REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

JOSELITO B. YAP,
Respondent.

CTA *EB* NO. 2792
(CTA Case No. 10063)

Present:

DEL ROSARIO, *P.J.*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
AUG 12 2025 4:10 pm

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RESOLUTION

CUI-DAVID, J.:

This resolves respondent's *Motion for Reconsideration,*[1] filed on February 28, 2025, with petitioner's *Comment/Opposition (Re: Petitioner's [sic] Motion for Reconsideration dated February 28, 2025),* filed on April 10, 2025.

Respondent seeks reconsideration of the Decision[2] promulgated on February 11, 2025 (assailed *Decision*), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the *Petition for Review* filed by the Commissioner of Internal Revenue is **GRANTED**. Accordingly, the assailed Decision dated November 29, 2022, and Resolution dated August 1, 2023, issued by the First Division in CTA Case No. 10063, are **REVERSED and SET ASIDE**.

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[1] *En Banc* Docket, pp.122–129.
[2] *Id.* at 94–120.

Let the case be **REMANDED** to the Court in Division for the determination of respondent's deficiency tax liabilities, if any, for taxable years 2011, 2012, and 2013.

SO ORDERED.

Respondent avers that in the assailed *Decision*, the Court *En Banc* essentially ruled that he is estopped from assailing the validity of the service of the Letters of Authority (LOAs) and assessment notices due to his failure to question their improper service at the administrative level. As such, the Court *En Banc* granted petitioner's *Petition for Review* and ordered the reversal and setting aside of the Court in Division's Decision dated November 29, 2022, and Resolution dated August 1, 2023.

However, respondent asserts that the Court in Division correctly explained in its Decision dated November 29, 2022, that it is "*not bound by issues raised by the parties during administrative proceedings but may also rule upon related issues necessary to achieve an orderly disposition of the case.*" More importantly, the Court emphasized that "*violation of due process is a matter of public importance since a taxpayer cannot be held liable under a void assessment.*"

According to respondent, the facts of the case clearly show that the LOAs and Final Assessment Notices/Formal Letters of Demand (FANs/FLDs) were improperly served by the Bureau of Internal Revenue (BIR), as the said notices were received by neither an authorized representative nor an employee of respondent. Hence, for respondent, the assessments are void.

Respondent likewise asserts that the Preliminary Collection Letter (PCL) and subsequent Final Notice Before Seizure (FNBS), Warrant of Distraint and/or Levy (WDL), or Warrant of Garnishment (WOG), if any, are void considering that respondent has a pending protest and petitioner has yet to issue a Final Decision on Disputed Assessment (FDDA).

According to respondent, he filed his protests or motions for reinvestigation on July 11, 2015, which petitioner granted through a letter issued on May 24, 2018. However, to date, petitioner has not issued an FDDA. Citing the case of *Light Rail Transit Authority v. Commissioner of Internal Revenue,*[3]

[3] G.R. No. 231238, June 20, 2022 [Per J. Leonen, Second Division].

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respondent submits that the PCL and any subsequent FNBS, WDL, or WOG are void for being premature.

In rejecting respondent's *Motion for Reconsideration*, petitioner counters that the Court *En Banc* correctly ruled that respondent can no longer question the propriety of service of the LOAs and assessment notices due to his express admission of receipt and estoppel. According to petitioner, respondent's allegation that the recipients of the LOAs and assessment notices were not his authorized representatives, can no longer be given credence, as respondent expressly admitted receiving the said documents from the BIR. Moreover, the respondent is already estopped from assailing the propriety of the service of the LOAs and assessment notices, as he never raised the said issue at the administrative level. Hence, considering that respondent received the LOAs and assessment notices, there was no violation of his right to due process.

Anent respondent's contention that the PCL, FNBS, WDL, or WOG are void, considering that he has a pending protest and petitioner has yet to issue an FDDA, petitioner emphasizes that in *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*,[4] the Supreme Court ruled that when the Commissioner of Internal Revenue fails to issue a decision on the taxpayer's protest but proceeds with distraint and/or levy or enforcement of collection, such action is deemed a denial of the protest. As in the instant case, petitioner has already initiated collection through the letters dated July 30, 2018, and September 27, 2018, and PCL Notices dated April 4, 2019, for taxable years 2011, 2012, and 2013. Hence, there is no merit to respondent's contention as there is already a "deemed denial" decision by petitioner.

After going over the arguments set forth in the *Motion for Reconsideration* and the counter-arguments advanced by petitioner, the Court *En Banc* finds no cogent reason to deviate from its ruling in the assailed *Decision* of February 11, 2025. The *Motion for Reconsideration* fails to raise any new or substantial ground that would justify a departure from the previous conclusion and finding of the Court *En Banc*. All arguments raised have already been passed upon, amply discussed, and considered by the Court *En Banc* in the assailed *Decision*. Accordingly, the Court *En Banc* finds no

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[4] G.R. No. 225809, March 17, 2021 [Per J. Leonen, Third Division].

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reasonable basis to set aside or modify its ruling on the merits of the case.

WHEREFORE, the *Motion for Reconsideration* filed by respondent Joselito B. Yap is **DENIED**, for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

(I reiterate my Concurring and Dissenting Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

x---x

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice