REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

***EN BANC***

**COMMISSIONER OF INTERNAL REVENUE,**
*Petitioner,*

- versus -

**RCL FEEDERS PHILS., INC.,**
*Respondent.*

**CTA *EB* NO. 2772**
(CTA Case No. 9917)

*Present:*

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

Promulgated:
OCT 01 2024 3:50 pm

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# RESOLUTION

***CUI-DAVID, J.:***

This resolves petitioner's *Motion for Reconsideration (of the Decision dated 29 April 2024)* filed on May 21, 2024, with respondent's *Comment (on Petitioner's Motion for Reconsideration dated May 21, 2024)* filed on June 24, 2024.

Petitioner seeks reconsideration of the *Decision* promulgated on April 29, 2024 (*assailed Decision*), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the *Petition for Review* filed by the Commissioner of Internal Revenue is **DENIED** for lack of merit.
>
> Accordingly, the Decision dated February 1, 2023, is **AFFIRMED** on the grounds stated herein.

**SO ORDERED.**

Allegedly, in the assailed *Decision*, the Court *En Banc* essentially resolved that the assessments against respondent are void for being issued: 1) in violation of respondent's right to due process; and 2) beyond the three-year prescriptive period to assess. Hence, petitioner asks the Court *En Banc* to review, re-evaluate, and reconsider the assailed *Decision*, arguing that:

I. PETITIONER FULLY COMPLIED WITH THE DUE PROCESS REQUIREMENT UNDER SECTION 228 OF THE TAX CODE, AS AMENDED, REVENUE REGULATIONS NO. 12-99 AND REVENUE REGULATIONS NO. 18-2013;

II. THE SUBJECT WAIVER DATED DECEMBER 12, 2012 EXECUTED BY RESPONDENT IS VALID, APPLYING THE RULING OF THE SUPREME COURT IN THE CASE OF *CIR vs. NEXT MOBILE, INC.*; and,

III. THE SUBJECT WAIVER EXECUTED BY RESPONDENT BEING VALID, THE RIGHT OF THE BIR TO ASSESS HEREIN RESPONDENT FOR TAXABLE YEAR 2009 HAS NOT YET PRESCRIBED.

In rejecting petitioner's move for reconsideration, respondent counters that the arguments set forth by petitioner in his *Motion* are a mere *rehash* of the arguments raised in his *Petition for Review* dated July 11, 2023, which the Court *En Banc* has already considered and passed upon in the *Decision* sought to be reconsidered.

Nevertheless, respondent argues that the Court *En Banc* correctly ruled that petitioner must give due consideration to the defenses and evidence that respondent provides. According to respondent, while petitioner may or may not accept its explanation, petitioner must give reason/s when he rejects the same. Respondent avers that a reading of the Preliminary Assessment Notice (PAN), Final Assessment Notice (FAN), and Final Decision on Disputed Assessment (FDDA), as well as the details of discrepancies attached therein, would show that petitioner did not provide any explanation as to the appreciation of respondent's arguments and documents submitted therein. Hence, for respondent, petitioner violated its right to due process, thereby rendering the subject assessments void.

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Anent petitioner's contention that the waiver executed by respondent is valid following the doctrine enunciated in the case of *Commissioner of Internal Revenue v. Next Mobile, Inc.*[1] (*Next Mobile*), respondent disagrees. According to respondent, the *Next Mobile* case is not in all fours with the instant case because the taxpayer's representative who signed the waivers in the said case had no authority to execute the same on behalf of the corporation, which is not the situation in the present case.

Thus, considering that the waiver did not comply with the requirements under Revenue Memorandum Order (RMO) No. 20-90, it is void from its inception. As such, respondent submits that the BIR's right to assess it was never extended.

Given the foregoing, petitioner's *Motion for Reconsideration* must fail.

After thoroughly considering the grounds presented in the instant *Motion*, the Court *En Banc* finds that the issues and arguments have already been discussed, addressed, and considered in the assailed *Decision*. The arguments put forth do not provide compelling or sufficient reason to modify, much less set aside, the said *Decision*.

**WHEREFORE,** in light of the foregoing, petitioner Commissioner of Internal Revenue's *Motion for Reconsideration (of the Decision dated 29 April 2024)* is **DENIED** for lack of merit.

**SO ORDERED.**

**LANEE S. CUI-DAVID**
Associate Justice

*WE CONCUR:*

**ROMAN G. DEL ROSARIO**
Presiding Justice

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[1] G.R. No. 212825, December 7, 2015.

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

**CATHERINE T. MANAHAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

**ON LEAVE**
**CORAZON G. FERRER-FLORES**
Associate Justice

**HENRY S. ANGELES**
Associate Justice