REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

BUREAU OF INTERNAL REVENUE,
Petitioner,

-*versus*-

MEGACONSTRUCT GROUP, INC.,
Respondent.

CTA EB NO. 2633
(CTA Case No. 9992)

Present:

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

Promulgated:
JUL 11 2024
1:45 PM

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RESOLUTION

MANAHAN, *J.*:

This resolves petitioner's ***Motion for Reconsideration (Re: Decision promulgated on February 01, 2024)***[1] filed on February 20, 2024, seeking the reversal and setting aside of the *Decision* dated February 01, 2024[2] (Assailed Decision) and to render a new one denying respondent's original Petition for Review, the dispositive portion of which, reads:

> "**WHEREFORE**, premises considered, the instant *Petition for Review* is hereby **DENIED** for lack of merit. Accordingly, the Assailed *Decision* dated December 2, 2021 and *Resolution* dated May 17, 2022 are **AFFIRMED**.
>
> **SO ORDERED**."

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[1] *Rollo*, CTA EB No. 2633, pp. 106-122.
[2] *Id.* at pp. 94-105.

Petitioner Bureau of Internal Revenue (BIR) argues that the issue on prescription was not raised for the first time in the motion for reconsideration or petition for review and that the exception to the rule that factual findings of the Court in Division can no longer be disturbed is present in this case.

Petitioner insists that this Court has no jurisdiction over the original petition and that the assessment has already become final, executory and demandable. Petitioner argues that the original petition did not comply with the jurisdictional period to appeal.

Petitioner further insists that the Court erred in ruling that the subject compromise penalty may not be validly imposed.

On the other hand, in its ***Comments***,[3] filed through registered mail on March 7, 2024 and received by this Court on March 20, 2024, respondent Megaconstruct Group, Inc. (MGI) argues that the grounds raised by petitioner in the instant motion were thoroughly passed upon by this Court, hence, the motion is *pro forma*.

Respondent asserts that the Court in Division had factually found and ruled that the Preliminary Assessment Notice (PAN) and the Formal Letter of Demand/Final Assessment Notice (FLD/FAN) were not duly received rendering the income tax assessment void for violation of due process. Thus, such findings of facts must not be disturbed and only through a misapprehension of facts, absence of or contrary evidence said factual findings may be overturned which petitioner failed to prove.

Before going into the merits of the motion, the Court shall determine first if petitioner's motion was filed within the prescriptive period.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> "SECTION 1. *Who may and when to file motion.* — **Any aggrieved party may seek a reconsideration** or new trial of any decision, resolution or order of the Court **by filing a motion for reconsideration** or new trial **within fifteen days from the date of receipt of notice of the decision,**

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[3] *Rollo*, pp. 125-127.

resolution or order **of the Court in question**." (*Emphasis supplied*)

Based on the records of the case, respondent received the copy of the assailed *Decision* dated February 01, 2024 on February 5, 2024.[4] In accordance with the said provision of the RRCTA, petitioner had fifteen (15) days from February 5, 2024, or until February 20, 2024, within which to file its motion for reconsideration. Thus, the filing of the instant motion on February 20, 2024 was on time.

Now on the substantive aspects of the instant motion.

Petitioner argues that the issue on prescription was not raised for the first time in the motion for reconsideration and such prohibition admits an exception.

However, instead of proving its argument, petitioner merely discussed its findings on the voided assessment. Petitioner also failed to adduce or at least cite the portion on its particular pleadings where it discussed the issue on prescription. Further, petitioner failed to justify its argument to be excepted from the doctrine that factual finding of the Court in Division can no longer be disturbed. Thus, the allegations are bereft of merit.

As to the discussion on the jurisdiction as well as the issue on compromise penalty, this Court had already extensively passed upon and exhaustively discussed these issues in the Assailed Decision, hence, it would be a useless formality or ritual to act on said issues again as pronounced in *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*,[5] to wit:

> "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

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[4] *Rollo*, Notice of Decision dated February 1, 2024, p. 93.
[5] G.R. No. 109645, March 04, 1996.

> 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." (*Emphasis supplied*)

There being no other new issues or matters raised by petitioner in the instant motion, this Court finds no compelling reason to reverse the ruling in the Assailed Decision.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (Re: Decision promulgated on February 01, 2024)* is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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