REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

WILL TEAM PH, INC.,
Respondent.

CTA *EB* NO. 2884
(CTA Case No. 10154)

Present:

DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
JUL 16 2025 4:12 p.m.

x - x

DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Petition for Review (Petition)*[1] filed by petitioner Commissioner of Internal Revenue (CIR) on March 13, 2024. The *Petition* challenges the *Decision*[2] dated October 5, 2023 (assailed *Decision*) and the *Resolution*[3] dated February 22, 2024 (assailed *Resolution*), both rendered by the Court's Special First Division (Court in Division) in CTA Case No. 10154 entitled "*Will Team Ph, Inc. v. Commissioner of Internal Revenue.*" The dispositive portions of the assailed *Decision* and *Resolution* read as follows:

Assailed *Decision*:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**. Accordingly, the FLD dated September 11, 2018, FDDA dated July 11, 2019,

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1 *En Banc (EB)* Docket, pp. 1–9.
2 *Id.* at 17–37.
3 *Id.* at 40–44.

and the WDL dated November 18, 2019, all issued against petitioner, for taxable year 2016, are **CANCELLED** and **SET ASIDE**.

SO ORDERED.

Assailed *Resolution*:

WHEREFORE, respondent's *Motion for Reconsideration (Re: Decision promulgated 5 October 2023)* is hereby **DENIED** for lack of merit.

SO ORDERED.

Petitioner seeks the reversal of the aforesaid *Decision* and *Resolution* and the issuance of a new one upholding the tax assessment issued against respondent for taxable year (TY) 2016.

THE PARTIES

Petitioner is the duly appointed CIR vested with the authority to act as such, including, inter alia, the power to decide disputed assessments, refunds of internal revenue taxes, fees, or other charges, penalties in relation thereto, or other matters arising under the tax laws. He holds office at the Bureau of Internal Revenue (BIR) National Office Building, Diliman, Quezon City.[4]

Respondent Will Team Ph, Inc., is a domestic corporation, duly organized and existing under Philippine law, with office address at Building U-3 Lot 22-B Phase 1B, FPIP-SEX, Tanauan City, Batangas. It is registered with the BIR with Taxpayer Identification Number 008-834-254-000 and the Philippine Economic Zone Authority (PEZA), and is primarily engaged in the manufacture of wire harnesses for construction machinery.[5]

THE FACTS AND THE PROCEEDINGS

The relevant facts, as found by the Court in Division in the assailed *Decision*, are as follows:

The BIR issued *Letter of Authority* (LOA) No. 059-2017-00000184 (SN: eLA201500065167) dated October 9, 2017,

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4 *Id.* at 2, *Petition for Review, Parties.*
5 Division Docket – Vol. II, pp. 760–761, Joint Stipulation of Facts and Issues *(JSFI)*, Facts Admitted, par. 1.

informing [respondent] that Revenue Officer (RO) Mitzi Lisette Belen and Group Supervisor (GS) Marlon Cabance are authorized to examine [respondent's] books of accounts and other accounting records for all taxes for the period January 1, 2016 to December 31, 2016.

In the *Memorandum of Assignment* (MOA) dated January 19, 2018 (No. MOA0592017LOA32288) issued by Mr. Salvador Victorio R. Lasala, Head, Investigation Office of Revenue District Office No. 059-East Batangas, regarding the audit/verification of [respondent's] internal revenue taxes liabilities for the same TY, and referring the subject case/docket to RO Mari Joy T. Corcuera and GS Mitzi Lisette O. Belen, for continuation of the said audit/verification.

Per the *Notice of Informal Conference* dated April 12, 2018 issued to [respondent] by the BIR, RO Mari Joy T. Corcuera *"has recommended a deficiency tax assessment as shown in the attached computation sheet"* therein.

In the Memorandum dated May 28, 2018 prepared by RO Mari Joy T. Corcuera, the latter recommended the issuance of *Assessment Notice* against [respondent]. Thus, the BIR issued the *Preliminary Assessment Notice* (PAN) dated July 12, 2018, informing [respondent] that after investigation conducted by the said RO, there have been found due from [respondent] deficiency taxes for TY 2016, pursuant to LOA No. 059-2017-00000184 (SN: eLA201500065167) dated October 9, 2017.

[Respondent] then filed with the BIR its letter dated August 28, 2018, wherein the former requested for a reinvestigation.

On September 20, 2018, [respondent] received the BIR's *Formal Letter of Demand* (FLD) dated September 11, 2018 for alleged deficiency value-added tax (VAT), expanded withholding tax (EWT), and compromise penalties, in the total amount of ₱9,088,180.22.

[Respondent] then filed its *Protest Letter* with the BIR on September 26, 2018.

On December 11, 2018, [respondent] received LOA No. 059-2018-00000413 (SN: eLA201500067649) dated December 3, 2018, informing [respondent] that RO Mari Joy Corcuera and GS Mitzi Lisette Belen are authorized to audit its books of accounts for all taxes for the period January 1, 2016 to December 31, 2016. The said LOA served as a replacement of LOA No. 059-2017-00000184 dated October 9, 2017 for the continuation of audit of [respondent's] tax liabilities for the same period, because of the reassignment of the case due to protested cases/cases for reinvestigation.

> On July 25, 2019, [respondent] received the BIR's FDDA dated July 11, 2019, assessing petitioner of VAT and compromise penalties in the aggregate amount of ₱7,504,951.66, inclusive of surcharge and interest.

On August 23, 2019, respondent filed a *Petition for Review (With Application for Temporary Restraining Order and/or Writ of Preliminary Injunction and Motion for Suspension of Collection of Tax)*[6] before the Court in Division, challenging the validity of the tax assessment for TY 2016 for lack of legal and factual basis. The Court in Division granted the *Motion for Suspension of Collection of Tax*, subject to the posting of a cash or surety bond from a reputable surety company duly accredited by the Supreme Court.[7]

On December 11, 2019, petitioner filed his *Answer*[8] asserting that: (*i*) respondent is liable to pay deficiency tax in the amount of ₱7,504,951.66 for deficiency VAT and compromise penalties for TY 2016; (*ii*) he is correct in his interpretation of the contract based on its tenor and its terms; and (*iii*) tax assessments are presumed valid and respondent has the duty to prove the impropriety of the assessment, if any.

After the *Pre-trial Conference*, the parties submitted a *Joint Stipulation of Facts and Issues*[9] on January 10, 2022, based on which a *Pre-Trial Order*[10] was issued on March 17, 2022.

Trial ensued, during which both parties presented their respective evidence in support of their claims.

On October 5, 2023, the Court in Division rendered the assailed *Decision* granting respondent's *Petition for Review*. The Court in Division found that petitioner failed to address respondent's refutations in its letter-reply to the Preliminary Assessment Notice (PAN). Citing the case of *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (*Avon*),[11] the Court in Division held that this omission violated respondent's right to due process, rendering the subject tax assessment void.

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6 Division Docket – Vol. I, pp. 10–36.
7 *Id.* at 329–337, Resolution dated May 24, 2021.
8 *Id.* at 203–210.
9 Division Docket – Vol. II, pp. 760–770.
10 *Id.* at 1298–1315.
11 G.R. Nos. 201398–99 and 201418–19, October 3, 2018 [Per J. Leonen, Third Division].

On October 23, 2023, petitioner filed a *Motion for Reconsideration (Re: Decision promulgated 5 October 2023),*[12] which the Court in Division denied in the equally assailed *Resolution*[13] dated February 22, 2024.

Petitioner then elevated the case to the Court *En Banc* via the instant *Petition for Review* filed on March 13, 2024.

On April 19, 2024, the Court *En Banc* issued a Minute Resolution [14] directing respondent to file its *Comment* to petitioner's *Petition*, within ten (10) days from notice.

Respondent filed its *Comment (On Petition for Review)*[15] on April 30, 2024. On May 2, 2024, it filed a *Manifestation with Motion to Admit Comment (On Petition for Review),*[16] alleging that the *Comment* filed on April 30, 2024, was unsigned due to oversight. It rectified the oversight by submitting a signed *Comment (On Petition for Review).*

In a *Minute Resolution*[17] issued on June 24, 2024, the Court *En Banc* noted respondent's *Manifestation with Motion to Admit Comment (On Petition for Review)* and admitted the signed *Comment (On Petition for Review).* The instant case was then referred to the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA) for mediation, pursuant to Section II of the *Interim Guidelines for Implementing Mediation in the Court of Tax Appeals.*

On October 2, 2024, the instant case was submitted for decision considering the report[18] of the PMC-CTA dated August 27, 2024, stating that the parties decided not to have their case mediated.[19]

Hence, this Decision.

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12 Division Docket – Vol. III, pp. 1406–1413.
13 *EB* Docket, pp. 40–44.
14 *Id.* at 45.
15 *Id.* at 46–63.
16 *Id.* at 105–107.
17 *Id.* at 220.
18 *Id.* at 221.
19 *Id.* at 222.

ASSIGNMENT OF ERROR

In the present *Petition for Review*, petitioner assigns the following error allegedly committed by the Court in Division, to wit:

> WHETHER OR NOT THE SPECIAL FIRST DIVISION ERRED WHEN IT CANCELLED THE FLD, FDDA AND THE WDL ON THE GROUND THAT THE SAME ARE VOID AND WITHOUT ANY LEGAL SIGNIFICANCE FOR RESPONDENT'S [sic] WANTON DISREGARD OF THE DUE PROCESS REQUIREMENTS OF SECTION 228 OF THE NIRC OF 1997, AS AMENDED, RR. NO. 12-99, AS AMENDED, AND THE AVON CASE.

Petitioner's Arguments

Petitioner avers that in the assailed *Decision*, the Court in Division ruled that he failed to observe the due process requirement in the issuance of the tax assessments, specifically, the obligation to give reason(s) for rejecting respondent's refutations presented in its letter-reply to the PAN. Hence, the subject tax assessments were rendered void.

Petitioner believes otherwise.

Petitioner argues that in its letter-reply to the PAN, respondent requested a reinvestigation and contested the assessment. In response, a letter dated September 11, 2018, addressed to respondent's President, was issued by then Regional Director Maridur V. Rosario. The letter stated that respondent's request for reinvestigation, together with the case docket, would be forwarded to Revenue District Office (RDO) No. 059 – East Batangas for further evaluation. Respondent was also advised to appear before the RDO and to submit all relevant documents in support of its protest within 60-days from the filing thereof.

However, for failure of respondent to submit the required documents, the FLD categorically stated that "*the records of this case disclosed that you have not introduced any evidence to overthrow the validity of the said finding.*" Hence, respondent was assessed with the same deficiency taxes, subject only to adjustments in the interest imposed.

Petitioner further contends that he was not obliged to give credence to respondent's arguments raised in its letter-reply to the PAN since the arguments were unmeritorious and unsupported by new evidence. He submits that the mere reiteration of the contents of the PAN in the FLD and the FDDA does not indicate that he did not consider respondent's replies and relevant documents. According to petitioner, the Revenue Officers (ROs) examined respondent's books of accounts, accounting records, and its reply to the PAN. However, said ROs found that respondent failed to present credible evidence to refute the assessments. Thus, the assessments indicated in the PAN were reiterated in the FLD.

Finally, petitioner submits that respondent was given every opportunity to refute the assessments. In fact, respondent was able to file a protest intelligently. Petitioner emphasizes that the essence of due process is simply the opportunity to be heard, or as applied to administrative proceedings, the opportunity to explain one's side, or to seek reconsideration of the action or ruling complained of. Petitioner asserts that in the instant case, respondent was apprised of and was able to avail of the remedies provided by law to refute the tax assessments when it filed the protest to the PAN and FLD. Hence, the requirement of due process was satisfied.

Respondent's Arguments:

Respondent submits that the instant *Petition for Review* deserves scant consideration and should be denied for lack of merit because the arguments propounded therein are mere reiterations of those previously raised by petitioner in his earlier pleadings before the Court in Division, which have been exhaustively discussed and resolved in the assailed *Decision* and *Resolution* of the Court in Division.

Nonetheless, respondent counters that the law requires the taxpayer to be informed in writing of the law and the facts on which the assessment is made, otherwise, the assessment is void.

Respondent submits that in the *Avon* case, the Supreme Court ruled that a taxpayer subject to an assessment must be fully apprised of the factual and legal bases of such assessment. Moreover, the taxpayer must not be left unaware of how the BIR

appreciated the explanations or defenses presented in response to the assessment.

Respondent avers that, in this case, it filed a letter-reply to the PAN and made counter-arguments or refutations against the findings of the BIR on the alleged deficiency taxes. However, the FLD issued by petitioner failed to acknowledge and consider the reply to the PAN since respondent was still assessed with the same deficiency taxes, and there were no explanations offered in the FLD as to why the assessed amounts were retained. While the Supreme Court recognizes that the taxing authorities are not bound to accept the taxpayer's explanations, due process, however, requires that when they reject the explanation, they must present the reason for doing so.

In the instant case, petitioner clearly failed to observe this due process requirement in issuing the subject FLD. Thus, the Court in Division correctly ruled that the deficiency tax assessment is void.

Finally, respondent submits that, contrary to petitioner's claim, the *Avon* case applies to the present case and its doctrine is based on law.

THE COURT EN BANC'S RULING

Before addressing the merits of the case, the Court *En Banc* must first determine whether the present *Petition for Review* was timely filed.

The present Petition for Review was seasonably filed; hence, the Court En Banc has jurisdiction over the same.

Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) states:

> **SEC. 3**. *Who may appeal; period to file petition.* — ...
>
> ... ...
>
> (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.

Records show that petitioner received the *Resolution* dated February 22, 2024, which denied his *Motion for Reconsideration (Re: Decision promulgated 5 October 2023)*, on February 27, 2024.[20] Thus, petitioner had 15 days therefrom, or until March 13, 2024, to file the *Petition for Review* before the Court *En Banc*.

Evidently, the filing of the *Petition for Review* on February 13, 2024, was well within the reglementary period. Therefore, the Court *En Banc* validly acquires jurisdiction over the petition.

The Court in Division did not err in cancelling the FLD, FDDA, and WDL for being void.

A careful review of the *Petition for Review* reveals that the arguments raised therein are mere reiterations, reproduced verbatim from petitioner's *Motion for Reconsideration (Re: Decision promulgated 5 October 2023)*. These arguments were thoroughly examined, discussed, and passed upon by the Court in Division in its assailed *Decision* dated October 5, 2023, and subsequently affirmed in its *Resolution* dated February 22, 2024.

The Court *En Banc* finds no compelling reason to deviate from the findings of the Court in Division, which correctly ruled, based on the evidence presented, that the subject tax assessments are void for violating respondent's right to administrative due process. This ruling is fully in accord with existing law and jurisprudence. A re-examination of these settled matters would be superfluous and serve no practical purpose.

In any event, the Court *En Banc* adopts with approval the pertinent discussion of the Court in Division on this issue, as follows:

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[20] Division Docket – Vol. III, p. 1427, *Notice of Resolution*.

The subject tax assessments are void for violation of [respondent's] right to administrative due process.

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

xxx xxx xxx

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

xxx xxx xxx

Under the foregoing provision, it is explicitly required that the taxpayer be informed in writing of the law and of the facts on which the assessment is made; otherwise, the assessment shall be void. The requirement that the taxpayer must be informed of the factual and legal bases of the assessment is mandatory. It cannot be presumed. As a requirement of due process, this rule allows the taxpayer to make an effective protest. To be sure, the requirement set by law to state in writing the factual and legal bases for the assessment is not a hollow exhortation. The law imposes a substantive, not merely a formal, requirement. Furthermore, it must be emphasized that failure to comply with Section 228 does not only render the assessment void, but also finds no validation in any provision in the Tax Code.

To implement the above-quoted Section 228, Section 3 of Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-2013, provides, in part, as follows: xxx

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

In *Commissioner of Internal Revenue vs. Avon Products Manufacturing, Inc., et seq.* ("*Avon* case"), the Supreme Court said:

"**Tax assessments issued in violation of the due process rights of a taxpayer are null and void.** xxx

The 1997 National Internal Revenue Code, also known as the Tax Code, and revenue regulations allow a taxpayer to file a reply or otherwise to submit comments or arguments with

supporting documents at each stage in the assessment process. **Due process requires the Bureau of Internal Revenue to consider the defenses and evidence submitted by the taxpayer and to render a decision based on these submissions. Failure to adhere to these requirements constitutes a denial of due process and taints the administrative proceedings with invalidity.**

xxx xxx xxx

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

xxx xxx xxx

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

xxx xxx xxx

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

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

party be sufficiently informed of the reasons for its conclusions.

xxx xxx xxx

The importance of providing taxpayer with adequate written notice of his or her tax liability is undeniable. Under Section 228, it is explicitly required that the taxpayer be informed in writing of the law and of the facts on which the assessment is made; otherwise, the assessment shall be void. Section 3.1.2 of Revenue Regulations No. 12-99 requires the Preliminary Assessment Notice to show in detail the facts and law, rules and regulations, or jurisprudence on which the proposed assessment is based. **Further, Section 3.1.4 requires the Final Letter of Demand must state the facts and law on which it is based; otherwise, the Final Letter of Demand and Final Assessment Notices themselves shall be void**. xxx

'The use of the word 'shall' in Section 228 of the [National Internal Revenue Code] and in [Revenue Regulations] No. 12-99 indicates that the requirement of informing the taxpayer of the legal and factual bases of the assessment and the decision made against him [or her] is mandatory.' This is an essential requirement of due process and applies to the Preliminary Assessment Notice, **Final Letter of Demand with the Final Assessment Notices**, and the Final Decision on Disputed Assessment.

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It is true that the Commissioner is not obliged to accept the taxpayer's explanations, as explained by the Court of Tax Appeals. **However, when he or she rejects these explanations, he or she must give some reason for doing so. He or she must give the particular facts upon which his or her conclusion are based, and those facts must appear in the record.**

xxx xxx xxx

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.**

xxx xxx xxx

x x x. ***[The Commissioner of Internal Revenue's]*** **disregard of the standards and rules renders the deficiency tax assessments null and void.**
x x x."

Based on the foregoing jurisprudence, respondent or his duly authorized representative is mandated to perform assessment functions in accordance with, and strict adherence to, law, with their own rules of procedure, and always with regard to the basic tenets of due process. And due process requires respondents and/or the BIR to consider the defenses and evidence submitted by the taxpayer and to render a decision based on these submissions.

Furthermore, in case respondent or his duly authorized representative fails to observe due process, it shall have the effect of rendering the deficiency tax assessment void, and of no force and effect. Moreover, a significant part of the due process requirement in the issuance of tax assessments is that the concerned taxpayer must be informed, in writing, of the law and of the facts on which the assessment is made. Such requirement must be embodied in the PAN, FLD/FAN, and FDDA. Specifically, when respondent rejects the taxpayer's explanations, he must give some reason for doing so and the particular facts and law upon which his conclusion are based, and those facts must appear in the record. As a corollary, the concerned taxpayer must *not* be left unaware on how respondent or his duly authorized representatives appreciated the explanations or defenses raised in connection with the assessment.

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In this case, as stated in the PAN dated July 12, 2018, the BIR found the following as due from petitioner for taxable year 2016, to wit:

xxx xxx xxx

In its letter-reply to the PAN, petitioner made certain counter-arguments or refutations against the above-stated findings of the BIR relative to the foregoing deficiency taxes. Particularly, anent the amount of ₱32,526,511.00, which represents the supposed *"Disposal of Property Plant and Equipment,"* petitioner argued that the transaction is a finance lease not subject to withholding VAT. As for the amount of ₱493,325.28, which represents the supposed *"Undeclared sales,"* petitioner pointed out that since the deferred gain is a product of the sales-leaseback transaction where no actual sale has materialized, said amount was not subjected to VAT. And with regard to the supposed *"Undeclared*

Income/Unaccounted source of cash" amounting to ₱4,585,876.00, petitioner explained that the difference arose when a listing was obtained from the Bureau of Customs on petitioner's purchases, and that all purchases and importation costs have been paid and properly reported based on actual documents. As for the surcharges, petitioner claims that the same should not be imposed, since there is no willful neglect, nor willful attempt to file a fraudulent return. Lastly, petitioner presented itemized arguments anent the EWT totaling ₱194,943.00, either because the income recipients are exempt from withholding tax, or the pertinent expense should no longer be subject to withholding taxes.

However, in the FLD dated September 11, 2018, petitioner was still assessed of the same deficiency taxes. While the *aggregate* amount of taxes being assessed increased, a comparison of the figures stated in the PAN dated July 12, 2018, and the foregoing figures would reveal that the respective amounts of basic taxes, surcharge and compromise penalties remain unchanged. In fact, respondent BIR merely adjusted the interests being imposed. Moreover, the *Details of Discrepancies* for the said PAN dated July 12, 2018 and the said FLD dated September 11, 2018 are mostly identical. It is clearly shown that except for the last paragraph of the said *Details of Discrepancies* for the same FLD, the latter was merely copied in verbatim from the *Details of Discrepancies* for the same PAN.

To be sure, it is noteworthy that in the said FLD, respondent or the BIR did not address any of the refutations made by petitioner in its letter-reply to the PAN — an indication that respondent or the BIR did not consider the same when it issued the subject FLD.

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

Correspondingly, as part of the due process requirement in the issuance of tax assessments, respondents must give reason(s) for rejecting petitioner's refutations, and must give the particular facts upon which the conclusions for assessing petitioner are based, and those facts must appear on record. Respondent has obviously not observed such requirement in the issuance of the subject FLD.

Thus, the inevitable conclusion is that petitioner's right to due process, as recognized under Section 228 of the 1997 NIRC, as amended, vis-à-vis Section 3.1.3 of RR No. 12-99, as amended, was violated by respondent. As a consequence of

> such violation, the said deficiency tax assessments are rendered void. (*Citations omitted; Boldfacing and underscoring in the original text*)

Indeed, the right of a taxpayer to respond to a PAN carries with it the correlative duty on the part of the BIR to "give due consideration to the taxpayer's evidence and explanation."[21] Otherwise, the right to be heard becomes an empty formality, devoid of substance. The issuance of the FAN/FLD without a fair evaluation of the taxpayer's reply constitutes a blatant disregard of the cardinal requirements of due process.

It bears emphasizing that due process is not a mere formality—it demands that the taxpayer be afforded a real and meaningful opportunity to be heard. The right to be heard, which includes the right to present evidence, is meaningless if the Commissioner can simply ignore the evidence without reason.[22]

Revenue Officer (RO) Mari Joy T. Corcuera was not authorized to continue the audit and examination of respondent's books of accounts and other accounting records for TY 2016 rendering the tax assessments void.

In addition to affirming the ruling of the Court in Division, the Court *En Banc*, upon a thorough review of the records, also finds that the subject tax assessments were issued based on the recommendation of an RO who lacked the requisite authority to continue the conduct of the audit examination.

Specifically, the BIR initially issued a Letter of Authority (LOA) dated October 9, 2017, designating **RO Mitzi Lisette Belen (RO Belen)** and **Group Supervisor (GS) Marlon Cabance** as authorized to examine respondent's books of accounts and other accounting records for all internal revenue taxes covering the period January 1, 2016 to December 31, 2016. Thereafter, in a Memorandum of Assignment (MOA) dated January 19, 2018, signed by Mr. Salvador Victorio R. Lasala, Head,

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[21] *Commissioner of Internal Revenue v. Villanueva, Jr.*, G.R. No. 249540, February 28, 2024 [Per J. Caguioa, Third Division]; *Commissioner of Internal Revenue v. Unioil Corporation*, G.R. No. 204405, August 4, 2021 [Per J. Hernando, Second Division].

[22] *Commissioner of Internal Revenue v. Maxicare Healthcare Corporation*, G.R. No. 261065, July 10, 2023 [Per J. Singh, Third Division] citing *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398–99 and 201418–19, October 3, 2018 [Per J. Leonen, Third Division].

Investigation Office of RDO No. 059 – East Batangas,[23] the docket was referred to **RO Mari Joy T. Corcuera (RO Corcuera)** and **GS Mitzi Lisette O. Belen (GS Belen)** for the continuation of the said audit. It was **RO Corcuera** who ultimately recommended the issuance of the deficiency tax assessments, as indicated in the Notice of Informal Conference.[24]

However, respondent only received LOA No. 059-2018-00000413 (SN: eLA201500067649) dated December 3, 2018, on December 11, 2018, well after the examination had already been conducted and the assessments recommended. This LOA, which merely purported to replace the earlier LOA dated October 9, 2017, authorized **RO Corcuera** and **GS Belen** to audit respondent's books of accounts for the same taxable period.

In effect, at the time **RO Corcuera** conducted the audit and recommended the assessments, there was no valid LOA authorizing her to do so. It is well-settled that an LOA is the authority given to the appropriate RO assigned to perform assessment functions. It empowers ROs to examine the taxpayer's books of accounts and other accounting records.[25]

Thus, there must be a grant of authority before any RO can conduct an examination or assessment. This is explicitly provided under Sections 6 (A) and 13 of the 1997 NIRC, as amended, which provide as follows:

> SEC. 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* —
>
> (A) *Examination of Returns and Determination of Tax Due.* — After a return has been filed as required under the provisions of this Code, **the Commissioner or his duly authorized representative may authorize the examination of any taxpayer** and the assessment of the correct amount of tax: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer. (*Emphasis supplied*)

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23 BIR Records (Exhibit R-10), Folder 2 of 3, p. 241.
24 *Id.* at 252.
25 *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222743, April 5, 2017 [Per J. Reyes, Third Division].

> SEC. 13. *Authority of a Revenue Officer.* — Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, **a Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due** in the same manner that the said acts could have been performed by the Revenue Regional Director himself.' (*Emphasis supplied*)

Based on the afore-quoted provisions, it is clear that unless authorized by respondent himself or by his duly authorized representative, **through an LOA**, an examination of the taxpayer cannot ordinarily be undertaken.[26] Further, and as explicitly emphasized by the Supreme Court in *Commissioner of Internal Revenue v. Opulent Landowners, Inc.*,[27] only the ROs actually named in the LOA are authorized to examine the taxpayer, to wit:

> . . . Likewise, the CTA *EB* correctly held that the deficiency tax assessments were invalid due to revenue officers' lack of authority to do so. Under prevailing jurisprudence, a LOA is statutorily required under the National Internal Revenue Code in order to clothe the revenue officers with authority to examine taxpayers. It is axiomatic that **only the revenue officers actually named under the LOA are authorized to examine the taxpayer**. . . In the absence of a new LOA issued in favor of the revenue officers who recommended the issuance of the deficiency tax assessments against respondent, the resulting assessments are void. (*Citations omitted; Emphasis supplied*)

In the instant case, no valid LOA was issued in favor of **RO Corcuera** to continue the audit and investigation of respondent's books of accounts and other accounting records for TY 2016. In fact, her authority was merely based on a *Memorandum of Assignment* with No. MOA0592017LOA32288, dated January 19, 2018, issued by Mr. Salvador Victorio R. Lasala, who is not even one of petitioner's duly authorized representatives to issue LOA.

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[26] *Id.*
[27] G.R. Nos. 249883–84 (Notice), January 27, 2020 [Per Resolution, Second Division].

Accordingly, pursuant to Section 13 of the 1997 NIRC, as amended, **RO Corcuera's** examination of respondent's books of accounts and other accounting records for TY 2016, and the resulting deficiency tax assessments issued against respondent for TY 2016 are a nullity.

In fine, the subject assessments are void for having been issued by a revenue officer who lacked the requisite authority under a valid LOA, and for having been made in violation of respondent's constitutional and statutory right to administrative due process.

WHEREFORE, premises considered, the *Petition for Review* filed by the Commissioner of Internal Revenue is **DENIED**, for lack of merit. The assailed *Decision* dated October 5, 2023 and *Resolution* dated February 22, 2024, both issued by the Special First Division in CTA Case No. 10154 are **AFFIRMED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ON OFFICIAL BUSINESS
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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.

ROMAN G. DEL ROSARIO
Presiding Justice