REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

VIBAL GROUP, INC. (formerly Vibal Publishing House, Inc.),
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10219

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:

JAN 20 2025
9:32 a.m.

x- -x

DECISION

MANAHAN, *J.*:

Before this Court is a *Petition for Review (with Motion to Suspend Collection of Taxes)* filed on November 28, 2019,[1] praying that the Court: (i) urgently grant petitioner's motion to suspend the collection of taxes; (ii) annul and/or reverse and set aside respondent Commissioner of Internal Revenue's *Final Decision on Disputed Assessment* (FDDA) dated October 12, 2017; and (iii) cancel and set aside the deficiency assessment (inclusive of penalties interest) assessed against petitioner amounting to ₱172,042,972.75 for taxable year (TY) 2012.

THE PARTIES

Petitioner Vibal Group, Inc. formerly Vibal Publishing House, Inc.) is a corporation organized and existing under the laws of the Republic of the Philippines.[2] It is a registered taxpayer of Revenue District Office (RDO) No. 38-North, Quezon City, with Tax Identification No. (TIN) 000-372-749-000, and business address at G. Araneta corner Ma. Clara Streets, Talayan I, Quezon City.[3]

[1] Docket – Vol. I, pp. 8 to 46.
[2] Exhibit "P-13", Docket – Vol. VI, pp. 2963 to 2979.
[3] Par. III(2), Summary of Admitted Facts, Pre-Trial Order dated May 27, 2022, Docket – Vol. V, p. 2443; Exhibit "P-14", Docket – Vol. VI, pp. 2980.

Respondent Commissioner of Internal Revenue is the head of the Bureau of Internal Revenue (BIR), with office address at BIR National Building, BIR Road, Quezon City.[4]

THE FACTS

On August 8, 2013, petitioner received the Letter of Authority LOA-038-2013-00000885/eLA20110004005 dated August 5, 2013, with Checklist of Requirements for Presentation of Records,[5] authorizing Revenue Officer (RO) Imelda Lipit under Group Supervisor (GS) Chona Colasito, to examine petitioner's books of accounts and other accounting records for all internal revenue taxes, including documentary stamp tax (DST), and other taxes, for the period covering January 1, 2012 to December 31, 2012.

Thereafter, on January 4, 2016, petitioner received a copy of the BIR's Preliminary Assessment Notice (PAN) with Details of Discrepancies dated December 23, 2015,[6] informing petitioner that after investigation, there has been found due from petitioner deficiency income tax, valued added tax (VAT), and expanded withholding tax (EWT), totalling ₱140,619,812.66, inclusive of interests, for TY 2012.

On January 12, 2016, petitioner received the Formal Letter of Demand and Assessment Notices (FLD/FAN) of even date,[7] which found petitioner liable for the said deficiency taxes for the same TY 2012, inclusive of interests, in the aggregate amount of ₱142,156,276.33.

Petitioner then filed, on February 12, 2016, its protest letter dated February 11, 2016.[8] On April 11, 2016, petitioner submitted the additional documents in support of its protest.[9]

---

[4] Par. III, (1), Summary of Admitted Facts, Pre-Trial Order dated May 27, 2022, Docket – Vol. V, p. 2443.
[5] Exhibit "P-1", Docket – Vol. II, pp. 564 to 565; and Exhibits "R-1" and "R-2", BIR Records (Folder 1), pp. 2 to 3.
[6] Exhibits "P-3", "P-3-a", "P-3-b", "P-3-c", "P-3-d", Docket – Vol. II, pp. 568 to 576 and Docket – Vol. VI, pp. 2948; and Exhibits "R-3", "R-3-a" and "R-3-b", BIR Records (Folder 1), pp. 792 to 800.
[7] Exhibit "P-4" and "P-4-a" to "P-4-m", Docket – Vol. II. pp. 577 to 586, Docket – Vol. VI, pp. 2950 to 2962; and Exhibits "R-4", "R-4-a", "R-4-b", "R-4c", "R-5" and "R-5-a", BIR Records (Folder 1), pp. 832 to 844.
[8] Exhibit "P-5", Docket – Vol. II, pp. 590 to 600; and Exhibit "R-6", BIR Records (Folder 1), pp. 870 to 880.
[9] Exhibit "P-6", Docket – Vol. II, pp. 601 to 603.

On September 12, 2017, petitioner received the FDDA of even date,[10] which assessed petitioner for deficiency taxes for TY 2012 in the total amount of ₱172,042,972.75, inclusive of interests, broken down as follows:

Kind of Tax	Amount of deficiency, inclusive of interests
Income tax	₱ 145,769,400.99
VAT	22,843,970.33
EWT	3,429,601.43
TOTAL	**₱172,042,972.75**

On October 12, 2017, petitioner filed its letter dated October 11, 2017 [Request for Reconsideration on Final Decision on Disputed Assessment (FDDA) for TY 2012] before the respondent. [11]

Subsequently, on October 30, 2019, petitioner received the letter dated October 29, 2019 issued by the Assets Recovery Task Force – Office of the Commissioner,[12] requesting petitioner to pay its tax liabilities within ten (10) days from notice, otherwise, they shall be constrained to enforce the collection thru administrative summary remedies provided by law.

On November 28, 2019, petitioner filed the present Petition for Review (with Motion to Suspend Collection of Taxes).[13] Respondent failed to file his comment to the said Motion.[14]

On February 21, 2020, petitioner filed its Offer of Documentary Evidence in support of the Motion to Suspend Collection of Taxes,[15] without respondent's comment.[16]

---

[10] Exhibit "P-7", Docket – Vol. II, pp. 604 to 613; and Exhibit "R-7", BIR Records (Folder 1), pp. 974 to 983.
[11] Exhibits "P-8" and "P-8-A", Docket – Vol. II, pp. 614 to 636.
[12] Exhibit "P-9", Docket – Vol. II, p. 638.
[13] Docket – Vol. I, pp. 8 to 50.
[14] Records Verification dated September 30, 2020 issued by this Court's Judicial Records Division, Docket – Vol. III, p. 1138.
[15] Docket – Vol. II, pp. 554 to 562.
[16] Records Verification dated March 6, 2020 issued by this Court's Judicial Records Division, Docket – Vol. II, p. 722.

Within the period granted by the Court,[17] respondent posted his Answer to the Petition for Review on March 3, 2020.[18]

In a Resolution dated July 30, 2020,[19] the Court admitted all of petitioner's offered exhibits in support of its Motion to Suspend Collection of Taxes.

On September 2, 2020, petitioner filed its Manifestation,[20] with attached Memorandum re: Motion to Suspend Collection of Taxes,[21] stating that copies of the said Memorandum were served and filed by registered mail on September 1, 2020. Respondent failed to file a memorandum.[22]

In the Resolution dated October 7, 2020,[23] the Court granted petitioner's Motion to Suspend Collection of Taxes, subject to the condition that petitioner post a cash bond or a surety bond from a reputable surety company duly accredited by the Supreme Court. Thereafter, on November 3, 2020, petitioner filed its Motion for Partial Reconsideration (re: Resolution dated October 7, 2020),[24] praying that the Court waive the requirement to post a bond or in the alternative to reduce the amount of the bond to not exceeding five percent (5%) of the total amount of tax, or ₱8,602,148.64. Respondent failed to file a comment thereon.[25] The Court denied the said Motion in the Resolution dated December 9, 2020.[26]

Considering the failure of petitioner to post a cash bond or a surety bond,[27] the Court set aside the Resolution dated October 7, 2020, and lifted and set aside the suspension of the collection of petitioner's deficiency taxes, in the Resolution dated January 20, 2021.[28]

---

[17] *Motion for Additional Time to File Answer to the Petition for Review with Entry of Appearance* dated January 17, 2020 and Order dated January 28, 2020, Docket – Vol. I, pp. 338 to 340 and 342 to 343; *Motion for Final Extension of Time to File Answer to the Petition for Review* dated February 14, 2020 and Resolution dated March 10, 2020, Docket – Vol. II, pp. 549 to 551 and 731.
[18] Docket – Vol. II, pp. 723 to 727.
[19] Docket – Vol. II, pp. 737 to 738.
[20] Docket – Vol. II, pp. 739 to 740.
[21] Docket – Vol. II, pp. 742 to 758.
[22] Records Verification dated September 4, 2020 issued by this Court's Judicial Records Division, Docket – Vol. III, p. 1137.
[23] Docket – Vol. III, pp. 1141 to 1151.
[24] Docket – Vol. III, pp. 1153 to 1157.
[25] Records Verification dated November 20, 2020 issued by this Court's Judicial Records Division, Docket – Vol. III, p. 1241.
[26] Docket – Vol. III, pp. 1244 to 1247.
[27] Records Verification dated January 12, 2021 issued by this Court's Judicial Records Division, Docket – Vol. III, p. 1248.
[28] Docket – Vol. III, pp. 1251 to 1252.

In the Resolution dated January 29, 2021,[29] the Court referred the case for mediation in the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA). A Request for Extension was filed on July 29, 2021,[30] and was granted by the Court in the Resolution dated September 22, 2021.[31] Considering that the mediation was unsuccessful as shown in the Mediator's Report dated November 2, 2021,[32] the Court set the case for Pre-Trial Conference on March 10, 2022 in a Resolution dated January 5, 2022.[33] The said Conference proceeded as scheduled.[34] Prior thereto, respondent's Pre-Trial Brief and petitioner's Pre-Trial Brief were separately filed on March 7, 2022.[35]

On March 9, 2022, respondent transmitted the BIR Records for this case, consisting of 1506 pages enclosed in four (4) file folders.[36]

On March 25, 2022, petitioner filed its Manifestation,[37] stating that it submitted the draft Joint Stipulation of Facts (JSF) to respondent and that despite reasonable efforts, the parties were unable to agree on the execution of the said JSF. Such being the case, the parties were deemed to have waived their right to enter into admissions and stipulations of facts.[38] Subsequently, a Pre-Trial Order dated May 27, 2022 was issued by the Court.[39]

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

Petitioner offered the testimonies of the following individuals, namely: (1) Mr. Joebert Allen F. Gautier, [40] petitioner's Senior Tax Accountant; (2) Mr. Ludivico O. Posadas,

---

[29] Docket – Vol. III, p. 1255.
[30] Docket – Vol. III, p. 1258.
[31] Docket – Vol. III, pp. 1261 to 1262.
[32] Docket – Vol. III, p. 1263.
[33] Docket – Vol. III, p. 1272. Refer also to the Notice of Pre-Trial Conference dated February 17, 2022, Docket – Vol. III, pp. 1273 to 1275.
[34] Minutes of the hearing held on, and Order dated, March 10, 2022, Docket – Vol. IV, pp. 1742 to 1744, and 1748 to 1750, respectively.
[35] Docket – Vol. III, pp. 1279 to 1282, and 1283 to 1311, respectively.
[36] Respondent's *Compliance* dated March 8, 2022, Docket – Vol. III, pp. 1740 to 1741.
[37] Docket – Vol. IV, pp. 2294 to 2296.
[38] Resolution dated April 20, 2022, Docket – Vol. IV, pp. 2316 to 2317.
[39] Docket – Vol. V, pp. 2430 to 2454.
[40] Exhibit "P-12", Docket – Vol. I, pp. 351 to 367, and Docket – Vol. IV, pp. 2042 to 2058; Minutes of the hearing held on, and Order dated, February 6, 2020, Docket – Vol. II, pp. 538 to 541; and Minutes of the hearing held on, and Order dated, May 11, 2022, Docket – Vol. IV, (no paging after p. 2354).

Jr.,[41] employee of Shields Security Services Philippines; and (3) Ms. Maricel T. Villas,[42] petitioner's Controller.

On May 31, 2022, petitioner filed its Offer of Documentary Evidence.[43] Respondent failed to file his comment thereto.[44] In the Resolution dated July 22, 2022,[45] the Court admitted petitioner's exhibits, except Exhibits "P-3-a", "P-3-b" "P-3-c", "P-3-d", "P-4-a", "P-4-b", "P-4-c", "P-4-d", "P-4-e", "P-4-f", "P-4-g", "P-4-h", "P-4-i", "P-4-j", "P-4-k", "P-4-l", "P-4-m", "P-13", "P-14", "P-15", "P-15-a", "P-15-b", "P-15-c", "P-16", "P-17", "P-18", "P-19", "P-19-a", "P-19-b", "P-19-c", "P-19-d", "P-19-e", "P-19-f", "P-19-g", "P-19-h", "P-19-i", "P-19-j", "P-19-k", "P-20", "P-21", "P-21-a", "P-21-b", "P-21-c", "P-21-d", "P-21-e", "P-21-f", "P-21-g", "P-21-h", "P-21-i", "P-21-j", "P-21-k", "P-22", "P-23", "P-24", "P-25", "P-25-a", "P-26", "P-26-a", "P-27", "P-28", "P-29", "P-30", "P-31", "P-32", "P-33", "P-34", "P-34-a", "P-35", "P-36", "P37", "P-38", "P-39". "P-40", "P-41", "P-42", "P-43", "P-44", "P-45" and "P-46", for failure to submit the duly marked documents.

Petitioner then filed its Motion for Reconsideration of the Resolution dated July 25, 2022 on July 28, 2022,[46] to which respondent failed to file his comment.[47] In the Resolution dated November 8, 2022,[48] the Court admitted all the exhibits subject of the Motion.

For his part, respondent offered the testimony of RO Imelda M. Lipit.[49]

On May 4, 2023, respondent posted his Formal Offer of Evidence,[50] to which petitioner filed its Comment on/Opposition to Respondent's Formal Offer of Evidence dated May 4, 2023 on

---

[41] Exhibit "P-47", Docket – Vol. IV, pp. 1762 to 1769; and Minutes of the hearing held on, and Order dated, May 11, 2022, Docket – Vol. IV, (no paging after p. 2354).

[42] Exhibits "P-48" and "P-49", Docket – Vol. IV, pp. 1772 to 1806, and 2329 to 2336, respectively; and Minutes of the hearing held on, and Order dated, May 11, 2022, Docket – Vol. IV, (no paging after p. 2354).

[43] Docket – Vol. V, pp. 2455 to 2476.

[44] Records Verification dated June 21, 2022 issued by this Court's Judicial Records Division, Docket – Vol. V, p. 2932.

[45] Docket – Vol. V, pp. 2934 to 2935.

[46] Docket – Vol. VI, pp. 2936 to 2946.

[47] Records Verification dated September 1, 2022 issued by this Court's Judicial Records Division, Docket – Vol. VI, p. 3171.

[48] Docket – Vol. VI, pp. 3174 to 3176.

[49] Exhibit "R-12", Docket – Vol. V, pp. 2367 to 2372; Order dated, April 19, 2023, Docket – Vol. VI, pp. 3186 to 3187.

[50] Docket – Vol. VI, pp. 3195 to 3201.

May 26, 2023.[51] In the Resolution dated July 6, 2023,[52] the Court admitted all of respondent's offered exhibits.

The Memorandum for the Petitioner was submitted on August 22, 2023.[53] Respondent failed to file his memorandum.[54]

The case was deemed submitted for decision on January 26, 2024.[55]

THE ISSUE

The issue for this Court's resolution is as follows:

> "Whether or not petitioner is liable for the assessed deficiency income taxes, deficiency value-added taxes, and deficiency expanded withholding taxes for the TY 2012."[56]

Petitioner's arguments:

Petitioner argues that it is not liable for the assessed deficiency income taxes, VAT and EWT for TY 2012 primarily due to defects in the FAN, i.e., it does not contain a definite due date for payment by the taxpayer, and accordingly, it is invalid for failure to demand payment of taxes within a prescribed period. It also asserts that respondent violated its right to procedural due process when the FAN was issued eight (8) days from receipt of the PAN, thereby depriving it of the opportunity to respond to the PAN within fifteen (15) days from the receipt of the PAN. It argues that a void assessment produces no legal effect and may be challenged at any time. Assuming, without conceding, that the FAN is valid and effective, petitioner maintains that is nonetheless not liable for any deficiency income tax, VAT and EWT assessments as the same were issued without any factual and legal bases.

---

[51] Docket – Vol. VI, pp. 3255 to 3265.
[52] Docket – Vol. VI, pp. 3269 to 3270.
[53] Docket – Vol. VI, pp. 3271 to 3326.
[54] Records Verification Report dated January 17, 2024 issued by this Court's Judicial Records Division, Docket – Vol. VI, p. 3428.
[55] Minute Resolution dated January 26, 2024, Docket – Vol. VI, p. 3429.
[56] Issue to be Tried and Resolved, Pre-Trial Order dated May 27, 2022, Docket – Vol. V, p. 2444.

Respondent's counter-arguments:

Respondent contends that the audit investigation of petitioner's account for TY 2012 was duly authorized as it was conducted pursuant to a validly issued LOA. Also, respondent alleges that petitioner belatedly filed its protest to the FAN as it was admitted by petitioner that it received the FAN/FLD on January 12, 2016, thus, had until February 11, 2016 to submit the said protest. Respondent asserts that the BIR Records reveal that petitioner failed to submit its protest on the last day and only filed its request for reinvestigation on February 12, 2016, which is one day late, making the subject assessments final and executory.

THE COURT'S RULING

We find petitioner's arguments meritorious.

The issue on the violation of petitioner's right to due process is inextricably linked to the validity of the assessment. It is primordial that the BIR's right to collect deficiency taxes must flow from a valid assessment. This, in turn, proceeds from the basic truism that a void assessment bears no valid fruit.[57] Moreover, a resolution on the apparent violation of petitioner's right to due process is indispensable for an orderly and comprehensive disposition of this case.[58]

As such, the Court shall initially resolve petitioner's arguments regarding violation of due process allegedly committed by respondent in the issuance of the instant deficiency tax assessments.

The BIR failed to comply with the due process requirements in the issuance of the subject tax assessments

Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended, provides as follows:

> "SEC. 228. *Protesting of Assessment.* — **When the Commissioner or his duly authorized representative finds**

---

[57] *Prime Steel Mill Incorporated vs. Commissioner of Internal Revenue,* G.R. No. 249153, September 12, 2022.
[58] *Ibid.*

that proper taxes should be assessed, he shall first notify the taxpayer of his findings: . . .

xxx xxx xxx

The taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.

Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.

xxx xxx xxx." *(Emphases supplied)*

Based on the foregoing provision, it is clear that the law mandates that the taxpayer shall be required to respond to the PAN, "[w]*ithin a period to be prescribed by implementing rules and regulations,*" and that in case such taxpayer fails to respond, respondent or his duly authorized representative shall issue an assessment based on his findings.

Implementing the above-quoted Section 228, Section 3 of Revenue Regulations (RR) No. 12-99,[59] as amended by RR No. 18-2013,[60] provides, in part, as follows:

"SECTION 3. ***Due Process Requirement in the Issuance of Deficiency Tax Assessment***. —

3.1 Mode of procedures in the issuance of a deficiency tax assessment:

3.1.1 *Preliminary Assessment Notice* (PAN). — If after review and evaluation by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer a Preliminary Assessment Notice (PAN) for the proposed assessment. It shall show in detail, the facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based (see illustration in ANNEX 'A' hereof).

---

[59] 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 Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

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

> **If the taxpayer fails to respond <u>within fifteen (15) days from date of receipt of the PAN</u>, he shall be considered in default, in which case, a Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued** calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.
>
> **<u>If the taxpayer, within fifteen (15) days from date of receipt of the PAN, responds that he/it disagrees with the findings of deficiency tax or taxes, an FLD/FAN shall be issued within fifteen (15) days from filing/submission of the taxpayer's response</u>**, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties." *(Emphases and underscoring supplied)*

On the basis thereof, it is clear that part of the due process in the issuance of deficiency tax assessments is that the taxpayer shall have fifteen (15) days from receipt of the PAN to respond thereto, and only after it fails to do so, within such period, will it be considered in default and an FLD/FAN will be issued. In other words, respondent or his duly authorized representative is duty bound to wait for the expiration of fifteen (15) days from the date of receipt of the PAN before issuing the FLD/FAN. As a corollary, the taxpayer has fifteen (15) days from date of receipt of the PAN to respond to the said notice. Only after receiving the taxpayer's response or in case of the taxpayer's default can respondent issue the FLD/FAN.[61]

To stress, such a process or procedure is part and parcel of the due process requirement in the issuance of a deficiency tax assessment.

The records show that petitioner received the PAN dated December 23, 2015 on January 4, 2016.[62] Counting fifteen (15) days from January 4, 2016, petitioner had until January 19, 2016, within which to respond to the said PAN. However, without giving opportunity to petitioner to respond to the PAN, respondent already issued the FLD/FAN on January 12, 2016[63] or before the expiration of the above-stated fifteen (15)-day period. Such being the case, there is a clear violation of

---

[61] *Commissioner of Internal Revenue vs. Yumex Philippines Corporation*, G.R. No. 222476, May 5, 2021.

[62] Exhibits "P-3", "P-3-a", "P-3-b", "P-3-c", "P-3-d", Docket – Vol. II, pp. 568 to 576 and Docket – Vol. VI, pp. 2948; and Exhibits "R-3", "R-3-a" and "R-3-b", BIR Records (Folder 1), pp. 792 to 800.

[63] Exhibit "P-4" and "P-4-a" to "P-4-m", Docket – Vol. II. pp. 577 to 586, Docket – Vol. VI, pp. 2950 to 2962; and Exhibits "R-4", "R-4-a", "R-4-b", "R-4c", "R-5" and "R-5-a", BIR Records (Folder 1), pp. 832 to 844.

petitioner's right to due process in the issuance of the subject tax assessments.

Notably, respondent did not deny petitioner's actual receipt of the PAN on January 4, 2015,[64] and in fact admitted that respondent did not provide the full period of fifteen (15) days within which petitioner has the right to reply to the PAN.[65]

Correspondingly, since the subject deficiency tax assessments were issued in violation of petitioner's due process rights, the same are null and void. Thus, the said deficiency tax assessments bear no valid fruit,[66] and must not be given any effect.

On the issue of alleged late filing of the protest against the PAN which respondent asserts to be one day late as narrated earlier, the Court will no longer delve on this matter as the action of respondent in giving due course to the protest by issuing an FDDA in response thereto, without any mention of this alleged delayed filing, renders it immaterial especially in the light of this Court's pronouncement that these FANs are void for having been issued in violation of petitioner's right to due process. To reiterate the well-settled rule, a void assessment bears no fruit.[67]

It is an elementary rule enshrined in the 1987 Constitution that no person shall be deprived of property without due process of law. In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side, and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, the scales must tilt in favor of the individual, for a citizens right is amply protected by the Bill of Rights under the Constitution. Thus, while taxes are the lifeblood of the government, the power to tax has its limits, in spite of all its plenitude.[68] Even as we concede the inevitability and indispensability of taxation, it is a requirement

---

[64] Transcript Stenographic Notes (TSN) at the hearing held on April 19, 2023, at p. 15.
[65] TSN at the hearing held on April 19, 2023, at pp. 20 to 21.
[66] *Commissioner of Internal Revenue vs. Liquigaz Philippines Corporation, et seq.*, G.R. Nos. 215534 and 215557, April 18, 2016.
[67] Refer to *Commissioner of Internal Revenue vs. Metro Star Superama, Inc.*, G.R. No. 185371, December 8, 2010.
[68] *Commissioner of Internal Revenue vs. Metro Star Superama, Inc., supra.*

in all democratic regimes that **it be exercised reasonably and in accordance with the prescribed procedure**.[69]

In other words, the persuasiveness of the right to due process reaches both substantial and procedural rights and **the failure of the respondent to strictly comply with the requirements laid down by law and the BIR's own rules is a denial of the taxpayer's right to due process**.[70]

In view of the nullity of the subject tax assessments, this Court finds it unnecessary to address the remaining matters raised in the instant case.

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

Accordingly, the FLD/FAN dated January 12, 2016, the FDDA dated September 12, 2017, and respondent's letter dated October 29, 2019, all issued against petitioner, for the assessments for deficiency income tax, VAT and EWT, including interests thereon, for TY 2012, in the aggregate amount of **₱172,042,972.75**, are **CANCELLED and SET ASIDE**.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

---

[69] *Commissioner of Internal Revenue vs. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014, citing *Commissioner of Internal Revenue vs. Algue, Inc.*, 241 Phil. 829, 836 (1988).

[70] Refer to *Commissioner of Internal Revenue vs. Metro Star Superama, Inc.*, supra, citing *Tupas vs. Court of Appeals*, G.R. No. 89571, February 6, 1991.

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.

CATHERINE T. MANAHAN
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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice