REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE Petitioner,	**CTA EB CASE NO. 997 (CTA Case No. 8199)**
	Present: *Del Rosario, P.J. Castañeda, Jr., Bautista, Uy, Casanova, Fabon-Victorino, Mindaro-Grulla, Cotangco-Manalastas, and Ringpis-Liban, JJ.*
- *versus* -	
BRAVO ALABANG, INC., Respondent.	**Promulgated:** MAY 11 2015 4:25 p.m.

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RESOLUTION

BAUTISTA, J.:

For resolution is petitioner Commissioner of Internal Revenue's ("CIR") "Motion for Reconsideration," filed by registered mail on November 5, 2014; without any comment from respondent Bravo Alabang, Inc. ("Bravo"), despite notice.

The Court *En Banc* on September 30, 2014 promulgated a Decision, the dispositive portion thereof states:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Decision and Resolution dated November 29, 2012 and March 12, 2013, respectively, are hereby **AFFIRMED** in *toto*.

SO ORDERED. "

CIR alleges that she no longer needs to present evidence when Bravo already made a judicial admission that a reinvestigation was conducted as judicial admission pursuant to Section 4, Rule 129 of the Rules of Court requires no further proof.

The Court *En Banc* is not persuaded.

The Court *En Banc* agrees with CIR that, as a rule, a judicial admission, such as that made by Bravo in the Joint Stipulation of Facts, is binding on the declarant. However, such rule does not apply when there is a showing that (1) the admission was made through a palpable mistake, or that (2) no such admission was made. Indeed, Section 4 of Rule 129 of the Rules of Court states:

> Sec. 4. *Judicial Admissions.* – An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

In the present case, reference is made to the statement made by the parties in paragraph 4 of the Joint Stipulation of Facts,[1] which state:

> "That on November 11, 2010, petitioner (Bravo) received a copy of the Final Decision on Disputed Assessment ("FDDA") Letter of the respondent (CIR) informing it that "after reinvestigation,' petitioner (Bravo) is still liable to pay deficiency income tax, value-added tax, and expanded withholding tax for the taxable year 1999 in the amount of Php49,347.79, Php214,781.63, Php31,596.73, inclusive of interest, respectively."

From the foregoing, it is clear that the fact being admitted by Bravo is not on the reinvestigation but on the receipt of the FDDA Letter and that it was being informed that CIR has conducted the alleged reinvestigation. Therefore, the reliance of CIR on the Joint Stipulation of Facts is taken out of context.

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[1] *Records*, CTA Case No. 8199, p. 53.

Furthermore, other evidence would show that Bravo indeed requested a reconsideration and not a reinvestigation.

In its protest Letter dated March 5, 2003[2] to the Bureau of Internal Revenue ("BIR"), Bravo merely contested the propriety and validity of the deficiency taxes for the year 1999,[3] and that it is requesting for a reconsideration on the matter when it stated that: "We look forward to your favorable consideration of this request.[4]"

Therefore, it can be surmised from the foregoing that the request is one for reconsideration and not a reinvestigation.

In the case of *Bank of Philippine Islands vs. Commissioner of Internal Revenue*,[5] it has been held by the Supreme Court that a request for reinvestigation shall only toll the running of the prescriptive period to assess and collect taxes if the same is granted by the Commissioner of Internal Revenue.

Finding none from the records of the case of such grant by the CIR, the Court *En Banc* cannot countenance CIR's claim.

WHEREFORE, premises considered, the "Motion for Reconsideration," is hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

[2] *BIR Records*, Exhibit "A"- A-5,"pp. 209-213.
[3] *Id.*, p. 212.
[4] *Id.*, p. 209.
[5] G.R. No.181836, July 9, 2014.

J. C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

(On Official Business)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice