CTA Form No. 8

22-000318-0072

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10908

KONICA MINOLTA MARKETING SERVICES (PHILIPPINES) INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

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

HON. CHARLITO R. MENDOZA
Commissioner
Bureau of Internal Revenue
BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

ATTY. ALBERT C. ARPON
ATTY. CARL FITRI A. HUSSIN
ATTY. RAUL S.J. DE GUZMAN
Bureau of Internal Revenue
Legal Division, Revenue Region 8A
36th Floor, Export Bank Plaza Building
Sen. Gil Puyat Avenue corner Chino Roces Avenue
Makati City

ROMULO MABANTA BUENAVENTURA SAYOC & DE LOS ANGELES
21st Floor, AIA Tower (formerly Philamlife Tower)
8767 Paseo de Roxas, Makati City

GREETINGS:

You are hereby notified by these presents that on **May 26, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **May 28, 2026.**

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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

KONICA MINOLTA MARKETING SERVICES (PHILIPPINES), INC.,
Petitioner,

CTA Case No. **10908**

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
MAY 2 6 2026; 11:10 AM

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Konica Minolta Marketing Services (Philippines), Inc., formerly E. Work Flow Solutions, Inc.,[2] (**petitioner**) on 04 July 2022, pursuant to Section 3(a),[3] Rule 8 in

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[1] Division Docket, Volume I, pp. 6-268, with annexes.

[2] See petitioner's Amended Articles of Incorporation, Exhibit "P-3", id., Volume II, pp. 733-739.

[3] **SEC. 3.** *Who may appeal; period to file petition.* —

(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

relation to Section 3(a)(1),[4] Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**). It assails respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) decision denying petitioner's request for reconsideration[5] (**Denial**) dated 25 May 2022 and received by petitioner on 03 June 2022.[6] In respondent's Denial, he or she affirmed the Final Decision on Disputed Assessment[7] (**FDDA**) dated 27 January 2017 where petitioner was found liable for deficiency income tax, value-added tax (**VAT**), expanded withholding tax (**EWT**), and compromise penalty, inclusive of corresponding interests, for taxable year (**TY**) 2012, as follows:

Tax Type/Fee	Total
Income Tax	₱ 24,002,680.89
VAT	18,597,609.63
EWT	11,799,149.89
Compromise Penalty	16,000.00
Total	**₱ 54,415,440.41**

PARTIES OF THE CASE

Petitioner is a corporation duly organized and existing under the laws of the Republic of the Philippines with principal office at the 28/F Tower 2, The Enterprise Centre, 6766 Ayala Avenue cor. Paseo de Roxas, Barangay San Lorenzo, Makati City.[8] It is registered with the Bureau of Internal Revenue (**BIR**) Revenue District Office (**RDO**) No. 047-East Makati with Tax Identification Number 008-183-464-00000.[9]

Respondent, on the other hand, is the duly appointed CIR with authority, among others, to collect all national internal revenue taxes and to decide disputed assessments and refunds of internal revenue

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4 **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

5 Exhibit "P-18", Division Docket, Volume I, pp. 206-210; Exhibit "R-17", BIR Records, pp. 891-894.

6 Exhibit "P-20", Division Docket, Volume I, p. 216.

7 Exhibits "P-14" / "R-16", BIR Records, pp. 690-692.

8 See third item of petitioner's Amended Articles of Incorporation, supra at note 2, pp. 735-736.

9 Exhibit "P-2", Division Docket, Volume II, p. 728.

taxes, fees, or other charges in relation thereto, as provided by law.[10] He or she is represented by the Legal Officers of the BIR Legal Division, Revenue Region (**RevReg**) No. 8-A Makati City with office address at 36th Floor, Export Bank Plaza Building, Sen. Puyat Ave., corner Chino Roces Ave., Makati City, where judicial processes, orders, and resolutions, and other legal processes of this Court may be served.[11]

FACTS OF THE CASE

On 06 March 2014, petitioner received Letter of Authority (**LOA**) No. LOA-047-2014-00000052/eLA201100055254,[12] dated 26 February 2014 issued by Nestor S. Valeroso (**Valeroso**), Regional Director (**RD**) of BIR RevReg No. 8, Makati City. The LOA authorized Revenue Officer (**RO**) Albert Camba (**Camba**) and Group Supervisor (**GS**) Elizabeth Arias (**Arias**) to examine petitioner's books of accounts and other accounting records for all internal revenue taxes, including Documentary Stamp Taxes (**DST**) and other taxes, for the period of 01 January 2012 to 31 December 2012. Attached to the said LOA is a Checklist of Requirements[13] requested from petitioner.

After a supposed non-compliance from petitioner's end, RO Camba issued a First Request for Presentation of Records (**First Notice**), dated 19 March 2014[14] reiterating the BIR's request for documents. Petitioner then submitted various schedules and reconciliations to RO Camba on 29 April 2015.[15] Thereafter, on 03 July 2015, RO Camba recommended the issuance of a Preliminary Assessment Notice (**PAN**) to petitioner though a Memorandum Report for the RD.[16]

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10 See Section 4, National Internal Revenue Code of 1997, as amended.

11 Par. 1, Summary of Admitted Facts, Joint Stipulation of Facts and Issues (**JSFI**), Division Docket, Volume I, p. 379.

12 Exhibit "P-4", id., Volume II, p. 741; Exhibit "R-1", BIR Records, p. 1.

13 Exhibit "P-4-A", Division Docket, Volume II, p. 742.

14 Exhibit "P-6", id., p. 743.

15 See Letter dated 29 April 2015, Exhibit P-7, id., p. 744, where petitioner requested RO Camba to acknowledge receipt of the following:

- Schedule of Groupings of Balance Sheet Accounts
- Schedule of Groupings of Income Statement Accounts
- Reconciliation of Gross Receipts per VAT Return against appropriate accounts
- Reconciliation of Salaries Accounts versus Alphalist
- Reconciliation of Creditable Withholding Tax

16 Exhibit "R-2", BIR Records, pp. 387-394.

On 11 November 2015, respondent issued a PAN[17] with Details of Discrepancies (**DOD**) for TY 2012 finding petitioner liable for deficiency taxes for TY 2012 amounting to ₱47,056,380.29, computed as follows:

Tax Type	Basic Tax	Surcharge	Interest[18]	Total
Income Tax	₱13,453,591.10	₱ -	₱7,194,906.81	₱ 20,648,497.91
VAT	10,174,052.03	-	5,887,013.12	16,061,065.15
EWT	6,435,579.36	-	3,759,083.62	10,194,662.98
DST	82,711.00	20,677.75	48,765.50	152,154.25
Total	₱30,145,933.49	₱ 20,677.75	₱ 16,889,769.05	₱47,056,380.29

Unable to agree with respondent's findings, petitioner filed its reply to the PAN[19] on 26 November 2015. Subsequently, on 16 December 2015, respondent issued a Formal Assessment Notice[20] (**FAN**) with DOD reiterating the findings in the PAN, but with a recalculation of interest and addition of compromise penalty, as follows:

Tax Type	Basic Tax	Surcharge	Interest[21]	Total
Income Tax	₱13,453,591.10	₱ -	₱7,401,318.07	₱ 20,854,909.17
VAT	10,174,052.03	-	6,043,108.17	16,217,160.20
EWT	6,435,579.36	-	3,857,821.28	10,293,400.64
DST	82,711.00	20,677.75	50,034.49	153,423.24
Compromise Penalty	16,000.00	-	-	16,000.00
Total	₱30,161,933.49	₱ 20,677.75	₱17,352,282.01	₱47,534,893.25

On 15 January 2016, maintaining its disagreement with respondent's findings, petitioner, by way of a request for reinvestigation, filed its Protest against the FAN dated 06 January 2016.[22] Petitioner submitted the documents in support thereof on 14 March 2016.[23]

Acting on petitioner's request for reinvestigation, on 15 March 2016, Revenue District Officer (**RDOr**) Atty. Shirley A. Calapatia (**Calapatia**) of RDO No. 047 issued a Memorandum of Assignment[24] (**MOA**) designating RO Jose Magsombol III (**Magsombol**) and

17 Exhibit "P-8", Division Docket, Volume II, pp. 745-749; Exhibits "R-3", "R-4", and "R-5", BIR Records, pp. 423-433.
18 Computed up to 18 December 2015.
19 Exhibit "P-9", Division Docket, Volume II, pp. 750-770.
20 Exhibit "P-10", id., pp. 771-779; Exhibits "R-6", "R-7", and "R-8", BIR Records, pp. 461-467.
21 Computed up to 15 January 2016.
22 Exhibit "P-11", Division Docket, Volume II, pp. 781-802.
23 See petitioner's letter to the BIR dated 14 March 2016, Exhibit "P-12", id., pp. 803-805.
24 Exhibit "R-14", BIR Records, p. 651.

GS Ricardo Santiago (**Santiago**) for the purpose of "[r]einvestigation per protest letter/request for reinvestigation filed by [petitioner]/request for re-evaluation. (FAN dated DECEMBER 16 2015)." By virtue of this MOA, RO Magsombol issued a Memorandum dated 29 July 2016[25] stating that petitioner failed to submit the documents enumerated in the letter dated 07 March 2016 despite being given reasonable time to do so. Thus, RO Magsombol recommended the reiteration of the findings in the FAN except for the finding of deficiency DST which petitioner already settled.[26]

On 31 January 2017,[27] petitioner received the FDDA dated 27 January 2017[28] reiterating the findings in the FAN, except for deficiency DST, but with another recalculation of interest, as follows:

Tax Type	Basic Tax	Interest[29]	Total
Income Tax	₱13,453,591.10	₱10,549,089.79	₱ 24,002,680.89
VAT	10,174,052.03	8,423,557.60	18,597,609.63
EWT	6,435,579.36	5,363,570.53	11,799,149.89
Compromise Penalty	16,000.00	-	16,000.00
Total	**₱30,079,222.49**	**₱24,336,217.92**	**₱54,415,440.41**

Undeterred, petitioner filed an appeal to the CIR[30] on 27 February 2017, which the latter denied on 25 May 2022.[31] Petitioner received the CIR's Denial on 03 June 2022.[32] In the Denial, respondent upheld the FDDA issued to petitioner and ordered it to pay the total amount of ₱54,415,440.41 representing deficiency income tax, VAT, EWT, and compromise penalty for TY 2012.[33]

25 Exhibit "R-15", id., pp. 654-655.
26 Id.
27 See Par. 5, I. Summary of Admitted Facts, JSFI, Division Docket, Volume I, p. 380. Supra at note 7, p. 692.
28 Supra at note 7.
29 Computed up to 17 March 2017.
30 Exhibit "P-15", Division Docket, Volume I, pp. 173-202.
31 Supra at note 5.
32 Supra at note 6.
33 Supra at note 5.

PROCEEDINGS BEFORE THE COURT

Aggrieved, petitioner elevated the matter to this Court by filing the instant Petition for Review[34] on 04 July 2022. The case was docketed as CTA Case No. 10908 and was initially raffled to the Second Division.[35]

In its petition, petitioner argued that: (1) it was deprived of due process when respondent merely reiterated the findings in the PAN, FAN, FDDA, and the Denial without considering the defenses and supporting documents petitioner submitted to him or her and without explaining the specific facts and law for rejecting petitioner's defenses and submissions; (2) the assessments are invalid for lack of factual and/or legal bases; and (3) the portions of the VAT and EWT assessments issued against it are barred by prescription. Thus, it prayed that the assessments issued against it for deficiency income tax, VAT, EWT, and compromise penalty for TY 2012, inclusive of increments, be cancelled and declared void.

On 14 July 2022, summons was issued to respondent directing him or her to file an Answer within thirty (30) days from the date of receipt thereof.[36] Following petitioner's receipt of the summons on 15 July 2022,[37] he or she filed a "Motion for Extension of Time to File Answer"[38] (**Motion for Extension**) on 02 August 2022.

In an Order dated 16 August 2022, the Court granted respondent's Motion for Extension and gave him or her a non-extendible period of 30 days from 14 August 2022, or until 13 September 2022, to file his or her Answer.[39] Respondent was likewise ordered to submit the entire BIR Records to the Court within ten (10) days from filing his or her Answer.

On 13 September 2022, respondent filed the Answer[40] and interposed the following defenses: (1) the similarity of the amounts assessed in the PAN and the FAN does not *ipso facto* mean that

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34 Supra at note 1.
35 The Second Division is composed of Associate Justice Erlinda P. Uy (Ret.), as Chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.
36 Division Docket, Volume I, p. 273.
37 Id.
38 Id., pp. 274-276.
39 Id., p. 279.
40 Id., pp. 324-336.

petitioner's reply to the PAN was not considered; rather, it only signifies that the justifications alleged in the reply are not sufficient to warrant a cancellation or modification of the assessment; (2) the reiteration in the FDDA of the findings in the FAN is justified because of petitioner's failure to submit the documents as mentioned in the letter dated 07 March 2016; (3) the assessments made against petitioner for TY 2012 were made in accordance with the law, rules, and regulations; and (4) petitioner's mere allegation of the dates of filing, deadlines of filing, and dates of prescription without supporting documents is insufficient to support its claim that respondent's right to assess petitioner's VAT and EWT has already prescribed.

In compliance with the Court's previous directive, respondent forwarded the entire BIR Records for TY 2012 consisting of one (1) folder with 892 pages.[41] Subsequently, the parties submitted their respective Pre-Trial briefs on 25 January 2023.[42]

At the scheduled Pre-Trial Conference on 25 January 2023, the Court granted the parties a 30-day period, or until 24 February 2023, to file their Joint Stipulation of Facts and Issues (**JSFI**).[43] The parties filed their JSFI[44] on 27 February 2023.

On 28 February 2023, petitioner filed a "Manifestation and Submission" stating that it filed a "Motion to Commission Independent Certified Public Accountant (ICPA)" (**Motion to Commission ICPA**),[45] where it requested the appointment of Michael L. Aguirre (**Aguirre**) of UHY M.L. Aguirre & Co., CPAs as the ICPA.

In the Resolution dated 06 March 2023,[46] the Court admitted and approved the parties' JSFI, declared the pre-trial terminated, and set both the possible commissioning of petitioner's ICPA and the initial presentation of petitioner's evidence on 26 April 2023. Thereafter, the Court issued a Pre-Trial Order[47] on 10 March 2023 again confirming its

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41 See Compliance filed by respondent on 23 September 2022, id., pp. 341-345.
42 Petitioner's Pre-Trial Brief., id., pp. 352-362; Respondent's Pre-Trial Brief, id., pp. 367-375.
43 See Order dated 25 January 2023, id., p. 350-351.
44 Id., pp. 379-386.
45 Id., pp. 387-421 (with annexes).
46 Id., p. 426.
47 Id., pp. 428-436.

approval of the JSFI and formally declaring the pre-trial proceedings terminated.

In the trial that ensued subsequently, petitioner presented ICPA Aguirre. Previously, the Court appointed him as such following respondent's counsel's manifestation that he is satisfied with ICPA Aguirre's competence and independence and that he interposes no objection against ICPA Aguirre's commissioning.[48] ICPA Aguirre then took his Oath of Commission in open court.[49]

Subsequently, in view of the reorganization of the three (3) Divisions of the Court effective 29 May 2023,[50] the present case was transferred to the First Division.[51]

On 14 June 2023, ICPA Aguirre submitted his ICPA Report with one (1) USB.[52] ICPA Aguirre submitted another ICPA Report[53] with one (1) USB on 29 June 2023,[54] which, as later clarified in his testimony, supersedes the earlier filed ICPA Report.[55]

During the 21 September 2023 hearing, petitioner presented ICPA Aguirre who testified *via* his Judicial Affidavit.[56] ICPA Aguirre declared that the nature of his engagement as ICPA is to examine petitioner's voluminous documents relevant to the deficiency tax assessment subject of the present case.[57] He clarified that the ICPA Report he submitted on 29 June 2023 superseded the ICPA Report that he submitted on 13 June 2023.[58] He then identified his Report and some of the corresponding annexes and exhibits he referred thereon.[59] He likewise declared that the originals of the documents he examined were

48 TSN dated 26 April 2023, p. 6.
49 Id., pp. 6-7.
50 See Notice dated 29 May 2023, Division Docket, Volume I, p. 461.
51 The First Division is composed of Presiding Justice Roman G. Del Rosario (Ret.), as Chairperson, and Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.
52 Division Docket, Volume I, pp. 466-581 (with annexes).
53 Exhibit "P-27", id., pp. 585-649 (with annexes).
54 See Transmittal Letter dated 27 June 2023, id., p. 583.
55 See Q5 of ICPA Aguirre's Judicial Affidavit dated 29 June 2023, Exhibit "P-26", id., Volume II, p. 656; TSN dated 21 September 2023, pp. 10-11.
56 Exhibit "P-26", Division Docket, Volume II, pp. 655-664 (with corrections as allowed by the Court during the 21 September 2011 hearing.
57 Id.
58 Id.
59 Id.

in petitioner's premises where he was given full access.[60] He also affirmed that the exhibits identified in his Report and were electronically scanned and submitted to this Court are faithful reproduction of the originals and/or original computer printouts.[61] ICPA Aguirre also detailed the scope of his examination and the procedures he performed.[62] In verifying each item of the deficiency assessment, he analysed how respondent computed the alleged deficiency taxes by looking into the breakdown and details thereof.[63] He then detailed his findings with regard to the identified deficiency taxes.[64] In open court, ICPA Aguirre was allowed to make several corrections in his Judicial Affidavit and ICPA Report, including corrections to Annex G-ICPA and the addition of Annex G-A-1-ICPA.[65] He then explained that the corrections to Annex G and the addition of Annex G-A-1-ICPA were made to highlight the balance of accounts payable and services.[66]

On cross-examination, ICPA Aguirre clarified that he had to submit an updated report on 29 June 2023 since there were documents that were not yet examined when the first report was submitted on 13 June 2023.[67] The primary differences between the two (2) reports, according to ICPA Aguirre, relate to (1) the segregation of the suppliers of goods from the suppliers of services and (2) the inclusion of newly found credit notes and adjustments.[68]

In the same cross-examination, ICPA Aguirre also explained that petitioner is engaged in services and recognizes VAT upon its issuance of invoices or upon accrual.[69] When asked whether he is convinced that the credit notes allegedly issued by petitioner to Unilever Philippines that do not bear signatures or acknowledgment receipts of the latter were indeed duly issued, he replied that those were already audited by an external auditor and were part of petitioner's books, thus, he accepted those as valid.[70] Lastly, ICPA Aguirre declared that he examined the documents supporting the allowable input VAT indicated in his report and found that those are compliant with the invoicing

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60 Id.
61 Id.
62 Id.
63 Id.
64 Id.
65 TSN dated 21 September 2023, pp. 20-31.
66 Id., p. 31.
67 Id., p. 32-33.
68 Id., p. 33.
69 Id., pp. 34-36.
70 Id., pp. 37-39.

requirements provided in the National Internal Revenue Code (**NIRC**) of 1997, as amended.[71]

Petitioner did not conduct any redirect examination.[72]

On 06 February 2024, petitioner presented its other witness, Marites V. Corona (**Corona**), who testified *via* her Judicial Affidavit.[73] In her testimony, Corona stated that petitioner was incorporated as E. Work Flow Solutions, Inc. but changed its name to Konica Minolta Marketing Services (Philippines), Inc. in 2017.[74] She also explained that she has been petitioner's Head Accountant since its incorporation in 2012.[75] She likewise narrated the events that transpired during the audit of petitioner's books of accounts, from the issuance of the LOA up to respondent's release of his or her Decision on petitioner's request for reconsideration, and identified the pieces of evidence in support thereof.[76] Lastly, Corona discussed petitioner's allegations and arguments in the present petition.[77] In open court, Corona and petitioner's counsel were allowed to correct certain questions and answers in Corona's Judicial Affidavit.[78]

On cross-examination, Corona stated that while the DOD attached to the FAN and the FDDA contains schedules, she does not recall reading a particular law as basis for the discrepancies found.[79] She also explained that the credit notes reduce petitioner's revenues and that she reviews the contents of the credit notes before the same is recorded in petitioner's books of accounts.[80] No redirect examination followed.[81]

On 16 February 2024, petitioner filed its "Formal Offer of Evidence"[82] (**FOE**) consisting of Exhibits "P-1" to "P-28", including

[71] Id., pp. 40-43.
[72] Id., p. 43.
[73] Judicial Affidavit of Marites V. Corona dated 30 June 2022, Exhibit "P-25", Division Docket, Volume I, p. 37-56.
[74] Id.
[75] Id.
[76] Id.
[77] Id.
[78] Id.
[79] TSN dated 06 February 2024, p. 34-36.
[80] Id., pp. 37-39.
[81] Id., p. 39.
[82] Division Docket, Volume II, pp. 712-725.

exhibits identified by ICPA Aguirre composed of Exhibits 1-A-ICPA to P-21-A.4-ICPA and Annexes A-ICPA to I-ICPA. On 26 February 2024, respondent filed his or her Comment/Opposition[83] to petitioner's FOE, which was submitted for resolution on 12 March 2024.[84]

Following petitioner's filing on 14 May 2024 of a "Motion for Partial Reconsideration with Manifestation and Submission"[85] seeking partial reconsideration of the Court's initial Resolution[86] of petitioner's FOE, the Court admitted petitioner's offered exhibits, except for Exhibit "P-21"[87] for failure to present the originals for comparison and Exhibit "P-12-D-ICPA"[88] for being partially scanned.[89] With the said admission, petitioner is deemed to have rested its case.[90]

On 08 October 2024, respondent presented its witnesses, RO Camba and RO Magsombol, who testified *via* their respective Judicial Affidavits.[91] RO Camba essentially narrated the events that transpired during the audit of petitioner's books of accounts, from the issuance of the LOA up to the issuance of the FAN, and identified the pieces of evidence in support thereof.[92] RO Magsombol, on the other hand, narrated the events that transpired from the issuance of the MOA for the reinvestigation of petitioner's books for TY 2012 up to the issuance of respondent's Denial of petitioner's request for reconsideration.[93] RO Magsombol likewise identified the pieces of evidence in support of his testimony.[94] No cross-examination followed for both witnesses.[95]

On 18 October 2024, respondent filed his or her FOE[96] to which petitioner filed its "Comment/Opposition to Respondent's [FOE] dated 15 October 2024"[97] on 31 October 2024. In the Resolution dated 25 March

83 Id., pp. 836-838.
84 See Notice dated 12 March 2024, id., p. 841.
85 Id., pp. 854-860.
86 See Resolution dated 24 April 2024, id., pp. 845-847.
87 Pertains to "Unilever Philippines Print Management Services Agreement [Letter of Intent].
88 Pertains to petitioner's Monthly Value Added Tax Declaration (BIR Form No. 2550M) for January 2015.
89 See Resolution dated 31 July 2024, id., pp. 996-999.
90 Id.
91 Exhibits "R-18" and "R-19", id., Volume I, pp. 282-306 and 307-323, respectively (with annexes).
92 See Exhibit "R-18", Judicial Affidavit of Albert M. Camba, id., pp. 282-306 (with annexes).
93 See Exhibit "R-19", Judicial Affidavit of Jose R. Magsombol III, id., pp. 307-323 (with annexes).
94 Id.
95 TSN dated 08 October 2024, pp. 7 and 12.
96 Division Docket, Volume II, pp. 1003-1010.
97 Id., pp. 1026-1028.

2025,[98] the Court admitted respondent's offered exhibits consisting of Exhibits "R-1" to "R-19-A" and directed the parties to file their respective memoranda within 30 days from receipt thereof.

Petitioner then filed its Memorandum[99] on 05 May 2025. Respondent, on the other hand, filed his or her Memorandum[100] on 09 May 2025, following the Court's grant of extension of time for him or her to file his or her Memorandum.[101] The case was then submitted for decision on 29 May 2025.[102]

ISSUE

As can be gleaned from the JSFI,[103] the sole issue for this Court's resolution is –

> WHETHER PETITIONER KONICA MINOLTA MARKETING SERVICES (PHILIPPINES), INC. IS LIABLE TO PAY THE ALLEGED DEFICIENCY INCOME TAX, VALUE-ADDED TAX (VAT), EXPANDED WITHHOLDING TAX (EWT) AND MISCELLANEOUS CHARGES (MC) IN THE TOTAL AMOUNT OF ₱54,415,440.41, INCLUSIVE OF INTERESTS FOR TAXABLE YEAR (TY) 2012.

ARGUMENTS

In support of the instant petition, petitioner argues that the subject deficiency assessments are void because (1) it was deprived of due process when respondent merely reiterated the findings in the PAN, FAN, FDDA, and the Denial without considering the defenses and supporting documents that it submitted to him or her and without explaining the specific facts and law for rejecting petitioner's defenses and submissions; (2) the deficiency assessments lack factual and/or legal bases; and (3) the portions of the VAT and EWT assessments issued against it are barred by prescription.

98 Id., pp. 1041-1044.
99 Id., pp. 1053-1092.
100 Id., pp. 1097-1106.
101 See Notice dated 29 May 2025, id., pp. 1110.
102 Id.
103 Supra at note 44.

Respondent counters that (1) the similarity of the amounts assessed in the PAN and the FAN only shows that the documents submitted were not sufficient to dispute the assessments made in the PAN; (2) the reiteration in the FDDA of the findings in the FAN is justified because of petitioner's failure to submit the documents, as mentioned in the letter dated 07 March 2016; (3) the assessments made against petitioner for TY 2012 were made in accordance with the law, rules, and regulations; and (4) petitioner's mere allegation of the dates of filing, deadlines of filing, and dates of prescription without supporting documents is insufficient to support its claim that respondent's right to assess petitioner's VAT and EWT has already prescribed.

RULING OF THE COURT

Before delving into the merits of the case, We shall first resolve whether this Court has jurisdiction over the instant petition.

THE COURT OF TAX APPEALS (CTA) HAS JURISDICTION OVER THE INSTANT PETITION FOR REVIEW.

As clearly set forth in the records, petitioner filed a request for reconsideration on 27 February 2017,[104] or after it received the FDDA on 31 January 2017.[105] On 03 June 2022, petitioner received respondent's Denial dated 25 May 2022.[106]

Section 11 of Republic Act (**RA**) No. 1125,[107] as amended by RA 9282,[108] in relation to Section 3(a), Rule 8 of the RRCTA, provides for the period when petitioner may invoke the CTA's jurisdiction in order to question respondent's decision, to wit:

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104 Supra at note 30.

105 Supra at notes 7 and 27.

106 Supra at note 6.

107 AN ACT CREATING THE COURT OF TAX APPEALS.

108 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

> ...
>
> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — **Any party adversely affected by a decision, ruling** or inaction **of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **may file an appeal with the CTA <u>within thirty (30) days</u> after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.**
>
> ...
>
> SEC. 3. *Who may appeal; period to file petition.* —
>
> (a) **A party adversely affected by a decision, ruling** or the inaction **of the Commissioner of Internal Revenue on disputed assessments** or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction **may appeal to the Court by petition for review filed <u>within thirty days</u> after receipt of a copy of such decision or ruling**, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.[109]
>
> ...

Accordingly, in case of the CIR's adverse decision or ruling, the taxpayer is given 30 days to file a Petition for Review with the CTA.

Here, petitioner duly supported its claim that it received the CIR's Denial on <u>03 June 2022</u>,[110] which is the adverse decision appealable to this Court. Thus, it had 30 days from the said date, or until <u>03 July 2022</u>, to file a petition for review with the CTA.

At first glance, it may appear that the Petition for Review was filed on the 31st day from the receipt of the questioned decision. However, it is noteworthy that the last day or the 30th day for filing the petition fell on a weekend. Therefore, petitioner had until the next working day,

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109 Italics in the original text, emphasis and underscoring supplied.
110 Supra at note 6.

within which to file them. Section 1 of Rule 22[111] of the Rules of Court, which applies suppletorily to the RRCTA,[112] reads:

> ...
>
> Section 1. *How to compute time.* – In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. **If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.**[113]
>
> ...

Since 03 July 2022 falls on a Sunday, petitioner had until the next working day, or until 04 July 2022, within which to file a petition for review with the CTA. Thus, petitioner timely filed the instant Petition for Review on <u>04 July 2022</u>.

We now proceed to the merits of the case.

THE TAX ASSESSMENTS WERE ISSUED IN VIOLATION OF PETITIONER'S RIGHT TO ADMINISTRATIVE DUE PROCESS, RENDERING THE SAME NULL AND VOID.

Petitioner asserts that it was deprived of due process when respondent merely reiterated the findings in the PAN, FAN, FDDA, and the Denial without considering the defenses and supporting documents that it submitted to him or her and without explaining the specific facts and law for rejecting petitioner's defenses and submissions.

Section 228 of the NIRC of 1997, as amended, outlines the due process requirements for the issuance of deficiency tax assessments. It states:

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111 Computation of Time.

112 Sec. 3, Rule 1 of A.M. No. 05-11-07-CTA or the Revised Rules of the Court of Tax Appeals (RRCTA).

113 Emphasis supplied and italics in the original text.

> ...
>
> SEC. 228. *Protesting of Assessment.* — When the Commissioner or his [or her] duly authorized representative finds that proper taxes should be assessed, he [or she] shall first notify the taxpayer of his [or her] 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.**
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.[114]
>
> ...

The above requirement is implemented by Section 3 of Revenue Regulations (**RR**) No. 12-99,[115] as amended by RR No. 18-2013,[116] which provides:

> ...
>
> SEC. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —
>
> 3.1 Mode of procedure in the issuance of a deficiency tax assessment:
>
> 3.1.1 *Preliminary Assessment Notice (PAN).* — If after review and evaluation by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer a Preliminary Assessment Notice (PAN) for the proposed assessment. **It shall show in detail, the facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based. . .**
>
> If the taxpayer fails to respond within fifteen (15) days from date of receipt of the PAN, he shall be considered in default, in which case, a Formal Letter of Demand and Final Assessment Notice (FLD/FAN)

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114 Italics in the original text and emphasis supplied.

115 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.

116 Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

> shall be issued calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.
>
> If the taxpayer, within fifteen (15) days from date of receipt of the PAN, responds that he/[she/]it disagrees with the findings of deficiency tax or taxes, an FLD/FAN shall be issued within fifteen (15) days from filing/submission of the taxpayer's response, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.
>
> ...
>
> 3.1.3 *Formal Letter of Demand and Final Assessment Notice (FLD/FAN).* — The Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued by the Commissioner or his [or her] duly authorized representative. **The FLD/FAN calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based; *otherwise, the assessment shall be void*...**
>
> ...
>
> 3.1.5 *Final Decision on a Disputed Assessment (FDDA).* — **The decision of the Commissioner or his [or her] duly authorized representative shall state the (i) facts, the applicable law, rules and regulations, or jurisprudence on which such decision is based, *otherwise, the decision shall be void[.]***[117]
>
> ...

In the landmark case of *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[118] (**Avon**), citing *Ang Tibay, represented by Toribio Teodoro, manager and proprietor, and National Workers' Brotherhood v. The Court of Industrial Relations and National Labor Union, Inc.*,[119] the Supreme Court highlighted the paramount importance of administrative due process in the conduct of tax assessments:

> ...
>
> The *Ang Tibay* safeguards were subsequently "simplified into four basic rights," as follows:
>
> > (a) [T]he right to notice, be it actual or constructive, of the institution of the proceedings that may affect a person's legal right; (b) **reasonable opportunity to**

[117] Italics in the original text, emphasis and underscoring supplied.

[118] G.R. Nos. 201398-99 & 201418-19, 03 October 2018; Citations omitted, italics and emphasis in the original text and supplied, and underscoring supplied.

[119] G.R. No. 46496, 27 February 1940.

> **appear and defend his rights and to introduce witnesses and relevant evidence in his favor**; (c) *a tribunal so constituted as to give him reasonable assurance of honesty and impartiality*, and one of competent jurisdiction; and (d) a finding or decision by that tribunal supported by substantial evidence presented at the hearing or at least ascertained in the records or disclosed to the parties.

...

"[A] **fair and reasonable opportunity to explain one's side" is one aspect of due process. Another aspect is the due consideration given by the decision-maker to the arguments and evidence submitted by the affected party.**

...

The importance of providing the taxpayer with adequate written notice of his or her tax liability is undeniable. Under Section 228, it is explicitly required that the taxpayer be informed in writing of the law and of the facts on which the assessment is made; otherwise, the assessment shall be void. **Section 3.1.2 of Revenue Regulations No. 12-99 requires the Preliminary Assessment Notice to show in detail the facts and law, rules and regulations, or jurisprudence on which the proposed assessment is based. Further, Section 3.1.4 requires that the Final Letter of Demand must state the facts and law on which it is based; otherwise, the Final Letter of Demand and Final Assessment Notices themselves shall be void. Finally, Section 3.1.6 specifically requires that the decision of the Commissioner or of his or her duly authorized representative on a disputed assessment shall state the facts and law, rules and regulations, or jurisprudence on which the decision is based. Failure to do so would invalidate the Final Decision on Disputed Assessment.**

...

On the other hand, **the taxpayer is explicitly given the opportunity to explain or present his or her side throughout the process, from tax investigation through tax assessment.** Under Section 3.1.1 of Revenue Regulations No. 12-99, the taxpayer is given 15 days from receipt of the Notice for Informal Conference to respond; otherwise, he or she will be considered in default and the case will be referred to the Assessment Division for appropriate review and issuance of deficiency tax assessment, if warranted. Again, under Section 228 of the Tax Code and Section 3.1.2 of Revenue Regulations No. 12-99, the taxpayer is required to respond within 15 days from receipt of the Preliminary Assessment Notice; otherwise, he or she will be considered in default and the Final Letter of Demand and Final Assessment Notices will be issued. After receipt of the Final Letter of Demand and Final Assessment Notices, the taxpayer is given 30 days to file a protest, and subsequently, to appeal his or her protest to the Court of Tax Appeals.

...

The facts demonstrate that Avon was deprived of due process. It was not fully apprised of the legal and factual bases of the assessments issued against it. The Details of Discrepancy attached to the Preliminary Assessment Notice, as well as the Formal Letter of Demand with the Final Assessment Notices, **did not even comment or address the defenses and documents submitted by Avon. Thus, Avon was left unaware on how the Commissioner or her authorized representatives appreciated the explanations or defenses raised in connection with the assessments. There was clear inaction of the Commissioner at every stage of the proceedings.**

First, despite Avon's submission of its Reply, together with supporting documents, to the revenue examiners' initial audit findings, and its explanation during the informal conference, the Preliminary Assessment Notice was issued. The Preliminary Assessment Notice reiterated the same audit findings, except for the alleged under-declared sales which ballooned in amount from P15,700,000.00 to P62,900,000.00, without any discussion or explanation on the merits of Avon's explanations.

Upon receipt of the Preliminary Assessment Notice, Avon submitted its protest letter and supporting documents, and even met with revenue examiners to explain. Nonetheless, the Bureau of Internal Revenue issued the Final Letter of Demand and Final Assessment Notices, merely reiterating the assessments in the Preliminary Assessment Notice. There was no comment whatsoever on the matters raised by Avon, or discussion of the Bureau of Internal Revenue's findings in a manner that Avon may know the various issues involved and the reasons for the assessments.

Under the Bureau of Internal Revenue's own procedures, the taxpayer is required to respond to the Notice of Informal Conference and to the Preliminary Assessment Notice within 15 days from receipt. Despite Avon's timely submission of a Reply to the Notice of Informal Conference and protest to the Preliminary Assessment Notice, together with supporting documents, the Commissioner and her agents violated their own procedures by refusing to answer or even acknowledge the submitted Reply and protest.

The Notice of Informal Conference and the Preliminary Assessment Notice are a part of due process. They give both the taxpayer and the Commissioner the **opportunity to settle the case at the earliest possible time without the need for the issuance of**

a Final Assessment Notice. However, **this purpose is not served in this case because of the Bureau of Internal Revenue's inaction or failure to consider Avon's explanations.**

...

It is true that the Commissioner is not obliged to accept the taxpayer's explanations, as explained by the Court of Tax Appeals. However, when he or she rejects these explanations, he or she must give some reason for doing so. He or she must give the particular facts upon which his or her conclusions are based, and those facts must appear in the record.

Indeed, the Commissioner's inaction and omission to give due consideration to the arguments and evidence submitted before [him or] her by Avon are deplorable transgressions of Avon's right to due process. The right to be heard, which includes the right to present evidence, is meaningless if the Commissioner can simply ignore the evidence without reason.

In *Edwards v. McCoy*:

> The object of a hearing is as much to have evidence considered as it is to present it. **The right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration.**

In *Ang Tibay*, **this Court similarly ruled that "[n]ot only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts *but the tribunal must consider the evidence presented.*"**

...

The Commissioner's total disregard of due process rendered the identical Preliminary Assessment Notice, Final Assessment Notices, and Collection Letter null and void, and of no force and effect.

This Court has, in several cases, declared void any assessment that failed to strictly comply with the due process requirements set forth in Section 228 of the Tax Code and Revenue Regulations No. 12-99.

...

In this case, Avon was able to amply demonstrate the Commissioner's disregard of the due process standards raised in *Ang Tibay* and subsequent cases, and of the Commissioner's own rules of procedure.

> **[His or h]er disregard of the standards and rules renders the deficiency tax assessments null and void.**
>
> ...

Clearly, *Avon* requires the CIR to give due consideration to the arguments and evidence submitted to him or her and meaningfully address the taxpayer's defenses raised in its reply to the PAN in the FLD/FAN. The mere reiteration of earlier findings in the FLD/FAN without addressing the taxpayer's defenses in its reply to the PAN constitutes a violation of due process and renders the assessment void.

In this case, a scrutiny of the DOD attached to the FAN dated 16 December 2015[120] reveals that respondent merely reiterated the assessments contained in the PAN dated 11 November 2015, without addressing the defenses petitioner raised in its reply to the PAN:

PAN dated 11 November 2015	FAN dated 16 December 2015
I. INCOME TAX	I. INCOME TAX
• Undeclared Revenue, P44,845,269.67 – Comparison of your receipts per VAT Returns as against your declared Income per Income Tax Returns filed yielded a discrepancy of P44,845,269.67. The same was added to your gross income pursuant to Section 32 of the NIRC and subject to income tax pursuant to Section 27 of the same Code.	• Undeclared Revenue, P44,845,269.67 – Comparison of your receipts per VAT Returns as against your declared Income per Income Tax Returns filed yielded a discrepancy of P44,845,269.67. The same was added to your gross income pursuant to Section 32 of the NIRC and subject to income tax pursuant to Section 27 of the same Code.
Schedule 1: Receipts per VAT Returns — P 293,268,705.52 Add: Accounts Receivable, end. Net of VAT (83,043,220/1.12) — 74,145,732.15 Sub-Total — P 367,414,437.57 Less: Accounts Receivable, beg. Net of VAT — - Adjusted Receipts — P 367,414,437.57 Less: Revenue per ITR — 322,569,168.00 Undeclared Revenue — 44,845,269.67	Schedule 1: Receipts per VAT Returns — P 293,268,705.52 Add: Accounts Receivable, end. Net of VAT (83,043,220/1.12) — 74,145,732.15 Sub-Total — P 367,414,437.67 Less: Accounts Receivable, beg. Net of VAT — - Adjusted Receipts — P 367,414,437.67 Less: Revenue per ITR — 322,569,168.00 Undeclared Revenue — 44,845,269.67
• Excess credits carried forward to succeeding year, P3,194,239.00 – Excess tax credit carried over to succeeding period in the amount of P3,194,239.00 was deducted from the total allowable tax credit considering that the said amount has been credited against the estimated quarterly income tax liabilities for the	• Excess credits carried forward to succeeding year, P3,194,239.00 – Excess tax credit carried over to succeeding period in the amount of P3,194,239.00 was deducted from the total allowable tax credit considering that the said amount has been credited against the estimated quarterly income tax liabilities for the

120 Supra at note 20.

taxable quarter of the succeeding taxable years pursuant to Section 76 of 1997 NIRC.	taxable quarter of the succeeding taxable years pursuant to Section 76 of 1997 NIRC.
<u>II. VALUE[-]ADDED TAX</u> • **<u>Disallowed input taxes, P10,174,052.01</u>** – During audit, you have not presented evidences or documents to support your claimed input tax in the amount of P10,174,052.01 to determine whether the said input tax is in fact issued by a VAT-registered entity, hence, disallowed in accordance with the provision of Section 110 of the NIRC, in relation to Section 113 and 237 of the same Code. <u>Schedule 2:</u> Input Tax Claimed — P 35,400,938.65 Less: Allowed Input Tax Cost of Services — P 297,618,931.00 PPE Acquisition — 399,150.00 Travel and Transportation — 4,964,898.00 General Accounting — 1,750,950.00 Recruitment — 1,191,333.00 Professional Fees — 332,487.00 Communication — 38,546.00 Others — 76,171.00 Sub-Total — P 306,372,466.00 Add: Accounts Payable, beg. Net of VAT — - Sub-Total — P 306,372,466.00 Less: Accounts Payable, end. Net of VAT (P107,686,220.00/1.12) — 96,148,410.72 Total Purchases — P 210,224,055.28 Multiply by: Output Tax Rate — 12% 25,226,886.64 Disallowed Input Tax — P 10,174,052.01 • **<u>Input Tax Carried Forward to Succeeding Period/Quarter, P1,425,172.48</u>** – The excess input tax amounting to P1,425,172.48 was not applied against the output tax in computing deficiency value added tax since this shall be carried over to the next succeeding period/quarter(s) as provided under Section 110(B) of the Tax Code, as amended.	**<u>II. VALUE[-]ADDED TAX</u>** • **<u>Disallowed input taxes, P10,174,052.01</u>** – During audit, you have not presented evidences or documents to support your claimed input tax in the amount of P10,174,052.01 to determine whether the said input tax is in fact issued by a VAT-registered entity, hence, disallowed in accordance with the provision of Section 110 of the NIRC, in relation to Section 113 and 237 of the same Code. <u>Schedule 2:</u> Input Tax Claimed — P 35,400,938.65 Less: Allowed Input Tax Cost of Services — P 297,618,931.00 PPE Acquisition — 399,150.00 Travel and Transportation — 4,964,898.00 General Accounting — 1,750,950.00 Recruitment — 1,191,333.00 Professional Fees — 332,487.00 Communication — 38,546.00 Others — 76,171.00 Sub-Total — P 306,372,466.00 Add: Accounts Payable, beg. Net of VAT — - Sub-Total — P 306,372,466.00 Less: Accounts Payable, end. Net of VAT (P107,686,220.00/1.12) — 96,148,410.72 Total Purchases — P 210,224,055.28 Multiply by: Output Tax Rate — 12% 25,226,886.64 Disallowed Input Tax — P 10,174,052.01 • **<u>Input Tax Carried Forward to Succeeding Period/Quarter, P1,425,172.48</u>** – The excess input tax amounting to P1,425,172.48 was not applied against the output tax in computing deficiency value added tax since this shall be carried over to the next succeeding period/quarter(s) as provided under Section 110(B) of the Tax Code, as amended.
<u>III. EXPANDED WITHHOLDING TAX</u> • **<u>Basic Tax Due, P6,435,579.36</u>** – Verification disclosed that you have failed to withhold and remit the correct withholding tax due on your income payments, hence, you are still liable to pay	**<u>III. EXPANDED WITHHOLDING TAX</u>** • **<u>Basic Tax Due, P6,435,579.36</u>** – Verification disclosed that you have failed to withhold and remit the correct withholding tax due on your income payments, hence, you are still liable to pay

the deficiency withholding tax thereon pursuant to Section 2.57.2 of Revenue Regulations No. 2-98, as amended.

Schedule 3:

...

Cost of Services	
Advertising	P 94,980,969.92
Building Installation	2,444,550.45
Other Building Completion	9,899,814.17
Other Business Activities	330.430.93
Other Computer Related Activities	6,943,909.94
Other Service Activities	45,894,864.37
Printing	103,694,011.80
Service Activities	14,477,394.89
Sub-Total	P 278,665,946.47
Business and Management	5,356,098.44
Sub-Total	P 284,022,044.91
General Accounting	1,750,950.00
Recruitment	1,191,333.00
Total	**P 286,964,327.91**

Schedule 3 (continued):

	EWT Due
Cost of Services (2%)	P 5,573,318.93
Business and Management (15%)	803,414.77
Sub-Total	P 6,376,733.70
General Accounting (2%)	35,019.00
Recruitment (2%)	23,826.66
Total	**P 6,435,579.36**

IV. DOCUMENTARY STAMP TAX

- **Basic Tax Due, P82,711.00** – Verification disclosed that you failed to pay the documentary stamp tax due on your reported due to related parties, hence, was assessed pursuant to Section 179 of the NIRC, as amended.

Schedule 4:

Cash Advance	P 16,542,087.00
Multiply by: DST Rate (P1.00 for every P200.00 or a fractional part thereof	1/200
Basic Tax Due	**P 82,711.00**

PERIOD OF PRESCRIPTION

Running of the three-year statute of limitation, as provided under Section 203 of the 1997 NIRC is not applicable with respect to your **Documentary Stamp Tax** liability, but rather to the ten (10) year prescriptive period pursuant

the deficiency withholding tax thereon pursuant to Section 2.57.2 of Revenue Regulations No. 2-98, as amended.

Schedule 3:

...

Cost of Services	
Advertising	P 94,980,969.92
Building Installation	2,444,550.45
Other Building Completion	9,899,814.17
Other Business Activities	330.430.93
Other Computer Related Activities	6,943,909.94
Other Service Activities	45,894,864.37
Printing	103,694,011.80
Service Activities	14,477,394.89
Sub-Total	P 278,665,946.47
Business and Management	5,356,098.44
Sub-Total	P 284,022,044.91
General Accounting	1,750,950.00
Recruitment	1,191,333.00
Total	**P 286,964,327.91**

Schedule 3 (continued):

	EWT Due
Cost of Services (2%)	P 5,573,318.93
Business and Management (15%)	803,414.77
Sub-Total	P 6,376,733.70
General Accounting (2%)	35,019.00
Recruitment (2%)	23,826.66
Total	**P 6,435,579.36**

IV. DOCUMENTARY STAMP TAX

- **Basic Tax Due, P82,711.00** – Verification disclosed that you failed to pay the documentary stamp tax due on your reported due to related parties, hence, was assessed pursuant to Section 179 of the NIRC, as amended.

Schedule 4:

Cash Advance	P 16,542,087.00
Multiply by: DST Rate (P1.00 for every P200.00 or a fractional part thereof	1/200
Basis Tax Due	**P 82,711.00**

PERIOD OF PRESCRIPTION

Running of the three-year statute of limitation, as provided under Section 203 of the 1997 NIRC is not applicable with respect to your **Documentary Stamp Tax** liability, but rather to the ten (10) year prescriptive period pursuant

to Section 222(a) of the tax code which states that "In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud, or omission. . ."	to Section 222(a) of the tax code which states that "In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud, or omission. . ."

Respondent claims that the similarity of the findings in the PAN and the FAN does not indicate a failure to consider petitioner's defenses in its reply to the PAN; rather, it demonstrates that the justifications in petitioner's reply to the PAN are not sufficient to warrant a cancellation or modification of the assessment.

We are not convinced.

Firstly, in petitioner's reply to the PAN,[121] it reconciled the discrepancies respondent noted in the PAN for income tax, VAT, and EWT and explained why it should not be held liable for deficiency taxes. As to the finding of deficiency DST, petitioner stated that it had already settled the deficiency DST and attached its proof of payment.[122] Had respondent given due consideration to petitioner's defenses in the reply to the PAN before the FAN was issued, he or she would have cancelled the DST assessment as he or she did in the FDDA.

Secondly, when RO Camba narrated the actions taken by respondent in relation to the present assessment, the absence of any mention of petitioner's reply to the PAN and whether the same was considered before respondent issued the FAN, is evident, *viz*:

...

25. Q: Were these PAN Part I and Part II and Details of Discrepancies dated November 11, 2025 duly received by the petitioner?

    A: Yes sir, those were duly served by the authorized representative of the Petitioner.

26. Q: After the issuance of the PAN, do you know of other action taken by the Respondent?

121 Supra at note 19.

122 See p. 19 of petitioner's reply to PAN, Exhibit "P-9", supra at note 19, p. 768.

> A. Yes sir. [T]he respondent issued to Petitioner the Formal Assessment Notice (FAN) Part I and II, Details of Discrepancies and Assessment Notices for Income Tax, Value[-]Added Tax, Expanded Withholding Tax, Documentary Stamp Tax and Others-Compromise Penalty, all dated December 16, 2015.[123]
>
> ...

Lastly, assuming *arguendo* that petitioner's justifications in its reply to the PAN are indeed not sufficient to warrant a cancellation or modification of the assessment, respondent should have at least provided in the FAN his or her factual and legal grounds for rejecting petitioner's arguments in its reply to the PAN. However, as can be gleaned above, respondent merely reiterated the findings in the PAN in the FAN without addressing petitioner's defenses.

Clearly, the records reveal that respondent disregarded petitioner's reply to the PAN, including the substantive defenses and supporting evidentiary documents attached thereto, prior to the issuance of the FAN. By issuing the FAN without a judicious evaluation of the petitioner's timely filed reply, respondent effectively reduced petitioner's right to be heard through filing a reply to the PAN to a meaningless formality and a mere procedural ornament.

Respondent further avers that the reiteration of the findings in the FAN in the FDDA is justified because of petitioner's failure to submit the documents mentioned in respondent's letter dated 07 March 2016. In support of this claim, respondent cited RO Magsambol's Memorandum Report dated 29 July 2016[124] which states that no documents were submitted in support of petitioner's request for reinvestigation.

Respondent's averment only bolsters petitioner's claim that its right to due process was violated in respondent's issuance of the FDDA.

Petitioner asserts that on 14 March 2016, it submitted the documents that respondent requested in his or her letter dated 07 March 2016, as testified to by Corona, *viz*:

---

[123] Q25 and Q26 of the Judicial Affidavit of RO Camba, supra at note 92, p. 285.

[124] Supra at note 25.

...

Q30. What happened next, if any, after the FAN Protest Letter was filed?

A30. **On March 7, 2016, [p]etitioner received a copy of the BIR Letter dated March 7, 2016 granting its request for reinvestigation. In the same BIR letter, it directed the [p]etitioner to submit the additional supporting documents within 60 days upon receipt of the said letter.**

Q31. What did [p]etitioner do, if any, after it received the BIR Letter dated March 7, 2016?

A31. **In compliance with BIR's directive, [p]etitioner filed Letters dated March 14, 2016 and submitted additional supporting documents within the 60-day prescribed period.**

...

Q36. What was your reaction, if any, after receiving the FDDA?

A36. **I was again dismayed and frustrated because similar with [what] happened in the FAN, where the BIR just reiterated its PAN and FAN finding in the FDDA without any modifications, except for the updated interest and surcharge. Likewise, the BIR did not address [p]etitioner's arguments raised in the FAN Protest Letter and ignored the supporting documents submitted. The BIR again did not cite reasons why it was rejecting [p]etitioner's explanations in the FAN Protest Letter. BIR examiners still failed to consider our arguments and documents presented in the FAN Protest Letter despite conducting an on-site inspection of the documents and providing them the documents they requested.**[125]

...

In support of her claim, Corona identified Exhibit "P-12"[126] which represents petitioner's letter dated 14 March 2016 with attached Annexes "A" to "V" in support of its Protest to the FAN filed on 15 January 2016. The said letter was stamped "Received" on 14 March 2016 by the BIR RDO No. 047-East Makati.[127]

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[125] Q30, Q31, and Q36 of the Judicial Affidavit of Corona, supra at note 73, pp. 44-45.

[126] Division Docket, Volume II, pp. 803-805.

[127] See Exhibit "P-12", id., p. 803.

Corona's statement that petitioner submitted documents in support of its request for reinvestigation was not questioned on cross-examination. Furthermore, respondent failed to dispute the authenticity of the BIR "Received" stamp dated 14 March 2016 on petitioner's letter[128] accompanying the documents in support of its request for reinvestigation. Taking all these together, We find that petitioner has sufficiently established, by preponderance of evidence, that it duly submitted the documents in support of its request for reinvestigation on 14 March 2016.

Despite petitioner's due submission of the aforementioned documents, respondent merely reiterated the findings in the FAN in the FDDA on the sole ground that no documents were submitted in support of petitioner's request for reinvestigation, a patent violation of petitioner's right to due process.

With the above disquisitions, We find the FAN and the FDDA void, and the assessment for deficiency taxes contained therein bear no valid fruit and must not be given any effect.[129]

While the government has an interest in the swift collection of taxes, the BIR and its officers and agents cannot be overreaching in their efforts, but must perform their duties in accordance with law, with their own rules of procedure, and always with regard to the basic tenets of due process.[130]

WHEREFORE, the foregoing premises considered, the present Petition for Review filed by petitioner Konica Minolta Marketing Services (Philippines), Inc. on 04 July 2022 is hereby **GRANTED**. Accordingly, the Formal Assessment Notice dated 16 December 2015, Final Decision on Disputed Assessment dated 27 January 2017, and the Decision of the Commissioner of Internal Revenue dated 25 May 2022, holding petitioner liable for deficiency internal revenue taxes in the aggregate amount of ₱54,415,440.41, inclusive of interests and

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128 Id.

129 See *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*, G.R. No. 223767, 24 April 2023; *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. No. 197945 & 204119-20, 09 July 2018; *Commissioner of Internal Revenue v. Liquigaz Philippines Corporation*, G.R. No. 215534 & 215557, 18 April 2016; *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*, G.R. No. 185371, 08 December 2010.

130 *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, supra at note 118.

compromise penalty, for taxable year 2012, are **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 relative to the above-mentioned void assessments.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 1st Division Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special 1st Division Acting Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice