REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

STAR SPORTS CORPORATION,
Respondent.

CTA *EB* No. 2874
(CTA Case No. 10380)

Present:

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

Promulgated:
SEP 16 2025 4:16 p.m.

x- -x

RESOLUTION

MANAHAN, *J.*:

Before the Court is a *Motion for Reconsideration (RE: Decision Promulgated on March 31, 2025)*[1] filed by petitioner Commissioner of Internal Revenue ("**CIR**") on April 28, 2025 and received by the Court on May 6, 2025 ("***Motion for Reconsideration***"), with respondent's comment/opposition[2] filed on June 10, 2025. The *Motion for Reconsideration* seeks that the Court *En Banc* set aside its *Decision* dated March 31, 2025[3] ("**assailed *Decision***") and issue a new one ordering respondent Star Sports Corporation ("**Star Sports"**) to pay its alleged deficiency taxes in the amount of P10,865,497.37.

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[1] *EB* Docket, pp. 118-125.
[2] *Comment/Opposition (to the Motion for Reconsideration dated 28 April 2025), EB* Docket, pp. 132-145.
[3] *EB* Docket, pp. 86-96.

In his *Motion for Reconsideration*, the CIR argues that the evidence presented by Star Sports, particularly the testimony of Russel M. Membrebe, is not competent to establish the fact of non-receipt of the Preliminary Assessment Notice ("**PAN**") and Final Assessment Notice ("**FAN**"). According to the CIR, since Star Sports is aware that it is under investigation and has in fact admitted receipt of the Letter of Authority and *subpoena duces tecum*, it is illogical that it did not similarly receive the PAN and FAN.

On the other hand, Star Sports contends that the CIR's *Motion for Reconsideration* is a mere reiteration of his pleadings not just before the Court but also before the court *a quo*. As all arguments raised in the *Motion for Reconsideration* have already been extensively discussed and repeatedly rejected, Star Sports opines that there is no reason for the Court to disturb the assailed *Decision*. Star Sports maintains that the burden of proof that the PAN and FAN were issued is upon the CIR, yet the CIR's own witness admitted that there is no such proof.

Indeed, the CIR's *Motion for Reconsideration* is a mere rehash of his pleadings that have already been repeatedly passed upon, *viz*:

> As therefore correctly observed [by the Court in Division], *the reliability of respondent's witness is of no moment because the burden of proof is upon the CIR to establish, by competent evidence, the fact of receipt of the PAN and FAN...*
>
> ...
>
> Records of the present case, however, are bereft of evidence to prove service and receipt of the PAN and FAN. In fact, as likewise found by the Court in Division, *the CIR failed to present the PAN and FAN themselves*. In the instant *Petition* before the Court *En Banc*, the CIR still solely and adamantly relies on the taxpayer's alleged failure to prove non-receipt of the assessment notices which, as already settled, is immaterial to its case.
>
> Without evidence of the receipt of the PAN and FAN, it necessarily follows that the tax assessment is void for non-compliance with the due process requirement under Section 228 of the Tax Code...

While a motion for reconsideration may dwell on the same arguments already previously resolved by the court, it is still incumbent upon the movant to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.[4] More importantly, it behooves the movant to specify the findings or conclusions in the judgment which are not supported by evidence or which are contrary to law, making express reference to the pertinent evidence or legal provisions, as required by Rule 37, Section 2 of the Rules of Court.[5]

The Court notes, however, that aside from failing to persuade, the CIR's *Motion for Reconsideration* patently failed to comply with the requirement of Rule 37, Section 2 of the Rules of Court that it must specifically point out the findings or conclusions of the Court which are unsupported by the evidence or contrary to law.

In the assailed *Decision*, the Court held that if a taxpayer denies receipt of the PAN or FAN, it is incumbent upon the CIR to prove that it was properly served pursuant to the CIR's own rules and regulations. It is not the burden of the taxpayer to prove non-receipt of the assessment notice. Citing the prevailing doctrine enunciated in *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*,[6] the assailed *Decision* highlighted that "[t]he CIR cannot rely on the supposed incompetence and lack of personal knowledge of [the taxpayer's] witness to testify on the alleged non-receipt of the [assessment notice]."

Here, the CIR challenges the application of the said doctrine, but does not even attempt to provide the slightest explanation why the same does not obtain in the present case. Apart from his unfounded insistence that the taxpayer must establish non-receipt of the PAN and FAN by competent evidence, the CIR simply relies on the assumption that prior receipt by Star Sports of the Letter of Authority and the *subpoena duces tecum* logically implies subsequent receipt of the PAN and FAN. In the absence of any legal basis, the CIR's theory is not worth the attention of the Court.

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[4] *Roque, Jr. v. Commission on Elections*, G.R. No. 188456 (Resolution), February 10, 2010 [Per J. Velasco, *En Banc*].
[5] *People v. Rodriguez*, G.R. No. 32657, September 1, 1992 [Per J. Nocon, Second Division].
[6] G.R. No. 223767, April 24, 2023 [Per C.J. Gesmundo, First Division].

A motion for reconsideration is deemed *pro forma* when it does not specify the findings or conclusions in the assailed judgment which are unsupported by evidence or are contrary to law. In *Philippine National Bank v. Paneda*, the Supreme Court declared:[7]

> A motion for reconsideration... is deemed *pro forma* if the same does not specify the findings or conclusions in the judgment which are not supported by the evidence or contrary to law, making express reference to the pertinent evidence or legal provisions. It is settled that although a motion for reconsideration may merely reiterate issues already passed upon by the court, that by itself does not make it *pro forma* and is immaterial because what is essential is compliance with the requisites of the Rules.

ACCORDINGLY, petitioner's *Motion for Reconsideration (RE: Decision Promulgated on March 31, 2025)* filed on April 28, 2025 is **DISMISSED** for being *pro forma.*

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[7] G.R. No. 149236, February 14, 2007 [Per J. Austria-Martinez, Third Division].

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice