

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF CTA EB NO. 3020
INTERNAL REVENUE, (CTA Case No. 10383)
Petitioner,

Present:

- versus -

POWERNET SYSTEMS CENTENO-DIJAMCO, JJ.
CORP.,
Respondent.

Promulgated:

AUG 13 2026

X -----X

DECISION

ANGELES, J.:

Before the Court of Tax Appeals (CTA) *En Banc* (Court *En Banc*) is a *Petition for Review*¹ filed on November 21, 2024, pursuant to Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals, as amended² (RRCTA). Petitioner seeks the reversal and setting aside of the **Decision** dated April 11, 2024³ (assailed Decision) and the

¹ *En Banc* (EB) Docket, pp. 9 to 17.
² Revised Rules of the Court of Tax Appeals (RRCTA), Section 4(b) provides:

SECTION 4. *Where to appeal; mode of appeal.* —

x x x

(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on appeal. (n)
³ *EB* Docket, pp. 21 to 43. The Resolution was penned by then Associate Justice Ma. Belen M. Ringpis-Liban, and concurred in by Associate Justice Maria Rowena Modesto-San Pedro and Associate Justice Corazon G. Ferrer-Flores.

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Resolution dated October 03, 2024⁴ (assailed Resolution), both rendered by the Special Third Division of this Court (Court in Division) in CTA Case No. 10383, the dispositive portions of which respectively read:

Decision dated April 11, 2024:

“**WHEREFORE**, in light of the foregoing considerations, the present Petition for Review is **PARTIALLY GRANTED**.

Accordingly, petitioner is **ORDERED TO PAY** the amount of ₱438,100.37 representing deficiency taxes for the taxable year 2015, inclusive of 25% surcharge and 20%/12% deficiency interest imposed under Section 248(A)(3) and Section 249(B) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN), as implemented by Revenue Regulations (RR) No. 21-2018, computed until January 14, 2019, as follows:

	VAT	EWT	WTC	TOTAL
Basic Tax Due	₱305.71	₱171,306.16	₱76,333.25	₱247,945.12
Add: 25% Surcharge	76.43	42,826.54	19,083.31	61,986.28
20% Deficiency Interest Jan. 26, 2016 to Dec. 31, 2017 (₱305.71 x 20% x 706/365)	118.26			118.26
20% Deficiency Interest Jan. 16, 2016 to Dec. 31, 2017 (₱171,306.16 x 20% x 716/365)		67,208.33		67,208.33
20% Deficiency Interest Jan. 16, 2016 to Dec. 31, 2017 (₱76,333.25 x 20% x 716/365)			29,947.73	29,947.73
Total Amount Due, Dec. 31, 2017	₱500.40	₱281,341.03	₱125,364.29	₱407,205.73
Add: 12% Deficiency Interest Jan. 1, 2018 to Jan. 14, 2019				
Add: 12% Deficiency Interest Jan. 1, 2018 to Jan. 14, 2019 (₱305.71 x 12% x 379/365)	38.09			38.09
(₱171,306.16 x 12% x 379/365)		21,345.22		21,345.22
(₱76,333.25 x 12% x 379/365)			9,511.33	9,511.33
Total Amount Due, Jan. 14, 2019	₱538.49	₱302,686.25	₱134,875.62	₱438,100.37

⁴ *Id.* at 44 to 48. The Resolution was penned by then Associate Justice Ma. Belen M. Ringpis-Liban, and concurred in by Associate Justice Maria Rowena Modesto-San Pedro. Associate Justice Corazon G. Ferrer-Flores was on leave.

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In addition, petitioner is **ORDERED TO PAY** delinquency interest at the rate of twelve percent (12%) per annum, on the total unpaid deficiency taxes due as of January 14, 2019, in the amount of ₱438,100.37, as determined above, or equivalent to ₱144.03 per day, computed from January 15, 2019 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by RA No. 10963 and implemented by RR No. 21-2018.

SO ORDERED.⁵ (Emphases in the original; citations omitted)

Resolution dated October 03, 2024:

"WHEREFORE, respondent's Motion for Reconsideration (Re: Decision dated April 11, 2024) is **DENIED** for lack of merit.

SO ORDERED.⁶ (Emphases in the original)

THE PARTIES

Petitioner Commissioner of Internal Revenue (CIR) is the duly mandated person authorized to implement the National Internal Revenue Code (NIRC), including, among others, the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the NIRC or other laws administered by the Bureau of Internal Revenue (BIR). He may be served with summons, pleadings, and other processes at his office at the Litigation Division, Room 703 of the BIR National Office Building, BIR Road, Diliman, Quezon City.⁷

Respondent Powernet Systems Corp. is a domestic corporation duly organized under and by virtue of Philippine law, with principal office address at 88 New York Street corner Cambridge Street, Cubao, Quezon City.⁸

FACTS OF THE CASE

The facts of the present case were set forth by the Court in Division in the assailed Decision, as follows:⁹

The BIR issued the LOA No. LOA-040-2017-00000134/SN: eLA201500077042 dated May 23, 2017, authorizing Revenue Officer

⁵ *Id.* at 42.

⁶ *Id.* at 47.

⁷ *Id.* at 21 to 22; citation omitted.

⁸ *Id.* at 21; citation omitted.

⁹ *Id.* at 22 to 25; citations omitted.

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(RO) Helenita Villablanca/Group Supervisor Judith Arcinue of Revenue District No. 040-Cubao, to examine [herein respondent]'s books of accounts and other accounting records for all internal revenue taxes, for the period from January 1, 2015 to December 31, 2015.

[Herein Petitioner] issued the *Preliminary Assessment Notice* (PAN) on November 26, 2018, informing [respondent] that after investigation, there has been found due from the latter deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), and withholding tax on compensation (WTC), including interests, in the aggregate amount of ₱15,150,907.50, for taxable year 2015.

Subsequently, [petitioner] issued the *Formal Letter of Demand* (FLD) dated December 14, 2018, with *Details of Discrepancies and Assessment Notices*, assessing [respondent] of deficiency income tax, VAT, EWT, and WTC, including interests, for the same taxable year, in the aggregate amount of ₱15,245,957.55, summarized as follows:

	Basic Tax	Interest	Total
Income Tax	₱6,849,450.76	₱3,160,880.78	₱10,010,331.54
VAT	3,228,287.05	1,633,071.01	4,861,358.06
EWT	171,306.16	87,596.11	258,902.27
WTC	76,333.25	39,032.43	115,365.68
Total	₱10,325,377.22	₱4,920,580.33	₱15,245,957.55

In the FLD dated December 14, 2018, with attached *Details of Discrepancies and Assessment Notices*, and received by [respondent] on even date, [petitioner] assessed petitioner with deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), and withholding tax on compensation (WTC) in the aggregate amount of ₱15,245,957.55.

[Respondent] then filed a request for reconsideration with the BIR on December 27, 2018.

The BIR issued the assailed FDDA, which is dated September 4, 2020 and was received by [respondent] of September 23, 2020. In said FDDA, with attached *Details of Discrepancies and Assessment Notices*, the assessments against [respondent] were upheld, with adjustments on the interest, which then aggregated to ₱17,439,858.29, summarized as follows:

	Basic Tax	Interest	Total
Income Tax	₱6,849,450.76	₱4,617,843.40	₱11,467,294.16
VAT	3,228,287.05	2,319,767.47	5,548,054.52
EWT	171,306.16	124,035.04	295,341.20
WTC	76,333.25	52,835.16	129,168.41
Total	₱10,325,377.22	₱7,114,481.07	₱17,439,858.29

[Respondent] filed the present *Petition for Review* on October 23, 2020.

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Within the extended time granted by the Court, [petitioner] posted his *Answer* on January 11, 2021, interposing the following special and affirmative defenses, to wit:

1. The PAN, FLD, and FDDA sufficiently provided the factual and legal basis for the assessments;
2. The FDDA provided a definite tax liability due, and clearly specified the total amount due for every assessment item and the due date for payment on October 5, 2020. Hence, there is no violation of [respondent]'s right to due process;
3. No supporting documents were submitted by [respondent] to prove its allegations in the protest. Thus, the assessment was reiterated in the FDDA; and
4. Assessments are *prima facie* presumed correct and made in good faith. The taxpayer has the duty of proving otherwise. In the absence of proof of any irregularities in the performance of official duties, and assessment will not be disturbed.

On January 19, 2021, [petitioner] transmitted the *BIR Records* for the present case, consisting of four hundred thirty (430) pages in one (1) folder.

The Pre-Trial Conference was initially set on March 8, 2021. Prior to said date, [Petitioner]'s *Pre-Trial Brief* was filed on March 3, 2021; while [respondent] filed its *Pre-Trial Brief* on March 4, 2021.

However, during the scheduled Pre-Trial Conference, upon agreement of both parties, the case was referred to mediation and the Court thereby ordered the parties to immediately proceed and to personally appear, or through their authorized representative, before the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA).

Thereafter, on September 27, 2021, the PMC-CTA returned the case to Court on the ground that mediation was refused by [respondent]. Thus, the Court set and held the case anew for pre-trial on October 20, 2021.

On November 8, 2021, the parties filed their *Joint Stipulation of Facts and Issues*, which was approved and adopted by the Court in the Pre-Trial Order dated December 2, 2021.

Trial thereafter ensued.

[Respondent] offered the testimony of its President, Mr. Antonio Ramon T. Ongsiako.

Thereafter, on March 25, 2022, [respondent] filed its *Formal Offer of Evidence*. [Petitioner] filed his *Comment/Opposition (Re: [Respondent]'s Formal Offer of Evidence dated March 25, 2022)* on April 4, 2022. In the Resolution dated April 20, 2022, the Court admitted all of [respondent]'s offered exhibits, except for Exhibit "P-8" for failure to present the original for comparison.

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For his part, [petitioner] offered the testimony of RO Ayesha Hajar A. Magalin.

[Petitioner]'s Formal Offer of Evidence was filed on October 27, 2022, to which [respondent] posted its *Comment (to [Petitioner]'s Formal Offer of Evidence)* on November 4, 2022. In the Resolution dated January 16, 2023, the Court admitted all of [petitioner]'s offered exhibits.

[Petitioner]'s Memorandum was filed on February 27, 2023; while respondent submitted its *Memorandum* on March 20, 2023.

The case was deemed submitted for decision on April 11, 2023.

On April 11, 2024, the Court in Division rendered the assailed Decision,¹⁰ partially granting the *Petition for Review*.¹¹

Aggrieved, petitioner filed a *Motion for Reconsideration (Re: Decision dated April 11, 2024)*¹² on May 10, 2024. The Court in Division, however, denied the *Motion* for lack of merit in the assailed Resolution.¹³

Thereafter, petitioner personally¹⁴ and electronically¹⁵ filed a *Motion for Extension of Time to File Petition for Review*¹⁶ on November 04, and 05, 2024, respectively. The Court granted the *Motion* in its Resolution dated November 06, 2024,¹⁷ thereby allowing the petitioner until November 21, 2024 to file the petition.

On November 21, 2024, petitioner personally¹⁸ and electronically¹⁹ filed the present *Petition for Review*.²⁰

In a Resolution dated December 13, 2024,²¹ the Court directed respondent to file a comment on the *Petition* within ten (10) days from notice. In compliance therewith, respondent personally²² and electronically²³ filed its *Comment*²⁴ on January 06, 2025.

¹⁰ *Id.* at 21 to 43.

¹¹ Division Docket – Vol. I, pp. 6 to 32.

¹² Division Docket – Vol. II, pp. 576 to 581.

¹³ EB Docket, pp. 44 to 48.

¹⁴ *Id.* at 1.

¹⁵ *Id.* at 6.

¹⁶ *Id.* at 1 to 4.

¹⁷ *Id.* at 7.

¹⁸ *Id.* at 9.

¹⁹ *Id.* at 8.

²⁰ *Id.* at 9 to 17.

²¹ *Id.* at 53.

²² *Id.* at 54.

²³ *Id.* at 65.

²⁴ *Id.* at 54 to 62.

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Subsequently, in a Resolution dated January 22, 2025,²⁵ the Court noted respondent's *Comment*,²⁶ and referred the case to mediation before the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA).

On April 02, 2025, the PMC-CTA informed the Court that the parties failed to reach an agreement during mediation.²⁷ The Court duly noted the same in its Resolution dated April 30, 2025,²⁸ wherein the case was likewise deemed submitted for decision.

ASSIGNMENT OF ERROR

Petitioner submits the following sole assignment of error²⁹ for the resolution of the Court *En Banc*:

WHETHER OR NOT THE SPECIAL THIRD DIVISION ERRED
IN PARTIALLY INVALIDATING THE DEFICIENCY TAX
ASSESSMENTS.

ARGUMENTS OF THE PARTIES

Petitioner's arguments

Petitioner contends that the BIR's failure to strictly comply with Revenue Memorandum Order (RMO) Nos. 4-2003, 46-2004, and 13-2012 does not, by itself, invalidate the deficiency tax assessments, as these issuances are merely internal directives that confer no vested rights upon taxpayers.

Petitioner maintains that the findings in the Final Decision on Disputed Assessment (FDDA) should be sustained on the following grounds:

First, with respect to the deficiency income tax and value-added tax (VAT) arising from undeclared sales and income, respondent was afforded ample opportunity to refute the discrepancies between its Summary List of Sales (SLS), Summary List of Purchases (SLP), and Third Party Information (TPI), but failed to sufficiently controvert the BIR's findings.

²⁵ *Id.* at 66.

²⁶ *Id.* at 54 to 62.

²⁷ *Id.* at 67.

²⁸ *Id.* at 68.

²⁹ *Id.* at 13.

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Second, as regards the deficiency income tax and VAT arising from unaccounted related party transactions, petitioner asserts that the transactions were unsupported by relevant documents and were not adequately refuted by respondent. Accordingly, petitioner maintains that the amounts may properly be treated as “taxable income” pursuant to Section 32 of the NIRC of 1997, as amended.

Third, with respect to the disallowed Net Operating Loss Carry-Over (NOLCO) amounting to ₱587,737.00, petitioner argues that the amount was properly added back to respondent’s taxable income, considering that the adjustments made during the audit resulted in taxable income of ₱22,243,765.53, as reflected in the FDDA.

Fourth, petitioner maintains that the “Excess Tax Credits Carried Forward to the Succeeding Period” and “Excess Minimum Corporate Income Tax (MCIT) over Normal Corporate Income Tax (NCIT) Carried Forward to the Succeeding Period” were properly disallowed because the excess credits had already been carried over to succeeding taxable periods. Thus, according to petitioner, once adjustments to the tax due for the year under audit result in deficiency assessments, the tax credits already carried forward may no longer be applied to reduce the resulting deficiency.

Petitioner further argues that the burden of proof rests on the taxpayer challenging the validity or correctness of an assessment, who must establish not only the error in the CIR’s findings but also the correctness of its own position. As respondent allegedly failed to discharge this burden, petitioner asserts that the presumption of correctness accorded to the assessments remains unrebutted. Consequently, invoking the well-settled doctrine that taxes are the lifeblood of the government, petitioner maintains that respondent should be held liable for the deficiency taxes assessed in the FDDA.

Respondent’s counter-arguments

Respondent, for its part, counters that petitioner merely reiterates and rehashes the arguments raised in his *Motion for Reconsideration (Re: Decision dated April 11, 2024)*, all of which have already been fully considered and resolved by the Court in Division in its assailed Decision and Resolution.

Specifically, respondent argues that compliance with RMO Nos. 4-2003, 46-2004, and 13-2012 is essential to establish the factual bases of the assessments contemplated under Section 228 of the NIRC of 1997, as amended. Absent such compliance, the assessments cannot be sustained on the basis of mere presumptions rather than established facts.

With respect to the deficiency income tax and VAT arising from the related party transactions, respondent explains that petitioner's reliance on *Commissioner of Internal Revenue v. Filinvest Development Corp.*³⁰ (*Filinvest*) is misplaced. According to respondent, *Filinvest* does not sanction the treatment of a transaction as taxable income merely because the taxpayer failed to substantiate it with sufficient documents. Rather, the existence of taxable income must first be established by competent evidence.

Finally, as regards the disallowed (1) NOLCO, (2) excess tax credits carried forward to the succeeding period, and (3) excess MCIT over NCIT carried forward to the succeeding period, respondent reiterates the ruling of the Court in Division that the factual and legal bases thereof were not stated in the Formal Letter of Demand (FLD) and FDDA. Such omission, respondent asserts, violated its statutory right to be informed of the factual and legal grounds of the assessments, and, consequently, renders the same void.

RULING OF THE COURT *EN BANC*

The *Petition for Review* is devoid of merit.

The Court En Banc has jurisdiction over the instant Petition

Before delving into the merits, the Court *En Banc* shall first determine whether it is properly vested with authority to take cognizance of the present *Petition*.³¹

Section 2(a)(1), Rule 4 of the RRCTA provides in part:

SEC. 2. *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

³⁰ G.R. Nos. 163653 & 167689, July 19, 2011 [Per J. Perez, *En Banc*].

³¹ *EB Docket*, pp. 9 to 17.

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(a) **Decisions or resolutions on motion for reconsideration or new trial of the Court in Division** in the exercise of its exclusive appellate jurisdiction over:

- (1) Cases arising from administrative agencies — **Bureau of Internal Revenue**, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; x x x (Emphases and underscoring supplied)

Here, petitioner seeks the review of the assailed Decision and Resolution of the Court in Division in CTA Case No. 10383, which partially granted respondent's *Petition for Review*,³² and, thereafter, denied petitioner's *Motion for Reconsideration (Re: Decision dated April 11, 2024)*³³ for lack of merit. The instant *Petition*,³⁴ therefore, falls squarely within the appellate jurisdiction of the Court *En Banc*.

The *Petition*³⁵ was likewise timely filed. Section 3(b), Rule 8 of the RRCTA provides:

Sec. 3. *Who may appeal; period to file petition.* — x x x

(b) **A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution.** Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (*Rules of Court, Rule 42, sec. 1a*) (Emphases and underscoring supplied)

The records disclose that petitioner received a copy of the assailed Resolution on October 22, 2024,³⁶ and that the same was posted to the Office of the Solicitor General on November 21, 2024.³⁷

On November 04, 2024, petitioner filed a *Motion for Extension of Time to File Petition for Review*,³⁸ which the Court granted,³⁹ thereby, allowing petitioner until November 21, 2024 to file the *Petition*.

³² Division Docket – Vol. I, pp. 6 to 32.

³³ Division Docket – Vol. II, pp. 576 to 581.

³⁴ EB Docket, pp. 9 to 17.

³⁵ *Ibid.*

³⁶ Division Docket – Vol. II, p. 592.

³⁷ *Ibid.*

³⁸ EB Docket, pp. 1 to 4.

³⁹ *Id.* at 7.

The instant *Petition for Review*,⁴⁰ having been filed personally⁴¹ and electronically⁴² on November 21, 2024, was therefore seasonably filed within the period allowed by the Court. Accordingly, the Court *En Banc* is properly vested with jurisdiction over the *Petition*.⁴³

Having thus established its jurisdiction, the Court now proceeds to determine whether the *Petition*⁴⁴ warrants the reversal of the assailed Decision and Resolution.

The FDDA is void for having been issued in violation of respondent's right to due process

The records show that petitioner issued the Preliminary Assessment Notice (PAN)⁴⁵ on November 26, 2018, followed by the issuance of the FLD/Final Assessment Notices (FANs)⁴⁶ on December 14, 2018. Respondent then filed a Protest by way of a Request for Reconsideration⁴⁷ on December 27, 2018. Subsequently, the BIR issued the FDDA⁴⁸ on September 04, 2020, which respondent received on September 23, 2020.

More tellingly, a careful perusal of the FDDA⁴⁹ reveals that it is, for all intents and purposes, merely a reiteration of the findings contained in the FLD/FANs.⁵⁰ Save for the recomputation of interest, the FDDA⁵¹ neither acknowledges nor addresses the factual and legal arguments advanced by respondent in its Protest.⁵²

This conclusion is made all the more evident by a side-by-side comparison of the assessments, which demonstrates that the amounts of **basic deficiency taxes for income tax, VAT, expanded withholding tax (EWT), and withholding tax on**

⁴⁰ *Id.* at 9 to 17.

⁴¹ *Id.* at 9.

⁴² *Id.* at 8.

⁴³ *Id.* at 9 to 17.

⁴⁴ *Ibid.*

⁴⁵ Exhibit "P-2;" Exhibit "R-5."

⁴⁶ Exhibits "P-3," "P-3-A," "P-3-B," "P-3-C," "P-3-D;" Exhibits "R-6," "R-6-A," "R-6-B," "R-6-C," and "R-6-D."

⁴⁷ Exhibit "P-4."

⁴⁸ Exhibit "P-5."

⁴⁹ *Ibid.*

⁵⁰ Exhibits "P-3," "P-3-A," "P-3-B," "P-3-C," "P-3-D;" Exhibits "R-6," "R-6-A," "R-6-B," "R-6-C," and "R-6-D."

⁵¹ Exhibit "P-5."

⁵² Exhibit "P-4."

compensation (WTC) reflected in the FDDA⁵³ are identical to those stated in the FLD/FANs,⁵⁴ as shown below.

FLD/FANs ⁵⁵		FDDA ⁵⁶	
Income Tax	₱6,849,450.76	Income Tax	₱6,849,450.76
VAT	3,228,287.05	VAT	3,228,287.05
EWT	171,306.16	EWT	171,306.16
WTC	76,333.25	WTC	76,333.25

In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*⁵⁷ (Avon), the Supreme Court held that the CIR violated Avon’s right to due process by failing to comment on or address the defenses raised in its Reply to the Notice of Informal Conference and protest to the PAN, together with the supporting documents submitted therewith. Such disregard resulted in the issuance of identical PAN and FANs, thereby rendering the latter null and void. The Supreme Court aptly explained:

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 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.

X X X

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. (Emphases supplied; citations omitted)

Applying the rationale in *Avon* to the present case, petitioner was duty-bound to consider respondent’s arguments in its Protest,⁵⁸ and, if he found them unpersuasive, to state the reasons for rejecting them.

⁵³ Exhibit “P-5.”
⁵⁴ Exhibits “P-3,” “P-3-A,” “P-3-B,” “P-3-C,” “P-3-D;” Exhibits “R-6,” “R-6-A,” “R-6-B,” “R-6-C,” and “R-6-D.”
⁵⁵ *Ibid.*
⁵⁶ Exhibit “P-5.”
⁵⁷ G.R. Nos. 201398-99, 201418-19, October 03, 2018 [Per J. Leonen, Third Division].
⁵⁸ Exhibit “P-4.”

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His failure to do so constitutes a clear disregard of respondent's right to administrative due process.

Time and again, this Court has been called upon to reaffirm the enduring and time-honored doctrine of **administrative due process**, as eloquently laid down in the seminal case of *Ang Tibay v. Court of Industrial Relations*,⁵⁹ which mandates, among others, that "not 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."

Indeed, due process is not satisfied by the mere ceremonial or mechanical grant of an opportunity to be heard. It imposes upon the administrative authority, such as the BIR, the duty to **actually and conscientiously** consider the evidence and arguments submitted before it. The right to be heard necessarily includes the correlative obligation of the adjudicator to give due consideration to what has been submitted, for due process is not an empty ritual nor a mere formality, but a living guarantee of fairness and reason, fulfilled only through a faithful, deliberate, and thorough engagement with the taxpayer's claims and defenses.

Here, the decisive consideration is the palpable absence of any indication that the BIR gave due regard, much less thoughtful consideration, to respondent's arguments. This omission is fatal, for it effectively reduces the filing of the Protest to a hollow formality and an exercise in futility. The sequence of events and the reiteration of the findings in the FDDA⁶⁰ unmistakably reveal that the BIR failed to meaningfully evaluate respondent's explanations before affirming the assessments. Such a procedural shortcut strikes at the very core of administrative due process and runs counter to the clear spirit of the law and rules—that the taxpayer must not only be given the opportunity to be heard, but that the taxing authority must actually and in good faith consider the defenses presented before rendering its decision.

To sustain the validity of the FDDA⁶¹ in this case would be to reduce the filing of a Protest against the FLD/FAN into a mere procedural charade—a hollow ritual devoid of substantive value and stripped of legal consequence. Such an interpretation would undermine the very rationale of the FLD/FAN stage, which is not only to uphold the taxpayer's constitutional right to due process, but also to afford the BIR the opportunity to reexamine, and, if warranted, correct

⁵⁹ G.R. No. 46496, February 27, 1940 [Per J. Laurel, *En Banc*].

⁶⁰ Exhibit "P-5."

⁶¹ *Ibid*.

any errors in its findings before proceeding with the issuance of an FDDA.

Verily, had respondent's arguments in its Protest⁶² been given due consideration, the dispute could have been resolved at the earliest stage—either through the withdrawal or modification of the assessments, or through an amicable settlement—thereby sparing both the government and the taxpayer the needless expenditure of time, effort, and resources occasioned by protracted administrative and judicial proceedings.

In fine, the Court finds that petitioner's issuance of the FDDA,⁶³ which substantially reiterates the findings previously set forth in the FLD/FANs,⁶⁴ betrays its failure to meaningfully consider respondent's arguments in its Protest.⁶⁵ Such disregard constitutes a clear violation of respondent's right to administrative due process and renders the FDDA⁶⁶ void *ab initio* for having been issued with a fundamental infirmity.

This, however, does not necessarily invalidate the underlying assessments. As clarified by the Supreme Court in *Commissioner of Internal Revenue v. Liguiaz Philippines Corp.*⁶⁷ the nullity of an FDDA does not *ipso facto* render the assessment itself void. Thus, notwithstanding the infirmity attending the FDDA, the FLD/FANs remain valid and may be sustained in the absence of any other ground for their nullification.

Having settled the invalidity of the FDDA,⁶⁸ We now proceed to determine the validity and/or correctness of the deficiency tax assessments embodied in the FLD/FANs.⁶⁹

***The Court in Division did
not err in partially
invalidating the
deficiency tax
assessments***

⁶² Exhibit "P-4."

⁶³ Exhibit "P-5."

⁶⁴ Exhibits "P-3," "P-3-A," "P-3-B," "P-3-C," "P-3-D;" Exhibits "R-6," "R-6-A," "R-6-B," "R-6-C," and "R-6-D."

⁶⁵ Exhibit "P-4."

⁶⁶ Exhibit "P-5."

⁶⁷ G.R. Nos. 215534 & 215557, April 18, 2016 [Per J. Mendoza, Second Division].

⁶⁸ Exhibit "P-5."

⁶⁹ Exhibits "P-3," "P-3-A," "P-3-B," "P-3-C," "P-3-D;" Exhibits "R-6," "R-6-A," "R-6-B," "R-6-C," and "R-6-D."

To recall, the Court in Division found that certain assessment items were not validly protested by respondent, and, consequently, had become final, executory, and demandable. These consisted of: **(1)** under **income tax**, (i) disallowed expenses due to non-withholding amounting to ₱2,231,259.16, and (ii) salaries, wages, and benefits not subjected to WTC amounting to ₱51,537.00; and **(2)** under **VAT**, sales not subjected to VAT amounting to ₱2,547.48. Neither party has appealed this aspect of the assailed Decision. Accordingly, We shall not disturb these findings.

The remaining assessment items were those validly protested by respondent, and, thus, properly brought into issue before the Court *En Banc*. These are the matter elevated in the present *Petition*,⁷⁰ which We shall resolve in *seriatim*.

I. INCOME TAX

A. Undeclared Income (₱1,331,836.19)

In the FLD/FANs, petitioner determined that respondent had undeclared sales amounting to ₱6,165,908.29 based on a comparison between the sales reported in respondent’s SLS and those appearing in the TPI obtained by the BIR. Petitioner then applied the 21.60% Gross Profit Rate (GPR) to the alleged discrepancy and arrived at ₱1,331,836.19 as undeclared income subject to income tax under Section 32 of the NIRC of 1997, as amended.

Schedule 1:⁷¹

Name of Customer	Sales per SLS	Sales per TPI	Discrepancy
AWC (Philippines), Inc.	₱76,785.72	₱2,321.43	₱54,464.29
BSFIL Technologies, Inc.	93,975.92	93,975.89	0.03
CIS Bayad Center, Inc.	2,955,646.08	2,949,970.90	5,675.18
Cochingyan and Peralta Law Offices	26,250.00	-	26.250.00

⁷⁰ EB Docket, pp. 9 to 17.
⁷¹ Exhibit “P-3;” Exhibit “R-6.”

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Focus Global, Inc.	9,685,053.94	9,396,967.62	288,086.32
Linde Gas Asia Pte, Ltd. ROHQ	795,376.75	-	795,376.75
Petron Corporation Phil.	809,614.92	486,666.67	322,948.25
Transmarine Carries, Inc.	705,357.17	-	705,357.17
San Miguel Brewery, Inc.	1,724,339.31	386,982.14	1,337,357.17
SLA Prime Ventures Corp.	2,066,287.14	-	2,066,287.14
Txanton Torre Wine & Olive Oil Co., Inc.	564,105.99	-	564,105.99
Undeclared Sales			₱6,165,908.29
Multiply by GPR*			21.60%
Undeclared Income			<u>₱1,331,836.19</u>

	Amount	Percentage
*Gross Sales	₱22,884,129.00	100.00%
Cost of Sales	17,940,161.00	78.40%
Gross Profit	<u>₱4,943,968.00</u>	<u>21.60%</u>

The Court in Division correctly rejected this assessment. It found that petitioner failed to comply with the procedures governing the implementation of the Reconciliation of Listings for Enforcement (RELIEF) System under RMO Nos. 4-2003 and 46-2004. In particular, the records contain no evidence that petitioner sent confirmation requests to the TPI sources concerning the alleged undeclared sales of ₱6,165,908.29. Consequently, no sworn statements from the third-party sources were obtained to verify the accuracy and authenticity of the information relied upon by petitioner.

Petitioner nevertheless contends that its failure to comply with the cited RMOs does not invalidate the assessment. According to petitioner, the RMOs are merely internal administrative issuances directed at the BIR personnel, and do not confer vested rights upon taxpayers. Petitioner further maintains that respondent was afforded ample opportunity to refute the discrepancies between its SLS and the TPI data but failed to do so.

The argument is unavailing.

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The determinative issue is not whether the cited RMOs are merely internal in character. Rather, it is whether the assessment, which rests principally upon information obtained from third-party sources, is supported by a sufficient factual basis. This is a matter of due process expressly mandated by Section 228 of the NIRC of 1997, as amended, which pertinently provides:

Section 228. *Protesting of Assessment.* – x x x

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.

x x x

The significance of this requirement was emphatically recognized by the Supreme Court in *Commissioner of Internal Revenue v. Fitness by Design, Inc.*,⁷² where it stressed that the validity of a tax assessment necessarily depends upon the taxpayer being apprised of the factual and legal grounds upon which it rests. Section 228 of the NIRC of 1997, as amended, and implemented by Revenue Regulations (RR) No. 12-99, does not leave this requirement to the discretion of the taxing authority. The law expressly requires that the factual and legal bases of the assessment be stated in the FLD/FANs. This requirement is substantive and indispensable to the taxpayer's right to intelligently protest the assessment and to the observance of due process. Thus:

The formal letter of demand and assessment notice shall state the facts, jurisprudence, and law on which the assessment was based; otherwise, these shall be void. The taxpayer or the authorized representative may administratively protest the formal letter of demand and assessment notice within 30 days from receipt of the notice.

II

The word "shall" in Section 228 of the National Internal Revenue Code and Revenue Regulations No. 12-99 means the act of informing the taxpayer of both the legal and factual bases of the assessment is mandatory. The law requires that the bases be reflected in the formal letter of demand and assessment notice. This cannot be presumed. Otherwise, the express mandate of Section 228 and Revenue Regulations No. 12-99 would be nugatory. The requirement enables the taxpayer to make an effective protest or appeal of the assessment or decision.

⁷² G.R. No. 215957, November 09, 2016 [Per J. Leonen, Second Division].

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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.

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. (Citations omitted)

Measured against this standard, the subject assessment cannot stand.

The assessment rests solely on the alleged discrepancy between respondent's reported sales and the amounts appearing in the TPI obtained from third parties. Yet, the records contain no competent evidence establishing the veracity of the latter figures. This evidentiary deficiency is precisely what the procedures under RMO No. 46-2004⁷³ were designed to address. The issuance requires, among others, the procurement of sworn statements from TPI sources attesting to the veracity of the data provided, as well as the preparation and transmission of confirmation requests for purposes of verifying the accuracy of the figures reported.

The pertinent provisions state:

III. PROCEDURES

x x x

Action on Protested LNs due to TPI discrepancy

The Revenue Officer assigned to handle the Letter Notice **shall**:

x x x

2. Require the taxpayer to execute a Sworn Statement (Annex A) attesting to the veracity of the schedules and authenticity of the documents presented/submitted.
3. **Obtain Sworn Statements from TPI sources (Annexes "B" and "C") attesting to the veracity of the data provided.**

⁷³ Additional Supplement and Guidelines in Handling Letter Notices with Discrepancies Arising from Data Matching Processes as defined in Revenue Memorandum Order (RMO) Nos. 34-2004 and 30-2003, as amended by RMO Nos. 42-2003 and 24-2004, which remain Unserved, have been Served but are Without Response, or are Under Protest by Taxpayers, September 02, 2004.

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- 3.1 If the TPI source is registered in the RDO/LTDO/LTAID having jurisdiction over the subject taxpayer, the RO shall:
- 3.1.1 **Prepare "Confirmation Requests"** (using the format prescribed in Annex "C" of RMO No. 30-2003 to be signed by the heads of the concerned RDO/LTDO/LTAID) **for purposes of verifying the accuracy of the figures appearing in the DTCS**
- 3.1.2 If the TPI source agrees with the figures in the "Confirmation Requests" (CR), secure a Sworn Statement from the TPI source to allow the RO to build a case against the taxpayer.
- 3.2 If the TPI source is outside the jurisdiction of the RDO/LTDO/LTAID where the taxpayer is registered, the RO shall:
- 3.2.1 Coordinate with the RDO/LTDO/LTAID where the TPI source is registered, in order to:
- Prepare a CR to be transmitted and signed by the RDO/LTDO/LTAID having jurisdiction over TPI source** (CRs should be coursed thru the RDO/LTDO/LTAID where the taxpayer is registered);
 - Secure a sworn statement from the TPI source** thru the RDO/LTDO/LTAID having jurisdiction over the same; and,
 - Assist the heads of the concerned RDO/LTDO/LTAID in the preparation of Monthly Status Report on Confirmation Requests Transmitted (Annex "D") outside the RDO/LTDO/LTAID of the TPI source and submit the same to the SCG, for monitoring purposes.

x x x (Emphases and underscoring supplied)

The absence of these sworn statements is fatal. Without them, the figures attributed to the TPI sources remain unverified assertions originating from the BIR itself. Neither respondent nor the Court is afforded a competent basis upon which to determine whether the alleged third-party figures are accurate, authentic, or otherwise reflective of actual transactions. The assessment is thus left without the

factual foundation required by Section 228 of the NIRC of 1997, as amended.

The Supreme Court’s pronouncement in *Commissioner of Internal Revenue v. Hantex Trading Co., Inc.*,⁷⁴ citing *Collector of Internal Revenue v. Benipayo*,⁷⁵ is instructive: an assessment must be founded on facts to withstand judicial scrutiny. The presumption of correctness accorded to an assessment cannot itself rest upon another presumption. However reasonable or logical a presumption may appear; it cannot substitute for the factual basis necessary to support a tax assessment.⁷⁶

Accordingly, absent competent evidence establishing the factual basis of the alleged undeclared sales, the resulting assessment for undeclared income is void and must be cancelled.

**B. Undeclared Income from Undeclared Purchases
(P417,967.18)**

Petitioner likewise determined that respondent had undeclared purchases amounting to P1,517,066.05 based on the discrepancy between the purchases reported in its SLP and those appearing in the TPI. Petitioner divided the alleged undeclared purchases by the Cost of Sales Ratio and applied the GPR to arrive at P417,967.18 as undeclared income subject to income tax pursuant to Section 32 of the NIRC of 1997, as amended.

Schedule 2:⁷⁷

Name of Supplier	Purchases per SLP	Purchases per TPI	Discrepancy
Ardent Networks, Inc.	P37,552.96	P -	P37,552.96
Donpin Land Development Corporation	106,919.72	58,482.15	48,437.57
MBPS Cabling Corporation	1,355,594.67	1,355,594.65	0.02

⁷⁴ G.R. No. 136975, March 31, 2005 [Per J. Callejo, Sr., Second Division].
⁷⁵ *Collector of Internal Revenue v. Benipayo*, G.R. No. L-13656, January 31, 1962 [Per J. Dizon, *En Banc*].
⁷⁶ *Ibid.*
⁷⁷ Exhibit “P-3;” Exhibit “R-6.”

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MSI ECS			
Philippines,			
Inc.	2,114,081.99	1,258,648.22	855,433.77
Westcon			
Group			
Philippines	1,084,868.46	509,226.73	575,641.73
Undeclared			
Purchases			₱1,517,066.05
Divided by			
COS Ratio*			78.40%
Undeclared			
Sales from			
Undeclared			
Purchases			₱1,935,033.23
Multiplied by			
GPR*			21.60%
Undeclared			
Income			
from			
Undeclared			
Purchases			₱417,967.18

	Amount	Percentage
*Gross Sales	₱22,884,129.00	100.00%
Cost of Sales	17,940,161.00	78.40%
Gross Profit	₱4,943,968.00	21.60%

Unlike the preceding assessment, the records indicate that petitioner sent confirmation letters to the TPI sources to verify the alleged discrepancies. However, the records contain no registry return cards evidencing the actual receipt of such confirmation letters. This is significant because the TPI sources were located outside the jurisdiction of the investigating office—Revenue Region No. 7-BIR, Quezon City, RDO 40, Cubao, Quezon City—and the applicable procedures under RMO No. 13-2012⁷⁸ require proof of proper service and receipt in such circumstances.

⁷⁸ RMO No. 13-2012 (Revised Guidelines and Procedures in Handling Letter Notices Generated Through Third-Party Information Data Matching with Tax Returns), Part IV(D)(9) pertinently provides:

9. Send a Confirmation Request from TPI sources attesting to the veracity of the data included in the LN package (Annexes “I” and “I-1”). If no response from the TPI source after the lapse of five (5) days from service of Confirmation Request, the RO may consider the data in the LN package to be true and correct. However, if there is/are TPI source/s located outside of the jurisdiction of the investigating office, the RO shall send the Confirmation Request to the taxpayer through registered mail with Registered Return Card and wait for the lapse of ten (10) days after mailing thereof before proceeding to the next step. x x x (Emphases and underscoring supplied)

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Customer	Address per Confirmation Letter	Discrepancy
Ardent Networks, Inc. ⁷⁹	Unit 808 & 809 8/F East Tower PSEC Exchange Rd Ortigas Center Brgy San Antonio Pasig City 1605	₱37,552.96
Donpin Land Development Corporation ⁸⁰	68 Manuel L. Quezon Avenue Parang Marikina City 1820	48,437.57
MBS Cabling Corporation ⁸¹	2156-D P. Florentino St. Zone 051 Brgy. 513 Sampaloc Manila 1008	0.02
MSI ECS Philippines, Inc. ⁸²	254 Benito Soliven Ave. Manggahan, Pasig City	855,433.77
Westcon Group Philippines ⁸³	Unit 6 & 7, Wilcon IT Hub 2251 Chino Roces Ave. Bangkal NCR Fourth District City of Makati 1233	575,641.73
Undeclared Purchases		₱1,517,066.05

The absence of proof that the confirmation letters were actually received by the TPI sources leaves the underlying information unverified. Hence, as with the preceding assessment, the figures relied upon by petitioner remain unsupported by competent evidence. The assessment consequently lacks the factual foundation required by Section 228 of the NIRC of 1997, as amended, and must likewise be cancelled.

**C. Unaccounted Related Party Transactions
(₱18,798,903.00)**

In the FLD/FANs, petitioner maintained that respondent's related-party transactions amounting to ₱18,798,903.00 were inconsistent with the amounts declared in its Audited Financial Statements (AFS). Petitioner further asserted that these transactions

⁷⁹ BIR Records, p. 263.
⁸⁰ *Id.* at 260.
⁸¹ *Id.* at 272.
⁸² *Id.* at 269.
⁸³ *Id.* at 265.

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were not adequately supported by the documents required during the audit investigation, and, on this premise, treated the subject amount as taxable income pursuant to Section 32 of the NIRC of 1997, as amended.

The Court in Division correctly held that the assessment cannot be sustained. It found that respondent's AFS for the comparative years 2014 and 2015, as corroborated by the testimony of its President, Mr. Antonio Ramon T. Ongsiako⁸⁴ (Mr. Ongsiako), sufficiently accounted for the subject related-party transactions. Significantly, the amounts reflected in the comparative financial statements remained unchanged, indicating that no additional advances were made in 2015. There was, therefore, no additional transaction in TY 2015 from which taxable income could have arisen.

Petitioner nevertheless insists that, under the statutory definition of "gross income" as "all income from whatever source derived x x x," the unaccounted related-party transactions should be treated as income merely because they were not adequately supported by relevant documents, and respondent allegedly failed to sufficiently refute the BIR's findings in its Protest. Petitioner invokes *Filinvest*.

The reliance is misplaced.

Nothing in *Filinvest* sanctions the proposition that an inadequately documented related-party transaction may, by that circumstance alone, be treated as taxable income. While Section 32 of the NIRC of 1997, as amended, defines gross income broadly as "all income from whatever source derived," the Supreme Court did not construe this provision as authorizing the CIR to presume the existence of taxable income merely from the fact of a related-party transaction. Rather, *Filinvest* expressly recognized that, before the CIR may distribute, apportion, or allocate an item of gross income under Section 43 of the NIRC of 1997, as amended, there must first be proof of the "actual or, at the very least, probable receipt or realization" by the controlled taxpayer of the income sought to be attributed to it.

The phrase "from whatever source derived" concerns the breadth of the sources from which taxable income may arise. It does not dispense with the threshold requirement that the item sought to be taxed must first constitute income actually or probably received or realized by the taxpayer. Petitioner's contrary interpretation would effectively equate an inadequately documented related-party transaction with the existence of taxable income—a conclusion that

⁸⁴ Division Docket – Vol. I, *Judicial Affidavit of Antonio Ramon T. Ongsiako*, Exhibit "P-11," p. 75, Question No. 44.

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finds no support either in the statutory definition of gross income or in the ruling in *Filinvest*.

Neither does respondent's failure to adequately substantiate or explain the transactions cure this deficiency. At most, such failure may cast doubt upon the characterization or documentation of the transactions. It does not, without more, establish petitioner's affirmative proposition that respondent received or realized taxable income, much less the amount thereof. *Filinvest* requires proof of the income sought to be allocated; it does not authorize the BIR to create taxable income from an evidentiary gap.

More importantly, the evidence on record fails to establish that respondent received or realized additional income from the subject related-party transactions during TY 2015. It bears reiterating that the amounts of the advances reflected in respondent's AFS for the comparative years 2014 and 2015 remained unchanged, which was corroborated by the testimony of respondent's President, Mr. Ongsiako.⁸⁵ The subject amounts thus represented existing balances, rather than additional advances or receipts during the taxable year covered by the assessment.

The accounting treatment of the amounts further confirms this conclusion. The related-party transactions were recorded in respondent's books as non-current liabilities. As confirmed by petitioner's own witness, Revenue Officer Ayesha Hajar A. Magalin,⁸⁶ such classification signified respondent's obligation to repay the amounts to its shareholders. The subject amounts thus represented liabilities, not an accession to wealth belonging to respondent. An obligation to repay is, indeed, antithetical to petitioner's theory that the same amounts constituted income received or realized by respondent.

The Supreme Court's pronouncement in *Commissioner of Internal Revenue v. Court of Appeals*⁸⁷ is likewise instructive. Therein, the High Court identified the essential elements for the imposition of income tax: (1) there must be gain or profit; (2) that the gain or profit is realized or received, actually or constructively; and (3) it is not exempted by law or treaty from income tax.

Petitioner failed to establish the first two (2) elements.

⁸⁵ *Ibid.*

⁸⁶ Transcript of Stenographic Notes during the hearing held on October 26, 2022, p. 11.

⁸⁷ G.R. No. 108576, January 20, 1999 [Per J. Martinez, First Division].

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There is no showing that respondent realized any gain or profit from the subject transactions during TY 2015. Neither is there competent evidence that respondent actually or constructively received or realized the amount assessed as income. To the contrary, the totality of the evidence establishes that the subject amounts were existing balances, were not increased by additional advances during the taxable year, and were recorded as non-current liabilities corresponding to respondent's obligation to repay its shareholders.

To hold otherwise would permit the imposition of income tax based solely on the absence or insufficiency of supporting documentation, without first establishing the existence of the income sought to be taxed. Such an approach is inconsistent with both the statutory concept of gross income and the evidentiary requirement recognized in *Filinvest*. The CIR's authority to determine or allocate taxable income presupposes the existence of an item of income capable of being taxed; it cannot, by resorting to an evidentiary deficiency, manufacture taxable income where none has been shown to exist.

Accordingly, absent competent proof that the subject related-party transactions resulted in any gain or profit actually or constructively received or realized by respondent during TY 2015, the assessment lacks both factual and legal basis. It must, therefore, be cancelled.

D.NOLCO (P578,737.00); Excess Tax Credits Credited Forward to the Succeeding Period (P775,785.00); and Excess MCIT over NCIT Carried Forward to the Succeeding Period (P98,879.00)

The same conclusion applies to the assessment items pertaining to **(1) NOLCO**, **(2) Excess Tax Credits Credited Forward to the Succeeding Period**, and **(3) Excess MCIT over NCIT Carried Forward to the Succeeding Period**.

Although these items appear in the computations of respondent's deficiency income tax liability in the FLD/FANs, the latter does not state the factual and legal bases upon which petitioner disallowed them. The absence of such bases is fatal under Section 228 of the NIRC of 1997, as amended.

Petitioner cannot cure this defect by supplying, only before this Court, explanations or grounds that were not stated in the assessment itself. The validity of an assessment must be determined from the

grounds upon which the taxpayer was informed of its liability, not from the reasons subsequently advanced in judicial proceedings.

Accordingly, these assessment items must likewise be cancelled.

II. VALUE-ADDED TAX

A. Undeclared Sales (₱6,165,908.29)

The Court reiterates its foregoing discussion concerning the corresponding income tax assessment for “**Undeclared Income.**”

By parity of reasoning, the corresponding VAT assessment, likewise predicated upon the alleged undeclared sales, cannot be sustained and must be cancelled.

B. Undeclared Sales from Undeclared Purchases (₱1,935,033.23)

The Court’s preceding discussion on the corresponding income tax assessment for “**Undeclared Income from Undeclared Purchases**” applies with equal force to the present assessment.

Absent competent evidence establishing the alleged undeclared purchases from which the corresponding undeclared sales were derived, the resulting VAT assessment cannot be sustained. It must, therefore, be cancelled.

C. Unaccounted Related Party Transactions (₱18,793,903.00)

Finally, the Court adopts its foregoing discussion concerning the deficiency income tax assessment on “**Unaccounted Related Party Transactions.**”

For the same reasons, the corresponding VAT assessment lacks factual and legal basis, and must also be cancelled.

In sum, the only assessment items that remain are those which respondent failed to validly protest, and which, as a consequence, have become final, executory, and demandable. These assessment items are emphasized in the computation below. All disputed assessment items

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lacking sufficient factual and/or legal basis must therefore be cancelled. Accordingly, the total basic deficiency taxes properly due from respondent, in the amount of **₱247,945.12**, are broken down as follows:

INCOME TAX

Taxable income/(loss) per Income Tax Return		(₱586,737.00)
Add: Adjustments per investigation		
Undeclared Income	₱ -	
Undeclared income from undeclared purchases	-	
Undeclared related party transactions	-	
Disallowed expenses due to non-withholding Salaries, wages and benefits not subjected to WTC	2,231,259.16	
	51,537.00	2,282,796.16
Taxable income per investigation		1,695,059.16
Add: NOLCO		-
Adjusted taxable income		1,695,059.16
Income tax due (30%)		508,517.75
Less: Allowed tax credits/payments		
Prior year's excess tax credits	874,664.00	
Less: Excess tax credits carried forward to the succeeding period	-	
Excess MCIT over NCIT carried forward to the succeeding period	-	(874,664.00)
Deficiency Income Tax		(₱366,146.25)

VAT

VATable sales per VAT Returns		₱22,881,581.52
Add: Adjustment per investigation		
Undeclared sales	₱ -	
Undeclared sales from undeclared purchases	-	
Unaccounted related party transactions	-	
Sales not subjected to VAT	2,547.48	2,547.48
Adjusted VATable sales		22,884,129.00
Output tax due (12%)		2,746,095.48
Less: Allowed tax credits/payments		
Input tax on current purchases	2,247,030.54	
VAT payments	498,759.23	(2,745,789.77)
Deficiency VAT		₱305.71

EWT

Basic Tax Due	₱171,306.16
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WTC

Basic Tax Due	₱76,333.25
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ACCORDINGLY, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the assailed Decision dated April 11, 2024, and the assailed Resolution dated October 03, 2024, are hereby **AFFIRMED**.

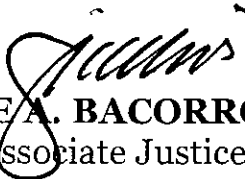
SO ORDERED.


HENRY S. ANGELES
Associate Justice

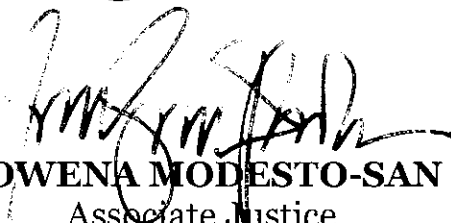
WE CONCUR:



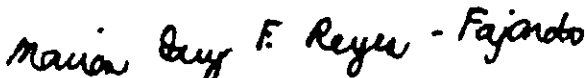
MA. BELEN M. RINGPIS-LIBAN
Presiding Justice



JEAN MARIE A. BACORRO-VILLENA
Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice



MARIAN IVY F. REYES-FAJARDO
Associate Justice



LANEE S. CUI-DAVID
Associate Justice



CORAZON G. FERRER-FLORES
Associate Justice

Took no part
PAOLO S. TESTON
Associate Justice

Took no part
DEBBIE JEAN CENTENO-DIJAMCO
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.


MA. BELEN M. RINGPIS-LIBAN
Presiding Justice