REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

FORD GROUP PHILIPPINES, INC.,	**CTA CASE NO. 10805**
Petitioner,	Members:
- versus -	**RINGPIS-LIBAN**, *Chairperson,* **MODESTO-SAN PEDRO**, *and* **FERRER-FLORES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: APR 04 2025

x - 4:00 p.m. - - - - - - x

DECISION

***MODESTO-SAN PEDRO, J.*:**

The Case

The Petition for Review prays that the Court render judgment:

1. Reversing and setting aside respondent's Final Decision on Disputed Assessment holding petitioner liable for alleged deficiency value-added tax ("VAT") assessment in the aggregate amount of ₱81,838,576.34;

2. Declaring as void the disputed deficiency assessment for VAT for taxable year 2018; and

3. Declaring petitioner as not liable for any deficiency VAT for taxable year 2018.[1]

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[1] Statement of the Case, Pre-Trial Order, Docket – Vol. I, p. 301.

The Parties

Petitioner Ford Group Philippines, Inc. is registered with the Securities and Exchange Commission ("SEC") as the Philippine Branch Office of FGP, Inc. ("Head Office"), a foreign corporation organized and existing under the laws of the State of Delaware, United States of America. Its principal place of business is located at 8th Floor, Filinvest One Building, Northgate Cyberzone, Filinvest City, Alabang, Muntinlupa City.[2]

Respondent Commissioner of Internal Revenue ("CIR") is empowered to perform the duties of his office, including acting upon on protests cases and approval of claims for refund or tax credit as provided by law and implementing regulations. He can be served with pleadings, notices, and other processes to respondent's counsel office at Litigation Division, Room 703, BIR National Office Bldg., BIR Road, Diliman, Quezon City.[3]

The Facts

On July 12, 2019, the petitioner received from the BIR Large Taxpayer Service the Letter of Authority ("LOA") with No. eLA201600097343[4] signed by Teresita M. Dizon, OIC-Assistant Commissioner for Large Taxpayers Service, authorizing Revenue Officers Mary Kristine De Castro and Librado Atienza and Group Supervisor Prescila Pagayonan of the Large Taxpayers Service to examine the petitioner's books of accounts and other accounting records for value-added tax for the period January 1, 2018 to December 31, 2018.[5]

On April 20, 2021, the petitioner received from the BIR a copy of the Preliminary Assessment Notice ("PAN") of even date for deficiency VAT[6] in the amount of ₱153,327,706.49, inclusive of interest, and compromise penalty for the taxable year 2018.[7]

On May 7, 2021, a Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code[8] ("Waiver") was executed extending the audit until November 15, 2021.

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2 Par. 2.1, Petition for Review, Docket – Vol. I, p. 7.
3 Par. 3, Admitted Facts, Joint Stipulation of Facts and Issue (JSFI), *id* at p. 302.
4 Exhibit "P-4", Docket – Vol. II, p. 512.
5 Par. 4, *id.*
6 Exhibit "P-5", Docket – Vol. II, p. 516 to 527.
7 Par. 5, *id.* at p. 303.
8 Exhibit "P-7", Docket – Vol. II, p. 538.

On June 16, 2021, petitioner received from the BIR a Formal Letter of Demand ("FLD") dated June 14, 2021,[9] together with the Details of Discrepancy, in the amount of ₱81,870,910.56, inclusive of interest and compromise penalties for the taxable year 2018.[10]

On July 16, 2021, petitioner filed its Protest Letter against the FLD[11] with a request for reinvestigation, disputing the assessment finding for lack of factual and legal basis.

On July 21, 2021, the BIR through Noemi D. Castro, Chief of LT VAT Audit Unit, issued a reassignment notice[12] stating that the case was re-assigned to Revenue Officer Librado Atienza under Group Supervisor Alfred B. Manodon due to the transfer of the original group supervisor to another audit division.[13]

On July 28, 2021, petitioner received a copy of the LOA dated July 19, 2021 with No. eLA201900015967[14] signed by Manuel V. Mapoy, OIC-Assistant Commissioner for Large Taxpayers Service, authorizing Revenue Officer Librado Atienza and Group Supervisor Alfred Manodon of the Large Taxpayers Service to examine the petitioner's books of accounts and other accounting records for value-added tax for the period January 1, 2018 to December 31, 2018.[15]

On February 8, 2022, petitioner received the Final Decision on Disputed Assessment ("FDDA") dated February 7, 2022,[16] which denied the petitioner's protest against the merit of the assessment and assessed the petitioner in the aggregate amount of Eighty-One Million Eight Hundred Thirty-Eight Thousand Five Hundred Seventy-Six and 34/100 Pesos (₱81,838,576.34), inclusive of interest, for the taxable year 2018.[17]

Petitioner thus filed a Petition for Review ("Petition") before this Court on March 10, 2022,[18] On the other hand, respondent's Answer was filed on June 7, 2022.[19]

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9 Exhibit "P-8", Docket – Vol. II, pp. 539 to 552.
10 Par. 7, Docket – Vol. I, p. 303.
11 Exhibit "P-9", Docket – Vol. II, pp. 553 to 559.
12 Exhibit "P-4-1", Docket – Vol. II, p. 514.
13 Par. 8, *id.*
14 Exhibit "P-4-2", Docket – Vol. II, p. 515.
15 Par. 9, *id.*
16 Exhibit "P-10", Docket – Vol. II, pp. 560 to 564.
17 Par. 1, *id.* at p. 302.
18 Docket – Vol. I, pp. 6 to 43.
19 *Id.* at pp. 212 to 225.

The parties did not agree to mediate after being referred to the Philippine Mediation Center – Court of Tax Appeals.[20] The case proceeded to pre-trial and was eventually terminated with the issuance of the Pre-Trial Order on January 6, 2023.[21]

Trial thus ensued, with the parties presenting and offering their respective documentary and testimonial evidence.

Petitioner filed its Memorandum on March 20, 2024,[22] while respondent's Memorandum was submitted on April 1, 2024.[23] Thus, in a Minute Resolution, dated April 4, 2024, the case was deemed submitted for decision.

Hence, this Decision.

The Issue

The parties stipulated on the following issue to be resolved in this case:

> Whether or not petitioner is liable for deficiency value-added tax amounting to Eighty-One Million Eight Hundred Thirty-Eight Thousand Five Hundred Seventy-Six and 34/100 Pesos (₱81,838,576.34), inclusive of interest, for the taxable year 2018.[24]

Arguments of the Parties

Petitioner's Arguments:

Petitioner argues that the Waiver is not valid and, thus, could not have extended the period to assess petitioner; that its sales of goods qualify for VAT zero-rating under *Section 106(A)(2) of the National Internal Revenue Code of 1997, as amended* ("*NIRC*"); and that the FDDA merely requested for payment of petitioner's alleged deficiency VAT liability and, thus, is null and void.

[20] *Id.* at pp. 210 to 211 and 235 to 237.
[21] *Id.* at pp. 301 to 310.
[22] Docket – Vol. II, pp. 638 to 679.
[23] *Id.* at pp. 681 to 700.
[24] Stipulated Issue, JSFI, Docket – Vol. I, p. 303.

Respondent's Counter-arguments:

Respondent counter-argues that the Waiver is valid pursuant to *Revenue Memorandum Order ("RMO") No. 14-2016* thus, validly extended his period to assess petitioner; the revenue officers assigned to investigate the instant case were granted authority to investigate; and that the FDDA and the entire assessment is valid.

The Ruling of the Court

The Petition is **GRANTED**.

The Waiver is valid

Petitioner argues that the Waiver executed on May 7, 2021[25] is invalid as it failed to comply with the requirements of *RMO No. 20-90* on the proper execution of a valid waiver. In particular, the Waiver does not indicate the date of acceptance by respondent. Consequently, petitioner asserts that the Waiver is void and did not validly extend respondent's right to assess petitioner.

Respondent counters that petitioner's invocation of *RMO No. 20-90* is already misplaced as the Waiver was executed in the advent of *RMO No. 14-2016* where the BIR laid down new rules relaxing the stringent requirements of *RMO No. 20-90*.

Respondent is correct.

The Waiver was executed on May 7, 2021 and must thus *follow RMO No. 14-2016*, which lays down the most recent rules in the proper execution of a Waiver.

RMO No. 14-2016, dated April 4, 2016 states that *there shall only be two material dates* that need to be present on the waiver:

> a) The date of execution of the waiver by the taxpayer or its authorized representative; and
>
> b) The expiry date of the period the taxpayer waives the statute of limitations.

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[25] Exhibit "P-7", Docket – Vol. II, p. 538.

Indeed, the Waiver is compliant with said RMO as the two material dates are present—the date of execution on May 7, 2021, and the expiry date of the Waiver on November 15, 2021. Contrary to petitioner's assertion, the date of acceptance of the Waiver by respondent is no longer a material date which can affect the validity of the Waiver.

Accordingly, the Waiver executed on May 7, 2021, is valid and rightfully extended respondent's right to assess petitioner until November 15, 2021. Hence, the FLD, dated June 14, 2021, was accordingly issued before respondent's right to assess prescribed.

Nevertheless, petitioner asserts that at the time the Waiver was executed, on May 7, 2021, respondent's right to assess VAT for the first quarter of 2018, with filing due date on April 25, 2018,[26] already prescribed on April 25, 2021.[27] However, petitioner did not present any evidence to show what extent of the assessed items pertain to the first quarter of 2018. Thus, the Court is constrained to consider the entire assessed amount as pertaining to the remaining periods upon which respondent's right to assess had not yet prescribed.

The revenue officers are duly authorized to investigate and examine petitioner's books

Petitioner argues that at the time the FLD was issued on June 14, 2021, the Group Supervisor Alfred Manodon ("GS Manodon") was not yet authorized to investigate as the LOA authorizing him to do so was issued only on July 19, 2021.

However, respondent explains that it was still Group Supervisor Prescila Pagayonan ("GS Pagayonan") who was assigned when the FLD was issued, not GS Manodon. GS Manodon was only assigned for the reinvestigation prior to the issuance of the FDDA.

Again, respondent is correct.

Records show that there are two (2) LOAs issued in this case:

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[26] Actual filing is on April 24 2025, Exhibit "P-16-1", Docket – Vol. II, p. 578 to 580.

[27] SEC. 203. *Period of Limitation Upon Assessment and Collection.* - Except as provided in Section 222, *internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return*, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: Provided, That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, *a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day*. (*Italics, Ours.*)

1.) LOA No. eLA201600097343, received by petitioner on July 12, 2019, assigning Prescila Pagayonan as the group supervisor; and

2.) LOA No. No. eLA201900015967, dated July 19, 2021 and received by petitioner on July 28, 2021, assigning Alfred Manodon as the new group supervisor.

It is GS Pagayonan who signed in the Memorandum recommending issuance of the FLD/FAN and Revenue Officer's Audit Report.[28] Thus, contrary to petitioner's claim, the FLD, issued on June 14, 2021, is in accordance with the audit findings of duly authorized revenue officers, particularly the group supervisor, at that time.

Meanwhile, the reassignment notice, dated July 21, 2021, and second LOA, dated July 19, 2021, were notably issued after petitioner filed its Protest Letter against the FLD on July 16, 2021. Notably, the intention of the reassignment and new LOA was for the continuation of audit of petitioner's alleged tax liabilities in consideration of petitioner's request for investigation in its Protest Letter against the FLD and not for the purpose of issuing the FLD, as petitioner claims.

Verily, the issuance of the FLD is found to be in order as the revenue officers at that time were properly armed with a valid LOA.

The FDDA indicates a final demand for payment

Petitioner argues that the FDDA is void as it has no demand or requirement to pay the taxes dues but merely requested for payment, thus negates the imperative nature and assertion of a legal right of an assessment. Accordingly, it lacks a due tax liability that is there definitely set and fixed.

We find this incorrect.

Commissioner of Internal Revenue v. Fitness by Design, Inc.[29] ("*Fitness by Design*") defines a final assessment as a notice "to the effect that the amount therein stated is due as tax and a demand for payment thereof." This demand for payment signals the time "when penalties and interests begin to accrue against the taxpayer and enabling the latter to determine his remedies[.]" Thus, it must be "sent to and received by the taxpayer, and must demand payment of the taxes described therein within a specific period."

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[28] Exhibits "R-6" and "R-6-1", BIR Records, pp. 1294 to 1296.
[29] G.R. No. 215957, November 9, 2016.

The mere usage of the term "request" does not loosen the effect of a demand for payment. As set forth in *Fitness by Design*, the primary purpose of a demand is to signal the time when penalties and interest begin to accrue. This is why there must be a period prescribed for payment.

We find the FDDA compliant with the concept of a demand for payment as elaborated in *Fitness by Design* as it clearly indicates that the deficiency VAT due stated therein must be paid "immediately upon receipt". Contrary to petitioner's assertion, it is already obligated to pay the assessment, otherwise penalties and interest shall run against it from the due date indicated therein.

The deficiency VAT assessment must be cancelled

The FDDA shows the following computation of petitioner's deficiency VAT for the taxably year 2018:

Receipts subjected to VAT per VAT Returns	₱30,518,890,751.49
Add: Adjustments/Disallowances	
Unsupported Zero-Rated Sales (Sch. 1)	483,463,466.63
Adjusted Sales Subjected to VAT	31,002,354,218.12
Output Tax due thereon (12%)	3,720,282,506.17
Less: Allowable Input Tax	3,661,751,230.20
Net VAT Payable	58,531,275.98
Less: Payment per VAT Return	515,659.98
Basic Deficiency VAT	58,015,616.00
Add: 12% interest p.a. from 01/26/2019 to 06/30/2022	23,822,960.34
Total Amount Due	**₱81,838,576.34**

Our examination of the FDDA shows that it upheld two (2) assessment items in the FLD, as follows:

1.) Unsupported zero-rated sales amounting to ₱483,463,466.63; and

2.) Excess input tax carried over to succeeding period amounting to ₱929,514,016.37, which was effectively disallowed by respondent in computing the Allowable Input Tax amounting to ₱3,661,751,230.20.

Petitioner's sales amounting to ₱483,463,466.63 qualifies for VAT zero-rating

Respondent finds that petitioner's sales to Westcoast Automotive Corporation ("Ford Subic") amounting to ₱482,135,036.92 and Autofield Car Corporation ("Ford Clark") amounting to ₱1,328,429.71, aggregating ₱483,463,466.63, do not qualify for VAT zero-rating pursuant to *Revenue Memorandum Circular ("RMC") No. 25-99*, which states that "sales of ordinary automobiles to PEZA, SBMA and other ECOZONE registered enterprises are not entitled to VAT zero-rating".

Petitioner refutes said finding, asserting that *Section 106(A)(2)(a)(5) of the* NIRC provides that sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rating. Pursuant thereto, *Section 4.106-5 of Revenue Regulations ("RR") No. 16-05*, as amended by *RR No. 04-07*, provides that the enumeration of VAT zero-rated sales of good or properties clearly includes sales of goods or property to persons or entities who are tax-exempt under special laws, e.g. sales to enterprises duly registered and accredited with the Subic Bay Metropolitan Authority ("SBMA") pursuant to *Republic Act No. 7227* and sales to enterprises duly registered and accredited with the Philippine Economic Zone Authority ("PEZA").

Further, petitioner points out that respondent's application of *RMC No. 25-99* in its case is misplaced and unfounded, since while the items sold to Ford Subic and Ford Clark are automobiles, they are nevertheless pursuant to the registered ECOZONE activities of said entities, and hence must be entitled to VAT zero-rating in accordance with the *NIRC* and its regulations.

We find for petitioner.

There is no dispute that Ford Subic and Ford Clark are ECOZONE-registered entities entitled to VAT zero-rating. What remains disputed herein is whether petitioner's sales of automobiles to said two entities are entitled to VAT zero-rating.

To this, respondent posits in the negative, as *RMC No. 25-99* provides that *Section 2(ii) of R.A. No. 7916* defines "Merchandise or Goods" as that which shall collectively refer to raw materials, supplies, equipment, machineries, spare parts, packaging materials, or wares of every description to be used in connection with the registered activity of an ECOZONE enterprise. The use of the phrase "to be used in connection with the registered activity of an ECOZONE enterprise" in describing what comprises merchandise or goods imparts the presumption that the same are somehow utilized in the production activity of an ECOZONE enterprise. However, it would now appear that cars or automobiles could not be possibly embraced within the classification of goods or merchandise entitled to the benefit of tax exemption.

Respondent, in applying *RMC No. 25-99* to assess petitioner's sales, merely relied on the fact that what were sold by petitioner to Ford Subic and Ford Clark are automobiles and spare parts, without taking into consideration the two entities' registered activities within their respective ECOZONEs.

It must be emphasized that the operative characteristic which entitles sales to ECOZONE-registered entities with VAT zero percent is that the merchandise or goods sold thereto is "to be used in connection with the registered activity".

Ford Subic's Certificate of Registration and Tax Exemption with SBMA states that its purpose is "to engage in the business of sale and distribution of motor vehicles, spare parts, accessories, tires, batteries, and other related products."[30] While Ford Clark's Certificate of Registration and Tax Exemption with Clark Development Corporation, the authority which implements R.A. 7227, as amended by R.A. 9400, states that it is "exclusively operating a FORD automotive dealership and related services."[31]

Since Ford Subic and Ford Clark are both engaged in automotive dealership, its purchases of automobiles and spare parts from petitioner indeed qualifies for VAT zero-rating as these are to be used in connection with their respective registered activities.

Petitioner's excess input tax carried over to succeeding period amounting to ₱929,514,016.37, which was effectively disallowed by respondent, is void

It was noted in the FLD that petitioner's input tax claimed per return was reduced by ₱929,514,016.37, thereby leading to the Total input tax claimed per return of ₱3,661,751,230.20, computed as follows:

Input Tax carried over from previous period	₱407,680,086.33
Current input tax	4,183,585,160.24
Excess input tax carried over to succeeding period	(929,514,016.37)
Total Input tax claimed per Return	₱3,661,751,230.20

[30] Exhibits "P-11" to "P-12, Docket – Vol. II, pp. 565 to 568.
[31] Exhibits "P-13", Docket – Vol. II, p. 569.

In effect, respondent disallowed the foregoing excess input tax carried over to succeeding period, which consequently led to a deficiency VAT in his computation. A perusal of the FLD and the attached Details of Discrepancy, however, shows that he did not provide any legal basis thereof.

This amount of ₱3,661,751,230.20 was eventually upheld and retained as the Allowable Input Tax in the FDDA.

We cancel said assessment item.

Section 228 of the NIRC, as amended, strictly provides that 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.

The foregoing is implemented by *RR No. 12-99, as amended by RR No. 18-13*, particularly *Section 3.1.3* thereof, which states that the Formal Letter of Demand and Final Assessment Notice ("FLD/FAN") shall be issued by the Commissioner or his 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.*

In *Commissioner of Internal Revenue v. Enron Subic Power Corporation*[32] ("*Enron*"), the High Court explained that *Section 228 of the Tax Code* requires that the legal and factual bases of the assessment be stated in the formal letter of demand and assessment notice. Accordingly, "[t]here was no going around the mandate of the law that the legal and factual bases of the assessment be stated in writing in the formal letter of demand accompanying the assessment notice. . . . In view of the absence of a fair opportunity for Enron to be informed of the legal and factual bases of the assessment against it, the assessment in question was void."

Enron was later upheld by *Fitness By Design* in this wise:

> . . . . *The requirement enables the taxpayer to make an effective protest or appeal of the assessment or decision.*
>
> The rationale behind the requirement that taxpayers should be informed of the facts and the law on which the assessments are based conforms with the constitutional mandate that no person shall be deprived of his or her property without due process of law. *Between the power of the State to tax and an individual's right to due process, the scale favors the right of the taxpayer to due process.*

[32] G.R. No. 166387 (Resolution), January 19, 2009.

> The purpose of the written notice requirement is to aid the taxpayer in making a reasonable protest, if necessary. *Merely notifying the taxpayer of his or her tax liabilities without details or particulars is not enough.* (Italics, Ours.)

Providing the factual and legal bases of the assessment is a baseline principle in all assessments and respondent cannot escape compliance therewith as the underlying purpose is to accord the taxpayer its right to due process by having the opportunity and capability to intelligently protest the assessment.

Since respondent did not provide the legal basis in disallowing the excess input tax carried over to succeeding period amounting to ₱929,514,016.37, petitioner was not able to protest the same and fatally violated its right to due process. Consequently, this assessment is null and void.

With this, petitioner's allowable input tax should remain at ₱4,591,265,246.57,[33] without any deduction.

Proceeding therefrom, a re-computation of petitioner's alleged deficiency VAT shows that it even incurred VAT overpayment, not a VAT payable, as demonstrated below:

Receipts subjected to VAT per VAT Returns	₱30,518,890,751.49
Add: Adjustments/Disallowances	
Unsupported Zero-Rated Sales (Sch. 1)	483,463,466.63
Adjusted Sales Subjected to VAT	31,002,354,218.12
Output Tax due thereon (12%)	3,720,282,506.17
Less: Allowable Input Tax	4,591,265,246.57
Net VAT Payable	(870,982,740.39)
Less: Payment per VAT Return	515,659.98
VAT Overpayment	**₱(871,498,400.37)**

Accordingly, petitioner does not have any deficiency VAT liability for the taxable year 2018.

FOR THESE REASONS, the *Petition for Review* is **GRANTED**. Accordingly, the deficiency VAT assessment for the taxable year 2018 is **CANCELLED** and **SET ASIDE**. Respondent is thus **ENJOINED** and **PROHIBITED** from collecting the said amount against petitioner.

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33 Input tax carried over from previous period amounting to ₱407,680,086.33 plus Current input tax amounting to ₱4,183,585,160.24.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
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.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice