REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

STAR SPORTS CORPORATION, *Petitioner,*	**CTA CASE NO. 10380**
-versus-	Members:
COMMISSIONER OF INTERNAL REVENUE AND ASSISTANT REGIONAL DIRECTOR OF REVENUE REGION NO. 8, MAKATI CITY, *Respondents.*	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO, FERRER-FLORES,** *JJ.*
	Promulgated: JAN 2 6 2024 3:57 pm

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is respondents' "Motion for Reconsideration" ("Motion"), filed on 24 November 2023, with petitioner's "Comment-Opposition (On the Motion for Reconsideration dated 22 November 2023)", filed on 18 December 2023.

Against this Court's Decision, dated 6 November 2023 ("Assailed Decision"), respondents insist that as petitioner failed to prove that it did not receive the subject Preliminary Assessment Notice ("PAN") and Final Assessment Notice ("FAN"), the burden of proof did not shift to respondents. Petitioner, meanwhile, argues that the above contention was already addressed in the Assailed Decision and that the present Motion is *pro forma*.

The Motion must be denied. Respondents' sole argument was already refuted in the Assailed Decision.

In ***Ortigas and Company Limited Partnership vs. Judge Tirso Velasco and Dolores V. Molina, and Dolores V. Molina vs. Hon. Presiding Judge, RTC, Quezon City, Br. 105, and Manila Banking Corporation***,[1] the Supreme Court ruled that a Court is not obliged to address each individual argument in a Motion for Reconsideration that merely reiterates arguments passed upon previously and is instead allowed to deal with such motion generally:

> "*Effect, and Disposition of 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 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."

Moreover, in ***H. Harry L. Roque, Jr., et al. v. Commission on Elections, represented by Hon. Chairman Jose Melo, et al.***,[2] the Supreme Court *En Banc* ruled that whenever the issues raised in the Motion for Reconsideration have already been addressed and passed upon in the Decision, and the Motion for Reconsideration fails to raise matters which are substantially plausible or compellingly persuasive, enough to lead the Court to rule in favor of the desired course of action, then the Motion for Reconsideration must be denied by the Court, to wit:

> "Petitioners' above contention, as well as the arguments, citations, and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again…
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> xxx xxx xxx

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[1] G.R. Nos. 109645 and 112564, Resolution, 4 March 1996.

[2] G.R. No. 188456, Resolution, 10 February 2010.

While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered—and this should not be an obstacle for a reconsideration—the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.

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WHEREFORE, the instant separate motions for reconsideration of the main and intervening petitioners are DENIED."

This was earlier expressed in ***Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.***:[3]

"The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.

Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought."

Respondents' present Motion seemingly ignores Our discussion, in the Assailed Decision, about how a denial of receipt is sufficient to shift the burden of proof back to them. In said issuances, We examined the cases of ***Barcelon Roxas Securities, Inc. v. Commissioner of Internal Revenue***, ***Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.***, and ***Commissioner of Internal Revenue v. T Shuttle Services*** to show that even if a taxpayer utterly fails to disprove receipt of an issuance, mere denial already overcomes the presumption of regularity of duty. This then shifts the burden of proof to respondent Commissioner of Internal Revenue to prove that said taxpayer did, indeed, receive the questioned issuance. Respondents may disagree with Our application of this "established jurisprudence", in their own words, but they do not provide any basis for said disagreement—they do not bother to argue or show *why* the cited jurisprudence is inapplicable to this case.

Instead, respondents continue to insist that petitioner's evidence and the testimony of its witness is insufficient to establish beyond doubt that it did not, in fact, receive the PAN and FAN. But this line of argument completely misses the point, as the burden of proof was not on petitioner. We even agreed

[3] G.R. No. 159938, Resolution, 22 January 2007.

with respondents' misgivings about the testimony of petitioner's witness, opining that "[i]t would have been more prudent, on petitioner's part, to present witnesses who had personal, first-hand knowledge of its dealings at its Alabang Town Center office."[4] The point is that, to repeat, the burden of proof was already on respondents to show that petitioner actually did receive the subject Assessment Notices as the latter already denied receipt of such. This is so, regardless of whether or not petitioner satisfactorily proved the fact of such non-receipt.

As all of this was already explained in detail in the Assailed Decision, and considering the Supreme Court's pronouncement on such reiterative Motions for Reconsideration, there is nothing left for the Court to do but to deny the present Motion.

WHEREFORE, respondent's Motion for Reconsideration is hereby **DENIED**. The Decision, dated 6 November 2023, is hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

[4] Decision, dated 6 November 2023, pp. 9-10, Records.