REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1226** **(CTA Case No. 8264)**
-versus-	Present: Del Rosario, *P.J.*, Castañeda, Jr., Bautista, Uy, Casanova, Fabon-Victorino, Mindaro-Grulla, and Ringpis-Liban, *JJ.*
COOLMATE CORPORATION, Respondent.	Promulgated: OCT 17 2016 11:35 a.m.

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For resolution is petitioner's Motion for Reconsideration to the Decision promulgated on June 8, 2016. Respondent filed its Opposition [to Petitioner's Motion for Reconsideration] on July 18, 2016. Petitioner's motion was submitted for resolution on August 9, 2016.

The dispositive portion[1] of the June 8, 2016 Decision states:

> "**WHEREFORE,** premises considered, the Petition for Review is **DENIED** for lack of merit. Accordingly, the May 19, 2014 Decision and the August 28, 2014 Resolution of the CTA 1st Division are **AFFIRMED.** The Final Assessment Notice against respondent for alleged deficiency income tax for the taxable year 2006 in the amount of P17,577,070.63 is declared null and void, and the Warrant of Garnishment dated January 1,

[1] *Rollo*, p. 304.

2011 and the Collection Letter dated March 31, 2011 are cancelled and deemed withdrawn.

SO ORDERED."

Petitioner argues that the Court of Tax Appeals has no jurisdiction over the instant Petition for Review for failure of the respondent to file the appeal within the mandatory 30-day period; that evidence was not properly identified/authenticated; that no proper update of change of business address; that respondent still filed its Income Tax Returns for 2007 and 2008 with RDO No. 48 in West Makati; that in order to have valid update, the application for change of business address should be filed both with the old and new RDO pursuant to BIR Regulations; that respondent has not abandoned its business address at "Bldg. 8, La Fuerza Cpd. 2241 Chino Roces Avenue, Makati City" even after the alleged application for update of business address; and that the service of the Preliminary Assessment Notice (PAN) and Final Assessment Notice (FAN) need not be made at respondent's main address. Petitioner argues that there is valid service of the PAN and FAN when the same were made to respondent's Service Center.

On the other hand, respondent opposes petitioner's motion for lack of any substantial arguments or any novel manner of discussion of previously raised arguments and appears to be rehash of the Petition for Review.

After a careful review of the grounds raised by petitioner, this Court finds that these are mere reiterations of the arguments in the Petition for Review, which were already exhaustively discussed in the June 8, 2016 Decision.

"[D]ue process requires that [assessment] must be served on and received by the taxpayer."[2]

We reiterate that the records show that respondent did not receive the FAN, although petitioner sent it through registered mail.[3] Considering that the FAN was not received by respondent, due process was not observed in this case.

Based on the foregoing discussions, there is no valid or cogent reason to deviate from our findings and conclusions reached in the said Decision, thus, the motion is denied.

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[2] *Commissioner of Internal Revenue v. Pascor Realty and Development Corporation, et al*, G.R. No. 128315, June 29, 1999, 309 SCRA 402, 404.
[3] *Rollo*, p.303.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration on the June 8, 2016 Decision is **DENIED** for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice