REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

ARTURO E. VILLANUEVA, JR.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8935

Members:

DEL ROSARIO, *P.J., Chairperson,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

JAN 10 2018 2:00 pm

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RESOLUTION

***MINDARO-GRULLA, J.*:**

For the Court's resolution are the following:

1. respondent's **Motion for Reconsideration (Re: Decision promulgated August 18, 2017)**, filed on September 7, 2017; and

2. petitioner's **Motion to Admit Comment**, with **Comment/Opposition (Re: Respondent's Motion for Reconsideration dated 06 September 2017)**, filed on November 6, 2017.

In the Motion to Admit Comment, petitioner's counsel avers that he has been engaged only recently, as petitioner's previous counsel could no longer represent or sign pleadings for petitioner. Hence, petitioner's counsel requests the admission of the comment as part of the records of this case.

Considering above explanation, the **Motion to Admit Comment** is **GRANTED**. Accordingly, petitioner's **Comment/Opposition (Re: Respondent's Motion for Reconsideration dated 06 September 2017)** is **ADMITTED**.

We now proceed to resolve respondent's Motion for Reconsideration.

Respondent seeks reconsideration of the Decision[1] promulgated on August 18, 2017 (assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, the assessments against petitioner, requiring the payment of deficiency income tax and VAT, plus all delinquency increments incident to the tax liabilities of petitioner for taxable year 2006 in the aggregate amount of ₱30,723,951.10 are hereby **CANCELLED** and **WITHDRAWN**.
>
> **SO ORDERED**."

Respondent again argues that the assessments were issued and served to petitioner within the ten (10) year prescriptive period provided under Section 222(a) in relation to Section 248(B) of the National Internal Revenue Code of 1997, as amended (Tax Code).

Respondent asserts that there was one hundred percent (100%) under-declaration of income by petitioner as its final/amended annual income tax return for taxable year 2006 failed to disclose his gross income in the amount of ₱31,164,900.67. However, respondent claims that petitioner's undeclared sales per Letter Notice No. 029-WE-I-06-00-00041 amounted to ₱31,671,388.34. Moreover, respondent argues that assuming *arguendo* that petitioner's income tax return is not fraudulent, the return is still false considering the discrepancy between the gross income reflected in the financial statements and the undeclared sales per letter notice.

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[1] Docket, pp. 540-560.

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In addition, respondent posits that since the penalty imposed as surcharge was fifty percent (50%) of the deficiency income and value-added taxes, the application of the ten-year period to assess is warranted.

Lastly, respondent argues that due to petitioner's failure to timely file a valid protest, he had no basis to dispute the tax assessments on appeal, and this Court was in no position to entertain the petition for lack of jurisdiction.

On the other hand, petitioner avers that respondent's claim was already passed upon by this Court. Petitioner then went on to restate the arguments he had previously submitted and discussed.

After careful consideration of the contentions of both parties, the Court finds respondent's Motion for Reconsideration devoid of merit.

A perusal of the record shows that the arguments raised by respondent have already been discussed and considered by this Court, and hence, no new or substantial matter, or any compelling reason, has been shown to justify the reversal or modification of the assailed Decision.

To reiterate, the Court already found that there is no substantial under-declaration and/or fraud in this case, making the 3-year period to assess applicable pursuant to Section 203 of the Tax Code. For respondent's failure to issue the assessments within the 3-year period provided by law, the deficiency tax assessments for taxable year 2006 were correctly declared null and void and, therefore, were properly cancelled.

It is settled that in motions for reconsideration, the burden is upon the movants to show that there are compelling reasons to reconsider the decision of the Court.[2] Regrettably, respondent failed to satisfy this burden.

WHEREFORE, in view of the foregoing, respondent's **Motion for Reconsideration (Re: Decision promulgated August 18, 2017)** is **DENIED** for lack of merit.

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[2] *Marcos vs. Manglapus*, G.R. No. 88211, October 27, 1989.

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SO ORDERED.

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

WE CONCUR:

I reiterate my Concurring Opinion.
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice