REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

COMMISSION ON ELECTIONS, *Petitioner,*

-versus-

COMMISSIONER OF INTERNAL REVENUE, *Respondent.*

CTA Case No. 10245

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

Promulgated:

OCT 23 2023; 11:35AM

x- x

RESOLUTION

MANAHAN, *J.:*

This resolves petitioner's **Motion for Reconsideration (For the Petitioner)**[1] filed on June 29, 2023, praying for the grant of the instant Motion and its Petition for Review, the partial reversal and setting aside of the Court's *Decision* dated June 2, 2023 (Assailed Decision), and the nullification of the Final Assessment Notice and Formal Letter of Demand (FAN/FLD) with the Details of Discrepancies, and the Final Decision on Disputed Assessment (FDDA) subject of this case.

Petitioner argues that the FAN/FLD issued on December 21, 2018 was served to an unauthorized person (Job Order Casual) and was sent to the wrong addressee which violated its right to due process, and said FAN/FLD did not attain finality.

Petitioner insists that cases filed before this Court are tried *de novo*, hence, respondent's assessment can be re-examined. Further, petitioner claims it is not barred from challenging the validity of the said assessment and introducing new arguments not raised in the protest filed with the Bureau of Internal Revenue (BIR).

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[1] Docket, CTA Case No. 10245, Vol. II, pp. 1403-1447.

Petitioner also avers that respondent's right to assess the withholding tax liability of petitioner from January to November 2015 has already prescribed.

Lastly, petitioner insists that it is not liable for the alleged deficiency withholding tax on compensation and expanded withholding tax because the same were already paid.

On the other hand, respondent, in its **Comment/Opposition (re: Motion for Reconsideration dated 29 June 2023)**[2] filed on July 28, 2023, counter argues that the arguments in the instant motion are mere rehash of the arguments which were already exhaustively discussed in the Assailed Decision.

Respondent reiterates the disquisition of this Court on the alleged lack of authority of Ms. Jai Conde to receive the subject FAN/FLD that the latter bears petitioner's rubber stamp which reveals that Ms. Conde was stationed in the said Department.[3]

Respondent insists that petitioner did not raise Ms. Conde's alleged lack of authority to receive said assessment in its protest, supplemental protest, and request for reconsideration and/or reinvestigation on the FDDA, hence, being raised only for the first time in the instant petition.

The Ruling

This Court shall determine first whether the instant Motion was filed on time.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> "SECTION 1. *Who may and when to file motion.*- **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution, or order **of the Court**. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

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[2] Docket, Vol. II, pp. 1451-1456.
[3] *Id.*, Vol. II, Exhibit "P-2", pp. 1022-1023.

The records of the instant case reveal that petitioner received the Assailed Decision on June 15, 2023. In accordance with the abovementioned provision of the RRCTA, respondent had fifteen (15) days from receipt of notice of said decision from June 15, 2023 or until June 30, 2023 within which to file his motion for reconsideration. Thus, the filing of petitioner's *Motion for Reconsideration (For the Petitioner)* on June 29, 2023 was on time.

Having established the jurisdiction of the Court to hear the motion, We find it bereft of merit.

Petitioner's arguments relative to Ms. Conde's alleged lack of authority to receive respondent's notices, petitioner being not barred from challenging the validity of FAN/FLD, and respondent's right to assess being prescribed are mere replication or rehash which have already been extensively passed upon and exhaustively discussed in the Assailed Decision.

In *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*,[4] the Supreme Court ruled that:

> "The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. **It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration**, etc." (*Emphasis supplied*)

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[4] Resolution, G.R. No. 109645, March 04, 1996.

As to petitioner's arguments that the subject deficiency taxes were already paid, petitioner alleged that during the Notice of Informal Conference (NIC) for CY 2016, the BIR stated that there was an overpayment for 2016 which may be attributed to under remittance per BIR Integrated Tax System, hence, the basis for the assessment was inaccurate and would result in injustice if it would have to pay taxes out of public funds that were already paid.

Petitioner should be aware that the amount in respondent's FLD and its Assessment Notice are the result of the latter's final determination of former's tax liabilities, hence, it enjoys being presumed as correct and made in good faith unless the taxpayer prove irregularities on the part of tax examiner in the said tax assessment as held in *Commissioner of Internal Revenue v. Bank of Philippine Islands*,[5] to wit:

> "Tax assessments by tax examiners are presumed correct and made in good faith. The taxpayer has the duty to prove otherwise. In the absence of proof of any irregularities in the performance of duties, an assessment duly made by a Bureau of Internal Revenue examiner and approved by his superior officers will not be disturbed. **All presumptions are in favor of the correctness of tax assessments**." (*Emphasis supplied*)

In the instant case, other than alleging inaccuracies observed during NIC, petitioner failed to adduce any evidence that the tax examiners indeed committed irregularities in the issuance of said FLD and its Assessment Notice. In the absence of such proof, petitioner failed to overcome said presumption.

There being no new and substantial arguments propounded by petitioner in its Motion, the Court finds no compelling reason to reverse the Assailed Decision.

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[5] G.R. No. 134062, April 17, 2007.

WHEREFORE, petitioner's *Motion for Reconsideration (For the Petitioner)* is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice