REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

QUADFOODS CORPORATION, *Petitioner,*	**CTA Case No. 10419**
	Members:
-versus-	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: DEC 06 2024 1:12 p.m.

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RESOLUTION

MANAHAN, *J.:*

For resolution of the Court is petitioner's Motion for Reconsideration or New Trial filed on July 12, 2024, with respondent's Comment and Opposition (Re: Motion for Reconsideration or New Trial dated 12 July 2024) filed on August 12, 2024.

In the subject motion, petitioner asserts that the Court has jurisdiction over the instant case, as it falls under the "other matters" jurisdiction of the Court of Tax Appeals (CTA), provided under Section 7(a)(2) of Republic Act (RA) No. 1125, as amended, in relation to Section 3(a)(2), Rule 4 of the Revised Rules of the CTA, as amended.

Petitioner specifically points out that it is questioning the validity of the Warrant of Distraint and/or Levy (WDL) allegedly because it did not receive a Formal Letter of Demand/Final Assessment Notice (FLD/FAN) from respondent. Considering that the judicial action was filed within thirty (30) days from the WDL, petitioner argues that the Petition was timely filed.

Finally, petitioner argues that, considering that the Motion for Reconsideration formed part of respondent's docket that was collectively marked as Exhibit "R-14", the same is tantamount to a judicial admission.

In his Comment and Opposition, respondent counters that petitioner's motion for reconsideration is not based on newly discovered evidence. Thus, the instant case does not merit a new trial.

After careful evaluation, the Court finds petitioner's arguments untenable.

Petitioner clearly represented that a certain Mr. Ronel Marasigan was its agent. Therefore, it is estopped from denying his authority to receive the notices sent by respondent

Prefatorily, the Court will address petitioner's assertion that it did not receive the assessment notices sent by respondent because it was merely received by one of its staff, a certain Mr. Ronel Marasigan.

Petitioner's own Exhibits "P-8",[1] "P-9",[2] "P-10",[3] "P-11",[4] "P-12",[5] "P-13",[6] "P-14",[7] "P-15",[8] "P-16"[9] and "P-17",[10] readily reveal that it filed its various tax returns through a certain Mr. Ronel Marasigan on behalf of Mr. Cristopher G. Belisario. In other words, petitioner's own pieces of evidence show that on numerous occasions, petitioner transacted with the Bureau of Internal Revenue (BIR) through its staff, Mr. Ronel Marasigan.

Thus, the Court finds it unusual for petitioner to insist that it did not receive the subject assessment notices, which

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[1] Docket, Vol. 1, p. 447.
[2] Docket, Vol. 1, p. 449.
[3] Docket, Vol. 1, p. 451.
[4] Docket, Vol. 1, p. 452.
[5] Docket, Vol. 1, p. 453.
[6] Docket, Vol. 1, p. 454.
[7] Docket, Vol. 1, p. 455.
[8] Docket, Vol. 1, p. 456.
[9] Docket, Vol. 1, p. 457.
[10] Docket, Vol. 1, p. 458.

assessment notices were received by no other than the same Mr. Ronel Marasigan.

Thus, the Court finds that Mr. Ronel Marasigan is an authorized agent of petitioner who has the authority to file documents with the BIR on behalf of petitioner, as well as receive documents emanating from respondent. Consequently, petitioner is estopped from denying receipt of the assessment notices, when the same were received by the same person who files relevant documents with the BIR.

The instant case falls under "disputed assessment" disguised as "other matters" to fall under the jurisdiction of the CTA

With respect to petitioner's assertion that the case falls under "other matters" jurisdiction of the CTA, the Court finds the same unmeritorious.

Based on petitioner's admission, it received the Final Decision on Disputed Assessment (FDDA) on January 28, 2019.[11] On the other hand, records reveal that the FDDA was received by petitioner, through Mr. Ronel Marasigan, on January 29, 2019.[12] After receipt of the FDDA, petitioner failed to present any proof that may be considered by the Court to show that the assessment has not yet become final, executory, and demandable. *As a necessary consequence, respondent is well within its right to pursue summary collection proceedings against petitioner.*

As such, the Court finds no error when it ruled that:

> "In the instant case, records show that the FDDA was received by petitioner, through Marasigan, on January 29, 2019.[13] Meanwhile, petitioner alleges that it received the FDDA on January 28, 2019.[14] Counting thirty (30) days from the said dates, petitioner had until February 27, 2019 or February 28, 2019, within which to file the appeal before the Court. Unfortunately, the instant Petition was belatedly filed

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[11] Facts, Petition for Review, par. 14, Docket, Vol. I, p. 12.
[12] Exhibit "R-13", BIR Records, pp. 311-313.
[13] See Note 13.
[14] Facts, Petition for Review, par. 14, Docket, Vol. I, p. 12.

> on December 9, 2020, or more than a year after the period to file the appeal had already lapsed."[15]

Thus, petitioner's failure to timely assert its remedies, *i.e.*, file an administrative appeal before respondent or an appeal with the CTA, cannot be rewarded by the Court, by assuming jurisdiction under the "other matters" provision. Otherwise, the "other matters" jurisdiction of the Court may be unwittingly used as an afterthought for appeals barred by prescription or as a channel for extending the statutory periods of lost appeals.

Considering the foregoing, the Court finds no merit to petitioner's assertion.

Petitioner's Motion for Reconsideration may not be considered as evidence

Finally, petitioner argues that the Motion for Reconsideration should be considered as a judicial admission because it formed part of respondent's docket that was collectively marked as Exhibit "R-14".

Petitioner's argument is bereft of merit.

As explained in the assailed Decision, the case of *Commissioner of Internal Revenue v. Jerry Ocier*,[16] is informative. Thus:

> "Under Section 8 of Republic Act (R.A.) No. 1125, the CTA is categorically described as a court of record. As such, it shall have the power to promulgate rules and regulations for the conduct of its business, and as may be needed, for the uniformity of decisions within its jurisdiction. Moreover, as cases filed before it are litigated de novo, party-litigants shall prove every minute aspect of their cases. Thus, no evidentiary value can be given the pieces of evidence submitted by the BIR, as the rules on documentary evidence require that these documents must be formally offered before the CTA. Pertinent is Section 34, Rule 132 of the Revised Rules on Evidence which reads:

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[15] Decision, Docket, Vol. 2, p. 1022.
[16] G.R. No. 192023, November 21, 2018.

> SEC. 34. Offer of evidence. — The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

> Although in a long line of cases, we have relaxed the foregoing rule and allowed evidence not formally offered to be admitted and considered by the trial court, we exercised extreme caution in applying the exceptions to the rule, as pronounced in *Vda. de Oñate v. Court of Appeals*, thus:
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> > From the foregoing provision, **it is clear that for evidence to be considered, the same must be formally offered**. Corollarily, the mere fact that a particular document is identified and marked as an exhibit does not mean that it has already been offered as part of the evidence of a party. In *Interpacific Transit, Inc. v. Aviles* [186 SCRA 385, 388-389 (1990)], we had the occasion to make a distinction between identification of documentary evidence and its formal offer as an exhibit. We said that the first is done in the course of the trial and is accompanied by the marking of the evidence as an exhibit while the second is done only when the party rests its case and not before. A party, therefore, may opt to formally offer his evidence if he believes that it will advance his cause or not to do so at all. In the event he chooses to do the latter, the trial court is not authorized by the Rules to consider the same.
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> > However, in *People v. Napat-a* [179 SCRA 403 (1989)] citing *People v. Mate* [103 SCRA 484 (1980)], **we relaxed the foregoing rule and allowed evidence not formally offered to be admitted and considered by the trial court provided the following requirements are present, *viz.*: first, the same must have been duly identified by testimony duly recorded and, second, the same must have been incorporated in the records of the case**.
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> The evidence may, therefore, be admitted provided the following requirements are present: (1) the same must have been duly identified by testimony duly recorded; and (2) the same must have been incorporated in the records of the case. Being an exception, the same may only be applied when there is strict compliance with the requisites mentioned above; otherwise, the general rule in Section 34 of Rule 132 of the Rules of Court should prevail."

The doctrinal ruling in *Ocier* categorically states that evidence not formally offered may be admitted and considered by the court, provided that the following requisites are present: (1) **the same must have been duly identified by testimony**

duly recorded; and (2) the same must be incorporated in the records of the case.

Here, while it appears from the case records that the subject Motion for Reconsideration forms part of respondent's Exhibit "R-14", there was no showing that the same was duly identified by testimony duly recorded. As such, the Court has no reason to admit or consider the same.

To end, petitioner failed to present arguments that warrant the Court to deviate from its earlier ruling. Hence, the denial of the instant Motion for Reconsideration or New Trial is in order.

FOR THESE REASONS, the instant Motion for Reconsideration or New Trial is **DENIED**, for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Marian Ivy F. Reyes-Fajardo
(I reiterate my Dissenting Opinion)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice