REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

LOADSTAR SHIPPING CO. INC., represented herein by TEODORO G. BERNARDINO,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE No. 9902

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, *JJ.*

Promulgated:
JUN 11 2021 3:10 pm

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner's Motion for Reconsideration (**MR**), filed on 23 December 2020[1], without respondent's comment *per* Records Verification Report[2] dated 02 March 2021.

In its MR, petitioner still belabors that the telephone operator who received the assessment notices was unauthorized to do so. Hence, it was not informed of the assessment against it and the receipt by the telephone operator did not bind petitioner. Petitioner insists that a telephone operator is not a clerk nor a person in charge of the office. A clerk, as petitioner defines, is a person employed in an office or bank to keep records, accounts, and undertake other routine administrative duties, whereas a telephone operator does not perform any of the enumerated functions.

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1 Received by the Court on 12 January 2021.
2 Division Docket, p. 727.

Petitioner maintains that the Court has jurisdiction to take cognizance of the instant petition considering that it filed the Petition for Review within thirty (30) days from discovery of one of its officers of the Warrant of Distraint and/or Levy (**WDL**).

Lastly, petitioner claims to have been deprived of due process since it was not informed in writing of the law and facts on which the assessment was made.

We resolve.

A careful perusal of petitioner's MR readily reveals that the arguments raised herein are mere reiterations of the basic issues raised in Petition for Review, which the Court already considered, passed upon and exhaustively discussed in the assailed Decision. There were no substantial arguments raised in the MR that would warrant this Court's reconsideration.

In *Shangri-la International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[3], the Supreme Court held that it is incumbent upon petitioner-movant to raise substantially plausible matters to warrant the relief sought, thus:

> ...
>
> 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 cause of action.
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> 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.[4]
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> ...

[3] G.R. No. 159938, 22 January 2007.
[4] Citation omitted.

All told, We reiterate that the assessment against petitioner has already attained finality for its failure to timely file an administrative protest to dispute the same. We quote the relevant portion of the assailed Decision:

> ...
>
> Clearly, what is appealable to this Court is respondent's decision or inaction in a *disputed assessment*. A disputed assessment presupposes that an administrative protest has been filed before the CIR or his duly authorized representative in accordance with Section 228 of the NIRC of 1997, as amended, and its implementing rules and regulations.
>
> Herein, petitioner reckoned the 30-day period to file a Petition for Review before this Court from its receipt of the WDL. Although it is true that the Court's jurisdiction also encompasses "other matters" arising under the NIRC, We still cannot entertain petitioner's appeal for the simple reason that it already lost its chance to contest the assessment. Regrettably, the hands of the Court are tied to upholding the assessment issued against petitioner as the same has already attained finality.
>
> ...

WHEREFORE, petitioner's Motion for Reconsideration filed on 23 December 2020 is **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice