REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

M. TECH PRODUCTS PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE
Respondent.

CTA EB No. 2114
(CTA Case No. 9331)

Present:

Del Rosario, *PJ*,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro, *and*
Reyes-Fajardo, *JJ.*

Promulgated:

OCT 21 2021 2:50pm

x---x

RESOLUTION

CASTAÑEDA, JR., *J.:*

This resolves petitioner's *Motion for Reconsideration (To the Decision Promulgated on 21 October 2020)* ("Assailed Decision") filed on November 24, 2020 and received by the Court on December 3, 2020.

The dispositive portion of the October 21, 2020 Decision states:

> **WHEREFORE,** premises considered, the Petition for Review is **DENIED.** Accordingly, the assailed Decision and the Resolution promulgated on December 11, 2018 and on July 9, 2019, respectively, by the then CTA Special First Division are **AFFIRMED.**
>
> **SO ORDERED.**

Respondent failed to file his Comment on petitioner's Motion for Reconsideration as stated in the Records Verification Report dated June 14, 2021.

As stated in the present motion, "Petitioner adopts and re-pleads all allegations, arguments and discussions raised in its Petition for Review, En Banc, including all previous pleadings, in so far as they are relevant and pertinent herewith."

Petitioner alleges that respondent's right to assess and collect taxes has prescribed; that jurisprudence cited not on four-squares; that no estoppel, no *in pari delicto*; and that a void assessment can be challenged at anytime.

This Court finds no valid or cogent reason to deviate from our findings and conclusions reached in our Decision dated October 21, 2020, thus, the motion is denied.

We reiterate that "this Court agrees with the CTA Division in applying the *Next Mobile* case, although there is only one defective waiver, and finding that the parties are in *pari delicto*."[1] Thus, we affirm that the waiver resulted in the extension of the period to assess.

In this case, CTA Division found that Alas Oplas & Co., CPA had an apparent authority to act for and to bind petitioner.[2] It is clear that "despite being aware of the investigation of its 2010 tax liability and of the alleged unauthorized representation of its internal accountant as early as 2013, petitioner still failed to designate an authorized representative to communicate with the BIR regarding its computed tax deficiencies for taxable year 2010. Furthermore, it must be emphasized that **petitioner did not object** or even act on the alleged unauthorized representation, considering that Alas Oplas & Co. CPAs is still the internal accountant of petitioner."[3] No action was taken by petitioner to prohibit the internal accountant from continuing its representation,[4] and respondent recognized such representation. As such the April 1, 2015 Letter which the internal accountant wrote to the BIR can be considered a Protest Letter to the FAN. Also, the said Letter proves that Mary Grace T. Aguilar as signatory of the subject Waiver is authorized.[5]

At this juncture, We emphasize that "this Court has no jurisdiction to take cognizance of this case, because the protest of petitioner was filed

[1] *Rollo*, p. 108.
[2] *Id*., p. 24.
[3] *Id*., p. 49.
[4] *Id.*
[5] *Id*., 42.

beyond the period allowed by law, and therefore the subject tax assessments have become final, executory and unappealable."[6]

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

[6] *Rollo*, p. 57.