THIRD DIVISION

[G.R. No. 244202. July 10, 2023]

MANNASOFT TECHNOLOGY CORPORATION, PETITIONER, VS. COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

D E C I S I O N

DIMAAMPAO, J.:

Challenged in this Petition for Review on *Certiorari*[1] are the Decision[2] and the Resolution[3] of the Court of Tax Appeals (CTA) sitting *en banc*, which upheld the deficiency tax assessments issued against Mannasoft Technology Corporation (petitioner) for calendar year 2008 owing to its failure to timely file a petition for review within the reglementary period provided by law, and which denied the Motion for Reconsideration[4] thereof, respectively, in CTA EB No. 1637.

The factual backdrop of this case is uncomplicated.

Pursuant to Letter of Authority No. 00042459,[5] the Commissioner of Internal Revenue (respondent), through its duly authorized revenue officers, conducted a tax investigation on petitioner for calendar year 2008.[6]

Respondent then issued a Notice of Informal Conference (NIC) and Preliminary Assessment Notice (PAN), which was purportedly personally served upon petitioner through a certain "Ms. Gladys Badocdoc," whose indicated position was "Client Service Assistant."[7]

Eventually, respondent issued a Formal Assessment Notice (FAN)[8] on November 16, 2011, finding petitioner liable for deficiency income tax in the amount of P13,475,472.84, deficiency value-added tax (VAT) amounting to P57,102,109.92, and expanded withholding tax (EWT) of P8,212,654.77.[9] The parties stipulated that the FAN was personally served upon a certain "Angelo Pineda," who was petitioner's reliever security guard at that time.[10]

Petitioner filed its protest[11] to the FAN on December 22, 2011,[12] while its supporting documents were submitted on February 20, 2012.[13] Despite this, respondent wrote petitioner that it had yet to submit its records to support its protest.[14] Consequently,

respondent issued on October 23, 2012 a Warrant of Distraint and/or Levy (WDL)[15] against petitioner. On October 29, 2012, petitioner again protested the WDL for being premature since the Bureau of Internal Revenue (BIR) had not yet evaluated the documents it had submitted.[16]

On November 13, 2012, petitioner requested anew for the reinvestigation of its case,[17] but this was rejected by the BIR *via* a letter-reply, which was received by petitioner on November 25, 2013.[18] In the same letter, the BIR declared that this was its "final decision on the matter," and that petitioner had 30 days from receipt thereof to pay the deficiency taxes, otherwise the BIR would enforce collection through summary remedies.[19]

Accordingly, petitioner filed on December 10, 2013[20] a Petition for Review [21] before the CTA. Pre-trial, followed by the trial proper, then ensued.[22]

Petitioner argued, *inter alia*, that the assessment notices and the WDL were void because: (1) its right to due process was violated as it never received the NIC and the PAN;[23] (2) the FAN failed to state the facts and the law on which the assessment was based;[24] (3) respondent failed to evaluate the documents it submitted in support of its protest;[25] (4) both the FAN and the WDL were not received by petitioner's duly authorized officer;[26] and (5) some of the assessed deficiency VAT and EWT had already prescribed.[27] Petitioner then presented documentary and testimonial evidence in support of its arguments.[28]

For its part, respondent countered that the assessment notices were made and issued in accordance with law, and applicable rules and regulations, and that the same were issued within the prescriptive period under the law.[29]

Ruling of the Court of Tax Appeals

The CTA Third Division rendered a Decision[30] granting the petition and ordering the cancellation of the assessment notices and the WDL. Preliminarily, it properly took cognizance of the case under its "other matters" jurisdiction pursuant to Section 7(a)(1) of Republic Act (RA) No. 1125,[31] as amended by RA No. 9282.[32] It also held that the NIC, the PAN, and the FAN were void for failing to comply with the due process requirements under the law and Revenue Regulations No. 12-99. It decreed that the assessment notices were served upon individuals other than the taxpayer's authorized representatives, hence, it cannot constitute receipt by the taxpayer.[33] The fact that petitioner was able to protest the FAN did not cure the violation to petitioner's right to due process.[34] Necessarily, the void assessment also rendered the WDL invalid.[35]

Respondent's motion for reconsideration of the foregoing Decision having been rebuffed by the CTA Third Division,[36] it sought recourse before the CTA *En Banc* through a petition for review.[37]

Ruling of the Court of Tax Appeals *En Banc*

In the impugned Decision, the CTA *En Banc* granted respondent's appeal, thereby reversing and setting aside the assailed rulings of its Third Division.[38] It held that in accordance with prevailing jurisprudence, the proper reckoning point to invoke the jurisdiction of the tax court was from petitioner's receipt of the WDL. Considering that petitioner failed to seek judicial relief within the 30-day period provided by law, the WDL attained finality which, in turn, deprived the CTA of jurisdiction to act on petitioner's original petition for review.[39] Resultantly, petitioner was ordered to pay the assessed deficiency taxes, inclusive of deficiency and delinquency interest.[40]

Petitioner moved for reconsideration,[41] but the same was denied in the disputed Resolution.[42] The CTA *En Banc* further elucidated that before the tax court may pass upon the correctness and validity of the WDL and underlying assessment, it was incumbent upon petitioner to have first filed its appeal thereto within the period fixed by law, which it failed to do.[43]

Aggrieved, petitioner instituted the present Petition before this Court.[44]

Issues

The issues tendered for the Court's resolution are whether the CTA *En Banc* erred in: (1) giving a restrictive interpretation to the "other matters" jurisdiction of the tax court under Section 7(a)(1) of RA No. 1125, as amended, as pertaining only to the receipt of the WDL and nothing more; and (2) disregarding the void assessment rendered by the respondent.

THE COURT'S RULING

The Petition is meritorious.

At the outset, it bears to point out that petitioner's framing of the first issue is wholly misleading as the assailed Decision did not at all give a restrictive interpretation to the "other matters" jurisdiction of the CTA. Rather, the tax court merely applied what it perceived to be the applicable jurisprudence to the facts in this case. In sooth, the essence of the first issue raised by petitioner is whether the CTA properly acquired jurisdiction over

the present controversy. As restated, the Court is tasked to determine whether petitioner timely filed its Petition for Review before the CTA Third Division. Related thereto is the resolution of whether the proper reckoning point for the commencement of the 30-day period provided under Section 228[45] of RA No. 8424 (Tax Code) should be from petitioner's receipt of the WDL or from its receipt of the BIR's letter-reply denying its request for reinvestigation.

The Petition for Review before the CTA Third Division was timely filed within the reglementary period provided by law.

Section 228 of the Tax Code governs the protest of assessments for deficiency taxes:

> SECTION 228. Protesting of Assessment.— When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: Provided, however, That a preassessment notice shall not be required in the following cases:
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> x x x x
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> 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.
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> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
>
> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.
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> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely

> affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

As may be gleaned from the foregoing, when a taxpayer protests the FAN issued by respondent, the latter has 180 days from receipt of the relevant supporting documents within which to act on the former's request for reconsideration or reinvestigation. After the lapse of the 180-day period, or from the denial of the protest, whichever is earlier, the taxpayer must appeal the same to the CTA. However, jurisprudence has also recognized an alternative recourse in case of respondent's inaction to a protest. In *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*[46] *(RCBC)*, as recently reiterated in *Light Rail Transit Authority v. Bureau of Internal Revenue*[47] *(LRTA case)*, the taxpayer may either:

> (1) file a petition for review with the Court of Tax Appeals within 30 days after the expiration of the 180-day period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessment; or
>
> (2) await the final decision of the Commissioner on the disputed assessments and appeal such final decision to the Court of Tax Appeals within 30 days after receipt of a copy of such decision. This is true even if the 180-day period for the Commissioner to act on the disputed assessment had already expired.

The two options are mutually exclusive and resort to one bars the other.[48] This is also consistent with Section 3(a)(2), Rule 4 of A.M. No. 05- 11-07-CTA,[49] or the Revised Rules of the Court of Tax Appeals, which states that "should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules."

As adumbrated above, petitioner timely filed its protest to the FAN[50] and submitted its supporting documents thereto on February 20, 2012.[51] From this date, the 180-day period began to run. Undoubtedly, when respondent issued the WDL on October 23, 2012, the 180-day period had already lapsed. Nonetheless, petitioner's immediate letter-protest to the

WDL on October 29, 2012 made it perfectly clear that it was awaiting respondent's action on its request for reinvestigation.[52] This is an express indication that petitioner was opting for the second recourse provided in *RCBC* in response to respondent's inaction to its protest. This is again apparent in petitioner's subsequent letter dated November 13, 2012, which reiterated its appeal for reinvestigation.[53]

When respondent finally replied to petitioner in the letter dated November 14, 2013, denying its request for reinvestigation, the response constituted the final decision on the disputed assessment, which was appealable to the CTA in accordance with the remedies espoused in *RCBC*.[54] It is not amiss to add that in actual fact, the letter-reply explicitly stated that it **"constitutes [the BIR's] final decision on the matter."**[55]

The Court is mindful of certain cases where it held that the issuance of the WDL constitutes constructive and final denial to the taxpayer's protest, which would trigger the running of the 30-day period to elevate the case to the CTA.[56] This is the doctrine laid down in *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*[57] *(PJI case)*, which was cited by both the CTA Third Division and *En Banc*. However, as will be explained below, the ruling in the said case rests on different grounds.

The *LRTA case*[58] is particularly instructive:

> *Commissioner of Internal Revenue v. Isabela Cultural Corporation* cannot be made basis to claim that the Final Notice Before Seizure is the final decision on the protest appealable to the Court of Tax Appeals. **When *Isabela* was promulgated in 2001, Section 7 of Republic Act No. 1125 had yet to be amended by Republic Act No. 9282 to add inactions of the Commissioner as appealable to the Court of Tax Appeals. Moreover, this Court had yet to promulgate *Rizal Commercial Banking Corporation* and *Lascona*, where it was clarified that taxpayers have the option to await the decision of the Commissioner in protests of disputed assessments before they file an appeal with the Court of Tax Appeals.** In other words, in *Isabela*, the taxpayer still had no choice of awaiting the decision of the Commissioner on its protest. This is why in *Isabela*, this Court considered the Final Notice Before Seizure as the Commissioner's decision on the protest. More so because it was the only response Isabela Cultural Corporation received from the Commissioner after it had filed its protest.[59] (Emphasis supplied)

Appositely, the *PJI case*[60] was also promulgated prior to the passage of RA No. 9282, which recognized inactions of the respondent as appealable to the CTA. Thus, the CTA *En Banc* erred in relying on this particular jurisprudence to buttress its dismissal of petitioner's case.

It should also be emphasized that availing of the summary collection remedies under the Tax Code, such as the issuance of a WDL, are premised first and foremost on the existence of "delinquent taxes."[61] This premise is lacking when the matter of the taxpayer's civil liability is subject of a valid request for reinvestigation which is still pending resolution by the respondent and its authorized agents,[62] as in the case at bench.

In synthesis, the CTA properly took cognizance of petitioner's original petition for review.

The assessment notices, and, by extension, the WDL, are void for violating petitioner's right to due process.

As to the second issue raised, petitioner delves into the actual validity of the assessment notices based on its alleged non-receipt of the NIC, the PAN, and the FAN.

On this score, it should be stressed that whether or not respondent validly served the assessment notice to petitioner in order to comply with the basic requirements of due process is a question of fact that is normally beyond the purview of petition for review on *certiorari* under Rule 45.[63] Indeed, it is not the Court's duty to once again analyze or weigh evidence that has already been duly considered by the lower courts.[64] The Court of Tax Appeal's findings can only be disturbed on appeal if they are not supported by substantial evidence, or there is a showing of gross error or abuse on the part of the tax court.[65]

Interestingly, the CTA *En Banc* mainly focused on the timeliness of petitioner's resort to judicial recourse and did *not* reverse the factual finding of its Third Division that respondent failed to properly serve the assessment notices upon petitioner in the challenged rulings. Moreover, a thorough review of the pronouncements of the CTA Third Division reveals that its findings were adequately supported by substantial evidence.

In any event, even if the Court takes a second look at the facts of the case, it will still arrive at the same conclusion.

It is undisputed that the NIC, the PAN, and the FAN bear indications that they were personally served. However, those who received them were not authorized representatives

of petitioner. To recall, the NIC and the PAN appeared to have been served upon one "Ms. Gladys Badocdoc," whose indicated position was "Client Service Assistant."[66] The FAN, on the other hand, was personally served upon a certain "Angelo Pineda," who was a reliever security guard at that time, and who was not even an employee of petitioner.[67]

Section 228 of the Tax Code explicitly provides that when the respondent finds that proper taxes should be assessed, the taxpayer must be properly notified of its findings. Moreover, under Section 3.1.4 of Revenue Regulations No. 12-99,[68] personal delivery must be acknowledged by the taxpayer **or his duly authorized representative,** *viz*.:

> SECTION 3. Due Process Requirement in the Issuance of a Deficiency Tax Assessment. —
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> x x x x
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> 3.1.4 Formal Letter of Demand and Assessment Notice. – The formal letter of demand and assessment notice shall be issued by the Commissioner or his duly authorized representative. The letter of demand calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based, otherwise, the formal letter of demand and assessment notice shall be void (see illustration in ANNEX B hereof). The same shall be sent to the taxpayer only by registered mail or by personal delivery. **If sent by personal delivery, the taxpayer or his duly authorized representative shall acknowledge receipt thereof in the duplicate copy of the letter of demand**, showing the following: (a) His name; (b) signature; (c) designation and authority to act for and in behalf of the taxpayer, if acknowledged received by a person other than the taxpayer himself; and (d) date of receipt thereof. (Emphasis supplied)

The very same provision even requires that the signee-recipient must indicate their "designation and authority to act for and in behalf of the taxpayer," which further emphasizes that personal delivery must be discriminate.

The wisdom for such a requirement is readily apparent — unless the recipient possesses a certain degree of authority or discretion, they would be unable to grasp the gravity of the service of an assessment notice and the potential financial impact it would have to the

taxpayer they purport to serve and represent. This is especially true for juridical entity taxpayers who can only act through its officers and employees, and who would otherwise be prejudiced by such recipient's simple ignorance.

While Sections 3.1.1.[69] and 3.1.2.[70] of Revenue Regulations No. 12-99, which govern the NIC and the PAN, respectively, bear no similar qualifications for personal delivery as those found under Section 3.1.4, the Court deems it more in keeping with the spirit of the law that these should likewise be served only upon the taxpayer or, especially for juridical entities, their duly authorized representatives.

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.[71] Certainly, the importance of this preliminary stage of the assessment process cannot be discounted as it presents an opportunity for both the taxpayer and the BIR to settle the case at the earliest possible time without need for the issuance of a FAN.[72]

Having failed to properly serve petitioner with the NIC and the PAN, it necessarily follows that the succeeding FAN was void and without effect.

Assuming *arguendo* that the Court applied a strictly plain reading of the requirements laid down in Sections 3.1.1. and 3.1.2. and validate the receipt thereof by petitioner's receptionist the service of the FAN remains glaringly problematic.

The parties stipulated that the FAN was personally served upon Mr. Angelo Pineda, who, at that time, was merely the reliever security guard at petitioner's premises. However, as astutely observed by the CTA Third Division in its Resolution dated March 16, 2017, the stamp receipt found on the FAN shows that there was no indication of his authority to act on behalf of petitioner,[73] contrary to the clear requirement under Section 3.1.4 of Revenue Regulations No. 12-99. The fact that Angelo Pineda is not even an employee of petitioner serves to further exacerbate his lack of authority to represent the corporation.[74]

Notably, this defect in complying with the requirements of due process was not cured by the fact that the taxpayer was able to file a protest to the FAN.[75] This Court has repeatedly enjoined strict observance by the BIR of the prescribed procedure for issuance of the assessment notices in order to uphold the taxpayers' constitutional rights.[76]

Well-settled is the rule that an assessment that fails to strictly comply with the due process

requirements set forth in Section 228 of the Tax Code and Revenue Regulations No. 12-99 is void and produces no effect.[77] Consequently, given that the assessment notices were void, the resulting WDL is likewise invalid and without effect.

THE FOREGOING DISQUISITIONS CONSIDERED, the Petition for Review on *Certiorari* is hereby **GRANTED**. The Decision dated June 19, 2018 and the Resolution dated January 18, 2019 of the Court of Tax Appeals *En Banc* in CTA EB No. 1637 are **REVERSED and SET ASIDE**. The deficiency tax assessments and warrant of distraint and/or levy issued against petitioner Mannasoft Technology Corporation for calendar year 2008 are declared **NULL and VOID** and accordingly **CANCELLED**.

SO ORDERED.

Caguioa (Chairperson), Inting, Gaerlan, and *Singh, JJ.*, concur.

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[1] *Rollo*, pp. 8-46.

[2] *Id.* at 130-139. The Decision dated June 19, 2018 was penned by Associate Justice Cielito N. Mindaro-Grulla, with the concurrence of Associate Justices Lovell R. Bautista, Erlinda P. Uy, and Esperanza R. Fabon-Victorino. Presiding Justice Roman G. Del Rosario issued a Concurring Opinion, *id.* at 140-144. Associate Justice Ma. Belen M. Ringpis-Liban issued a Concurring & Dissenting Opinion, which was joined by Associate Justices Juanita C. Castañeda, Jr., Caesar A. Casanova, and Catherine T. Manahan, *id.* at 145-147.

[3] *Id.* at 165-170. The Resolution dated January 18, 2019 was penned by Associate Justice Cielito N. Mindaro-Grulla, with the concurrence of Presiding Justice Roman G. Del Rosario, Associate Justices Erlinda P. Uy and Esperanza R. Fabon-Victorino. Associate Justice Ma. Belen M. Ringpis-Liban, who maintained her Concurring & Dissenting Opinion in the Decision dated June 19, 2018, was joined by Associate Justices Juanita C. Castañeda, Jr. and Catherine T. Manahan, see *id.* at 145-147.

[4] *Id.* at 148-164.

[5] *Id.* at 79.

[6] *Id.* at 10.

[7] *Id.* at 116-117.

[8] *Id.* at 82-90.

[9] *Id.* at 10.

[10] *Id.* at 11 and 118.

[11] *Id.* at 91.

[12] *Id.* at 105.

[13] *Id.*

[14] *Id.* at 94.

[15] *Id.* at 95.

[16] *Id.* at 96-97.

[17] *Id.* at 98.

[18] *Id.* at 99-100.

[19] *Id.* at 100.

[20] *Id.* at 105.

[21] *Id.* at 47-78.

[22] *Id.* at 106.

[23] *Id.* at 57-59.

[24] *Id.* at 59-60.

[25] *Id.* at 60-63.

[26] *Id.* at 63-64.

[27] *Id.* at 65-69.

[28] *Id.* at 106-107.

[29] *Id.* at 108.

[30] *Id.* at 103-122. The Decision dated January 13, 2017 was penned by Associate Justice Lovell R. Bautista, with the concurrence of Associate Justices Esperanza R. Fabon-Victorino and Ma. Belen M. Ringpis-Liban.

[31] Entitled, AN ACT CREATING THE COURT OF TAX APPEALS. Approved on June 16, 1954.

[32] Entitled, AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES. Approved on March 20, 2004. See also *id.* at 111-114.

[33] *Id.*

[34] *Id.* at 121.

[35] *Id.*

[36] *Id.* at 124-129. The Resolution dated March 16, 2017 was penned by Associate Justice Lovell R. Bautista, with the concurrence of Associate Justices Esperanza R. Fabon-Victorino and Ma. Belen M. Ringpis-Liban.

[37] *Id.* at 130.

[38] *Id.* at 137.

[39] *Id.* at 135-137.

[40] *Id.* at 137-138.

[41] ld. at 148-164.

[42] *Id.* at 164.

[43] *Id.* at 167-169.

[44] *Id.* at 8-43.

[45] SECTION 228. Protesting of Assessment.— When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: Provided, however, That a preassessment notice shall not be required in the following cases:

> x x x x
> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, **the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)-day period**; otherwise, the decision shall become final, executory and demandable. (Emphasis supplied).

[46] 550 Phil. 316 (2007).

[47] **G.R. No. 231238**, June 20, 2022.

[48] *Id.* at 11.

[49] Promulgated on November 22, 2005.

[50] *Rollo*, p. 105.

[51] *Id.*

[52] *Id.* at 96-97.

[53] *Id.* at 98.

[54] *Supra* note 46.

[55] *Rollo*, p. 100.

[56] See **Commissioner of Internal Revenue v. South Entertainment Gallery, Inc., G.R. No. 225809**, March 17, 2021.

[57] 488 Phil. 218 (2004).

[58] *Supra* note 47.

[59] *Id.* at 14.

[60] *Supra* note 57.

[61] See **Light Rail Transit Authority v. Bureau of Internal Revenue**, *supra* note 47.

[62] *Id.*

[63] See **Commissioner of Internal Revenue v. T Shuttle Services, Inc., G.R. No. 240729** (Resolution), August 24, 2020.

[64] *Id.*

[65] *Id.*

[66] *Rollo*, pp. 116-117.

[67] *Id.* at 11 and 118.

[68] Subject: IMPLEMENTING THE PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE OF 1997 GOVERNING THE RULES ON ASSESSMENT OF NATIONAL INTERNAL REVENUE TAXES, CIVIL PENALTIES AND INTEREST AND THE EXTRA-JUDICIAL SETTLEMENT OF A TAXPAYER'S CRIMINAL VIOLATION OF THE CODE THROUGH PAYMENT OF A SUGGESTED COMPROMISE PENALTY, REVENUE REGULATIONS NO. 12-99. Issued on September 6, 1999.

[69] 3.1.1 Notice for informal conference. — The Revenue Officer who audited the taxpayer's records shall, among others, state in his report whether or not the taxpayer agrees with his findings that the taxpayer is liable for deficiency tax or taxes. If the taxpayer is not amenable, based on the said Officer's submitted report of investigation, the taxpayer shall be informed, in writing, by the Revenue District Office or by the Special Investigation Division, as the case may be (in the case Revenue Regional Offices) or by the Chief of Division concerned (in the case of the BIR National Office) of the discrepancy or discrepancies in the taxpayer's payment of his internal revenue taxes, for the purpose of "Informal Conference," in order to afford the taxpayer with an opportunity to present his side of the case. If the taxpayer fails to respond within fifteen (15) days from date of receipt of the notice for informal conference, he shall be considered in default, in which case, the Revenue District Officer or the Chief of the Special Investigation Division of the Revenue Regional Office, or the Chief of Division in the National Office, as the case may be, shall

endorse the case with the least possible delay to the Assessment Division of the Revenue Regional Office or to the Commissioner or his duly authorized representative, as the case may be, for appropriate review and issuance of a deficiency tax assessment, if warranted.

[70] 3.1.2 Preliminary Assessment Notice (PAN). — If after review and evaluation by the Assessment Division or by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer, at least by registered mail, a Preliminary Assessment Notice (PAN) for the proposed assessment, showing in detail, the facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based (see illustration in ANNEX A hereof). If the taxpayer fails to respond within fifteen (15) days from date of receipt of the PAN, he shall be considered in default, in which case, a formal letter of demand and assessment notice shall be caused to be issued by the said Office, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.

[71] See **Commissioner of Internal Revenue v. Metro Star Superama, Inc.**, 652 Phil. 172, 186 (2010).

[72] See **Commissioner of Internal Revenue v. Transitions Optical Philippines, Inc.**, 821 Phil. 664, 679 (2017).

[73] *Rollo*, p. 128.

[74] *Id.*

[75] See **Commissioner of Internal Revenue v. Yumex Philippines Corp., G.R. No. 222476**, May 5, 2021.

[76] See *id.*

[77] See **Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.**, 841 Phil. 114, 156 (2018).

Date created: November 30, 2023