REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

VENTIS MARITIME CORPORATION, Petitioner,	CTA CASE NO. 8737
	Members:
-versus-	BAUTISTA, *Chairperson*; FABON-VICTORINO, and RINGPIS LIBAN, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 03 2017 2:02 p.m.

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RESOLUTION

***Fabon-Victorino, J.*:**

Before the Court is respondent's *Motion for Reconsideration* dated April 19, 2017,[1] impugning the Decision dated March 28, 2017, the *fallo* of which states:

> **WHEREFORE**, the Petition for Review filed by Ventis Maritime Corporation on November 25, 2013, is hereby **GRANTED**. Accordingly, the Final Decision dated October 21, 2013 issued by respondent Commissioner of Internal Revenue assessing petitioner for deficiency Income Tax, Value-Added Tax and Final Withholding Tax for calendar year 2007, in the aggregate amount of ₱2,713,638.76, and the Warrant of Distraint and/or Levy, are hereby **CANCELLED** and deemed **WITHDRAWN** for being **VOID**.
>
> **SO ORDERED.**[2]

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[1] Docket, pp. 373-379.
[2] Ibid. at p. 370.

Respondent asserts that he has properly observed the due process requirement under Section 228 of the Tax Code and Revenue Regulations (RR) No. 12-99 relative to the issuance of assailed assessment. By filing several protest letters after having served with the copies of the Preliminary Assessment Notice (PAN), Final Assessment Notice (FAN)/ Formal Letter of Demand (FLD), petitioner was able to properly present its cause and exhaustively refute the subject assessment. On account thereof, the subject assessment must be upheld.

Petitioner counters that since respondent erroneously served the PAN, FLD and FAN to its previous address, despite his knowledge of its present address, he reneged in his duty to properly inform petitioner of the legal and factual basis of the subject assessment. Further, petitioner learned about the assessment only after it requested respondent for the copies of the PAN, FAN/FLD. The obtaining circumstances would indicate that respondent violated its right to due process, rendering the same null. Thus, the subject assessment should be cancelled and set aside.

We deny the instant Motion.

Indeed, the arguments raised in the instant Motion for Reconsideration had been exhaustively discussed and passed upon by the Court in the impugned Decision.

The detailed discussion on pages 15 to 18 of the impugned Decision clearly explains the reasons justifying the cancellation of the subject assessment. To recapitulate, Section 228 mandatorily requires *inter alia,* that a valid issuance and service of a PAN to the taxpayer, and granting the latter a chance to file a reply or response thereto must precede the issuance and service of a FAN/FLD. The process cannot be reversed.

It was established per evidence on record that petitioner received the photocopies of the PAN, FAN and FLD all at the same day; and that respondent utterly failed to grant petitioner a fifteen (15) day period from receipt of PAN within which to file his response/reply thereto. Both of these circumstances demonstrate respondent's blatant disregard of Section 228 of the NIRC, as amended, as implemented by RR No. 12-99, rendering the subject assessment void. Consequently, the Court is left with no other recourse but to invalidate the same.

WHEREFORE, respondent's Motion for Reconsideration dated April 19, 2017 is **DENIED**. The impugned Decision dated March 28, 2017 is **AFFIRMED** *in toto*.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

LOVELL R. BAUTISTA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice