursuing any action against petitioner Rebecca D. Duka relative to the above-mentioned void assessments.
>
> **SO ORDERED.**
>
> ...

Respondent CIR, in his or her MR[6], argues that the Court erred in holding that petitioner's right to due process was violated. He or she maintains that the Formal Letter of Demand (**FLD**), Final Assessment Notice (**FAN**) and Final Decision on Disputed Assessment (**FDDA**) validly informed petitioner of the factual and legal bases of the assessments, thereby satisfying the requirements of Section 228[7] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, and Revenue Regulations (**RR**) No. 12-99[8], as amended. He or she emphasizes that petitioner filed a reply to the Preliminary Assessment Notice (**PAN**) and protested the FLD, which indubitably demonstrates that she was afforded reasonable opportunity to be heard. According to respondent, due process in administrative proceedings is not a rigid standard but requires only notice and opportunity to explain, both of which were accorded to petitioner; thus, he or she cannot be compelled to accept petitioner's defenses if found to be without merit or insufficiently substantiated. Similarly, in her response to the Notice of Discrepancy (**NOD**), reply to the PAN and protest to the FLD, petitioner's arguments were mere reiterations of the same defenses; hence, the issuance of an identical PAN and FLD should not be deemed

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6 Supra at note 1.

7 SEC. 228. *Protesting of Assessment.*

8 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.

a denial of due process but, rather, an indication that petitioner's explanations were found insufficient and inadequate to overturn respondent CIR's findings. Lastly, respondent CIR maintains that petitioner is liable for deficiency income tax, value-added tax (**VAT**), expanded withholding tax (**EWT**), registration fee and administrative penalties.

In the Comment[9], petitioner counters that: (1) the assessments are void for violating her constitutional and statutory right to due process, as the FLD/FAN and FDDA failed to state the factual bases required under Section 228 of the NIRC; (2) the findings in the PAN and FLD were identical, betraying that her replies and supporting documents were disregarded without explanation, contrary to the mandate of RR No. 12-99; (3) the Bureau of Internal Revenue's (**BIR**'s) own witness admitted that her evidence was not considered, despite jurisprudence holding that due process requires not only the opportunity to be heard but also the duty of the agency to evaluate the taxpayer's submissions; (4) the substantive findings of deficiency income tax, value-added tax, withholding taxes, registration fee and penalties are baseless, as the alleged undeclared sales and unsubstantiated expenses were neither explained nor proven, while certain payments like the registration fee were ignored; and (5) although taxes are the lifeblood of the government, they cannot be enforced at the expense of constitutional guarantees, such as the right to due process.

We resolve.

At the outset, We observe that the present MR is a complete rehash of respondent CIR's arguments that the assailed Decision has thoroughly addressed and passed upon.[10] Thus, discussing the same merits would be an exercise in futility.

In *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[11], the Supreme Court declared:

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[9] Supra at note 3.
[10] Supra at note 5, pp. 1201-1206.
[11] G.R. No. 109645, 04 March 1996.

> ...
>
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
>
> ...

Nonetheless, to dispel respondent CIR's concerns, the Court finds it fitting to further elucidate the bases for the nullification of the notices and assessments issued against petitioner for calendar year (**CY**) 2018.

It must be emphasized that the nullification was anchored on respondent CIR's failure to consider petitioner's arguments in her reply to the PAN prior to the issuance of the FLD/FAN. This glaring omission constitutes a clear violation of petitioner's statutory right to be informed of the law and facts on which the assessment is based, as expressly mandated under Section 228[12] of the NIRC of 1997, as amended.[13] The right to due process in tax assessments is not fulfilled by the mere recital of the factual and legal bases of the assessment. It equally demands that the BIR provide clear explanations as to why the taxpayer's prior

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[12] SEC. 228. *Protesting of Assessment.* — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: ...

...

The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void. (Emphasis supplied)

[13] See *Commissioner of Internal Revenue v. Unioil Corporation*, G.R. No. 204405, 04 August 2021, citing *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 & 201418-19, 03 October 2018.

submissions, whether made at the NOD or PAN stages, were deemed inadequate or unpersuasive. Failure to do so renders the assessment void for lack of due process, as the taxpayer is left unaware of how their submissions were evaluated or why they were found wanting. This ensures that the taxpayer is afforded a genuine opportunity to be heard and to meaningfully respond to the preliminary findings.[14]

Indeed, the importance of this preliminary stage of the assessment process cannot be discounted, for it affords both the taxpayer and the BIR a meaningful opportunity to resolve the case at the earliest possible time without resort to the issuance of a FAN.[15]

A careful scrutiny of the pertinent dates unmistakably reveals a transgression of petitioner's right to due process:

Date	Event
24 September 2021	Petitioner received the PAN dated 17 September 2021.[16]
11 October 2021	Petitioner filed her reply to the PAN *via* registered mail.[17] End of the 15-day period.[18]
13 October 2021	FLD/FAN was issued.[19]
22 October 2021	Respondent Regional Director (RD) Rozil R. Lozares (Lozares) received petitioner's reply to the PAN.[20]
27 October 2021	Petitioner received the FLD/FAN.[21]

As declared in the assailed Decision[22], the BIR is bound to observe **two (2) distinct procedural safeguards** before issuing an FLD/FAN.

[14] See *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, id.; see *Commissioner of Internal Revenue v. Nippo Metal Tech Phils., Inc. (formerly Global Metal Tech Corporation)*, G.R. No. 227616 (Notice), 19 June 2019.

[15] See *Mannasoft Technology Corporation v. Commissioner of Internal Revenue*, G.R. No. 244202, 10 July 2023.

[16] Exhibit "R-11", BIR Records, pp. 791-798.

[17] Id., pp. 817-830.

[18] Since the 15[th] day, *i.e.*, 09 October 2021, fell on a Saturday.

[19] Exhibit "P-1", Division Docket, Volume II, pp. 537-547; Exhibits "R-12" and "R-13", BIR Records, pp. 802-814.

[20] Supra at note 17.

[21] Supra at note 19.

[22] Supra at note 5, pp. 1201-1202.

First, if the taxpayer does not respond to the PAN, the BIR must wait 15 days from the taxpayer's receipt of the notice before issuing an FLD/FAN to give the taxpayer time to draft a reply. ***Second,*** if the taxpayer does respond within 15 days, disputing the deficiency assessment, the BIR must issue the FLD/FAN within fifteen (15) days from the date of submission. These safeguards are not hollow exhortations but are substantive requirements designed to uphold the taxpayer's right to be informed and right to due process.

Here, petitioner timely filed her reply to the PAN within the 15-day period; hence, the *second* procedural safeguard squarely applies. This procedural safeguard mandates that respondent CIR, or his or her duly authorized representative, must first consider the taxpayer's reply to the PAN prior to the issuance of the FLD/FAN. Yet, the record is bare of any indication that such reply was received and reviewed **before the FLD/FAN was issued**. Quite the contrary, the FLD/FAN had already been issued even before respondent CIR's authorized representative actually received petitioner's reply to the PAN.

In light of these circumstances, it is evident that the fundamental precepts of due process were not properly observed. The premature issuance of the FLD/FAN, without due consideration of petitioner's timely reply to the PAN, unlawfully deprived her of a genuine opportunity to be heard, impaired her right to be informed of the factual bases of the assessments and, ultimately, constituted a clear transgression of her right to due process.

Accordingly, after a judicious and thorough evaluation of the parties' arguments and the applicable law and jurisprudence, the Court finds no cogent reason to disturb the assailed Decision. The issues raised in respondent's MR have been fully and sufficiently addressed, and no substantial argument has been presented to warrant a reversal or modification. Thus, the Court finds it proper to uphold its prior ruling in all respects.

WHEREFORE, premises considered, respondent Commissioner of Internal Revenue's "Motion for Reconsideration (of the Decision dated April 15, 2025)", filed on 06 May 2025, is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice