REPUBLIC OF THE PHILIPPINES

# *Court of Tax Appeals*

QUEZON CITY

## *En Banc*

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| **COMMISSIONER OF INTERNAL REVENUE,**<br>*Petitioner,* | **CTA EB CASE NO. 1006**<br>(CTA CASE NO. 8132) |
| | Present: |
| -*versus*- | ***Del Rosario, P.J.***<br>***Castañeda, Jr.,***<br>***Bautista,***<br>***Uy,***<br>***Casanova,***<br>***Fabon-Victorino,***<br>***Mindaro-Grulla,***<br>***Cotangco-Manalastas,*** *and*<br>***Ringpis-Liban, JJ.*** |
| **LA FLOR DELA ISABELA, INC.,**<br>*Respondent.* | Promulgated:<br>MAY 11 2015<br>4:10 p.m. |

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# *RESOLUTION*

***BAUTISTA, J:***

This resolves petitioner's "Motion for Reconsideration," filed on December 3, 2014, with respondent's "Comment (To Petitioner's Motion for Reconsideration dated 1 December 2014)," filed on April 6, 2015.

On November 10, 2014, the Court *En Banc* promulgated a Decision, the dispositive portion of which states:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Assailed Decision dated March 25, 2012

and the Assailed Resolution dated March 22, 2013 are hereby **AFFIRMED** *in toto.*

**SO ORDERED."**

Petitioner maintains that the parties have stipulated on the issuance of a Preliminary Assessment Notice ("PAN") dated December 15, 2004, as well as on the Final Assessment Notice ("FAN") dated January 24, 2015.

Furthermore, petitioner alleges that the respondent has not controverted the documents attached to her Answer, therefore, the same are deemed admitted and part of the pleadings pursuant to Sections 7 and 8 of Rule 8 of the Rules of Court.

Finally, petitioner insists that respondent received the PAN and the FAN as can be seen from its reply found in Annexes "3," "4," and "7."

On the other hand, respondent alleges that while the parties have stipulated on the issuance of a supposed PAN on December 15, 2004 and a supposed FAN on January 24, 2005, petitioner has failed to prove that the PAN and the FAN were properly received by respondent or any of its authorized representatives.

In addition, respondent maintains that the second Waiver of the Statute of Limitations dated July 21, 2004 is defective since it did not comply with Revenue Memorandum Order No. 20-90, such that, it was not signed by the Commissioner despite the fact that the amount is more than One Million Pesos (P1,000,000.00) and that there is no stated date of acceptance by the Commissioner or his duly authorized representative. Being defective, the second waiver is null and void and is not binding, thus, it did not extend the period to assess by petitioner.

We find no merit in petitioner's "Motion for Reconsideration."

A perusal of the Motion for Reconsideration shows that the grounds raised therein are mere rehash of her Petition for Review filed before the Court *En Banc,* which had already been comprehensively discussed and passed upon in the assailed Decision dated November 10, 2014.

To reiterate, a mailed matter is deemed received by the addressee (the respondent) in the regular course of business, however, if the taxpayer denies having received an assessment from the Commissioner of Internal Revenue, the burden is upon the latter to prove that such notice was indeed received by the taxpayer.[1]

As exhaustively discussed by the Court in Division and later on by the Court *En Banc,* petitioner did not present any evidence to prove that the PAN and the FAN were actually received by respondent.

**WHEREFORE**, premises considered, the "Motion for Reconsideration" is hereby **DENIED** for lack of merit.

**SO ORDERED.**

**LOVELL R. BAUTISTA**
Associate Justice

***WE CONCUR:***

**ROMAN G. DEL ROSARIO**
Presiding Justice

J. C. Castañeda, Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**ERLINDA P. UY**
Associate Justice

**CAESAR A. CASANOVA**
Associate Justice

**ESPERANZA R. FABON-VICTORINO**
Associate Justice

[1] Barcelon, Roxas Securities, Inc. (now known as UBP Securities, Inc.) v. Commissioner of Internal Revenue, G.R. No. 157064, August 7, 2006, 498 SCRA 126.

Cielito N. Mindaro-Grulla
**CIELITO N. MINDARO-GRULLA**
Associate Justice

**(On Official Business)**
**AMELIA R. COTANGCO-MANALASTAS**
Associate Justice

Ma. Belen R. L.
**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice