REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION
****

BRAVO ALABANG, INC., Petitioner,	**CTA Case No. 8654**
- versus -	*Members:* **DEL ROSARIO,** P.J., **UY,** and **MINDARO-GRULLA,** JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	*Promulgated:* JUN 27 2016 ; 2:30 p.m.

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RESOLUTION

UY, J.:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION"** filed on February 5, 2016, together with respondent's **"COMMENT/OPPOSITION"** filed on March 1, 2016, praying for the reconsideration, setting aside and reversal of this Court's Decision dated January 20, 2016, the dispositive portion of which reads:

> "**WHEREFORE**, all the foregoing considered, the instant Petition for Review is hereby **DENIED**.
>
> **SO ORDERED**."

In the Motion, petitioner mainly avers that it does not dispute that the Formal Assessment Notice (FAN) was received by one

Maritess Campillo on January 2, 2012. However, petitioner points out that Maritess Campillo is neither an employee of petitioner, nor designated as authorized to receive the FAN and letter of demand issued against petitioner for alleged deficiency tax assessments; and that it was established, during trial, that said Maritess Campillo was a laundry woman or maid working at the address where the FAN was personally delivered by Revenue Officer (RO) Aguida C. Carranza.

Petitioner thus argues that the date of receipt of the FAN and letter of demand by Maritess Campillo cannot be considered as the date of receipt of petitioner of the said FAN and letter of demand. According to petitioner, it is only when the said FAN and letter of demand were forwarded to the designated authorized representative of petitioner and received by the said person would we consider the same to have been received by petitioner-taxpayer; and that such date of receipt of the authorized representative of petitioner would be the reckoning date in the computation of the 30-day reglementary period within which to file the protest.

In her Comment/Opposition, respondent contends that the act of petitioner in filing an administrative protest on February 7, 2012 to the Assessment it received on January 2, 2012, has the effect of ratifying the authority of petitioner's representative to receive the assessment notice of the Bureau of Internal Revenue (BIR).

THE COURT'S RULING

Petitioner's Motion for Reconsideration lacks merit.

Sections 3.1.4 and 3.1.5 of Revenue Regulations No. 12-99,[1] which has the force of law and is entitled to great weight,[2] states:

> "3.1.4 *Formal Letter of Demand and Assessment Notice.* — The formal letter of demand and assessment notice shall be issued by the Commissioner or his duly authorized representative. The letter of demand calling for payment of the taxpayer's deficiency tax or taxes shall

[1] SUBJECT: Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extrajudicial Settlement of a Taxpayer's Criminal Violation of the Code through Payment of a Suggested Compromise Penalty.

[2] Refer to *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.

> state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based, otherwise, the formal letter of demand and assessment notice shall be void (see illustration in ANNEX B hereof). The same shall be sent to the taxpayer only by registered mail or by personal delivery. **If sent by personal delivery, the taxpayer or his duly authorized representative shall acknowledge receipt thereof in the duplicate copy of the letter of demand**, showing the following: (a) His name; (b) signature; (c) designation and authority to act for and in behalf of the taxpayer, if acknowledged received by a person other than the taxpayer himself; and (d) date of receipt thereof.
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> 3.1.5 *Disputed Assessment.* — The taxpayer or his duly authorized representative may protest administratively against the aforesaid formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof. xxx.
>
> xxx xxx xxx
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> **If the taxpayer fails to file a valid protest against the formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable.**" *(Emphases supplied)*

It is clear from the foregoing provision that in case of personal delivery of the formal letter of demand and assessment, the same shall be made either to the taxpayer himself or his duly authorized representative.

Although it was established, upon cross examination of respondent's witness, RO Aguida C. Carranza, during the hearing held on June 17, 2014, that Maritess Campillo was a maid or househelp of one of the stockholders of petitioner, as correctly pointed out by respondent, the subsequent act of petitioner in filing an administrative protest on February 7, 2012 to the assessment it received on January 2, 2012 has the effect of ratifying the authority of petitioner's representative to receive the assessment notice of the BIR.

Logically, petitioner could not have filed the said protest, if it had not received the subject FAN and letter of demand from Maritess Campillo, who in turn received the same from RO Carranza.

WHEREFORE, in light of the foregoing consideration, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
CIELITO N. MINDARO-GRULLA
Associate Justice