REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

RCBC SAVINGS BANK, INC. *Petitioner,*	**CTA Case No. 9832**
	Members:
-versus-	**DEL ROSARIO**, *PJ, Chairperson,* **MANAHAN**, *and* **REYES-FAJARDO**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: NOV 22 2022 ; 10:40 A.M.

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D E C I S I O N

MANAHAN, *J.:*

Before this Court is a *Petition for Review*, praying that:

a) An Order for "Suspension of Collection of Taxes" be issued upon the filing of the said *Petition for Review*, suspending the collection of the subject deficiency taxes in the aggregate amount of ₱688,330,726.67;

b) Judgment be rendered in favor of petitioner, ordering the withdrawal, cancellation and/or nullification of the *Formal Assessment Notice* with *Formal Letter of Demand* (FLD/FAN) dated June 8, 2011; and

c) Judgment be rendered in favor of petitioner, declaring that it is not liable for the alleged deficiency taxes for the taxable year 2007 in the aggregate amount of ₱688,330,726.67.[1]

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[1] *Petition for Review*, Docket – Vol. I, p. 30.

THE FACTS

Petitioner RCBC Savings Bank, Inc. is a bank duly organized and incorporated in the Philippines, providing traditional consumer banking products and services such as deposit products, home mortgage loans, auto loans, and personal loans.[2]

Respondent Commissioner of the Bureau of Internal Revenue (BIR) is duly appointed to perform the duties of the said office, including among others, the power to act upon and render final decisions on protests filed against internal revenue tax assessments, and other matters arising under national internal or other laws administered by the BIR, and holds office at the BIR National Office building located at Agham Road, Diliman, Quezon City.[3]

The *Letter of Authority* (LOA) No. 00006824 dated June 26, 2008 was issued to authorize Revenue Officers (ROs) Amelita Tugade, Elsie Galvez, Ma. Theresa Espino, and Ricardo Calma of the Large Taxpayers District Office No. 122 – Makati (LTDO), to examine and investigate the books of accounts and other accounting records of petitioner, for all internal revenue taxes covering taxable year 2007.[4]

Thereafter, the *Waiver of the Defense of Prescription* (1st Waiver) dated November 15, 2010 was executed by one Ms. Jo Ann C. Chan purportedly for and on behalf of petitioner. The said 1st Waiver supposedly extended respondent's assessment and/or collection of the taxes for taxable year 2007, not later than February 28, 2011. This 1st Waiver was purportedly approved by respondent on November 22, 2010.[5]

On January 10, 2011, a *Notice of Informal Conference* was issued against petitioner.[6]

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[2] Par. 2, Joint Stipulation of Facts, *Joint Stipulations of Facts and Issues* (JSFI), Docket – Vol. I, p. 803.
[3] Par. 1, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 803.
[4] Par. 3, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 803.
[5] Par. 13, *Petition for Review*, vis-à-vis Par. 1, *Answer*, Docket – Vol. I, pp. 10 to 11, and 348, respectively.
[6] Par. 4, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 803.

Another *Waiver* dated January 26, 2011 was executed by the same Ms. Jo Anne C. Chan (2nd Waiver) purportedly for and on behalf of petitioner. The said 2nd Waiver supposedly extended respondent's assessment and/or collection of the taxes for taxable year 2007, not later than June 30, 2011. This 2nd Waiver was purportedly approved by respondent on February 2, 2011.[7]

Thereafter, on May 3, 2011, a *Preliminary Assessment Notice* (PAN) was issued against petitioner,[8] directing payment of alleged deficiency income tax, percentage tax (PT), compensation withholding tax (WTC), expanded withholding tax (EWT), final withholding tax (FWT), and documentary stamp tax (DST),[9] in the aggregate amount of ₱633,993,931.66, inclusive of penalties.[10]

On June 1, 2011, petitioner filed its *Reply* to the PAN.[11]

Subsequently, Assistant Commissioner (ACIR) Zenaida G. Garcia issued the FLD/FAN dated June 8, 2011,[12] demanding payment of the total amount of ₱768,492,457.64, representing alleged deficiency income tax, PT, EWT, WTC, FWT, and DST, for taxable year 2007.[13] The said FLD/FAN was received by petitioner on June 23, 2011.[14]

The *Protest* dated July 21, 2011 was filed on July 22, 2011 by petitioner to formally protest the FLD/FAN dated

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[7] Par. 15, *Petition for Review*, vis-à-vis Par. 1, *Answer*, Docket – Vol. I, pp. 11, and 348, respectively.
[8] Exhibit "P-7", Docket – Vol. II, pp. 929 to 931; Exhibit "R-10", BIR Records (Folder 3), pp. 1118 to 1120.
[9] Par. 5, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 804.
[10] Par. 17, *Petition for Review*, vis-à-vis Par. 1, *Answer*, Docket – Vol. I, pp. 11, and 348, respectively.
[11] Par. 6, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 804; Exhibit "P-8", Docket – Vol. II, pp. 932 to 939; and Exhibit "R-11", BIR Records (Folder 3), pp. 1395 to 1401.
[12] Exhibit "P-9", Docket – Vol. II, pp. 940 to 950; and Exhibits "R-13" to "R-15" (including sub-markings), BIR Records (Folder 3), pp. 1436 to 1455.
[13] Par. 7, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 804.
[14] Par. 20, *Petition for Review*, vis-à-vis Par. 1, *Answer*, Docket – Vol. I, pp. 12, and 348, respectively.

June 8, 2011, and to request, among others, that a reinvestigation be conducted.[15]

In relation to the *Protest* dated July 21, 2011, petitioner received, on November 19, 2013, a copy of the *Final Decision on Disputed Assessment* (FDDA) issued by then OIC-ACIR Alfredo V. Misajon.[16] From the said FDDA, petitioner filed its *Appeal* dated December 16, 2013 before the respondent.[17]

Respondent then issued the assailed *Decision* dated April 2, 2018,[18] which was received by petitioner on April 6, 2018, denying the latter's appeal.[19] The dispositive portion thereof reads:

> "WHEREFORE, predicated on all of the foregoing, the Decision denying RCBC's protest against the Decision upholding the FAN received by RCBC on November 19, 2013 and demanding payment of the total amount of P688,330,726.67 representing deficiency income tax, percentage tax, expanded withholding tax, withholding tax on compensation, final withholding tax, and documentary stamp tax for taxable year 2007 is hereby affirmed in all respects.
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> Consequently, RCBC Savings Bank, Inc. is hereby ordered to pay the aforestated amount, plus increments that have been accrued thereon until the actual date of payment, to the LT-Collection Enforcement Division, BIR National Office, Diliman, Quezon City, upon receipt thereof; otherwise, collections thereof will be effected through the summary remedies provided by law.
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> This constitutes the Final Decision of this Office on the matter." [20]

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[15] Par. 8, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 804; Exhibit "P-10", Docket – Vol. II, pp. 951 to 1012.

[16] Par. 9, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 804; Exhibit "P-13", Docket – Vol. II, pp. 1014 to 1034; and Exhibits "R-24" and "R-24", BIR Records (Folder 3), pp. 2034 to 2044.

[17] Par. 10, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 804; Exhibit "P-14", Docket – Vol. II, pp. 1035 to 1055.

[18] Par. 11, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 804.

[19] Par. 8, *Petition for Review*, vis-à-vis Par. 1, *Answer*, Docket – Vol. I, pp. 10 and 348, respectively.

[20] Par. 27, *Petition for Review*, vis-à-vis Par. 1, *Answer*, Docket – Vol. I, pp. 13, and 348, respectively.

On May 4, 2018, petitioner filed the present *Petition for Review*.[21] The case was initially raffled to the Second Division of this Court, but was later transferred to its First Division.[22]

On May 9, 2018, petitioner received an undated *Warrant of Distraint and/or Levy* (WDL) bearing Warrant No. 125-2018-010 issued by OIC-ACIR for Large Taxpayers Service (LTS) Teresita M. Dizon.[23]

Subsequently, on May 10, 2018, petitioner filed an *Urgent Motion for Suspension of Collection of Taxes*,[24] praying that respondent's collection of the alleged tax deficiencies for taxable year 2007, in the aggregate amount of ₱688,330,726.67 be suspended and/or enjoined, pursuant to Republic Act No. 1125. On May 17, 2018, petitioner filed an *Urgent Motion to Resolve (Re: Petitioner's "Urgent Motion for Suspension of Collection of Taxes" dated May 10, 2018)*.[25]

At the hearing held for the *Urgent Motion for Suspension of Collection of Taxes*, petitioner presented the testimony of its lone witness, Ms. Michelle Y. Lopinto.[26] In the same hearing, petitioner also presented and orally offered Exhibits "P-1" to "P-3", and there being no objection from respondent's counsel, the said exhibits were admitted by the Court.[27]

On May 28, 2018, *Petitioner's Memorandum* was filed.[28] Respondent failed to file a memorandum.[29] Instead, respondent filed an *Opposition (On Petitioner's Urgent Motion for Suspension of Collection of Taxes)* on May 28, 2018.[30]

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[21] Docket – Vol. I, pp. 9 to 35.
[22] Order dated September 24, 2018, Docket – Vol. I, p. 532.
[23] Par. 12, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 804.
[24] Docket – Vol. I, pp. 151 to 155.
[25] Docket – Vol. I, pp. 161 to 163.
[26] Judicial Affidavit dated May 21, 2018 executed by Ms. Michelle Y. Lopinto, Docket – Vol. I, pp. 168 to 176; Order dated, and minutes of the hearing held on, May 23, 2018, Docket – Vol. I, pp. 272 to 271.
[27] Order dated, and minutes of the hearing held on, May 23, 2018, Docket – Vol. I, pp. 272 to 271.
[28] Docket – Vol. I, pp. 273 to 287.
[29] Records Verification dated May 28, 2018 issued by the Judicial Records Division of this Court, Docket – Vol. I, p. 288.
[30] Docket – Vol. I, pp. 289 to 299.

In the Resolution dated May 31, 2018,[31] the Court granted the *Urgent Motion for Suspension of Collection of Taxes* of petitioner, subject to the filing of a bond.

Not satisfied, petitioner filed on June 11, 2018, its *Omnibus Motion (For: [1] Partial Reconsideration of the "Resolution" dated May 31, 2018; or, [2] Deferment of Petitioner's Compliance with the "Resolution" dated May 31, 2018; and, [3] Conduct of a Preliminary Hearing).*[32] Petitioner prayed that it be exempted from the bond requirement as the period to collect the subject deficiency taxes has already expired, and in the alternative, to conduct a preliminary hearing so that the respondent can present evidence showing that petitioner's request for reinvestigation was approved and the prescriptive period to collect has been properly tolled or suspended. Despite notice, respondent failed to file a comment on petitioner's *Omnibus Motion.*[33]

On August 2, 2018, respondent filed a *Motion to Admit Attached Answer.*[34] In the attached *Answer,*[35] respondent interposed the following special and affirmative defenses, to wit: (1) the right to assess has not prescribed; and (2) petitioner is liable for the assessed deficiency taxes.

In the Resolution dated August 3, 2018,[36] the Court held in abeyance the resolution of petitioner's *Omnibus Motion* with respect to the first prayer of *Partial Reconsideration of the "Resolution" dated May 31, 2018,* pending the determination of prescription of respondent's right to collect the subject deficiency taxes. In the same Resolution, a hearing was set on August 15, 2018 to enable petitioner to establish prescription of respondent's right to collect, and for respondent to present evidence to the contrary.

Petitioner then presented its testimonial and documentary evidence. It offered the testimony of Ms. Michelle

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[31] Docket – Vol. I, pp. 302 to 305.
[32] Docket – Vol. I, pp. 316 to 328.
[33] Records Verification dated July 26, 2018, issued by the Judicial Records Division of this Court, Docket – Vol. I, p. 341.
[34] Docket – Vol. I, pp. 342 to 346.
[35] Docket – Vol. I, pp. 348 to 374.
[36] Docket – Vol. I, pp. 376 to 377.

Y. Lopinto,[37] and marked certain documents as Exhibits "P-1" to "P-5", which the Court admitted, there being no objection from respondent's counsels.[38]

On the other hand, respondent presented testimonial and documentary exhibits, offering the testimonies of the following ROs, namely: (1) Maria Theresa Espina;[39] and (2) Ma. Catalina Benedicto.[40]

On August 28, 2018, the *BIR Records* of this case were transmitted to the Court.[41]

Thereafter, on August 31, 2018, petitioner filed a *Motion to Declare Respondent in Default.*[42] Respondent then filed a *Comment/Opposition (On Petitioner's Motion to Declare Respondent Default)* on September 7, 2018.[43] In the Resolution dated October 4, 2018,[44] the Court denied petitioner's *Motion*; and granted the *Motion to Admit Answer* of respondent, thereby admitting the *Answer*.

On October 26, 2018, petitioner filed a *Motion for Reconsideration.*[45] Respondent, however, failed to file a comment thereon.[46]

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[37] Exhibits "P-5" and "P-11", Docket – Vol. I, pp. 380 to 386, and 493 to 500, respectively; Minutes of the hearing held on, and Order dated, August 15, 2018, Docket – Vol. I, pp. 448 to 449; Minutes of the hearing held on, and Order dated, March 14, 2019, Docket – Vol. II, pp. 578 to 581.

[38] Minutes of the hearing held on, and Order dated, August 15, 2018, Docket – Vol. I, pp. 448 to 449.

[39] Judicial Affidavit of Revenue Officer Maria Theresa L. Espino dated August 23, 2018, Docket – Vol. I, pp. 455 to 460; Minutes of the hearing held on, and Order dated, August 29, 2018, Docket – Vol. I, pp. 480 to 481.

[40] Judicial Affidavit of Revenue Officer Ma. Catalina Benedicto dated August 24, 2018, Docket – Vol. I, pp. 465 to 471; Minutes of the hearing held on, and Order dated, September 3, 2018, Docket- Vol. I, pp. 514 to 515; Minutes of the hearing held on, and Order dated, October 18, 2018, Docket – Vol. I, pp. 539 to 541.

[41] Respondent's *Compliance* dated August 28, 2018, Docket – Vol. I, pp. 473 to 475.

[42] Docket – Vol. I, pp. 486 to 492.

[43] Docket – Vol. I, pp. 521 to 525.

[44] Docket – Vol. I, pp. 535 to 537.

[45] Docket – Vol. I, pp. 544 to 547.

[46] Records Verification dated January 4, 2019, issued by the Judicial Records Division of this Court, Docket – Vol. I, p. 571.

Thereafter, respondent's *Formal Offer of Evidence (re: Preliminary Hearing on the Issue of Prescription of Respondent's Right to Collect)* was filed on October 29, 2018;[47] whereas petitioner filed its *Comment (Re: Respondent's Formal Offer of Evidence dated 26 October 2018)* on November 9, 2018.[48] In the Resolution dated January 18, 2019,[49] the Court admitted all of respondent's offered exhibits.

Subsequently, the Court denied petitioner's *Motion for Reconsideration* in the Resolution dated January 28, 2019.[50]

On March 26, 2019, petitioner filed a *Motion to Admit*,[51] attaching therewith its *Supplemental Formal Offer of Evidence*.[52] In the Resolution dated April 8, 2019,[53] the Court granted said Motion to Admit, thereby the said Supplemental Formal Offer of Evidence was admitted; and directed respondent to file a Comment/Opposition. However, respondent failed to do so.[54] The Court then admitted petitioner's offered exhibits, in the Resolution dated July 10, 2019.[55]

Thereafter, on August 20, 2019, petitioner filed its *Memorandum (Re: "Omnibus Motion" dated June 7, 2018)*.[56] Respondent's *Memorandum (Re: Omnibus Motion dated June 7, 2018)* was filed on September 16, 2019.[57] In the Resolution dated November 7, 2019,[58] the Court denied petitioner's *Omnibus Motion*. Thus, after being granted an extension,[59] petitioner posted a surety bond in compliance with the Court's Resolution dated May 31, 2018.[60]

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[47] Docket – Vol. I, pp. 548 to 554.
[48] Docket – Vol. I, pp. 556 to 564.
[49] Docket – Vol. I, pp. 573 to 574.
[50] Docket – Vol. II, pp. 576 to 577.
[51] Docket – Vol. II, pp. 583 to 585.
[52] Docket – Vol. II, pp. 586 to 589.
[53] Docket – Vol. II, p. 591.
[54] Records Verification dated May 24, 2019 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 594.
[55] Docket – Vol. II, pp. 606 to 607.
[56] Docket – Vol. II, pp. 612 to 635.
[57] Docket – Vol. II, pp. 640 to 648.
[58] Docket – Vol. II, pp. 655 to 661.
[59] Resolution dated December 20, 2019, Docket – Vol. II, pp. 671 to 672.
[60] Petitioner's *Compliance (Re: "Resolution" dated May 31, 2018)*, Docket – Vol. II, pp. 673 to 676.

The *Notice of Pre-Trial Conference* dated November 12, 2019 was then sent to the parties, setting the said conference on January 30, 2020.[61] Prior thereto, *Petitioner's Pre-Trial Brief*[62] and *Respondent's Pre-Trial Brief*[63] were separately submitted on January 24, 2020. The Pre-Trial Conference proceeded as scheduled.[64]

On March 3, 2020, the parties submitted their *Joint Stipulations of Facts and Issues,*[65] which was approved in the Resolution dated March 13, 2020,[66] thereby terminating the Pre-Trial.

On March 6, 2020, a mediation report was issued by the Philippines Mediation Center Unit (PMC) of the Court, whereby the parties decided not to have their case mediated by the PMC-CTA.[67]

Subsequently, the Pre-Trial Order dated July 15, 2020 was issued by the Court.[68]

As trial ensued, petitioner presented its testimonial and documentary evidence. It offered the testimony of Ms. Eleonor E. Escote,[69] petitioner's Report Analyst of Controllership – Regulatory Reports Department.

On November 20, 2020, petitioner filed its *Formal Offer of Evidence,*[70] whereas respondent's *Comment (to Petitioner's Formal Offer of Evidence)* was filed on November 26, 2020.[71] In the Resolution dated January 14, 2021,[72] the Court admitted

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[61] Docket – Vol. II, pp. 662 to 663.
[62] Docket – Vol. II, pp. 729 to 735.
[63] Docket – Vol. II, pp. 755 to 761
[64] Minutes of the hearing held on, and Order dated, January 30, 2020, Docket – Vol. II, pp. 777 to 781.
[65] Docket – Vol. II, pp. 803 to 810.
[66] Docket – Vol. II, p. 814.
[67] Docket – Vol. II, p. 811.
[68] Docket – Vol. II, pp. 820 to 834.
[69] Exhibit "P-16", Docket – Vol. II, pp. 736 to 753; Minutes of the hearing held on, and Order dated, October 29, 2020, Docket – Vol. II, pp. 839 to 843.
[70] Docket – Vol. II, pp. 853 to 862.
[71] Docket – Vol. II, pp. 879 to 881.
[72] Docket – Vol. II, pp. 885 to 886.

petitioner's exhibits, *except* for Exhibits "P-1", "P-2", "P-3", "P-4", "P-5", "P-7", "P-8", "P-9", "P-10", "P-12", "P-13" and "P-14", for failure to submit the duly marked exhibits. Petitioner then filed its *Motion for Partial Reconsideration* on February 17, 2021, attaching the missing duly marked exhibits.[73] No comment was submitted by respondent to petitioner's *Motion for Partial Reconsideration.*[74] In the Resolution dated September 30, 2021,[75] the Court granted the same, and admitted Exhibits "P-1", "P-2", "P-3", "P-4", "P-5", "P-7", "P-8", "P-9", "P-10", "P-12", "P-13", and "P-14".

In the meantime, respondent presented testimonial and documentary evidence through the testimony of Revenue Officer Maria Theresa L. Espino.[76]

Respondent's *Formal Offer of Evidence* was filed on February 3, 2021.[77] On February 24, 2021, the Judicial Records Division of the Court issued a report stating that petitioner failed to submit its comment to respondent's *Formal Offer of Evidence.*[78] Shortly thereafter, petitioner filed its *Comment (Re: Respondent's Formal Offer of Evidence dated 03 February 2021)* on February 26, 2021.[79] However, in the Resolution dated May 20, 2021,[80] the Court expunged the said *Comment* for being belatedly filed.

In the Resolution dated June 17, 2021,[81] the Court admitted the respondent's documentary exhibits, *except* for the following:

1) Exhibit "R-23", for not being found in the records of the case and for failure to identify; and

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[73] Docket – Vol. II, pp. 905 to 1055.
[74] Records Verification dated June 30, 2021 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 1079.
[75] Docket – Vol. II, pp. 1083 to 1084.
[76] Exhibit "R-35", Docket – Vol. II, pp. 767 to 776; Minutes of the hearing held on, and Order dated, January 19, 2021, Docket – Vol. II, pp. 887 to 891.
[77] Docket – Vol. II, pp. 893 to 901.
[78] Records Verification dated February 24, 2021, Docket – Vol. II, p. 1056.
[79] Docket – Vol. II, pp. 1057 to 1072.
[80] Docket – Vol. II, pp. 1074 to 1078.
[81] Docket – Vol. II, pp. 1076 to 1078.

2) Exhibits "R-26", "R-26-A", "R-26-B", "R-26-C", "R-26-D", and "R-26-E", for failure to identify.

The *Memorandum* for respondent was submitted on November 18, 2021,[82] while the *Memorandum for the Petitioner* was filed on December 9, 2021.[83]

The present case was submitted for decision on December 16, 2021.[84]

THE ISSUES

As stipulated by the parties, the main issue for this Court's consideration is as follows, to wit:

> "Whether or not Petitioner RSB is liable for the amount of ₱688,330,727.27 representing deficiency taxes for 2007 comprising of income tax (IT), percentage tax (PT), withholding tax on compensation (WTC), expanded withholding tax (EWT), final withholding tax (FWT), and documentary stamp tax (DST), surcharges, interest and penalties"[85]

Petitioner's arguments:

Petitioner argues that respondent's right to assess has already prescribed when the FAN was issued; that the 1st and 2nd Waivers are invalid, null and void, on the grounds that (a) the signatory thereof was not duly authorized through a Board Resolution, (b) they failed to state the specific kind of tax and the amount due, and (c) the Assistant Commissioner (ACIR) – Large Taxpayers Service (LTS) is not the revenue official authorized to accept the two (2) Waivers; that assuming without admitting that the waivers are valid, prescription has already set in with respect to most of the deficiency taxes when the 1st Waiver was accepted by the BIR on November 22,

[82] Docket – Vol. II, pp. 1085 to 1114.
[83] Docket – Vol. II, pp. 1119 to 1169.
[84] Resolution dated December 16, 2021, Docket – Vol. II, p. 1171.
[85] Joint Issue, JSFI, Docket – Vol. II, p. 804.

2010; that while petitioner requested for reinvestigation against the FLD/FAN, respondent issued no formal approval for said request for reinvestigation, hence, the running of the prescriptive period to collect was not suspended; that there is no merit in the subject deficiency assessments because the same lack factual and/or legal bases; and, that the re-assignment/transfer of the audit/investigation of petitioner by LTDO Makati Division Chief Edralin Silario to a new set of officers, required the issuance of a new LOA which was never issued.

Respondents' counter-arguments:

Respondent contends that the government's right to assess has not prescribed; that assessment for withholding taxes is imprescriptible; that it is evident from the Waivers that petitioner consented to the assessment at a later time; that petitioner is estopped from questioning the validity of the Waivers; that even assuming arguendo that the Waivers are defective, the ten (10)-year period for assessment under Section 222 of the National Internal Revenue Code (NIRC) is applicable as petitioner filed false returns; and, that petitioner is liable for the assessed deficiency IT, PT, WTC, EWT, FWT and DST.

THE COURT'S RULING

The present *Petition for Review* is meritorious.

Legal bases to resolve an issue not raised by the parties.

Section 1, Rule 14 of the 2005 Revised Rules of the Court of Tax Appeals reads as follows:

"RULE 14
JUDGMENT, ITS ENTRY AND EXECUTION

SECTION 1. – *Rendition of judgment* – xxx

> **In deciding a case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case."** *(Emphasis added)*

Based on the foregoing provision, this Court is not bound by the issues specifically raised by the parties, but may also rule upon related issues necessary to achieve an orderly disposition of the case.[86] Such authority of this Court is confirmed and recognized by the Supreme Court in *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*,[87] *viz*:

> **"On whether the CTA can resolve an issue which was not raised by the parties, <u>we rule in the affirmative</u>.**
>
> **Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA is not bound by the issues specifically raised by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.** The text of the provision reads:
>
> > **SECTION 1. *Rendition of judgment.* – xxx**
> >
> > **In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.**
>
> **The above section is clearly worded.** xxx." *(Emphases added)*

The Supreme Court has applied the foregoing provision in *Commissioner of Internal Revenue vs. Yumex Philippines Corporation*,[88] wherein it held the following:

> "As the CTA *En Banc* held, **the CTA Division was justified in ruling on the issue that respondent was denied due process <u>even though it was not expressly</u>**

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[86] *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*, G.R. No. 183408, July 12, 2017.
[87] *Ibid.*
[88] G.R. No. 222476, May 5, 2021.

> **raised by respondent in its petition for review.** xxx." *(Emphasis and underscoring added)*

Furthermore, in *Comilang vs. Burcena, et al.*,[89] the Supreme Court held:

> "Once a court acquires jurisdiction over a case, it has wide discretion to look upon matters which, although not raised as an issue, would give life and meaning to the law. Indeed, the Rules of Court recognize the broad discretionary power of an appellate court to consider errors not assigned.
>
> xxx xxx xxx
>
> **Thus, an appellate court is clothed with ample opportunity to review rulings even if they are not assigned as errors in the appeal in these instances:** (a) grounds not assigned as errors but affecting jurisdiction over the subject matter; (b) matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law; **(c) matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice;** (d) matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; **(e) matters not assigned as errors on appeal but closely related to an error assigned; and (f) matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent.**"[90] *(Emphases added)*

Based on the foregoing, it is clear that this Court, as an appellate court, is clothed with ample opportunity to review rulings even if they are not assigned as errors in the appeal in certain instances. To be sure, although the issue of whether petitioner was denied due process in the issuance of the subject tax assessments was not specifically raised or assigned as an error in the present case, the consideration thereof is necessary in arriving at a just decision and complete

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[89] G.R. No. 146853, February 13, 2006.

[90] Cited also in *M/V "Don Martin Voy 047 and its Cargoes of 6,500 Sacks of Imported Rice, et al. vs. Hon. Secretary of Finance, et al.* (G.R. No. 160206, July 15, 2015), wherein the Supreme Court recognizes this Court's jurisdiction to determine an issue not raised by the parties.

resolution of the case. Relative thereto, it must be emphasized that tax assessments issued in violation of the due process rights of a taxpayer are null and void.[91] Thus, assuming that the said issue is answered in the affirmative, as determined by this Court, it would be unjust on the part of petitioner to be held liable under an invalid tax assessment.

In the same vein, the issue raised by this Court is closely related to the issue raised by the parties, since it likewise deals with the issue of whether petitioner is liable for the assessed taxes. As a corollary, the issue raised by the parties is dependent upon the same issue raised by this Court.

The subject tax assessments are void, since petitioner was denied due process in the issuance thereof.

Section 228 of the NIRC of 1997 provides, in part, as follows:

> "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: xxx
>
> xxx xxx xxx
>
> **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.**
>
> xxx xxx xxx." *(Emphasis added)*

Under the foregoing provision, 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.[92] The requirement that the taxpayer must be informed of the factual and legal bases of the assessment is mandatory. It cannot be presumed. As a

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

[92] *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., et seq.*, supra.

requirement of due process, this rule allows the taxpayer to make an effective protest.[93] To be sure, the requirement set by law to state in writing the factual and legal bases for the assessment is not a hollow exhortation. The law imposes a substantive, not merely a formal, requirement.[94] Furthermore, it must be emphasized that failure to comply with Section 228 does not only render the assessment void, but also finds no validation in any provision in the Tax Code.[95]

To implement the above-quoted Section 228, Section 3.1.3 of Revenue Regulations (RR) No. 12-99,[96] as amended by RR No. 18-2013,[97] provide as follows:

> "SECTION 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 a Preliminary Assessment Notice (PAN) for the proposed assessment. **<u>It shall show in detail the facts and the law</u>, rules and regulations, or jurisprudence <u>on which the proposed assessment is based</u> (see illustration in ANNEX 'A' hereof)**.
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> 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 duly authorized representative. **The**

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[93] *Commissioner of Internal Revenue vs. Spouses Remigio P. Magaan and Leticia L. Magaan*, G.R. No. 232663, May 3, 2021.

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

[95] *Id.*, citing *Commissioner of Internal Revenue vs. Reyes*, 516 Phil. 176, 189 (2006).

[96] 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 Taxpayers Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty

[97] SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

> **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*** (see illustration in ANNEX 'B' hereof).
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> 3.1.5 *Final Decision on a Disputed Assessment (FDDA).* – **The decision** of the Commissioner or his 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*** (see illustration in ANNEX 'C' hereof), and (ii) that the same is his final decision." *(Emphases and underscoring added)*

The foregoing provision prescribe, as part of due process in the issuance of tax assessments, that the PAN, FLD/FAN and FDDA must, respectively, state, among others, the facts and the law on which the assessment is based; otherwise, the FLD/FAN and/or FDDA shall be void.

In *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., etseq.* ("*Avon* case"),[98] the Supreme Court said:

> "**Tax assessments issued in violation of the due process rights of a taxpayer are null and void. While the government has an interest in the swift collection of taxes, the Bureau of Internal Revenue 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.**
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> The Bureau of Internal Revenue is the primary agency tasked to assess and collect proper taxes, and to administer and enforce the Tax Code. To perform its functions of tax assessment and collection properly, it is given ample powers under the Tax Code, such as the power to examine tax returns and books of accounts, to issue a subpoena, and to assess based on the best evidence obtainable, among others. However, these powers must 'be exercised reasonably and [under] the prescribed procedure.' **The Commissioner and**

[98] G.R. Nos. 201398-99 and 201418-19, October 3, 2018. *om*

revenue officers must strictly comply with the requirements of the law, with the Bureau of Internal Revenue's own rules, and with due regard to taxpayer's constitutional rights.

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In carrying out these quasi-judicial functions, the Commissioner is required to 'investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them as basis for their official action and exercise of discretion in a judicial nature.' **Tax investigation and assessment necessarily demand the observance of due process because they affect the proprietary rights of specific persons.**

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In *Ang Tibay v. The Court of Industrial Relations*,[99] this Court observed that **although quasi-judicial agencies 'may be said to be free from the rigidity of certain procedural requirements[, it] does not mean that it can, in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirements of due process in trials and investigations of an administrative character.'** It then enumerated the fundamental requirements of due process that must be respected in administrative proceedings:

(1) The party interested or affected must be able to present his or her own case and submit evidence in support of it.
(2) The administrative tribunal or body must consider the evidence presented.
(3) There must be evidence supporting the tribunal's decision.
(4) The evidence must be substantial or 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'
(5) The administrative tribunal's decision must be rendered on the evidence presented, or at least contained in the record and disclosed to the parties affected.
(6) The administrative tribunal's decision must be based on the deciding authority's own independent consideration of the law and facts governing the case.
(7) The administrative tribunal's decision is rendered in a manner that the parties may

[99] 62 Phil. 635 (1940) [Per *J.* Laurel, *En Banc*].

> **know the various issues involved and the reasons for the decision.**

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The last requirement relating to the form and substance of the decision is the decision-maker's *'duty to give reason'* to enable the affected person to understand how the rule of fairness has been administered in his [or her] case, to expose the reason to public scrutiny and criticism, and to ensure that the decision will be thought through by the decision-maker.

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Administrative due process is anchored on fairness and equity in procedure. It is satisfied if the party is properly notified of the charge against it and is given a fair and reasonable opportunity to explain or defend itself. Moreover, it demands that the party's defenses be considered by the administrative body in making its conclusions, and **that the party be sufficiently informed of the reasons for its conclusions.**

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The importance of providing 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[100] **of Revenue Regulation 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**[101] **requires 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**[102] **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.**

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[100] Now Section 3.1.1 of RR No. 12-99, as amended by RR No. 18-2013.
[101] Now Section 3.1.3 of RR No. 12-99, as amended by RR No. 18-2013.
[102] Now Section 3.1.5 of RR No. 12-99, as amended by RR No. 18-2013.

> **'The use of the word 'shall' in Section 228 of the [National Internal Revenue Code] and in [Revenue Regulations] No. 12-99 indicates that the requirement of informing the taxpayer of the legal and factual bases of the assessment and the decision made against him [or her] is mandatory.' <u>This is an essential requirement of due process and applies to the Preliminary Assessment Notice, Final Letter of Demand with the Final Assessment Notices, and the Final Decision on Disputed Assessment</u>**.
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> The facts demonstrate that Avon was deprived of due process. **It was <u>not fully apprised of the</u> legal and <u>factual bases of the assessments issued against it</u>.** The Details of Discrepancy attached to the Preliminary Assessment Notice, as well as **the Formal Letter of Demand with Final Assessment Notices, did not even comment or address the defenses and documents submitted by Avon. Thus, <u>Avon was left unaware on how the Commissioner or his/her authorized representatives appreciated the explanations or defenses raised in connection with the assessments</u>.** There was clear inaction of the Commissioner at every stage of the proceedings.
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> 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. <u>He or she must give the particular facts upon which his or her conclusion are based, and those facts must appear in the record</u>.**
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> **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 Regulation No. 12-99.
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> In *Commissioner of Internal Revenue v. Metro Star Superama, Inc.*,[103] this Court held that failure to send a

[103] 652 Phil. 172 (2010) [Per J. Mendoza, Second Division].

Preliminary Assessment Notice stating the facts and the law on which the assessment was made as required by Section 228 of the Tax Code rendered the assessment made by the Commissioner as void. xxx:

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In *Commissioner of Internal Revenue v. Reyes,*[104] **this Court ruled as void an assessment for deficiency estate tax issued by the Commissioner for failure to inform the taxpayer of the law and the facts on which the assessment was made, in violation of Section 228 of the Tax Code.**

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Compliance with strict procedural requirements must be followed in the collection of taxes as emphasized in *Commissioner of Internal Revenue v. Algue, Inc.*:[105]

> Taxes are the lifeblood of the government and so should be collected without unnecessary hindrance. On the other hand, **such collection should be made in accordance with law as any arbitrariness will negate the very reason for government itself.** It is therefore necessary to reconcile the apparently conflicting interests of the authorities and the taxpayers so that the real purpose of taxation, which is the promotion of the common good, may be achieved.
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> **But even as we concede the inevitability and indispensability of taxation, it is a requirement in all democratic regimes that it be exercised reasonably and in accordance with the prescribed procedure. If it is not, then the taxpayer has a right to complain and the courts will then come to his succor. For all the awesome power of the tax collector, he may still be stopped in his tracks if the taxpayer can demonstrate...that the law has not been observed.** (Emphasis supplied)

xxx. ***[The Commissioner of Internal Revenue's]* disregard of the standards and rules renders the**

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[104] 516 Phil. 176 (2006) [Per C.J. Panganiban, First Division].
[105] 241 Phil. 829 (1988) [Per J. Cruz, First Division].

<u>deficiency tax assessments null and void</u>. xxx."
(Emphases and underscoring added)

Based on the foregoing, respondent or his/her duly authorized representative is mandated to perform assessment functions in accordance with, and strict adherence to, law, with their own rules of procedure, and always with regard to the basic tenets of due process. In case respondent or respondent's duly authorized representative fails to observe due process, it shall have the effect of rendering the deficiency tax assessment void, and of no force and effect. Moreover, a significant part of the due process requirement in the issuance of tax assessments is that the concerned taxpayer must be informed, in writing, of the law and of the facts on which the assessment is made. Such requirement must be embodied in the PAN, FLD/FAN, and FDDA. Specifically, respondent must give the particular facts and law upon which the assessments are based, and those facts must appear in the record. As a corollary, the concerned taxpayer must ***not*** be left unaware on how the respondent or respondent's duly authorized representatives appreciated the explanations or defenses raised in connection with the assessment.

It must be emphasized that in case respondent or respondent's duly authorized representative fails or effectively fails to observe the foregoing due process requirements, it shall have the effect of rendering the assessment and collection of the pertinent deficiency tax void.

In this case, as stated in the PAN dated May 3, 2011,[106] the BIR found the following as due from petitioner for taxable year ending December 31, 2007, to wit:

	Basic	**Surcharge**	**Interest**	**Total**
Income tax	₱161,741,250.75	-	₱103,765,505.62	₱265,506,756.37
PT	58,004,488.30	-	39,795,139.29	97,799,627.59
WTC	18,845,606.64	-	13,084,358.40	31,929,965.04
EWT	1,174,533.93	-	4,332,234.68	5,506,768.61
FWT	51,840,633.57		35,992,549.47	87,833,183.04
DST	74,686,822.68	₱18,671,705.67	52,059,102.66	145,417,631.01
Total	**₱366,293,335.87**	**₱18,671,705.67**	**₱249,028,890.12**	**₱633,993,931.66**

[106] Exhibit "P-7", Docket – Vol. II, pp. 929 to 931; Exhibit "R-10", BIR Records (Folder 3), pp. 1118 to 1120.

Attached to the said PAN is a "*SUMMARY OF FINDINGS*", which contains schedules on how the above figures were arrived at, coupled with the citation of the supposed legal bases. However, an examination of the said PAN and "*SUMMARY OF FINDINGS*" would reveal that the said schedules does not show the factual basis of the taxes due. The same schedules merely contain tabular summaries of the alleged disallowances in petitioner's Income Tax Return, the amounts not subjected to the 5% and 7% percentage taxes, certain payments not subjected to withholding taxes, and transactions which should have been subjected to the DST. Notably, they have no other details for each of the said findings which state any other explanation that would enable petitioner to make an effective protest, contrary to Section 3.1.1 of RR No. 12-99, as amended by RR No. 18-2013, which mandates that the PAN must "*show **in detail** the facts...on which the proposed assessment is based*".

Moreover, it is glaringly noticeable that the PAN is not accompanied by a "*DETAILS OF DISCREPANCIES*", which should embody the factual and legal bases of the PAN, as required under Section 3.1.1 of RR No. 12-99, as amended by RR No. 18-2013. It must be emphasized that the said provision refers to "*ANNEX A*" thereof, which obviously was not observed by respondent or the BIR.

On this score alone, We can already find a violation of petitioner's due process right. However, there is more.

In its *Reply* dated June 1, 2011 to the PAN,[107] petitioner addressed each of the findings stated therein, thereby arguing against the same.

However, in the FLD/FAN dated June 8, 2011,[108] petitioner was still assessed for the following deficiency tax liabilities, to wit:

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[107] Exhibit "P-8", Docket – Vol. II, pp. 932 to 939; and Exhibit "R-11", BIR Records (Folder 3), pp. 1395 to 1401.
[108] Exhibit "P-9", Docket – Vol. II, pp. 940 to 950; and Exhibits "R-13" to "R-15" (including sub-markings), BIR Records (Folder 3), pp. 1436 to 1455.

	Basic	Surcharge	Interest	Total
Income tax	**₱254,216,548.16**	-	₱163,093,264.92	₱417,309,813.08
PT	58,004,488.30	-	39,795,139.29	97,799,627.59
WTC	*7,886,359.32*	-	5,475,438.06	13,361,797.38
EWT	**3,996,013.40**	-	2,774,392.14	6,770,405.54
FWT	**51,693,584.64**		35,890,454.54	87,584,039.18
DST	74,686,822.68	₱18,671,705.67	52,059,102.66	145,417,631.01
Total	**₱450,483,816.50**	**₱18,671,705.67**	**₱299,087,791.61**	**₱768,243,313.78**

A comparison of the figures stated in the PAN dated May 3, 2011 and the foregoing figures would reveal that amounts of basic PT and DST due remain unchanged; but the amounts for the basic IT, EWT and FWT due, were significantly **increased**, without any explanation whatsoever of the reasons therefor. Neither is there any indication that the arguments of petitioner, as stated in its *Reply* dated June 1, 2011, were addressed in the said FLD/FAN.

Similar to the PAN dated May 3, 2011, the FLD/FAN dated June 8, 2011 is not accompanied by a "*DETAILS OF DISCREPANCIES*", which is required under Section 3.1.3 of RR No. 12-99, as amended by RR No. 18-2013, in relation to "*ANNEX B*" thereof.

Furthermore, it is noted that petitioner filed its *Protest* dated July 21, 2011 against the said FLD/FAN on July 22, 2011,[109] again arguing against the findings stated therein. Additionally, in the same *Protest*, petitioner argues that the assessment is barred by prescription; that the assessments are based on mere presumptions; that the assessments fail to state the facts and law on which they are based; and that the protest on the PAN is not considered in the determination of the FLD/FAN.

In response to petitioner's *Protest*, the subject FDDA was issued by then OIC-ACIR Alfredo V. Misajon.[110] However, while the said FDDA shows that the BIR made certain adjustments in the basic taxes due, and has attached a "*DETAILS OF DISCREPANCIES*", it provided no explanation for

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[109] Par. 8, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 804; Exhibit "P-10", Docket – Vol. II, pp. 951 to 1012.

[110] Par. 9, Joint Stipulation of Facts, JSFI, Docket – Vol. II, p. 804; Exhibit "P-13", Docket – Vol. II, pp. 1014 to 1034; and Exhibits "R-24" and "R-24", BIR Records (Folder 3), pp. 2034 to 2044.

the said adjustments, and still failed to address the arguments raised by petitioner in its *Protest*.

As already stated, pursuant to the *Avon* case, the concerned taxpayer must be fully apprised of the factual and legal bases of the assessments, and must not be left unaware on how respondent or respondent's authorized representatives appreciated the explanations or defenses raised by petitioner in connection with the assessments.

To stress, as part of the due process requirement in the issuance of tax assessments, respondent must give reason(s) for rejecting petitioner's explanations, and must give the particular facts upon which his/her conclusions are based, especially as regards the increases or adjustments made, and those facts must appear on record. Respondent has obviously not observed such requirement in the issuance of the subject FAN/FLD, and the subject FDDA.

Thus, the inevitable conclusion is that petitioner's right to due process, as recognized under Section 228 of the NIRC of 1997, and Sections 3.1.1, 3.1.3, and 3.1.5 of RR No. 12-99, as amended, was violated by respondent. As a consequence of such violation, the said deficiency tax assessments are rendered void.

To reiterate, tax assessments issued in violation of the due process rights of a taxpayer are null and void.[111] Furthermore, a void assessment bears no valid fruit.[112] Such being the case, the subject tax assessments cannot be enforced against petitioner, and the BIR has no right to collect the same.

In fine, in view of the finding that the subject tax assessments are void for violation of petitioner's right to due process, it is no longer necessary to address the stipulated issues and other respective arguments raised by the parties.

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[111] *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., etseq.*, G.R. Nos. 201398-99 and 201418-19, October 3, 2018.

[112] *Samar-I Electric Cooperative vs. Commissioner of Internal Revenue*, G.R. No. 193100, December 10, 2014.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**. Accordingly, the *Decision* dated April 2, 2018 of respondent is **WITHDRAWN** and **SET ASIDE**. Moreover, the FLD/FAN dated June 8, 2011, the FDDA issued by then OIC-ACIR Alfredo V. Misajon, and the undated WDL bearing Warrant No. 125-2018-010 issued by OIC-ACIR for LTS Teresita M. Dizon, are **CANCELLED** and **SET ASIDE**.

The CIR, his/her representatives, agents or any person acting on his/her behalf are **ENJOINED** from collecting or taking any further action on the subject assessments.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

ROMAN G. DEL ROSARIO
Presiding Justice