REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

iSCALE SOLUTIONS, INC.,
Respondent.

CTA EB No. 2624
(CTA Case No. 9845)

Present:
DEL ROSARIO, *PJ,*
RINGPIS-LIBAN,
MANAHAN,
BOCORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, *JJ.*

Promulgated:
FEB 12 2024
3:06 p.m.

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RESOLUTION

REYES-FAJARDO, *J*.:

On August 23, 2023, the Court *En Banc* rendered a Decision (assailed Decision),[1] the *fallo* of which reads:

> **WHEREFORE**, the Petition for Review dated May 24, 2022, filed by the Commissioner of Internal Revenue, is **DENIED**, for lack of merit. The assailed Decision dated June 30, 2021 and Resolution dated April 20, 2022, in CTA Case No. 9845, are **AFFIRMED**.
>
> **SO ORDERED.**

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1 *Rollo*, pp. 97 to 115.

In so ruling, the Court considered respondent's Petition for Review with Petition for Writ of Preliminary Injunction in CTA Case No. 9845, as a Petition for Certiorari, filed pursuant to Rule 65 of the Rules of Court citing *Golden Donuts, Inc. v. Commissioner of Internal Revenue*.[2]

The Court explained that respondent met the conditions to avail of the remedy of *certiorari* under Rule 65, as follows: *first,* the BIR personnel who issued the Forty-Eight (48)-Hour Notice dated February 9, 2018, Five (5)-day Value-Added Tax (VAT) Compliance Notice (VCN) dated March 18, 2018, and Revenue District Officer (RDO) Mahinardo G. Mailig's Letter, exercised quasi-judicial function; *second,* the BIR personnel acted with grave abuse of discretion, amounting to lack of jurisdiction, in issuing the Forty-Eight (48)-Hour Notice dated February 9, 2018, the Five (5)-day VCN and RDO Mailig's Letter *sans* a valid Mission Order; and *third,* the Forty-Eight (48)-Hour Notice, the Five (5)-Day VCN, and RDO Mailig's Letter are interlocutory in nature, as petitioner has yet to issue a closure order; hence, these issuances are *not* subject of an appeal.

In his *Motion for Reconsideration,*[3] petitioner argues that the Court lacks jurisdiction because respondent failed to exhaust administrative remedies before elevating the case to the Court of Tax Appeals on account of its failure to demand for the issuance of certification under paragraph (5) of Section VII of Revenue Memorandum Order (RMO) No. 3-2009. Petitioner likewise submits that issuance of a Mission Order and the conduct of surveillance under RMO No. 3-2009 may be dispensed with since a Letter of Authority (LOA) dated June 28, 2017 was issued to Revenue Officer Melissa Baes and Group Supervisor Rebecca Pandapatan, authorizing them to investigate respondent for taxable year 2016.

Respondent, in its Comment on *Petitioner's Motion for Reconsideration,*[4] maintains that the Court has jurisdiction to take cognizance of the case because the subject matter falls within the meaning of "other matters" under the National Internal Revenue Code of 1997 (NIRC), as amended or other laws administered by the BIR. Further, respondent insists that it is a Mission Order, and not an

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2 G.R. No. 252816, Resolution, February 3, 2021.

3 *Rollo*, pp. 126 to 138.

4 *Id.*, pp. 141 to 147.

LOA, which is required to be issued prior to the conduct of surveillance and apprehension of business establishments for non-compliance with the provisions of Sections 113, 114, 236, 237 and 238 of the NIRC, as amended, under Section V (2.1) (2.2) of RMO 3-2009.

The Court finds petitioner's motion bereft of merit.

After a careful evaluation of the arguments presented by petitioner, it is clear that the grounds raised therein are mere reiterations of matters which have already been exhaustively considered and passed upon by the Court in the assailed Decision. As such, the Court finds no compelling reason to reconsider, modify or even reverse the assailed Decision. The pronouncement in *Social Justice Society (SJS) Officers, et al. v. Lim*,[5] is instructive:

> The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the ponencia in accordance with the outline of the instant motion.
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> As succinctly put by then Chief Justice Andres R. Narvasa in Ortigas and Co. Ltd. Partnership v. Judge Velasco on the effect and disposition of a motion for reconsideration:
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>> 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

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5 G.R Nos. 187836 & 187916, March 10,2015.

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> 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.

WHEREFORE, petitioner's *Motion for Reconsideration*, posted on September 14, 2023 is **DENIED**, for lack of merit.

SO ORDERED.

MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding 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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice