



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **November 11, 2021** which reads as follows:*

“G.R. Nos. 241422-23 (*Commissioner of Internal Revenue v. Tyco Information Solutions Corp.*). — This resolves the Petition for Review on *Certiorari*¹ filed under Rule 45 of the Rules of Court assailing the Court of Tax Appeals (CTA) *En Banc*’s Decision² dated April 3, 2018, and Resolution³ dated August 14, 2018, in CTA EB Nos. 1426 and 1436. The assailed issuances affirmed the CTA Division’s Decision⁴ dated October 2, 2015, and Resolution⁵ dated January 29, 2016, in CTA Case No. 8592 that reduced the liability of Tyco Information Solutions Corp. (Tyco Corp.) for deficiency income tax and value-added tax (VAT) for the taxable year 2006 to ₱13,952,204.34, inclusive of the surcharge.

ANTECEDENTS

On September 26, 2007, Tyco Corp. received a Letter of Authority to examine its books of accounts and other accounting records for the year 2006. Later, the Bureau of Internal Revenue

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¹ *Rollo*, pp. 38-58.

² *Id.* at 67-86. Penned by Associate Justice Caesar A. Casanova, with the concurrence of Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla and Catherine T. Manahan. Associate Justice Ma. Belen M. Ringpis-Liban on leave. Presiding Justice Roman G. Del Rosario with Concurring and Dissenting Opinion.

³ *Id.* at 88-92. Penned by Associate Justice Caesar A. Casanova, with the concurrence of Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Cielito N. Mindaro-Grulla, Ma. Belen M. Ringpis-Liban and Catherine T. Manahan. Associate Justice Esperanza R. Fabon-Victorino on leave.

⁴ *Id.* at 93-111. Penned by Associate Justice Esperanza R. Fabon-Victorino, with the concurrence of Associate Justice Lovell R. Bautista. Associate Justice Ma. Belen M. Ringpis-Liban with Concurring and Dissenting Opinion.

⁵ *Id.* at 112-116. Penned by Associate Justice Esperanza R. Fabon-Victorino, with the concurrence of Associate Justices Lovell R. Bautista and Ma. Belen M. Ringpis-Liban.

(BIR) issued Preliminary Assessment Notice assessing Tyco Corp. deficiency income tax and VAT, followed by Formal Assessment Notice.⁶ Tyco Corp. protested the assessment in a letter addressed to Regional Director Jaime B. Santiago (RD Santiago) on February 18, 2010.⁷

In a February 26, 2010 Letter, Assistant Regional Director Manuel V. Napoy informed Tyco Corp. that the entire docket of the case “will be forwarded to RDO No. 47 East Makati headed by [Revenue District Officer] Gerry Dumayas [RDO Dumayas] for further verification, evaluation, and necessary action.”⁸ The letter stated that “the Revenue District Officer shall submit a report on the result of reinvestigation within thirty (30) days from receipt of the tax docket; and submit proof/documents to justify the cancellation of the assessment that will be dropped, if any, per investigation.”⁹

Thereafter, on November 26, 2012, Tyco Corp. received a letter¹⁰ from RDO Dumayas denying Tyco Corp.’s protest and demanding payment of the deficiency taxes.¹¹ This prompted Tyco Corp. to file a Petition for Review with the CTA and docketed as CTA Case No. 8592.

On July 3, 2013, the CTA Division issued a Resolution holding that the November 16, 2012 letter of RDO Dumayas is appealable to the CTA,¹² viz.:

There is no doubt that a Regional Director of the BIR, as a duly authorized representative of the CIR, may authorize the assessment of taxpayers for deficiency tax.

The record reveals that Regional Director Jaime B. Santiago caused the issuance of the Final Assessment Notice (FAN) dated January 19, 2010. He also informed [Tyco Corp.] that the entire docket, together with the protest letter dated February 16, 2010, would be forwarded to RDO No. 47 East Makati headed by RDO Gerry Dumayas for further verification, evaluation[,] and necessary action. Clearly, RDO Gerry Dumayas merely exercised his delegated authority to rule upon the protest letter in compliance to [*sic*] the directive of his superior.

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⁶ Id. at 94-95.

⁷ Id. at 95.

⁸ See id. at 99.

⁹ See id. at 141. Concurring and Dissenting Opinion of Presiding Justice Roman G. Del Rosario.

¹⁰ See id. at 117-118.

¹¹ Id. at 95.

¹² Id.

Significantly, the decision denying [Tyco Corp.]’s protest clearly and categorically states that the same is final and appealable to the CTA within 30-days from [the] date of receipt; otherwise, the subject deficiency assessment becomes final, executory[,] and demandable.

Finally, in the absence of any clear repudiation of authority by Regional Director Jaime B. Santiago, it is safe to conclude that RDO Gerry Dumayas was duly authorized to issue the assailed decision.

The BIR moved to reconsider but was denied by the CTA in a Resolution dated September 11, 2013.¹³

The trial then ensued.

On October 2, 2015, the CTA Division rendered its Decision¹⁴ finding Tyco Corp. liable for deficiency income tax and VAT in the reduced amount of ₱13,952,204.34, inclusive of the surcharge. The CTA repeated that RDO Dumayas was duly authorized to issue the “final decision” appealable to the CTA. On the merits, the tax court held that the BIR failed to convince the presence of fraud or deceit in Tyco Corp.’s purchases. However, the CTA still disallowed (1) purchases of ₱21,400,454.55 as a deduction from taxable income for not being supported by sales invoices with valid BIR Authority to Print (ATP), and (2) input taxes of ₱3,671,604.06 as a credit against the output VAT because Tyco Corp. failed to substantiate them.

The CTA Division denied the parties’ respective motions for reconsideration in a Resolution dated January 29, 2016.¹⁵ Hence, Tyco Corp. and the CIR separately filed Petitions for Review with the CTA *En Banc*, docketed as CTA EB Nos. 1426 and 1436. The petitions were consolidated, and thereafter, the cases were submitted for decision.

On April 3, 2018, the CTA *En Banc* issued the assailed Decision¹⁶ denying the parties’ petitions for lack of merit.

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¹³ Id.

¹⁴ Id. at 93-111.

¹⁵ Id. at 112-116. Penned by Associate Justice Esperanza R. Fabon-Victorino, with the concurrence of Associate Justices Lovell R. Bautista and Ma. Belen M. Ringpis-Liban.

¹⁶ Id. at 67-86. Penned by Associate Justice Caesar A. Casanova, with the concurrence of Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla and Catherine T. Manahan. Associate Justice Ma. Belen M. Ringpis-Liban on leave. Presiding Justice Roman G. Del Rosario with Concurring and Dissenting Opinion.

In CTA EB No. 1426,¹⁷ the CTA *En Banc* upheld the CTA Division's findings and conclusion that purchases of ₱21,400,454.55 cannot be deducted from Tyco Corp.'s taxable income because the ATP appearing on the sales invoices were issued after the date of transaction and that ₱3,671,604.06 input taxes are non-creditable against the output VAT for not being supported by documentary and testimonial evidence.

In CTA EB No. 1436,¹⁸ the CTA *En Banc* upheld the CTA Division's September 11, 2013 Resolution holding that RD Santiago's act of forwarding Tyco Corp.'s case to RDO Dumayas for verification and evaluation is part of his authority to assess and collect deficiency taxes. Besides, the letter issued by RDO Dumayas indicated that it was the BIR's "final decision" on Tyco Corp.'s protest. Hence, the BIR is estopped from assailing its own declaration that RDO Dumayas' decision is already appealable to the CTA. Thus:

The Court of Tax Appeals has
jurisdiction over the instant
case

CIR argues that the Revenue District Officer cannot issue decisions that are appealable to the Court of Tax Appeals on the ground that the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the Code administered by the Bureau of Internal Revenue is solely vested in the CIR.

We do not agree.

The Court in Division already resolved this matter in its Resolution promulgated on September 11, 2013, to which We fully agree —

“Section 10(b) of the NIRC of 1997 provides,
thus:

SEC. 10. Revenue Regional Director.
— Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the Revenue Regional Director shall, within the region and district offices under his jurisdiction, among others:

(b) Administer and enforce internal revenue laws, and rules and regulations, including the assessment and collection of all internal revenue taxes, charges and fees.
(Emphases supplied)

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¹⁷ Id. at 87-92.

¹⁸ Id.

Based on the foregoing, a Regional Director of the BIR may authorize the assessment and collection of taxpayer's deficiency taxes within his/her jurisdiction.

In the instant case, Regional Director Jaime B. Santiago caused the issuance of the Final Assessment Notice dated January 19, 2010 against petitioner [Tyco Corp.]. He also informed [the] petitioner that the entire docket, together with its protest letter dated February 16, 2010, would be forwarded to RDO No. 47 East Makati, headed by RDO Gerry Dumayas, for further verification, evaluation[,] and necessary action. Clearly, the action taken by Regional Director Jaime B. Santiago was not only part of his authority but his duty to assess and collect the alleged deficiency taxes from [the] petitioner over which he had jurisdiction.

Also significant to note is the letter issued by RDO Gerry Dumayas denying with finality petitioner's protest leaving no room for any doubt that it was final and appealable to the CTA, viz.:

x x x **This is our final decision. If you disagree, you may appeal this final decision with the Court of Tax Appeals within thirty (30) days from [the] date of receipt hereof, otherwise[,] our said deficiency income and value [-] added tax assessment shall become final, executory[,] and demandable.**

With such representation, respondent is already estopped from assailing its own declaration that the decision is final and appealable to the Court of Tax Appeals (CTA). The words 'final decision' and 'appeal,' taken together led [the] petitioner to believe that the Letter of Demand No. LA69487-06-10-0185 with Assessment Notices issued on January 19, 2010[,] was the final decision of the CIR on its letter-protest and that it had no other option but to appeal the same to the CTA." (Emphases supplied.)

In view thereof, Tyco Corp. had thirty (30) days from November 26, 2012 (the date it received the letter issued by RDO Gerry Dumayas denying with finality petitioner's protest), or until December 26, 2012, to appeal to the CTA the said adverse decision, pursuant to Section 228 of the 1997 NIRC, as amended. Thus, the Court of Tax Appeals is clothed with jurisdiction to take cognizance of Tyco Corp.'s Petition for Review filed on December 21, 2012. (Emphases in the original.)

The CTA *En Banc* held that the CTA Division correctly reduced Tyco Corp.'s tax liability because the CIR failed to establish fraud in Tyco Corp.'s purchases.

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Presiding Justice Roman G. Del Rosario wrote Concurring and Dissenting Opinion.¹⁹ He opined that RDO Dumayas is not authorized to issue the final decision that could be appealed to the CTA. The “duly authorized representative” of the CIR to issue the final decision on the disputed assessment does not include the RDO. At any rate, he agreed with the denial of Tyco Corp.’s petition since a void final decision will not render the assessment void. Following this Court’s ruling in *Commissioner of Internal Revenue v. Liguigaz Philippines Corp.*,²⁰ the void final decision is equivalent to an “inaction,” and the CTA could still take cognizance of the case. Presiding Justice Del Rosario proposed that the deficiency and delinquency interests imposed upon Tyco Corp. be modified to conform to Republic Act No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law.

The CTA *En Banc* denied the CIR’s motion for reconsideration assailing the Decision on August 14, 2018.²¹ Hence, this recourse.

The CIR, through the Office of Solicitor General, avers that the CTA has no jurisdiction to review the letter dated November 16, 2012 of RDO Dumayas; hence, it should have dismissed outright Tyco Corp.’s petition.²² The CIR imputes error on the part of the CTA in modifying the assessed deficiency taxes and insists that certain purchases of Tyco Corp. were fraudulent.²³

In its comment, Tyco Corp. merely echoes the CTA that the tax court has jurisdiction to take cognizance of the case. Further, the CTA correctly reduced the amount of tax deficiencies.²⁴

The CIR filed a Reply²⁵ reiterating the arguments raised in the petition.

RULING

We deny the petition.

Primarily, the issue raised by the CIR on the alleged error made by the CTA in reducing Tyco Corp.’s liability for deficiency taxes because fraud was not proven is factual and outside the scope of a

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¹⁹ Id. at 139-145.

²⁰ 784 Phil. 874, 890 (2016).

²¹ *Rollo*, pp. 88-92.

²² Id. at 47.

²³ Id. at 38-58.

²⁴ Id. at 150-165.

²⁵ Id. at 188-200.

Rule 45 petition before the Court. It is a well-settled rule that the Court will not lightly set aside the conclusions reached by the CTA, which, by the very nature of its function of being dedicated exclusively to the resolution of tax problems, has developed an expertise on the subject.²⁶ The findings of fact of the CTA are generally regarded as final, binding, and conclusive upon this Court and will not be reviewed or disturbed on appeal unless they are not supported by substantial evidence, or there is a showing of abuse or improvident exercise of authority.²⁷ In the absence of any clear and convincing proof to the contrary, the Court must presume that the CTA rendered a decision that is valid in every respect. We do not find sufficient justification to depart from this well-entrenched principle.

Regarding the issue of jurisdiction, we uphold the CTA's authority to review Tyco Corp.'s petition but for a different reason. On this point, we find an error in the CTA when it ruled that RDO Dumayas was clothed with authority to issue the final decision of the BIR in disputed assessments to be appealed to the CTA.

Under Section 7 (a) of Republic Act (RA) No. 9282,²⁸ in relation to Section 3.1.5 of Revenue Regulations No. 12-99,²⁹ the CTA has jurisdiction over **decisions of the CIR or his duly authorized representative** on disputed assessments, *viz.*:

[Section 7 (a), RA No. 9282]

Sec. 7. Jurisdiction. — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(1) **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or

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²⁶ *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc.*, G.R. No. 231581, April 10, 2019.

²⁷ See *Commissioner of Internal Revenue v. Embroidery & Garments Industries (Phil.), Inc.*, 364 Phil. 541-546 (1999); cited in *Commissioner of Internal Revenue v. Traders Royal Bank*, 756 Phil. 175, 191-192 (2015).

²⁸ 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 OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES," March 30, 2004.

²⁹ 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," September 6, 1999.

other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

[Section 3.1.5, RR No. 12-99]

3.1.5 Disputed Assessment. — xxx

In general, **if the protest is denied, in whole or in part, by the Commissioner or his duly authorized representative, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from [the] date of receipt of the said decision**, otherwise, the assessment shall become final, executory and demandable: Provided, however, that if the taxpayer elevates his protest to the Commissioner within thirty (30) days from date of receipt of the final decision of the Commissioner's duly authorized representative, the latter's decision shall not be considered final, executory and demandable, in which case, the protest shall be decided by the Commissioner. (Emphases supplied.)

Relevantly, during the time that RDO Dumayas issued the November 26, 2012 letter, which triggered the filing of the petition with the CTA, the BIR has not issued a guideline on who is the "duly authorized representative" of the CIR for purposes of issuing the final decision on disputed assessment.³⁰ However, in Revenue Administrative Order (RAO) No. 10-00³¹ dated August 7, 2000, on the organization and functions of the Regional Offices, the Regional Office headed by the RD is authorized to prepare and issue assessment notices against the taxpayer and to review and act on all protests

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³⁰ *N.B.* On February 18, 2014, the Commissioner of Internal Revenue issued Revenue Memorandum Circular No. 011-14 Subject: "CLARIFYING CERTAIN ISSUES RELATIVE TO DUE PROCESS REQUIREMENT IN THE ISSUANCE OF A DEFICIENCY TAX ASSESSMENT PURSUANT TO REVENUE REGULATIONS (RR) 12-99, AS AMENDED BY RR 18-2013," to clarify that "[t]he term **“duly authorized representative”** [referred to in Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-2013, **who shall issue Preliminary Assessment Notice, Formal Letter of Demand/Final Assessment Notice and Final Decision on Disputed Assessment**] refers to **Revenue Regional Directors, Assistant Commissioner-Large Taxpayers Service, and Assistant Commissioner-Enforcement and Advocacy Service.**" (Emphasis supplied.)

See also Revenue Administrative Order No. 003-14 dated November 5, 2014 Subject: "ORGANIZATION AND FUNCTIONS OF THE REGIONAL OFFICES, ITS DIVISIONS & SECTIONS AND REVENUE DISTRICT OFFICES," which provides that the Regional Office "[a]cts/approves/disapproves recommendation by concerned offices on reports of investigation/verification, Final Assessment Notice (FAN)/Final Letter of Demand (FLN)/Final Decision on Disputed Assessment (FDDA) and Termination Letters; xxx." (Emphasis supplied.)

³¹ Subject: "ORGANIZATION AND FUNCTIONS OF THE REGIONAL OFFICES INCLUDING THE DIVISIONS AND REVENUE DISTRICT OFFICES UNDER THEM DOWN TO SECTION LEVEL," August 7, 2000.

against deficiency assessments.³² On the other hand, the RDO conducts field audit investigations of taxpayers within its jurisdiction and factual verification of requests for reinvestigation or reconsideration of protested cases. **The result of [the] investigation of the RDO will be submitted to the Regional Office, which has the authority to review, revise or approve the report.**³³ The RAO did not specify which office would issue the final decision on [the] disputed assessment but provides that the Regional Office's Tax Billing Section shall "[p]repare, **issue and monitor demand letters, Final Assessment Notices (FAN) and transcripts of assessments of tax cases[.]**"

In *Oceanic Wireless Network Inc. v. Commissioner of Internal Revenue*,³⁴ the Court held that the authority to make tax assessments may be delegated by the CIR to any subordinate officer with the rank equivalent to a division chief or higher since it is not one of the non-delegable powers under Section 7 of the 1997 National Internal Revenue Code (Tax Code).³⁵ The assessment has the same force and effect as that issued by the CIR himself.

In the present case, consistent with RAO No. 10-00, RDO Dumayas was merely authorized to conduct factual verification of Tyco Corp.'s protest and thereafter, submit a report on the result of the investigation to the Regional Office. No authority was given to RDO Dumayas to issue the final decision on the disputed assessment against Tyco Corp. Presiding Justice Roman G. Del Rosario aptly observed in Concurring and Dissenting Opinion that:

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³² III. FUNCTIONS:

REGIONAL OFFICE shall: xxx

16. Review, revise and/or approve all reports and other actions of the divisions/district offices under the Regional Office;

xxxx

Assessment Division shall: xxx

4. Prepare, issue and monitor Pre-Assessment Notices (PAN) and Final Assessment Notices (FAN);
5. Review and act on all letters of protests, requests for reinvestigation and similar communications;

³³ REVENUE DISTRICT OFFICE shall: xxx

7. Supervise/undertake audit of tax cases within the RDO's jurisdiction, in accordance with the audit program developed and prescribed by the National Office;

8. Conduct factual verification of requests for reconsideration/reinvestigation of protested cases within its jurisdiction;

xxxx

1. Assessment Section shall: xxx

- 1.2. Conduct field audit investigation of tax cases;
1.3. Conduct factual verification of requests for reconsideration/reinvestigation of protested cases within its jurisdiction;
1.4. Prepare and submit reports of investigation together with the corresponding dockets of taxpayers to Assessment Division of the Regional Office;

³⁴ 513 Phil. 317, 326 (2005).

³⁵ TAX REFORM ACT OF 1997; Republic Act No. 8424; approved on December 11, 1997.

... the **February 26, 2010 Letter** which was allegedly the source of RDO Dumayas' purported authority to sign the final decision on [Tyco Corp.]'s protest letter merely states that the entire tax docket of [Tyco Corp.] was **referred back to the Revenue District Officer for evaluation and necessary action** in view of the protest letter filed by [Tyco Corp.] on February 18, 2010. It states that the Revenue District Officer shall **submit a report on the result of reinvestigation** within thirty (30) days from receipt of the tax docket; and **submit proof/documents** to justify the cancellation of the assessment that will be dropped, if any per reinvestigation. The **February 26, 2010 Letter** was not signed by Regional Director Jaime B. Santiago but by Assistant Regional Director Manuel V. Mapoy. **Nowhere in said February 26, 2010 Letter does it state that RDO Dumayas is granted the authority to issue the final decision on [Tyco Corp.]'s protest letter to the FAN.** (Emphases in the original.)

Accordingly, the November 16, 2012 letter from RDO Dumayas stating that the same is the BIR's final decision on Tyco Corp.'s protest, hence, Tyco Corp. should appeal to the CTA within thirty (30) days from receipt to prevent the assessment from becoming final and executory, is void for lack of valid authority. It is not a valid final decision of the CIR or his duly authorized representative subject for review by the CTA under **Section 7 (a)** of RA No. 9282.

Nonetheless, the CTA has authority to evaluate the assessment issued against Tyco Corp. as the void November 16, 2012 letter is tantamount to inaction by the CIR or his duly authorized representative in disputed assessments, which is appealable to the CTA under **Section 7 (b)** of RA No. 9282, to wit:

Sec. 7. Jurisdiction. — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

xxxx

(2) **Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; xxx.

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In the seminal case of *Commissioner of Internal Revenue v. Liquigaz Philippines Corp.*³⁶ (*Liquigaz*) the Court emphasized that a void final decision on a disputed assessment means that as if no decision was rendered by the CIR or his duly authorized representative. Thus, the CTA would still have jurisdiction to review the tax assessment as the CTA is conferred with authority to review not only decisions but also *inactions* of the CIR in disputed assessments. The Court explained:

A void FDDA does not ipso facto render the assessment void

The CIR and Liquigaz are at odds with regards [*sic*] to the effect of a void FDDA. Liquigaz harps that a void FDDA will lead to a void assessment because the FDDA ultimately determines the final tax liability of a taxpayer, which may then be appealed before the CTA. On the other hand, the CIR believes that a void FDDA does not ipso facto result in the nullification of the assessment.

XXXX

The difference is likewise readily apparent in Section 7 of R.A. 1125, as amended, where the CTA is conferred with appellate jurisdiction over the decision of the CIR in cases involving [a] disputed assessment, as well as inaction of the CIR in disputed assessments. From the foregoing, it is clear that what is appealable to the CTA is the “decision” of the CIR on [the] disputed assessment and not the assessment itself.

An assessment becomes a disputed assessment after a taxpayer has filed its protest to the assessment in [*sic*] the administrative level. Thereafter, the CIR either issues a decision on the disputed assessment or fails to act on it and is, therefore, considered denied. The taxpayer may then appeal the decision on the disputed assessment or the inaction of the CIR. As such, **the FDDA is not the only means that the final tax liability of a taxpayer is fixed, which may then be appealed by the taxpayer. Under the law, inaction on the part of the CIR may likewise result in the finality of a taxpayer’s tax liability as it is deemed a denial of the protest filed by the latter, which may also be appealed before the CTA.**

Clearly, a decision of the CIR on a disputed assessment differs from the assessment itself. Hence, the invalidity of one does not necessarily result to [*sic*] the invalidity of the other — unless the law or regulations otherwise provide.

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³⁶ 784 Phil. 874, 884 (2016).

The Court, however, finds that the CTA erred in concluding that the assessment on EWT and FBT deficiency was void because the FDDA covering the same was void. **The assessment remains valid notwithstanding the nullity of the FDDA because as discussed above, the assessment itself differs from a decision on the disputed assessment.**

As established, an FDDA that does not inform the taxpayer in writing of the facts and law on which it is based renders the decision void. Therefore, it is as if there was no decision rendered by the CIR. It is tantamount to a denial by inaction by the CIR, which may still be appealed before the CTA and the assessment evaluated on the basis of the available evidence and documents. The merits of the EWT and FBT assessment should have been discussed and not merely brushed aside on account of the void FDDA. (Emphases supplied.)³⁷


Thus, in *Liquigaz*, the Court maintained the CTA's jurisdiction to review the expanded withholding tax and fringe benefit tax assessments against the taxpayer as the void final decision on disputed assessment is considered inaction by the CIR that is appealable to the CTA.

Similarly, in this case, the invalid "final decision" of RDO Dumayas amounts to a denial by the *inaction* of the CIR or his duly authorized representative on Tyco Corp.'s protest. Consequently, the CTA has jurisdiction to evaluate the tax assessments against Tyco Corp. consistent with Section 7 (b) of RA No. 9282. Thus, the CTA did not commit any reversible error in taking cognizance of Tyco Corp.'s petition for review.

FOR THESE REASONS, the petition is DENIED.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court _{2/11/23}

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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³⁷ *Supra* at 888-897.



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(CTA Case No. 8592)

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