REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ADELANTADO CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10406

Members:
RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:
JAN 24 2025
10:26 a.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

Before this Court are respondent's "Motion for Partial Reconsideration"[1] filed on September 5, 2024, and petitioner's "Motion for Reconsideration (Re: Decision dated August 15, 2024)"[2] filed on September 12, 2024.

On August 15, 2024, the Court promulgated a Decision partially granting the Petition for Review, the dispositive portion of which states as follows:

> "**WHEREFORE**, the Petition for Review is **PARTIALLY GRANTED**. Accordingly, the assessment issued by respondent against petitioner covering the deficiency DST for TY 2015 in the amount of ₱31,299.00 should be **CANCELLED** and **SET ASIDE.** However, the assessments for deficiency income tax, VAT and EWT for TY 2015 are to be **UPHELD IN PART**. Consequently, petitioner should be **ORDERED TO PAY** respondent the aggregate amount of **THREE MILLION FIVE HUNDRED THIRTY-NINE THOUSAND THIRTY-EIGHT PESOS AND FORTY-FOUR CENTAVOS (₱3,539,038.44)**, inclusive of surcharge and deficiency interest

[1] Docket, CTA Case No. 10406, pp. 2310-2318.
[2] Ibid., pp. 2341-2369.

imposed under Sections 248(A)(3) and 249(B) of the NIRC of 1997, as amended, computed as follows:

	IT	VAT	EWT	Total
Basic Tax	₱ 1,902,082.11	₱ 242,322.08	₱ 23,036.80	₱ 2,167,440.99
Add: 25% Surcharge	475,520.53	60,580.52	5,759.20	541,860.25
20% Deficiency Interest				
IT: From Apr. 16,2016 to Dec. 31, 2017 *[₱1,902,082.11 x 20% x 625/365 days]*	651,397.98			651,397.98
VAT: From Jan. 26, 2016 to Dec. 31, 2017 *[₱242,322.08 x 20% x 706/365 days]*		93,742.13		93,742.13
EWT: From Jan. 14, 2016 to Dec. 31, 2017 *[₱23,036.80 x 20% x 718/365 days]*			9,063.25	9,063.25
12% Deficiency Interest from Jan. 1, 2018 to Apr. 16, 2018				
IT: *[₱1,902,082.11 x 12% x 106/365 days]*	66,286.26			66,286.26
VAT: *[₱242,322.08 x 12% x 106/365 days]*		8,444.76		8,444.76
EWT: *[₱23,036.80 x 12% x 106/365 days]*			802.82	802.82
Total Amount Due, April 16, 2018[3]	**₱3,095,286.88**	**₱405,089.49**	**₱38,662.07**	**₱3,539,038.44**

In addition, petitioner is **ORDERED TO PAY** respondent delinquency interest at the rate of twelve percent (12%) per annum on the total unpaid deficiency taxes due as of April 16, 2018, in the amount of ₱3,539,038.44 or equivalent to ₱1,163.52[4] per day, computed from April 17, 2018 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN) and as implemented by RR No. 21-2018.

SO ORDERED.”

Respondent's Motion for Reconsideration

Respondent claims that petitioner failed to discharge its burden of substantiating its claims for deductions due to lack of supporting documents. The bare allegations and deductions in the Audited Financial Statements (AFS) and Annual Income Tax Return (AITR) are self-serving and deserve scant consideration absent any supporting documents and proofs as required under Section 34 (B)(1) of the National Internal Revenue Code (NIRC) of 1997 as amended, and Revenue Regulations (RR) No. 13-2000.

Respondent further claims that petitioner failed to submit evidence to support the non-taxable income subjected to final withholding tax and reversal of unearned income to non- revenue account-advance rentals. Petitioner's failure to prove that the advance rentals were already declared and subjected to income tax would affect its income tax liability in the previous year (TY 2014) and directly

[3] April 16, 2018 is the due date for payment as appearing in the Assessment Notices (Exhibits “P-7-D” to “P-7-F”, Docket – Vol. II, pp. 686 to 688).
[4] ₱3,539,038.44 x 12% / 365 days.

affects whether petitioner has already utilized its NOLCO incurred in 2013 to be applied against its taxable income for 2015.

Moreover, respondent claims that petitioner failed to support its claim that the income payment for the asset worth Php23,540,418.00 was made in TY 2014.

Petitioner's Motion for Reconsideration

Petitioner maintains that the assessments are void for the following reasons: that respondent failed to properly serve the Letter of Authority (LOA) to petitioner; that the one who received the LOA was Danica Chua, a building administrative assistant and employee of Colliers International, and not an employee or authorized representative of petitioner; that the PAN was likewise improperly served because it was served to a certain "Rafael Caste/Rafael Jason Caste/Rafael Jason Caspe;" that respondent merely presumed that Rafael is authorized to receive communication for and on behalf of petitioner because he is found in petitioner's premises; that respondent failed to issue a Notice of Informal Conference (NIC) to petitioner since RR No. 7-2018 is the prevailing rule and not RR No. 18-13; that respondent failed to give due considerations to petitioner's defenses when the FAN and FDDA were issued; that the assessments are void due to premature issuance of the Warrant of Distraint (WDL); that respondent's right to assess petitioner for Expanded Withholding Tax (EWT) for the months of January and February for taxable year 2015 had already prescribed; and that petitioner is not liable for the alleged deficiency income tax, Value- Added Tax (VAT) and (EWT), plus penalty and interest, for taxable year 2015 in the total amount of Php3,539,038.44.

After due consideration, the Court finds both Motions without merit.

An examination of the issues raised by the parties in their respective Motions reveals that the same are mere rehashes of the issues that were raised in their respective *Memoranda*,[5] which were already exhaustively passed upon, duly considered, and resolved by the Court in the assailed Decision.

It bears restating that the assessments issued against petitioner are validly issued. However, the assessments for deficiency income tax, VAT and EWT for TY 2015 are upheld in part.

Contrary to petitioner's claim that the LOA and PAN were improperly served, the same were duly served by personal service and received by petitioner's authorized representatives, *i.e.* Danica Chua, and "Rafael Caste/Rafael Jason Caste/Rafael Jason Caspe."

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[5] Docket, CTA Case No. 10406, Memorandum for petitioner, pp. 2179-2244; Memorandum for respondent, pp. 2248-2268.

Petitioner strongly denies Danica Chua as its authorized representative. However, it can be inferred from the testimony of petitioner's own witness, Ms. Clyde Saylago and from the records of this case that Danica Chua is in fact an authorized representative of petitioner.

Ms. Clyde Saylago testified in her Judicial Affidavit as follows:

"12. Q: You mentioned earlier that part of your duties and responsibilities includes access to official communications to and from the BIR.

What are these official communications from the BIR which were communicated in relation to the alleged deficiency taxes of Petitioner for taxable year 2015?

A: On October 19, 2026, Respondent issued Letter of Authority No. eLA201200033073, authorizing Revenue Officer Melisa Baes and Group Supervisor Rebecca Pandapatan to examine Petitioner's books of accounts and other accounting records for all internal revenue taxes covering the taxable year 2015.

The LOA was received by Danica Chua, the Building Administrative Assistant of the office building where Petitioner holds office.

13. Q: If shown to you a copy of the LOA No. eLA201200033073 dated October 19, 2016, you will be able to identify the same?

A: Yes.

14. Q: I am showing you a copy of LOA No. eLA201200033073 dated October 19, 2016, previously marked as Exhibit "P-4." What relation does this document have with the LOA that you earlier mentioned?

A: They are one and the same. This is the same LOA that I was referring to earlier.

15. Q: At the bottom left part portion of the LOA, specifically under "RECEIVED BY," there appears to be a signature on top of the written name "Danica Chua," previously marked as Exhibit "P-4-A." Would you know whose signature is that?

A: Yes. That is the signature of Danica Chua, the building Administrative Assistant.

16. Q: Why do you know the signature of Danica Chua?

A: I know her signature because I have custody of documents which she has previously signed and I have seen numerous documents bearing her signature before.

17. Q: What relation does Danica Chua have with Petitioner, if any?

A: Danica Chua is not related to Petitioner. She is not an employee of Petitioner but rather of Colliers International, a thirdparty provider who manages the property where Petitioner holds office.

18. Q: Aside from LOA dated October 19, 206, what are the other official communications from the BIR in relation to the alleged deficiency taxes of petitioner for taxable year 2015?

A: On February 22, 2018, respondent issued a Preliminary Assessment Notice with attached Details of Discrepancies dated February 22, 2018, a copy of which was received by Petitioner on February 27, 2018.

19. Q: You mentioned that Petitioner received on February 27, 2018 a PAN dated February 22, 2018 with attached Details of Discrepancies. If a copy of this document is shown to you, will you be able to identify the same?

A: Yes."

Additionally, petitioner admitted receipt of the LOA in its Petition for Review under Paragraph No. 28 thereof. It states as follows:

> "28. Here, after the LOA was received by Petitioner, there was no indication that the final report was submitted within 120 days therefrom. Without submitting such final report within 120-day period, any assessment resulting from the examination would be void."

A perusal of the BIR Records show that from January 2015 to October 2015, the signatory and recipient of petitioner's Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307), is Danica Chua (*i.e.* Payee/Payee's Authorized Representative/Accredited Tax Agent).[6] This shows that even if Danica Chua is only the Administrative Assistant of the building where petitioner holds office, and not an employee of petitioner, as petitioner claims, she had authority to receive BIR documents from third persons in behalf of petitioner. Moreover, no competent evidence was presented by petitioner to show that Danica Chua was not an employee or authorized representative of petitioner. Hence, it is clear that Danica Chua received documents for and in behalf of petitioner as its authorized representative.

Furthermore, the pronouncement of this Court in the Resolution dated October 31, 2021 is not yet final as can be gleaned from the wordings thereof, viz.:

> "**Without necessarily pre-judging the final outcome of this case**, this clearly shows that respondent failed to serve the LOA to petitioner. Xxx xxx xxx"[7]

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[6] BIR Records, pp. 5-37.
[7] Court's Resolution dated October 31, 2021, Docket, p. 1068.

From the totality of the evidence presented during trial of this case, the Court finds that there was no irregularity in the service of the LOA.

As regards petitioner's receipt of the PAN, it was only in the present Petition for Review that petitioner questioned the authority of the recipient of the PAN. Such issue was not raised by petitioner in its Reply to PAN dated March 12, 2018,[8] and even in the Protest to FAN dated August 30, 2018.[9]

Petitioner's assertion that it was denied due process is contrary to its actions when it actively participated in the examinations of its accounts, in the tenor of its Petition for Review, and evidence on record.

In the case of *Shangri-La International Hotel Management Ltd., et al. vs. Developers Group of Companies, Inc.,*[10] the Supreme Court denied respondent's Motion for Reconsideration for being a mere reiteration of their previous arguments, and for failure to raise matters substantially plausible or compellingly persuasive to warrant the reversal of the assailed Decision, thus:

> "The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought."

Hence, this Court will no longer belabor to repeat all of its discussions in the assailed Decision since it would only result to mere superfluity.

It must be stressed that among the ends to which a motion for reconsideration is addressed, one is precisely to convince the Court that its ruling is erroneous and improper, contrary to law or the evidence.[11] If the movant failed to do so, the motion for reconsideration must necessarily fail.

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[8] Ibid., pp. 481-483.
[9] Ibid., pp. 490-492.
[10] G.R. No. 159938, January 22, 2007.
[11] *Teodulo M. Coquilla vs. The Hon. Commission on Elections and Mr. Neil M. Alvarez*, G.R. No. 151914, July 31, 2002.

In view of the foregoing disquisitions, the Court finds no compelling reason to reverse or amend the Decision promulgated on August 15, 2024.

WHEREFORE, premises considered, respondent's "Motion for Partial Reconsideration" and petitioner's "Motion for Reconsideration (Re: Decision dated August 15, 2024)" are **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RIGPIS-LIBAN
Associate Justice

We Concur:

MARIA ROWENA MODESTO SAN-PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice