REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>EN BANC</u>

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

DIZON COUNTRY FRESH, INC.,
Respondent.

CTA EB NO. 2836
(CTA Case No. 9719)

Present:

RINGPIS-LIBAN, *P.J.*,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:

FEB 03 2026 1:25 p.m.

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RESOLUTION

***FERRER-FLORES, J.*:**

For resolution is the **Motion for Reconsideration (Decision of 15 May 2025)** (*Motion*) filed by petitioner **Commissioner of Internal Revenue (CIR)** on June 3, 2025 via registered mail and received by the Court on June 9, 2025,[1] with respondent's **Comment (To Petitioner's Motion for Reconsideration)** filed on August 11, 2025.[2]

Petitioner seeks the reversal of the Decision dated May 15, 2025 (assailed Decision), which denied the *Petition for Review*, which reads as follows:

[1] *Rollo* pp. 77 to 83.
[2] *Id.* at 87 to 93.

> **WHEREFORE**, in view of the foregoing, the **Petition for Review** filed on December 11, 2023 is DENIED for lack of merit. The Decision dated June 27, 2023 and the Resolution dated October 26, 2023 of the CTA Special First Division in CTA Case No. 9719 are **AFFIRMED.**
>
> **SO ORDERED.**

In the *Motion*, petitioner reiterates his argument, which has been raised in its *Petition for Review,* that that the pre-conditions cited by the CTA Special First Division to constitute a valid service of the assessment is not applicable to service by registered mail as the requirements enumerated in Section 3.1.6. of Revenue Regulations (RR) No. 12-99,[3] as amended by RR No. 18-13,[4] are applicable only if the service is done by ordinary mail. Petitioner restates that, in case of service by registered mail, the registry receipt issued by the post office containing sufficiently identifiable details of the transaction shall constitute sufficient proof of mailing and shall be attached to the case docket. Petitioner echoes its assertions in the *Petition for Review* that the pre-conditions are present in ordinary mail because, as defined by the Philippine Postal Corporation (PHLPost), it includes all unrecorded items which are charged under the basic postage and delivered through the regular delivery channels and further classified into first, second or third class; whereas, registered mails are recorded special security, with the entire process recorded from acceptance at the counter to delivery to the addressee. Petitioner maintains that the sender may attach a registry return to be signed by the recipient as evidence of delivery.

Petitioner still claims that the fact of receipt of the Preliminary Assessment Notice (PAN) was established as the receipt of the security guard at the registered address of respondent is sufficient. Petitioner insists that the delivery of the mail matter indicated in the registered address and/or to the addressee is enough.

Respondent, on the other hand, avers that the Court of Tax appeals (CTA) can resolve an issue not raised at the administrative level as it is not precluded from deciding issues on matters whose consideration is necessary in arriving at a just decision and complete resolution of the case or in serving the interest of justice or avoiding dispensing piecemeal justice or on matters closely related to an error assigned. Further, respondent asserts its position that petitioner's grounds for reconsideration are mere restatements of his arguments contained in his *Petition for Review*. Respondent posits that

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3 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, September 6, 1999.

4 Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment, November 28, 2013.

petitioner failed to overcome the burden of proof required to establish that respondent received the PAN.

Petitioner's *Motion* is bereft of merit.

A reading of petitioner's *Motion* shows that the arguments therein have already been considered by the Court in the assailed Decision.

As aptly discussed in the assailed Decision, petitioner failed to establish that he validly served the PAN. In affirming the ruling of the Court in Division, this Court held that, as provided for in Section 3.1.6 (iii) of Revenue Regulations (RR) No. 18-13,[5] the requirement of "instruction to the Postmaster to return the mail to the sender after 10 days, if undelivered" applies to service by registered mail, under the first paragraph of Section 3.1.6 (iii) of RR No. 18-13. The requirement of a written report under oath made by the server of the mail, setting forth the manner, place, and date of service of the PAN, the name of the person who received the same, and such other relevant information relating to such service is likewise required. Only when no available registry or reputable professional courier service in the locality of the addressee shall petitioner resort to service by ordinary mail.

Further, the Court *En Banc* likewise ruled that petitioner failed to establish the actual receipt of the PAN by respondent; instead, he was only able to show that he successfully mailed the PAN. At the risk of being repetitive, this Court emphasizes the importance of the PAN stage of the assessment process which cannot be discounted as it presents an opportunity for both the taxpayer and the BIR to settle the case at the earliest possible time without need for the issuance of a FAN.[6] As already categorically enunciated in the case of *Commissioner of Internal Revenue vs. Metro Star Superama,*

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[5] xxx xxx xxx

3.1.6 Modes of Service. — The notice (PAN/FLD/FAN/FDDA) to the taxpayer herein required may be served by the Commissioner or his duly authorized representative through the following modes:

(iii) Service by mail is done by sending a copy of the notice by registered mail to the registered or known address of the party with instruction to the Postmaster to return the mail to the sender after ten (10) days, if undelivered. A copy of the notice may also be sent through reputable professional courier service. If no registry or reputable professional courier service is available in the locality of the addressee, service may be done by ordinary mail.

The server shall accomplish the bottom portion of the notice. He shall also make a written report under oath before a Notary Public or any person authorized to administer oath under Section 14 of the NIRC, as amended, setting forth the manner, place and date of service, the name of the person/barangay official/professional courier service company who received the same and such other relevant information. The registry receipt issued by the post office or the official receipt issued by the professional courier company containing sufficiently identifiable details of the transaction shall constitute sufficient proof of mailing and shall be attached to the case docket. (Emphases ours)

[6] *Prime Steel Mill, Inc. v. Commissioner of Internal Revenue*, G.R. No. 249153, September 12, 2022.

Inc., the law imposes a substantive, not merely a formal, requirement that the taxpayer must be informed of the facts and law upon which the assessment was made.

Finally, the Court *En Banc* held that the PAN must be received in order to consider the taxpayer in default that will result in the issuance of the Formal Letter of Demand (FLD).

Since the Court in Division and this Court already found no proof that respondent actually received the PAN, the counting of the 15-day period has not yet started; thus, the assessment is considered void for failure of petitioner to inform respondent in writing of the law and the facts on which the assessment was made.

In sum, there being no new issues or substantial arguments raised in the instant *Motion*, this Court finds no compelling reason to disturb or overturn the assailed Decision or rediscuss our ruling thereon.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (Decision of 15 May 2025**) is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice