TAX MANAGEMENT ASSOCIATION OF THE PHILIPPINES, INC.

TAX UPDATES FROM NOVEMBER 16, 2024 TO DECEMBER 15, 2024

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DECISION / ISSUANCE	DATE ISSUED	SUBJECT	PAGE NO.
COURT OF TAX APPEALS ("CTA") *EN BANC* DECISIONS			
1. Commissioner of Internal Revenue v. Zuellig Pharma Corporation (CTA EB Case No. 2765) and Zuellig Pharma Corporation v. Commissioner of Internal Revenue (CTA EB Case No. 2777)	November 25, 2024	The following requirements must be satisfied for a taxpayer to successfully claim for a refund or issuance of a TCC involving excess CWTs: a. The claim must be filed with the CIR within the two (2)-year period from the date of payment of the tax; b. The fact of withholding must be established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of the tax withheld; and c. It must be shown on the return that the income received was declared as part of the gross income.	**10**
2. Holcim Philippines, Inc. v. The City of Manila and Josephine D. Daza, in her capacity as the City Treasurer of the City of Manila (CTA EB Case No. 2758)	November 26, 2024	Tax refunds or credits, just like tax exemptions, are strictly construed against taxpayers, the latter have the burden to prove strict compliance with the conditions for the grant of the tax refund.	**11**
3. Commissioner of Internal Revenue v. Carmen Copper Corporation (CTA EB Case No. 2735) and Carmen Copper Corporation v. Commissioner of	November 26, 2024	The Court may accept evidence that was not presented by the taxpayer at the administrative level if there was inaction on the refund claim filed by the taxpayer or there was a denial other than due to the taxpayer's failure to submit complete documents despite notice or request.	**11-12**

Internal Revenue (CTA EB Case No. 2743)		Section 112(A) does not require that the input taxes subject of the claim for refund be directly and entirely attributable to zero-rated sales. To accord zero percent (0%) VAT on sales made pursuant to Section 106(A)(2) (a)(1) of the NIRC, as amended, the following conditions must be present: a. The sale was made by a VAT-registered person; b. There was a sale and actual shipment of goods from the Philippines to a foreign country evidenced by sales invoice and bill of lading or airway bill; and c. The said sale was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP. Taxpayers enjoying zero-rated preference shall claim from their suppliers and not from the Government the amount of VAT that was erroneously shifted by them. Taxpayers need to present the Single Administrative Document (SAD) and Import Entry and Internal Revenue Declaration (IEIRD) in order to claim a refund of input VAT from importations.	
4. Commissioner of Internal Revenue v. San Miguel Brewery, Inc. (CTA EB Case No. 2890)	November 26, 2024	The Court of Tax Appeals has exclusive jurisdiction to determine the constitutionality or validity of tax laws, rules and regulations, and other administrative issuances of the Commissioner of Internal Revenue. Rules and regulations implementing a law are designed to fill in the details or to make explicit what is general, as these	**12-13**

		cannot all be incorporated in the provision of the law. Administrative issuances must not override, supplant, or modify the law. They must remain consistent with the law intended to carry out. Particularly, administrative issuances, such as revenue memorandum circulars, cannot amend or modify the law.	
5. Commissioner of Internal Revenue v. British American Tobacco (Philippines), Limited (CTA EB Case No. 2878)	November 27, 2024	The NIRC does not provide a grace period between the filing of administrative and judicial claims. It does not identify a specific span of time within which the Commissioner of Internal Revenue must act on an administrative claim.	**13**
6. Elta Industries, Inc. v. Commissioner of Internal Revenue (CTA EB Case No. 2770)	November 28, 2024	If the protest is wholly or partially denied by the Commissioner of Internal Revenue or his authorized representative, then the taxpayer may appeal to the CTA within 30 days from receipt of the whole or partial denial of the CTA.	**13-14**
7. Taguig City Government, Hon. Lino Edgardo S. Cayetano, in his capacity as the (former) Mayor of the City of Taguig, and Atty. J. Voltaire L. Enriquez, in his capacity as Treasurer of City of Taguig v. Kensington Place Condominium Corporation (CTA EB Case No. 2807)	December 3, 2024	The application of the remedy provided under Section 195 of the Local Government Code is triggered by an assessment while Section 196 may be invoked by a taxpayer who claims to have erroneously paid a tax or such tax had been illegally collected from him. Condominium corporations are generally exempt from local business taxation under the Local Government Code, irrespective of any local ordinance that seeks to declare otherwise.	**14-15**
8. People of the Philippines v. Ziegfried Loo Tian (No. 1013, Juan Luna Street, Brgy. 27, Zone 1, Tondo, Manila) (CTA EB Crim. Case No. 115)	December 4, 2024	The five-year prescriptive period for violations of the NIRC commences from the date the violation is committed, provided it is known. If the violation is unknown, the prescriptive period begins from the time of its discovery and the initiation of judicial proceedings for its investigation and punishment. The	**15-16**

		prescriptive period is interrupted upon the institution of proceedings against the guilty individuals. The initiation of such proceedings, which serves to interrupt the prescriptive period, refers specifically to the filing of an information before the CTA.	
9. Ortiz Memorial Chapel, Inc. v. Commissioner of Internal Revenue (CTA EB Case No. 2651)	December 6, 2024	Section 228 of the Tax Code and RR No. 12-99 provides that upon issuance of the FLD/FAN, the taxpayer may protest the same administratively within thirty (30) days from receipt thereof. The FAN/FLD attains finality upon the taxpayer's failure to file a protest within the period prescribed under the regulations.	**16**
CTA DIVISION DECISIONS			
1. San Miguel Brewery, Inc. v. Commissioner of Internal Revenue (CTA Case No. 10745)	November 18, 2024	Administrative issuances, like BIR regulations, cannot simply amend the law they seek to implement.	**17**
2. Global Business Power Corporation v. Commissioner of Internal Revenue (CTA Case No. 10869)	November 18, 2024	Failure to submit "complete documents" as required by RMO No. 53-98 and RR No. 2-2006 does not render a petition before this Court dismissible for lack of jurisdiction.	**17-18**
3. NLEX Corporation (Formerly Manila North Tollways Corporation) v. The City of Valenzuela, Hon. Adelia Soriano, in her capacity as City Treasurer, and Atty. Ulysses L. Gallego, in his capacity as Officer-in-Charge of the Business Permit and Licensing Office (CTA AC No. 297)	November 18, 2024	If the purpose is primarily revenue, or if revenue is at least on of the real and substantial purposes, then the exaction is properly classified as an exercise of the power to tax. On the other hand, if the purpose is primarily to regulate, then it is deemed an exercise of police power in the form of a fee, even though revenue is incidentally generated. Stated otherwise, if generation of revenue is the primary purpose, the imposition is a tax, but, if regulation is the primary purpose, the imposition is properly categorized as a regulatory fee.	**18-19**
4. Broadcast Enterprises & Affiliated Media	November 19, 2024	Well-settled is the rule that an assessment that fails to strictly comply	**19**

	(BEAM), Inc. v. Commissioner of Internal Revenue (CTA Case No. 10712)		with the due process requirements outlined in Section 228 of the NIRC and RR No. 12-99, as amended by RR No. 18-2013, is void and produces no effect.	
5.	Oiliners, Inc. v. Commissioner of Internal Revenue (CTA Case No. 10824)	November 19, 2024	An Official Receipt ("OR") for courier services *alone* is not sufficient proof the subject parcel was received. It must be noted that an OR is a written acknowledgment of the fact of payment in money or other settlement between seller and buyer of goods, debtor or creditor, or person rendering services and client or customer.	**20**
6.	Cal-Comp Precision (Thailand) Limited v. Commissioner of Internal Revenue (CTA Case No. 10899)	November 19, 2024	Under Section 32(B)(5) of the NIRC, capital gains realized during the taxable year from the sale or other disposition of shares of stock in a domestic corporation made outside the stock exchange and any gain derived from such dealings in property derived by a foreign corporation are exempt or partially exempt to the extent required by any treaty obligation on the Philippines.	**21**
7.	BW Shipping Philippines, Inc. v. Commissioner of Internal Revenue (CTA Case No. 10317)	November 19, 2024	As a general rule, applicants for VAT refund or credit shall file their administrative claim with the Large Taxpayers Service or the RDO that has jurisdiction over the principal place of business of the taxpayer. If the applicant is a direct exporter, the administrative claim *"shall be exclusively filed"* with the VCAD.	**21-22**
8.	GCOMM Business Corporation v. Commissioner of Internal Revenue (CTA Case No. 10696)	November 19, 2024	Not all adjustments to the invoice shall cause a reduction of the VAT base. *Returns and allowances* shall reduce the VAT base when the seller made a proper credit or refund *(e.g,* seller decreased the amount due from the buyer on account of defective goods). While there are various types of *discounts*, only those which are indicated on the invoice upon issuance/at the time of sale *and* not conditional upon the happening of a	**22-23**

		future event may, for VAT purposes, be deducted from the gross selling price.	
9. People of the Philippines v. GB Bem Cigarette Co., Inc., Gregory G. Lim (President), Benson G. Chua (Treasurer), Elsie A. Oafallas (Director), Gendy A. Bambao (Director), and Maria Cristina G. Dayos (Corporate Secretary) Building 09-01, Pampanga Economic Zone Pulung, Cacutud, Angeles City, Pampanga (CTA Crim. Case No. O-935)	November 20, 2024	Indeed, arrests and seizures cannot be based solely on a tip. Exclusive reliance on information provided by informants undermines the very essence of probable cause. Probable cause has been defined as such facts and circumstances which could lead a reasonable, discreet, and prudent man to believe that an offense has been committed, and that the objects sought in connection with the offense are in the place sought to be searched.	**23**
10. Goodyear Steel Pipe Corporation v. Commissioner of Internal Revenue (CTA Case No. 10541)	November 25, 2024	Significantly, a failure to file a judicial appeal within the 30-day period renders the assailed assessment final, executory, and demandable. The timely filing of a petition for review is consequentially essential and necessary for the success of a judicial protest to an assessment.	**24**
11. The City of Valenzuela and Hon. Adelia Soriano in her capacity as City Treasurer v. NLEX Corporation (CTA AC No. 290)	November 25, 2024	Section 143 specifically refers to *gross receipts* which is defined under Section 131 (n) of the LGC of 1991: *"Gross Sales or Receipts include the total amount of money or its equivalent representing the contract price, compensation or service fee, including the amount charged or materials supplied with the services and deposits or advance payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person excluding discounts if determinable at the time of sales, sales return, excise tax, and value-added tax (VAT);"*	**24-25**

12. People of the Philippines v. Serafin Panaligan Villalobos, proprietor of PSPV Commercial Rice Supply & Grocery (CTA Crim. Case No. O-917)	November 26, 2024	In the case of *Estate of the Late Juliana Diez Vda. De Gabriel vs. Commissioner of Internal Revenue*, the Supreme Court held that it is a requirement of due process that the taxpayer must actually receive the assessment. Thus, it is not simply a question of whether the assessment notices were sent to respondent by taxpayer. It is imperative that the taxpayer *actually* received such tax assessment notices.	**25-26**
13. People of the Philippines v. RPV Electro Technology Philippines Corporation/ Roland P. Vasquez (President) (CTA Crim. Case No. O-714)	November 28, 2024	To sustain a conviction for willful failure to pay taxes punishable under Section 255, in relation to Section 253(d) and 256 of the NIRC, as amended, the following elements must be established by the prosecution: *first*, a corporate taxpayer is required by the NIRC, as amended, or by duly promulgated rules and regulations, to pay any tax; *second*, the corporate taxpayer failed to pay the required tax; and *third*, accused, as the corporate taxpayer's president willfully failed to pay said tax.	**26**
14. Oceanagold (Philippines), Inc. v. Commissioner of Internal Revenue (CTA Case No. 10543)	November 29, 2024	To satisfy the requisite that that the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against output tax, the following conditions must concur: a. The input taxes are due or paid; b. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales and where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales;	**26-27**

		c. The input taxes are not transitional input taxes; and, d. The input taxes have not been applied against output taxes during and in the succeeding quarters.	
15. Health Plan Philippines, Inc., v. Commissioner of Internal Revenue (CTA Case No. 10262)	December 4, 2024	The Court agrees that the 14 January 2020 Letter is the CIR's final decision for the following reasons: (1) it expressly mentioned that the assessment had become final, executory and demandable, and considered the deficiency taxes as delinquent taxes; (2) it also mentioned that, since the Taxpayer's Protest was not valid, the BIR did not have to issue the FDDA as the assessment had already become final; (3) Witness' unrebutted testimony confirmed that the BIR already informed the Taxpayer that it will issue an FDDA and that Taxpayer eventually received the said 14 January 2020 Letter; and, (4) the BIR demonstrated no intention of issuing the FDDA, as it remained unsigned and unserved.	**28**
16. Chemrez Technologies, Inc. v. Commissioner of Internal Revenue (CTA Case No. 10454)	December 4, 2024	In conclusion, perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional. This means that the failure to interpose a timely appeal deprives the appellate body of any jurisdiction to alter the final judgment, more so to entertain the appeal. To stress, the proof of the date of receipt of CIR's Decision is jurisdictional. Failing in this regard, the Court shall dismiss this case.	**28-29**
17. Ong Kin King & Co., Inc., v. Commissioner of Internal Revenue (CTA Case No. 10362)	December 5, 2024	The move smacks of the "gamesmanship" struck down by the Supreme Court in *Commissioner of Internal Revenue v. Toledo Power Company*, where if the taxpayer loses, "it could fare no worse as it already paid the amount. If it wins, it gets back the amount which it had already negotiated successfully with the government.	**29-31**

		Given these odds, [the taxpayer] remains to be the winner that takes it all. In contrast, the government is left holding an empty bag all by its lonesome."	
18. Foundever Philippines Corporation (formerly Sitel Philippines Corporation) v. Commissioner of Internal Revenue (CTA Case No. 10620)	December 11, 2024	RR No. 7-2012 provides that it is explicit in the provisions that the term "branch" includes a "facility with sales activity", and that "a facility shall be registered as a branch whenever sales transactions/activities are conducted thereat." Thus, a facility where sales transactions/activities occur is considered a branch, which is required to be registered separately with the BIR.	**31**
19. Marina Square Properties, Inc. v. Commissioner of Internal Revenue (CTA Case No. 10601)	December 13, 2024	Under Section 228 of the NIRC and RR No. 12-99, as amended by RR No. 18-2013, 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.	**32**
20. Aeon Credit Service (Philippines), Inc. v. Commissioner of Internal Revenue (CTA Case No. 10373)	December 13, 2024	As part of the due process requirement in the issuance of tax assessments, CIR must give reason(s) for rejecting taxpayer's refutations and must give the particular facts upon which the conclusions for assessing taxpayer are based, and those facts must appear on record. Failure to observe such requirement leads to inevitable conclusion that the taxpayer's right to due process, as recognized under Section 228 of the NIRC of 1997, vis-a-vis Section 3.1.4 of RR No. 12-99, as amended by RR Nos. 18-2013 and 7-2018, was violated by CIR. As a consequence of such violation, the subject deficiency tax assessments are rendered void.	**32-33**

DISCUSSION

CTA *EN BANC* DECISIONS

1. The following requirements must be satisfied for a taxpayer to successfully claim for a refund or issuance of a TCC involving excess CWTs:

a. The claim must be filed with the CIR within the two (2)-year period from the date of payment of the tax;
b. The fact of withholding must be established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of the tax withheld; and
c. It must be shown on the return that the income received was declared as part of the gross income.

The Supreme Court held in *Commissioner of Internal Revenue v. Univation Motor Philippines Inc. (formerly Nisaan Motor Philippines, Inc.)* that taxpayer's failure to submit the complete documents at the administrative level did not render its Petition for Review with the CTA dismissible for lack of jurisdiction. It also referred to the case of *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, where the Supreme Court distinguished the administrative cases appealed due to inaction and those that were dismissed at the administrative level due to the failure of taxpayer to submit supporting documents.

In this case, the Court held that the CIR had not acted on Zuellig's administrative claim. Hence, the claim of BIR that Zuellig failed to submit complete documents would be fatal to its claim. Also, CIR's inaction in a claim for refund does not preclude the Court from considering evidence that was not presented in the administrative claim with the BIR.

However, the Court also emphasized that the fact of withholding may be established through the submission of pertinent Certificates of Creditable Tax Withheld at Source, provided that these certificates reliably reflect the relevant details, such as the amount paid and the amount of tax withheld. In this case, the Certificates of Creditable Withholding Tax submitted by Zuellig were found to be deficient. Specifically, they were either unsigned by the payor or the payor's authorized representative, contained material errors in critical details (such as the payee's information, the amount of tax withheld, or the income payments), or omitted such details entirely. Consequently, the Court ruled that the refund claim pertaining to these defective certificates was correctly denied. (*Commissioner of Internal Revenue v. Zuellig Pharma Corporation, CTA EB Case No. 2765; and Zuellig Pharma Corporation v. Commissioner of Internal Revenue, CTA EB Case No. 2777, November 25, 2024*)

2. Tax refunds or credits, just like tax exemptions, are strictly construed against taxpayers, the latter have the burden to prove strict compliance with the conditions for the grant of the tax refund.

In this case, Holcim failed to establish that it is exclusively engaged in the sale and/or manufacture of cement, a condition necessary to qualify for the preferential tax rate applicable to essential commodities. Holcim presented its Amended Articles of Incorporation (Amended AOI) and the testimony of its witness as evidence. The Amended AOI states that Holcim is engaged in the business of manufacturing, producing, and merchandising cement, cement products, and all kinds of minerals and building materials. It explicitly provides that Holcim may sell and/or manufacture all kinds of minerals and building materials. Moreover, the certification of its total gross receipts/sales did not indicate that its sales were derived exclusively from the sale of cement.

The Court also noted inconsistencies in the witness's testimony and emphasized that Holcim's activities include the sale and manufacture of other building materials, which may or may not qualify as essential commodities covered by the preferential rate. Additionally, in the absence of itemized sales data, the Court could not determine whether the preferential rate might apply to any portion of Holcim's revenue. Therefore, the Court concluded that Holcim was not entitled to the preferential tax rate. *(Holcim Philippines, Inc. v. The City of Manila and Josephine D. Daza, in her capacity as the City Treasurer of the City of Manila, CTA EB Case No. 2758, November 26, 2024)*

3. The Court may accept evidence that was not presented by the taxpayer at the administrative level if there was inaction on the refund claim filed by the taxpayer or there was a denial other than due to the taxpayer's failure to submit complete documents despite notice or request.

Section 112(A) does not require that the input taxes subject of the claim for refund be directly and entirely attributable to zero-rated sales.

To accord zero percent (0%) VAT on sales made pursuant to Section 106(A)(2) (a)(1) of the NIRC, as amended, the following conditions must be present:

- **a. the sale was made by a VAT-registered person;**
- **b. there was a sale and actual shipment of goods from the Philippines to a foreign country evidenced by sales invoice and bill of lading or airway bill; and**
- **c. the said sale was paid for in acceptable foreign currency accounted for in accordance with the rules and regulations of the BSP.**

Taxpayers enjoying zero-rated preference shall claim from their suppliers and not from the Government the amount of VAT that was erroneously shifted by them.

Taxpayers need to present the Single Administrative Document (SAD) and Import Entry and Internal Revenue Declaration (IEIRD) in order to claim a refund of input VAT from importations.

In this case, the Court held that CIR's partial denial of Carmen Copper's administrative claim for input VAT refund was due to non-compliance with invoicing requirements, among others. Hence, it falls under the second category and therefore, the Court may give credence to all evidence presented to support its prayer for refund, irrespective of whether such evidence was presented at the administrative level.

The Court further held that the law does not limit the claim of input tax to purchases of goods that are to be converted into or intended to form part of a finished product for sale or to be used in the chain of production. It suffices that the purchases of goods, properties, or services upon which the input VAT is based can be attributed to zero-rated sales.

The Court also held that Carmen Copper erred in stating that as a BOI-registered enterprise, it is no longer required to prove that the sales were paid in acceptable foreign currency duly accounted for in accordance with the rules and regulations of the BSP. Under the Tax Code, there is no need for such a requirement when the sales pertain to export sales of a VAT-registered seller to a BOI-registered buyer. In this case, the seller, Carmen Copper, was the BOI-registered entity and not the buyer. Hence, the Court in Division correctly required the proof of inward remittance for Carmen Copper's actual export sales.

Further, the Court also held that since the sales of Carmen Copper's local suppliers to it are automatically subject to 0% VAT, there was nothing to be legally shifted to Carmen Copper. Hence, taxes erroneously passed on by Carmen Copper's local suppliers to it, may not be refunded from the Government but from the suppliers.

The Court also held that the Court in Division correctly disallowed the input VAT from importations for not being supported by the corresponding SAD or IEIRD. The SAD or IEIRD proves the fact of importation, and the nature of the goods imported. Thus, without the SAD or IEIRD, the Court cannot reasonably verify or link the payment of customs duties and taxes recorded in the Statement of Settlement of Duties and Taxes to the specific import declaration of the goods subject of the case. *(Commissioner of Internal Revenue v. Carmen Copper Corporation, CTA EB Case No. 2735; and Carmen Copper Corporation v. Commissioner of Internal Revenue, CTA EB Case No. 2743, November 26, 2024)*

4. The Court of Tax Appeals has exclusive jurisdiction to determine the constitutionality or validity of tax laws, rules and regulations, and other administrative issuances of the Commissioner of Internal Revenue.

Rules and regulations implementing a law are designed to fill in the details or to make explicit what is general, as these cannot all be incorporated in the provision of the law. Administrative issuances must not override, supplant, or modify the law. They must remain consistent with the law intended to carry out. Particularly, administrative issuances, such as revenue memorandum circulars, cannot amend or modify the law.

In this case, the CTA *En Banc* held that the Court in Division has jurisdiction to decide on the constitutionality of RMC No. 90-2012. In addition, the CTA *En Banc* affirmed the findings of the

Court in Division that RMC No. 90-2012 is void for going beyond the scope of the law and for being issued without prior notice and hearing. In particular, the BIR imposed additional obligations on the part of taxpayers in the form of excise tax. Hence, it substantially changed or increased the burden of the taxpayer, which was beyond what the law intended. Given that the Court affirmed the invalidity of RMC No. 90-2012, it also held that San Miguel is entitled to a refund of the erroneous excise tax payments. *(Commissioner of Internal Revenue v. San Miguel Brewery, Inc., CTA EB Case No. 2890, November 26, 2024)*

5. The NIRC does not provide a grace period between the filing of administrative and judicial claims. It does not identify a specific span of time within which the Commissioner of Internal Revenue must act on an administrative claim.

The Supreme Court held in *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.* that:

> " it does not matter how far apart the administrative and judicial claims were filed, or whether the Commissioner of Internal Revenue was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period."

In this case, the taxpayer filed its administrative claim on December 20, 2018, followed by the filing of its judicial claim on the subsequent day. Given that the taxpayer afforded the Commissioner only a single day to address the administrative claim, it cannot be asserted that the taxpayer failed to exhaust administrative remedies. This is because the Tax Code does not prescribe a specific timeframe within which the Commissioner is required to act on an administrative claim. *(Commissioner of Internal Revenue v. British American Tobacco (Philippines), Limited CTA EB Case No. 2878, November 27, 2024)*

6. If the protest is wholly or partially denied by the Commissioner of Internal Revenue or his authorized representative, then the taxpayer may appeal to the CTA within 30 days from receipt of the whole or partial denial of the CTA.

The Supreme Court held in *Philippine Amusement and Gaming Corporation v. Bureau of Internal Revenue, et. al.* that:

> "A whole or partial denial by the CIR's authorized representative may be appealed to the CIR or the CTA. A whole or partial denial by the CIR may be appealed to the CTA. The CIR or the CIR's authorized representative's failure to act may be appealed to the CTA. There is no mention of an appeal to the CIR from the failure to act by the CIR's authorized representative."

In this case, Elta Industries received the Respondent's FDDA on June 30, 2016. The FDDA provided the taxpayer with the option to either file an appeal before the CTA or a request for reconsideration to the Respondent. Elta Industries filed a request for reconsideration on July 28, 2016. However, the Court ruled that the option to file a request for reconsideration with the

Respondent is not provided under the law or rules. Consequently, the filing of the request for reconsideration did not suspend the 30-day period to appeal to the CTA. Therefore, the Petition, which was filed only on September 5, 2016, was filed beyond the prescribed 30-day period. *(Elta Industries, Inc. v. Commissioner of Internal Revenue, CTA EB Case No. 2770, November 28, 2024)*

7. The application of the remedy provided under Section 195 of the Local Government Code (LGC) is triggered by an assessment while Section 196 may be invoked by a taxpayer who claims to have erroneously paid a tax or such tax had been illegally collected from him.

Condominium corporations are generally exempt from local business taxation under the LGC, irrespective of any local ordinance that seeks to declare otherwise.

The Supreme Court explained in *City Treasurer of Manila v. Philippine Beverage Partners, Inc., substituted by Coca-Cola Bottlers Philippines* the instances where Sections 195 and 196 of the LGC would apply, to wit:

> "The first provides the procedure for contesting an assessment issued by the local treasurer; whereas the second provides the procedure for the recovery of an erroneously paid or illegally collected tax, fee or charge. Both Sections 195 and 196 mention an administrative remedy that the taxpayer should first exhaust before bringing the appropriate action in court. **In Section 195, it is the written protest with the local treasurer that constitutes the administrative remedy; while in Section 196, it is the written claim for refund or credit with the same office**. As to form, the law does not particularly provide any for a protest or refund claim to be considered valid. It suffices that the written protest or refund is addressed to the local treasurer expressing in substance its desired relief. The title or denomination used in describing the letter would not ordinarily put control over the content of the letter.
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> Obviously, **the application of Section 195 is triggered by an assessment** made by the local treasurer or his duly authorized representative for nonpayment of the correct taxes, fees or charges. Should the taxpayer find the assessment to be erroneous or excessive, he may contest it by filing a written protest before the local treasurer within the reglementary period of sixty (60) days from receipt of the notice; otherwise, the assessment shall become conclusive.
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> xxx
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> On the other hand, **Section 196 may be invoked by a taxpayer who claims to have erroneously paid a tax, fee or charge, or that such tax, fee or charge had been illegally collected from him. The provision requires the taxpayer to first file a written claim for refund before bringing a suit in court which must be initiated within two years from the date of payment. By necessary implication, the administrative remedy of claim for refund with the local treasurer must be**

initiated also within such two-year prescriptive period but before the judicial action.

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Additionally, **Section 196 does not expressly mention an assessment made by the local treasurer**. This simply means that **its applicability does not depend upon the existence of an assessment notice**. By consequence, **a taxpayer may proceed to the remedy of refund of taxes even without a prior protest against an assessment that was not issued in the first place**.

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In this case, Kensington only received billing statements as requirements for obtaining business permits. The Court also noted that Taguig City failed to present evidence to prove that these billing statements constitute tax assessments. Since Kensington filed a refund claim without receiving any tax deficiency assessment, the Court held that Section 196 applies and therefore, the claim was filed within the 2-year prescriptive period.

The Court also held that consistent with the ruling of the Supreme Court in *Luz R. Yamane as City Treasurer of Makati v. BA Lepanto Condominium Corporation*, condominium corporations, like Kensington, are generally exempt from LBT under the LGC, irrespective of any local ordinance, *i.e.*, Taguig City Ordinance, that seeks to declare otherwise. The Court also noted that Taguig City has no other basis for imposing LBT against Kensington other than the city ordinance. While it mentioned Kensington's AFS, Master Deed, and Articles of Incorporation, it failed to explain and prove that Kensington is engaged in business or conducts business for profit. Hence, Kensington is not liable to pay the LBT. *(Taguig City Government, Hon. Lino Edgardo S. Cayetano, in his capacity as the (former) Mayor of the City of Taguig, and Atty. J. Voltaire L. Enriquez, in his capacity as Treasurer of City of Taguig v. Kensington Place Condominium Corporation, CTA EB Case No. 2807, December 3, 2024)*

8. The five-year prescriptive period for violations of the NIRC commences from the date the violation is committed, provided it is known. If the violation is unknown, the prescriptive period begins from the time of its discovery and the initiation of judicial proceedings for its investigation and punishment. The prescriptive period is interrupted upon the institution of proceedings against the guilty individuals.
The initiation of such proceedings, which serves to interrupt the prescriptive period, refers specifically to the filing of an information before the CTA.

The Supreme Court held in *Emilio E. Lim, Sr. and Antonia Sun Lim v. Court of Appeals and People of the Philippines* held that the prescriptive period is interrupted by the filing of information in Court. It was held that tax cases are practically imprescriptible for as long as the period from the discovery and institution of judicial proceedings for its investigation and punishment up to the filing of the information in Court does not exceed five years.

In this case, the BIR relied on Section 110 of the Revised Rules on Criminal Procedure, which provides that criminal actions shall be initiated by filing a complaint with the appropriate office conducting the required preliminary investigation for offenses necessitating such investigation. This provision also states that the institution of a criminal action interrupts the running of the prescriptive period for the offense charged unless otherwise specified by special laws. Based on this, the BIR concluded that the filing of a complaint with the DOJ for preliminary investigation interrupted the prescriptive period.

However, the Court ruled that the Revised Rules on Criminal Procedure apply only suppletorily to the Revised Rules of the Court of Tax Appeals (CTA Rules). The CTA Rules explicitly provide that the filing of information before the CTA interrupts the running of the prescriptive period.

In this case, the Court held that the prescriptive period is interrupted only by the filing of the information before the CTA, not by the filing of a complaint before the DOJ. Consequently, the right to prosecute the criminal action had already prescribed. The CIR referred the case to the DOJ on July 5, 2012, and the information should have been filed before the CTA within five years, or by July 5, 2017. However, the information was filed only on October 26, 2022. Therefore, the action had already prescribed. *(People of the Philippines v. Ziegfried Loo Tian (No. 1013, Juan Luna Street, Brgy. 27, Zone 1, Tondo, Manila), CTA EB Crim. Case No. 115, December 4, 2024)*

9. Section 228 of the Tax Code and RR No. 12-99 provides that upon issuance of the Formal Letter of Demand and Final Assessment Notice (FLD/FAN), the taxpayer may protest the same administratively within thirty (30) days from receipt thereof. The FAN/FLD attains finality upon the taxpayer's failure to file a protest within the period prescribed under the regulations.

In this case, the 30-day period for filing a protest commenced upon the Petitioner's receipt of the FLD. The Petitioner, in this case, failed to file a protest within the prescribed period and only acted on the matter by filing a Letter Protest more than a year after receiving the FLD. Consequently, the assessment became final and executory due to the Petitioner's failure to file a protest within the required 30-day period.

The Court acknowledged that the Supreme Court has nullified assessments in cases where they were deemed invalidly issued or void due to violation of due process, even in the absence of a protest filed by the taxpayer. However, such circumstances do not apply in this case. Here, the taxpayer was adequately informed of the legal and factual bases for the assessments and admitted to receiving the Preliminary Assessment Notice (PAN) and the FAN. Thus, the taxpayer's right to due process was not violated. Accordingly, the Court affirmed the decision of the CTA Division, ruling that it lacked jurisdiction over the case since the assessment had already attained finality due to the Petitioner's failure to file a protest within the prescribed period. *(Ortiz Memorial Chapel, Inc. v. Commissioner of Internal Revenue, CTA EB Case No. 2651, December 6, 2024)*

CTA DIVISION DECISIONS

1. Administrative issuances, like BIR regulations, cannot simply amend the law they seek to implement.

This is an excise tax case pertaining to the removals of the Taxpayer's beer products.

Taxpayer contends that the previous excise tax rate which it had paid under protest to the BIR in 2012, was already superseded by the new rates as provided under Section 143 of the National Internal Revenue Code ("NIRC") of 1997, as amended by Section 3 of Republic Act ("RA") No. 10351.

On the other hand, Commissioner of Internal Revenue ("CIR") posits that the "no downward reclassification" should be applied, pursuant to Section 3 of RA 10351. Allegedly, under the "no downward reclassification", a reclassification from high-tier to low-tier category is prohibited as it reduces the excise tax. Consequently, CIR contemplates "no downgrading of pre-RA No. 10351 rates".

The Court held that "no downgrading of pre-RA No. 10351 rates" is contrary to the clear mandate of Section 3 of RA No. 10351, the "no downgrading of pre-RA 10351 rates" rule may not necessarily be construed as within the context of the "no downward reclassification" provision in Section 3 of RA No. 10351. For one, there is nothing in Section 3 of RA No. 10351 which states that rates specified therein may not be applied if it results in downward reduction of rates, *i.e.*, from a higher pre-RA No. 10351 excise tax rate per liter, to a lower RA No. 10351 excise tax rate per liter.

Accordingly, Section 5 of Revenue Regulations ("RA") No. 17-2012 insofar as it implements the "no downgrading" rule, as well as Annex "A-1" of Revenue Memorandum Circular No. 90-2012 insofar as it prescribes the initial tax rate of P20.57 per liter as basis for indexation, are deemed null and void for being contrary to RA No.10351. In *Commissioner of Internal Revenue vs. The Hon. Court of Appeals, R. O.H. Auto Products Philippines, Inc. and The Hon. Court of Tax Appeals,* the Supreme Court clarified that BIR issuances must not override, but must remain consistent and in harmony with, the law they seek to apply and implement. *(San Miguel Brewery, Inc. v. Commissioner of Internal Revenue CTA Case No. 10745, November 18, 2024)*

2. Failure to submit "complete documents" as required by RMO No. 53-98 and RR No. 2-2006 does not render a petition before this Court dismissible for lack of jurisdiction.

This is a claim for refund on excess and unutilized Creditable Withholding Tax ("CWT").

CIR argues that the taxpayer failed to submit the documents required under Revenue Memorandum Order ("RMO") No. 53-98 and Revenue Regulation No. 2-2006, rendering the Taxpayer's refund claim dismissible.

The Court disagrees with CIR's assertion.

In *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (Formerly Nissan Motor Philippines, Inc.)*, the Supreme Court held that failure to submit "complete documents" as required by RMO No. 53-98 and RR No. 2-2006 does not render a petition before this Court dismissible for lack of jurisdiction. Moreover, CIR's inaction on a refund claim does not preclude this Court from considering evidence not presented in the administrative claim with the BIR. *(Global Business Power Corporation v. Commissioner of Internal Revenue, CTA Case No. 10869, November 18, 2024)*

3. If the purpose is primarily revenue, or if revenue is at least on of the real and substantial purposes, then the exaction is properly classified as an exercise of the power to tax. On the other hand, if the purpose is primarily to regulate, then it is deemed an exercise of police power in the form of a fee, even though revenue is incidentally generated. Stated otherwise, if generation of revenue is the primary purpose, the imposition is a tax, but, if regulation is the primary purpose, the imposition is properly categorized as a regulatory fee.

This is a claim for refund on local business taxes of signage services and other charges.

The issue is whether the signages services and other charges are considered regulatory fees/charges imposed by the local government unit ("LGU") in the exercise of police power, and consequently, whether the Court has jurisdiction to decide on the refundability of the claim.

The Court held in the affirmative for the signages services and in the negative for other charges.

The appellate jurisdiction of this Court over decisions, orders, or resolutions of the regional trial court becomes operative when the latter has ruled on a local tax case, *i.e.*, one which is in the nature of a tax case, or which primarily involves a tax issue. Local taxes include those involving real property tax (RPT), which is governed by Book II, Title II of LGC of 1991. Among the possible issues are the legality or validity of the RPT assessment; protests of assessments; disputed assessments, surcharges, or penalties; legality or validity of a tax ordinance; claims for tax refund/credit; claims for tax exemption; actions to collect the tax due; and even prescription of assessments.

The Court determined that the LBT assessment against taxpayer for the signage services and other charges arose from the letter requiring the Taxpayer to secure sign permits from the Office of the Building Official for the signages it maintained along the NLEX in Valenzuela City, pursuant to P.D. No. 1096 or the National Building Code of the Philippines. The *Billing Form* dated November 11, 2019, which was issued assessing taxpayer for Signage Services and Other Charges for TYs 2012 to 2019, comprised the following taxes/fees; (a) Signage Services; (b) Mayor's Permit - Signage Services; (c) Ecological and Waste Management Charges; (d) Peace & Order Charge; (e) Barangay Clearance; (f) Dr. Pio Scholarship Fund; (g) Fire Inspection Fee- National; and, (h) Penalties for Operating without Permit.

The Court noted that the signage services fall under the category of "Services" for LBT purposes, while the Other Charges are regulatory fees/charges imposed by the local government unit

("LGU") in the exercise of police power. *(NLEX Corporation (Formerly Manila North Tollways Corporation) v. The City of Valenzuela, Hon. Adelia Soriano, in her capacity as City Treasurer, and Atty. Ulysses L. Gallego, in his capacity as Officer-in-Charge of the Business Permit and Licensing Office, CTA AC No. 297, November 18, 2024)*

4. Well-settled is the rule that an assessment that fails to strictly comply with the due process requirements outlined in Section 228 of the NIRC and RR No. 12-99, as amended by RR No. 18-2013, is void and produces no effect.

This is an assessment case pertaining mainly to the due process issue of service of Preliminary Assessment Notice ("PAN").

The Taxpayer argues that CIR violated its right to due process when it did not receive the PAN before the issuance of the Formal Letter of Demand/Final Assessment Notice ("FLD/FAN") on 08 January 2021, which it received on 15 January 2021. The Court agrees with the Taxpayer.

According to Section 228 of the NIRC, it is mandatory (unless the same falls under the noted exceptions) that taxpayers are first notified through PAN of CIR's findings. This is consistent with the oft-repeated principle that the sending and actual receipt of the PAN is part and parcel of the due process requirement in the issuance of a deficiency tax assessment that the BIR must strictly comply with.

Further, based on Section 3.1.6 of RR No. 12-99, as amended by RR No. 18-2013, one (1) of the recognized modes of service of PAN is *via* registered mail. Relatedly, under Section 3(v), Rule 131 of the Revised Rules on Evidence, as amended, a presumption arises that "a letter duly directed and mailed was received in the regular course of mail." This presumption is, however, disputable, and a direct denial that the mail matter was received shifts the burden to the party favored by the presumption to prove actual receipt by the addressee.

In the case of *Commissioner of Internal Revenue v. Arturo E. Villanueva, Jr.* (Villanueva, Jr.), citing *Commissioner of Internal Revenue v. T Shuttle Services,* Inc. (T Shuttle), the Supreme Court, reiterating the doctrine in *Barcelon,* clarified that the mere presentation of registry receipts, absent any authentication or identification that the signature appearing therein is the taxpayer's or his or her authorized representative's, is insufficient to prove actual receipt by the taxpayer.

Applying the foregoing principles to the present case, CIR failed to meet the burden of proof. Although CIR presented a copy of the registry receipt attached to the PAN, there was no evidence of actual receipt, as *none* of the Taxpayer's authorized representatives signed the registry receipt to confirm the PAN's receipt. Indeed, as ruled in *T Shuttle* and *Villanueva, Jr.*, it must be clearly shown that the assessment notices were properly served on and received by the taxpayer or its duly authorized representative. This exacting standard upholds the due process requirement that the taxpayer be informed of the law and the facts on which the assessment is based; otherwise, the assessment shall be void. *(Broadcast Enterprises & Affiliated Media (BEAM), Inc. v. Commissioner of Internal Revenue CTA Case No. 10712, November 19, 2024)*

5. An Official Receipt ("OR") for courier services *alone* is not sufficient proof the subject parcel was received. It must be noted that an OR is a written acknowledgment of the fact of payment in money or other settlement between seller and buyer of goods, debtor or creditor, or person rendering services and client or customer.

This is an assessment case pertaining mainly to the due process issue of issuance of Preliminary Assessment Notice ("PAN").

The Taxpayer argues that CIR violated its due process rights when the former failed to observe the 15-day reglementary period for it to respond to the PAN. It alleges that it received the PAN in the present case on 07 January 2013, followed by the FLD /FAN on 13 January 2013, or merely six (6) days later. Additionally, contrary to CIR's claim that it received the PAN on 29 December 2015, the Taxpayer points out that the LBC Official Receipt that CIR presented does not indicate the receipt date nor even what documents are contained therein.

The Court agrees with the Taxpayer and held that CIR violated its due process rights. RR No. 12-99 prescribes that CIR or his or her duly authorized representative is required to issue a PAN against the taxpayer whenever there is a finding of any deficiency tax due. The taxpayer is then given 15 days, counted from its receipt thereof, to respond. The taxpayer's failure to respond within the period prescribed results in the taxpayer being considered in default, leading to the issuance of the FLD/FAN.

Jurisprudence is replete with cases holding that if the taxpayer denies having received an assessment from the BIR, it is incumbent upon the sender to prove by competent evidence that the notice was indeed received by the addressee. Thus, in such instances, the burden of proof that such notice of assessment was actually received by the concerned taxpayer, in the manner and on the date asserted by the BIR, is shifted to the latter.

The Court ruled that the LBC OR presented by CIR does not, on its face, indicate any information that can constitute proof of delivery nor receipt. It is, at best, proof of mailing, but not proof of delivery. In fact, the same LBC OR indicates overleaf in its terms and conditions.

LBC designates a distinct document as Proof of Delivery **(POD)** and places upon the shipper the obligation to obtain the same, as well as to verify the status of the shipment's delivery. Notably, the POD, or any equivalent document, is absent from the case docket or the BIR Records for the present case. Moreover, operating against the supposed disputable presumptions CIR insinuated were in play, LBC requires that the shipper act first (by reporting a claim) in the event of non-delivery. Further, CIR's LBC OR fell short of what is required under RR No. 12-99, as amended. The regulations require not only an OR but also a written report under oath by the server, and that the authorized representative of the taxpayer who received the notice be identified on the PAN. *(Oiliners, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10824, November 19, 2024)*

6. Under Section 32(B)(5) of the NIRC, capital gains realized during the taxable year from the sale or other disposition of shares of stock in a domestic corporation made outside the stock exchange and any gain derived from such dealings in property derived by a foreign corporation are exempt or partially exempt to the extent required by any treaty obligation on the Philippines.

This is a refund case on capital gains tax on the Taxpayer's sale of shares to Cal-Comp Precision (Singapore) ("CPSG"), by virtue of its exemption pursuant to the Philippines-Thailand Tax Treaty.

The Court ruled in favor of the Taxpayer. In this case, the Philippine government may rightfully tax the gains that a Thailand resident derives from the alienation of shares of a domestic company ***only*** when there is a showing that the property of the said company consists principally of immovable properties situated in the Philippines.

The term "immovable property" shall be understood to under the Philippines-Thailand Treaty in the manner it is interpreted under the law of the Contracting State in which the property in question is situated. Corollarily, Article 415 of the Civil Code of the Philippines (Civil Code) enumerates the different kinds of immovable property.

Revenue Regulations No. 4-86 provides that the term "real property interest" refers to real properties as understood under Philippines laws, while the term "principally" refers to more than 50% of the entire assets in terms of value.

Considering that Cal-Comp Precision Philippines ("CPPH")' assets do not consist principally of immovable property, the net capital gain that the Taxpayer derived from the sale of 24,645,681 common shares of stock of CPPH to CPSG is thus outside the taxing jurisdiction of the Philippines. Thus, the Taxpayer is entitled to the refund. *(Cal-Comp Precision (Thailand) Limited v. Commissioner of Internal Revenue, CTA Case No. 10899, November 19, 2024)*

7. As a general rule, applicants for VAT refund or credit shall file their administrative claim with the Large Taxpayers Service or the RDO that has jurisdiction over the principal place of business of the taxpayer. If the applicant is a direct exporter, the administrative claim *"shall be exclusively filed"* with the VCAD.

This is a tax refund case wherein the main issue is the venue of filing.

The CIR argues that the Taxpayer should have filed the refund application with the VAT Credit Audit Division, pursuant to Section 4.112-1(C) of RR No. 13-2018, instead of filing it with the Revenue District Office No. 49.

The Court agrees with the CIR. The use of the words ***"shall"*** and ***"exclusively"*** emphasize the mandatory character of the rule. The phrase "direct exporter" is not defined under the NIRC of 1997, as amended, and BIR Revenue Memorandum Circulars. Absent any statutory definition, "direct exporter" must be given plain, ordinary, and literal meaning. Understood in its plain meaning, a direct exporter refers to any person engaged in the trade of products or services abroad.

As a manning agency that supplies Filipino seafarers to foreign shipping companies, the Taxpayer is a direct exporter of services. Hence, the Taxpayer should have filed its claim for input tax refund with the VCAD, the office which has jurisdiction over its claim. It, however, erroneously filed its application for VAT refund before RDO No. 49-North Makati. *(BW Shipping Philippines, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10317, November 19, 2024)*

8. Not all adjustments to the invoice shall cause a reduction of the VAT base. *Returns and allowances* shall reduce the VAT base when the seller made a proper credit or refund *(e.g,* seller decreased the amount due from the buyer on account of defective goods). While there are various types of *discounts,* only those which are indicated on the invoice upon issuance/at the time of sale *and* not conditional upon the happening of a future event may, for VAT purposes, be deducted from the gross selling price.

This is an assessment case involving the cash discounts given by the supplier to the Taxpayer on account of prompt payment.

The CIR argues that input VAT arising from the purchases must be computed based on the discounted price (net), not the invoice price (gross). Thus, it assumed that 12% of the balance of "Purchase Discounts" in the trial balance, as well as those in the previous periods, to be discounts that should have been deducted from the VAT base and disallowed as credits the input VAT arising therefrom.

The Court disagrees with the CIR.

As a general rule, the tax base of VAT on the sale of goods or property shall be the gross selling price or gross value in money of the goods or properties sold, bartered, or exchanged, *as indicated on the invoice.* By exception, the tax base may be reduced should there be returns or allowances and/ or discounts that meet the requisites for deductibility under Section 106(D)(2) of the Tax Code.

The discount must have been already granted at the time of sale; the value of the goods should be reflected at the discounted price at the outset. If the discount is granted after the issuance of the invoice, the discount does not affect the VAT base. Thus, VAT shall be 12% of the original gross invoice/undiscounted price. A *sales* discount granted by the seller is viewed as a *purchase* discount by the buyer. The buyer is entitled to claim the input VAT arising from its purchases as credits against its own output VAT. Section 110(C) of the Tax Code and RR 16-05 set out the manner of working out one's total input VAT credits; purchasers are expressly directed to reduce their input VAT credits by the amount of any pending refund claim and other adjustments, such as purchase returns or allowances. There is no mandate to deduct purchase discounts from the creditable balance of input VAT.

While the discount was agreed upon at the outset, it was not given automatically. It remained conditional upon the Taxpayer's payment within the discount period. This is known as a cash discount.

The purchase discounts in the present case did not meet the requisites for deductibility for VAT purposes; these were dependent upon the Taxpayer's payment within the discount period and regarded to have been taken on the date of payment (not on the date of sale). As such, these were also not reflected on the face of the invoice. Based on the foregoing, the Taxpayer is entitled to claim the input VAT arising from its purchases from HP Philippines as credits against its own output VAT. Verily, the Taxpayer eventually paid a lower price for the goods purchased. However, the law does not require purchasers to reduce their input VAT credits as a result of cash discounts taken after the invoice date. It was incorrect for the CIR to impute VAT upon the cash discounts taken by the Taxpayer; this deprived them of input VAT credits which were granted expressly by statute. *(GCOMM Business Corporation v. Commissioner of Internal Revenue, CTA Case No. 10696, November 19, 2024)*

9. Indeed, arrests and seizures cannot be based solely on a tip. Exclusive reliance on information provided by informants undermines the very essence of probable cause. Probable cause has been defined as such facts and circumstances which could lead a reasonable, discreet, and prudent man to believe that an offense has been committed, and that the objects sought in connection with the offense are in the place sought to be searched.

This is a criminal case involving the issue of the validity of search and seizure.

The Court held that the seizure of the Taxpayer's cigarette raw materials, tobacco products, machines, equipment, and various items cannot be considered as the result of a "search in plain view."

The Court finds that there was no prior justification for an intrusion. In this case, the BIR issued the Mission Order based on an unverified allegation or "tip" contained in a letter dated January 24, 2020, purportedly from PMFTC. The letter neither identified the PMFTC signatory nor bore the company's official letterhead. Moreover, no evidence on record confirms that PM FTC verified the letter as having originated from them.

The timeline of events indicates that the BIR Strike Team had sufficient time to obtain a search warrant. However, instead of securing the required search and seizure warrant, the BIR opted to issue a Mission Order, which led to the search and seizure of cigarette raw materials, tobacco products, machines, equipment and various items."

Given this, the Court finds that the BIR Strike Team's intrusion into GB BEM's premises under the Mission Order is not valid. Furthermore, even if the *first* requisite of the "plain view" doctrine, i.e., valid intrusion, is met, the *second* and *third* requisites - evidence being inadvertently discovered and immediately apparent are not satisfied. This was acknowledged by RO Cruz during his re-direct examination. *(People of the Philippines v. GB Bem Cigarette Co., Inc., Gregory G. Lim (President), Benson G. Chua (Treasurer), Elsie A. Oafallas (Director), Gendy A. Bambao (Director), and Maria Cristina G. Dayos (Corporate Secretary) Building 09-01, Pampanga Economic Zone Pulung, Cacutud, Angeles City, Pampanga, CTA Crim. Case No. O-935, November 20, 2024)*

10. Significantly, a failure to file a judicial appeal within the 30-day period renders the assailed assessment final, executory, and demandable. The timely filing of a petition for review is consequentially essential and necessary for the success of a judicial protest to an assessment.

This is an assessment case involving the issue of the jurisdiction of the Court.

Under *Section 7(a) of Republic Act No. 1125, as amended,* this Court can take cognizance of appeals from decisions of the CIR on disputed assessments. However, this jurisdiction is given a temporal restriction in the form of a 30-day prescriptive period by, for example, Rule 8, Section 3(a) of the Revised Rules of the Court of Tax Appeals, as amended. This 30-day period is provided by the law itself, specifically the final paragraph of Section 228 of the National Internal Revenue Code of 1997, as amended.

Unfortunately, Taxpayer failed to prove that it timely filed the instant Petition. To recall, Taxpayer claims to have received the FDDA on April 27, 2021. This would give it until May 27, 2021 within which to raise its appeal. It filed the present Petition on that exact date. Examining the copy of the FDDA which Taxpayer offered in evidence, the Court finds nothing to indicate the date on which Taxpayer received said decision. Its date of *issuance* is stamped near the top-right comer of its first page as "14 APR 2021" but it bears no stamp or hand-written note identifying its date of *receipt* by Taxpayer. The same is true of the attached Assessment Notices, which are likewise stamped with "14 APR 2021" to indicate their date of issuance but lack any marking for their date of receipt. Finally, the attached schedules are not even marked with any date of issuance, much less any date of receipt. The receipt date is also unsupported by the testimonial evidence of the Taxpayer's witness as the witness only admitted to receive the FDD "shortly after [taxpayer's] receipt. Taxpayer, thus, offered nothing to support its bare claim of receiving the FDDA on April 27, 2021." *(Goodyear Steel Pipe Corporation v. Commissioner of Internal Revenue, CTA Case No. 10541, November 25, 2024)*

11. Section 143 specifically refers to *gross receipts* which is defined under Section 131 (n) of the LGC of 1991:

> ***"Gross Sales or Receipts include the total amount of money or its equivalent representing the contract price, compensation or service fee, including the amount charged or materials supplied with the services and deposits or advance payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person excluding discounts if determinable at the time of sales, sales return, excise tax, and value-added tax (VAT);"***

This is an assessment case of local business tax, involving the issue of inclusion of Value-Added Tax ("VAT") in gross sales or receipts.

The LGU included VAT in the gross receipts for purposes of computing LBT.

The Court disagrees with the LGU. Sections 151, 143(e) and (h) of the LGC prescribe that cities may impose business taxes on contractors and other independent contractors. Relative thereto, Section 131 (h) of the LGC of 1991, declares that a "contractor," includes persons, natural or juridical, not subject to professional tax under Section 139 of this Code, whose activity consists essentially of the sale of all kinds of services for a fee, regardless of whether or not the performance of the service calls for the exercise or use of the physical or mental faculties of such contractor or his employees. In this regard, Section 4 of DOF Local Finance Circular No. 001-1338 states that tollway operators/ concessionaires shall be classified under the category of *contractors.*

Note that Section 143 specifically refers to *gross receipts* which is defined under Section 131 (n) of the LGC of 1991and its definition excludes VAT. *(The City of Valenzuela and Hon. Adelia Soriano in her capacity as City Treasurer v. NLEX Corporation, CTA AC No. 290, November 25, 2024)*

12. In the case of *Estate of the Late Juliana Diez Vda. De Gabriel vs. Commissioner of Internal Revenue,* the Supreme Court held that it is a requirement of due process that the taxpayer must actually receive the assessment. Thus, it is not simply a question of whether the assessment notices were sent to respondent by taxpayer. It is imperative that the taxpayer *actually* received such tax assessment notices.

This is a criminal case with the information charging the accused of willful non-payment of deficiency income tax for taxable year 2013. The main issue in this case is whether the subject assessment notices were issued in strict compliance with Section 228 of the 1997 NIRC and implementing regulations.

The Court noted that the assessment notices were received by individuals other than the accused himself, except for the PAN which was personally received by the accused. It is thus incumbent upon the plaintiff to prove that these documents were validly served to the accused strictly in accordance with any of the modes of service prescribed by RR No. 12-99, as amended. The documentary and testimonial evidence presented by the plaintiff, however, proved the contrary.

While it is true that substituted service of assessment notices may be validly resorted to when the taxpayer is not present at the registered or known address, an examination of the records reveals that the revenue officer who served the aforementioned documents utterly failed to comply with the requirements of a valid substituted service, as mandated by RR No. 12-99, as amended. To validly effect such mode of service, the rules require that the notice be left with the clerk or a person having charge of the taxpayer's place of business, if such is the nature of the known or registered address. In the present case, however, RO Ampuan had confirmed that she failed to verify the identities of those who received the documents. She merely assumed that one of the recipients was the authorized representative of the accused just because of the recipient's mere presence at the store. It is also not clear from the records as to whether these recipients were, indeed, the "clerk or the person having charge" of the taxpayer's place of business, as contemplated by the rules. The documents merely bore the purported dates of receipt as well as the names and the signature of the recipients without any indication as to their respective designation and/ or relationship to the accused. More importantly, there is nothing on record that would establish the

fact that the recipients were duly authorized by the accused to receive those documents on his behalf.

The same were the case for the FLD. Hence, the accused is acquitted. *(People of the Philippines v. Serafin Panaligan Villalobos, proprietor of PSPV Commercial Rice Supply & Grocery, CTA Crim. Case No. O-917, November 26, 2024)*

13. To sustain a conviction for willful failure to pay taxes punishable under Section 255, in relation to Section 253(d) and 256 of the NIRC, as amended, the following elements must be established by the prosecution: *first,* a corporate taxpayer is required by the NIRC, as amended, or by duly promulgated rules and regulations, to pay any tax; *second,* the corporate taxpayer failed to pay the required tax; and *third,* accused, as the corporate taxpayer's president willfully failed to pay said tax.

This is a criminal case charging the accused for alleged willful failure to pay the latter's Income Tax (IT) due for TY 2011 based on a final and executory assessment.

The Court held that the accused cannot be held criminally liable for said charge. This is so because apart from the allegations in the Information and the testimonies of the prosecution's witnesses who testified in Court by way of their respective judicial affidavits, all the documentary evidence formally offered by the prosecution were denied admission for the prosecution's failure to submit the duly marked exhibits. Worst, the assessment notices required by *Tupaz* to be served upon accused RPV were likewise denied admission as evidence. As a result, the *first* element is wanting since there is no proof showing that accused RPV is required to pay deficiency IT for TY 2011 within the time shown in the assessment notices. The absence of the *first* element, negates the presence of the *second* and *third* elements since accused RPV and accused Vasquez cannot be liable to pay any deficiency tax for TY 2011. *(People of the Philippines v. RPV Electro Technology Philippines Corporation/ Roland P. Vasquez (President), CTA Crim. Case No. O-714, November 28, 2024)*

14. To satisfy the requisite that that the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against output tax, the following conditions must concur:

a. the input taxes are due or paid;
b. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales and where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales;
c. the input taxes are not transitional input taxes; and,
d. the input taxes have not been applied against output taxes during and in the succeeding quarters.

This is a tax refund case on excess creditable input tax with the main issue involving the requisite that the creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against output tax.
The Court ruled that the Taxpayer is entitled to the refund.

The Taxpayer complied with the 1st, 3rd, and 4th conditions. As for the *2nd condition*, since Taxpayer had both zero-rated and VATable sales in CY 2019 and the corresponding input VAT cannot be directly and entirely attributed to any of these sales, the input VAT shall be proportionately allocated on the basis of sales volume.

Clearly from the foregoing, a VAT-registered taxpayer has the discretion to decide whether to charge its input VAT attributable to zero-rated sales against output VAT. In this respect, the Court cannot impose its own methods for calculating the refund, such as compelling the crediting of input VAT against output VAT as a condition precedent to the refund or issuance of a TCC. This is especially true when the taxpayer-claimant opts to claim the input VAT attributable to zero-rated sales for a refund or issuance of a TCC in its entirety.

Furthermore, regardless of which option the taxpayer-claimant chooses, the Supreme Court's ruling in *Chevron* clarifies that since the taxpayer-claimant is requesting a refund of unutilized or unused input VAT from zero-rated sales (as opposed to the "excess" creditable input VAT from the output VAT), this amount is inherently immediately refundable, given that there is no related output VAT to offset it against. Therefore, the CTA's proper preliminary step in determining the refundable excess and unutilized input VAT attributable to valid zero-rated sales should be computing the ratable portion of the taxpayer-claimant's input VAT allocable to zero-rated sales, assuming the input VAT cannot be directly attributed to zero-rated activities.

It is only when the taxpayer-claimant chooses the first option, *i.e.*, to charge the input VAT attributable to zero-rated sales against output VAT from VATable sales and claim for refund or issuance of a TCC any unutilized or "excess" input VAT that the Court may require the offsetting of such ratable portion of the taxpayer-claimant's input VAT attributable to zero-rated sales against "Output VAT Still Due" as a condition precedent to the refund or issuance of a TCC.

In this case, the Taxpayer credited its output VAT against its "Declared Input VAT" and applied for refund the remaining "Excess Input VAT". Clearly, the Taxpayer has chosen the first option.

Since the Taxpayer's declared input VAT allocated to 12% VATable sales is not enough to cover the output VAT due, the declared input VAT attributable to declared zero-rated sales shall then be utilized against the output VAT still due resulting in an excess input VAT attributable to declared zero-rated sales. *(Oceanagold (Philippines), Inc. v. Commissioner of Internal Revenue, CTA Case No. 10543, November 29, 2024)*

15. The Court agrees that the 14 January 2020 Letter is the CIR's final decision for the following reasons: (1) it expressly mentioned that the assessment had become final, executory and demandable, and considered the deficiency taxes as delinquent taxes; (2) it also mentioned that, since the Taxpayer's Protest was not valid, the BIR did not have to issue the FDDA as the assessment had already become final; (3) Witness' unrebutted testimony confirmed that the BIR already informed the Taxpayer that it will issue an FDDA and that Taxpayer eventually received the said 14 January 2020 Letter; and, (4) the BIR demonstrated no intention of issuing the FDDA, as it remained unsigned and unserved.

This is an assessment case with the main issue involving the due process violation of the CIR.

The Court held that the CIR's Letter dated 24 July 2025 informing the Taxpayer that it will issue a Final Decision on Disputed Assessment is the latter's decision that is appealable to the Court.

It is noted that although an FDDA appears in the BIR Records, there is no indication that the Regional Director signed the same. Moreover, there is no proof that the Taxpayer received the FDDA. Instead, the Taxpayer received the 14 January 2020 Letter's, informing it that the assessment had already become final, executory, and demandable. The said letter also mentioned that the BIR considered the said deficiency taxes as delinquency taxes which could be settled if the Taxpayer avails the Tax Amnesty Program (Republic Act [RA] No. 11213).

Further, the Court held that Vale's unrebutted declaration reveals that the Taxpayer received the PAN on 07 January 2014. Counting 15 days therefrom, the Taxpayer had until 22 January 2014 within which to file its Protest to the PAN. However, the Taxpayer received the FAN/FLD on 15 January 2014. This clearly shows that CIR did not wait for the period allotted for the Taxpayer to file its Protest/Reply to the PAN to expire before issuing and serving the subject FAN/FLD.

By failing to allow the full 15-day period (to reply to the PAN) to expire, CIR denied the Taxpayer due process. *(Health Plan Philippines, Inc., v. Commissioner of Internal Revenue, CTA Case No. 10262, December 4, 2024)*

16. In conclusion, perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional. This means that the failure to interpose a timely appeal deprives the appellate body of any jurisdiction to alter the final judgment, more so to entertain the appeal. To stress, the proof of the date of receipt of CIR's Decision is jurisdictional. Failing in this regard, the Court shall dismiss this case.

This is a tax refund case with the main issue involving the date of receipt of CIR's decision on the tax refund application.

Taxpayer alleges that it received CIR's Decision dated September 28, 2020, on December 9, 2020, and it had until January 8, 2021, to file an appeal before the Court; This led Taxpayer to conclude that it timely filed its Petition for Review on January 8, 2021.

The Court held that no proof was presented by the Taxpayer that would show when it received said Decision. An examination of CIR's Decision dated September 28, 2020, marked as Exhibit "P-1," will not show Taxpayer's date of receipt.

The Taxpayer posted a Manifestation, stating, among others, that it received CIR's Decision dated September 28, 2020, on December 9, 2020, and attaching thereto a photocopy of the photo of the PHLPOST registered mail barcode label sticker and the Certification issued by the Quezon City Central Post Office attesting to the fact of mailing and receipt of registered letter. Yet, the same cannot be considered by the Court because of Taxpayer's failure to formally offer said evidence as provided under Section 34, Rule 132 of the Rules of Court.

Nonetheless, this rule on formal offer under Section 34, Rule 132 of the Rules of Court admits of exception provided the following requisites are present: (1) the evidence must have been duly identified by testimony duly recorded; and (2) the same must have been incorporated in the records of the case.

Here, the exception to the rule on formal offer may not be applied as Taxpayer failed to satisfy the first requisite. While the photocopy of the photo of the PHLPOST registered mail barcode label sticker bearing and the Certification issued by the Quezon City Central Post Office were incorporated in the records of the case by attaching the same to taxpayer's Manifestation, such documents were not identified by testimony duly recorded. Moreover, the information contained therein failed to demonstrate that registered letter was indeed the mail matter pertaining to the alleged decision of CIR or to a different mail matter. *(Chemrez Technologies, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10454, December 4, 2024)*

17. The move smacks of the "gamesmanship" struck down by the Supreme Court in *Commissioner of Internal Revenue v. Toledo Power Company*, where if the taxpayer loses, "it could fare no worse as it already paid the amount. If it wins, it gets back the amount which it had already negotiated successfully with the government. Given these odds, [the taxpayer] remains to be the winner that takes it all. In contrast, the government is left holding an empty bag all by its lonesome."

This is a tax refund case with the main issue involving the Taxpayer's failure to prove that the payments it made to the government were erroneous.

Taxpayer admitted that it was the one who offered to Regional Director Pagulayan One Hundred Million Pesos (Php 100,000,000.00) as deposit in exchange for the immediate lifting of the Closure Orders. Such offer, however, was conditioned on CIR continuing the ongoing tax investigations against taxpayer's 2014, 2015, 2016, and 2017 Financial Statements and accounting records and the amount offered being applied to any deficiency tax assessment found during the tax investigation." Taxpayer insisted that it was constrained to make the above offer "due to the pressure and 'arm-twisting' made by the [O]ffice of the Regional Director of BIR [Revenue] Region No. [XIII] in closing [taxpayer's establishments without legal basis. And when CIR failed to timely issue a deficiency tax assessments nearing the expiration of the two-year period provided

under Sections 204 (c) and 229 of the NIRC, it had no recourse but to apply for a refund of the amount it offered and paid.

The Court finds that no tax has been erroneously paid.

First, the Court does not find that Taxpayer was forced to make an offer of deposit of money. Taxpayer had other legal remedies available that could have lifted the Closure Orders without even offering, or paying, CIR any amount. Closure Orders are encompassed within the CIR's power to determine tax compliance by taxpayers as provided under Section 5 of the NIRC in relation to Section 115 of the NIRC, as these are covered by the term "other matters" arising under the NIRC. They consequently fall under the Court's exclusive appellate jurisdiction. As there was an adequate legal remedy to question the validity of the Closure Orders, which likewise include the power to have such Closure Orders lifted, Taxpayer cannot insist that it was compelled to make an offer of deposit, and subsequently forced to pay, amounts to the BIR just to have the Closure Orders issued against it lifted. The fact that the Closure Orders were not immediately lifted is solely due to Taxpayer's own fault of not instantly appealing such Closure Orders before this Court. Taxpayer received the first set of Closure Orders as early as July 17, 2018.

Second, for a claim for refund under Sections 204 (c) and 229 of the NIRC to prosper, the payment of taxes should have been outright erroneous or illegal at the time of payment. Considering that it was the one who offered to deposit money and that it subsequently paid the subject amount to the BIR in exchange for the lifting of the Closure Orders, Taxpayer cannot later on claim inequity before this Court and insist that the payment it made was erroneous simply because no assessment had been issued at the time. Taxpayer offered and paid the amount fully aware that no full assessment had been issued against it yet, after all. It cannot cause or produce an irregularity and then be allowed to weaponize said irregularity.

Third, CIR timely issued the FLD/FAN for taxable years 2015 and 2016 under the relevant provision of the NIRC. Under Section 222 of said law, in case of a false or fraudulent return with intent to evade tax, CIR has 10 years from the discovery of said falsity or fraud within which to assess the taxpayer. This serves as an exception to the usual three years to assess provided by Section 203 of the NIRC. CIR certainly had reason to consider Taxpayer's case as involving falsity or fraud with intent to evade tax, given the found violations upon which the Closure Orders were based. He thus had reason to find the 10-year applicable here. As Taxpayer did not pursue or maintain a protest against the Closure Orders, as discussed above, the Court must rely on CIR's findings regarding the violations and concomitantly agree that the 10-year period is applicable. And since CIR issued the FLD/FAN on October 1, 2021, these were issued within 10 years from July of 2018, when the violations were discovered, and were thus issued on time.

Fourth, the two-year period for filing a claim for refund is not relevant to the propriety of a payment, collection, or assessment. The period governs claims for refund only. It cannot replace the relevant periods provided by Sections 203 and 222 of the NIRC. The fact that the assessment had yet to be issued when the two-year period here was nearing expiration is thus of no moment. Neither can the conditional nature of taxpayer's payment make the two-year period applicable. No

such two-year period was specified in Taxpayer's conditions. As such, the Court sees no reason to treat the two-year period as capable of rendering the payment erroneous or illegal.

Therefore, it is clear that the Taxpayer failed to prove before this Court that the amount sought to be refunded was erroneously paid. Thus, the instant claim for refund must necessarily fail. *(Ong Kin King & Co., Inc., v. Commissioner of Internal Revenue, CTA Case No. 10362, December 5, 2024)*

18. RR No. 7-2012 provides that it is explicit in the provisions that the term "branch" includes a "facility with sales activity", and that "a facility shall be registered as a branch whenever sales transactions/activities are conducted thereat." Thus, a facility where sales transactions/activities occur is considered a branch, which is required to be registered separately with the BIR.

This is a VAT refund claim with the main issue involving Taxpayer's registration with the BIR.

The Court held that the Taxpayer cannot be treated as a VAT-Registered person.

RR No. 7-2012 provides that it is explicit in the provisions that the term "branch" includes a "facility with sales activity", and that "a facility shall be registered as a branch whenever sales transactions/activities are conducted thereat." Thus, a facility where sales transactions/activities occur is considered a branch, which is required to be registered separately with the BIR.

Furthermore, the registration of a branch shall be made on or before the commencement of business, and such rule is considered to have been violated by the taxpayer when the latter proceeded to commence with business after the lapse of 30 days from, *inter alia*, the date of its first sales transaction prior to its registration.

In the present case, the zero-rated sales in this refund claim were generated from services rendered in its Palawan and OJV Technopoint Sites, which are registered as facilities, in the four quarters of TY 2019. Hence, Taxpayer should have registered these sites with the BIR as branches before the commencement or start of the business therein and paid the corresponding annual registration fee of P500.00, in accordance with the above provisions, especially Section 9.236-1(a) of RR No. 16-2005. The records, however, are bereft of any proof that taxpayer registered its Palawan and OJV Technopoint Sites as branches. Instead, a perusal of the records reveals that taxpayer registered these sites as facilities with no sales activities as shown by the Certificates of Registration of Facility issued on August 9, 201784 and October 31, 2019, respectively.

As such, taxpayer cannot be considered to have complied with the second requisite to successfully obtain a refund of input VAT. *(Foundever Philippines Corporation (formerly Sitel Philippines Corporation) v. Commissioner of Internal Revenue, CTA Case No. 10620, December 13, 2024)*

19. Under Section 228 of the NIRC and RR No. 12-99, as amended by RR No. 18-2013, 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.

This is an assessment case with the main issue involving CIR's violation of the Taxpayer's right to administrative due process.

Taxpayer contends that the FLD and FDDA did not consider the defenses raised in its reply to the PAN and protest to the FLD.

The Court agrees with the Taxpayer.

The Court cited the case of *Commissioner of Internal Revenue vs. Avon Produds Mantifacturing, Inc., et seq.* ("Avon Case") stressing that in case CIR or his duly authorized representative fails or effectively fails to observe the foregoing due process requirements, it shall have the effect of rendering the assessment and collection of the pertinent deficiency tax void.

In this case, while the said FLD shows that the BIR made certain adjustments in the basic income tax and FBT due, it provided no explanation for the said adjustments and failed to address the arguments raised by Taxpayer in its *Reply*. In fact, save for the said adjustments in the basic income tax and FBT due, the FLD and attached *Details of Discrepancy* merely reiterated or copied *verbatim* the PAN and attached *Details of Discrepancy*, without addressing any of the refutations in the reply to the PAN. Notably, the BIR did add the following statements at the beginning of the FLD:

> *"xxx Please be informed that **after reevaluation and reconsideration of the documents you have submitted in your protest against the PAN,** there has been found deficiency income tax, value added tax, expanded withholding tax, withholding tax on compensation, documentary stamps tax, fringe benefit tax, final withholding tax, final withholding VAT, and compromise penalty for the period **January 1 to December 31, 2015,** as shown hereunder:"*

However, the Court finds that the above generic of "one-size-fits-all" statement hardly complies with the due process requirement as laid down in the ***Avon case***. Hence, the assessment is void. *(Marina Square Properties, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10601, December 13, 2024)*

20. As part of the due process requirement in the issuance of tax assessments, CIR must give reason(s) for rejecting taxpayer's refutations and must give the particular facts upon which the conclusions for assessing taxpayer are based, and those facts must appear on record. Failure to observe such requirement leads to inevitable conclusion that the taxpayer's right to due process, as recognized under Section 228 of the NIRC of 1997, vis-a-vis Section 3.1.4 of RR No. 12-99, as amended by RR Nos. 18-2013 and

7-2018, was violated by CIR. As a consequence of such violation, the subject deficiency tax assessments are rendered void.

This is an assessment case with the main issue involves CIR's violation of the Taxpayer's due process rights.

The Court cited the ***Avon case***, stressing that in case CIR or his duly authorized representative fails or effectively fails to observe the foregoing due process requirements, it shall have the effect of rendering the assessment and collection of the pertinent deficiency
tax void.

In this case, in the FAN /FLD with attached *Details of Discrepancies* dated December 23, 2019, the BIR merely reiterated the same findings as stated in the said PAN, without giving any reason for rejecting the above-stated refutations and explanations made by taxpayer in its Reply to the PAN dated December 13, 2019 -an indication that CIR or the BIR did not consider the same when it issued the subject FLD. Consequently, Taxpayer was left unaware on how CIR or the BIR appreciated the explanations or defenses taxpayer raised against the subject PAN, in clear violation of Taxpayer's right to administrative due process. Hence, the assessment is void. *(Aeon Credit Service (Philippines), Inc. v. Commissioner of Internal Revenue, CTA Case No. 10373, December 13, 2024)*