Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

ROBERTO O. YANGCO, Petitioner,	**CTA Case No. 9388**
-versus-	**Members:** **CASTAÑEDA, JR.,** *Chairperson* **CASANOVA,** *and* **MANAHAN,** *JJ.*
THE REVENUE DISTRICT OFFICER OF REVENUE DISTRICT NO. 8 OF THE BUREAU OF INTERNAL REVENUE BAGUIO CITY, AND THE REGIONAL DIRECTOR OF REVENUE REGION NO. 2 OF THE BUREAU OF INTERNAL REVENUE, BAGUIO CITY, Respondents.	**Promulgated:** JUN 09 2017 2:50 pm

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RESOLUTION

This resolves petitioner's Motion for Reconsideration, filed on April 25, 2017, with respondent's Comment/Opposition Re: Petitioner's Motion for Reconsideration dated 25 April 2017, filed on May 15, 2017. In the said Motion, petitioner prays that the Court's Resolution dated April 5, 2017 be reversed and set aside, and another one be issued denying respondent's Motion to Dismiss petitioner's initiatory Petition. The *fallo* of the assailed Resolution reads:

> "**WHEREFORE,** respondent's Motion to Dismiss is hereby **GRANTED.** Thus, petitioner's Manifestation Re Unacted Upon Draft of Joint Stipulation of Facts and Issues and belated filing of the parties' Joint Stipulation of Facts and Issues are hereby **RENDERED MOOT.**
>
> **SO ORDERED.**"

In his Motion, petitioner alleges that, while he appealed respondents' unjust tax assessment with the Commissioner of Internal Revenue only on September 30, 2013, the same was still timely filed on the ground that he "still had to file a protest letter dated 22 October 2013 of the Final Assessment Notice or FAN from respondents." He further avers that such "legal step was acknowledged by respondent Regional Director in his 16 December 2013 Letter to Petitioner".

Petitioner also states that, if he "had to still file a protest of the FAN which protest was duly acknowledged by respondent BIR Regional Director, it means that his 30 September 2013 Letter to then BIR Commissioner Kim S. Jacinto-Henares x x x was filed way ahead of the conclusion of proceedings at the BIR Revenue District Office or BIR Regional Office level. This also means that the Regional Director's decision or letter dated 26 June 2013 and the receipt thereof should not be the reckoning point for the reglementary period to elevate Petitioner's tax assessment protest to the BIR Commissioner".

Petitioner, likewise, avers that the steps taken by respondents leading to the issuance of the subject assessment were besmirched with transgressions of petitioner's right to due process.

On the other hand, respondents maintain that this Court has no jurisdiction over the instant case. Accordingly, petitioner admitted the receipt of respondents' letter dated June 26, 2016, denying his protest to the Formal Letter of Demand/Final Assessment Notice for lack of factual or legal bases.

They, likewise, claim that petitioner's appeal with the Commissioner of Internal Revenue was belatedly filed.

Respondents also aver that nowhere can it be found in the alleged letter dated 16 December 2013 of respondent Regional Director that he acknowledged petitioner's protest. In fact, respondent Regional Director informed petitioner that the assessment has become final and executory.

They also allege that the letter dated June 26, 2013 is the decision on petitioner's protest to the FLD/FAN as it provides facts, applicable law, rules and regulations, or jurisprudence on which the assessment was based. Thus, the receipt thereof should be the reckoning point for petitioner to elevate his protest to the CIR.

Upon taking a second hard look on petitioner's Motion for Reconsideration, Petition for Review, and supporting documents attached to the said Petition, We find merit in petitioner's Motion.

In order for the Court to ascertain and verify the truth of petitioner's claims, there is a need for us to examine the probative value of the protest letter dated October 22, 2013 of petitioner, which unfortunately was not presently attached to the instant Petition for Review.

Moreover, the Court noted that petitioner seriously disputes the validity of the assessment notices issued by respondents as shown in the following:

1.) While petitioner, indeed, stated in his January 28, 2013 letter[1] to Regional Director Eduardo T. Bajador that he received the January 4, 2013 Formal Letter of Demand on January 10, 2013, he, nonetheless, retracted his statement in his February 9, 2013 letter[2], where he mentioned that he received the same "arguably and ostensibly on January 10, 2013."

2.) Petitioner also claimed that he did not receive the following notices from respondents: Letter of Authority dated September 7, 2011, Notice of Informal Conference dated August 30, 2012, Preliminary Assessment Notice dated October 18, 2012, and Formal Letter of Demand dated January 4, 2013. Respondent, on the other hand, countered that the Letter of Authority and Notice of Informal Conference have been duly received by petitioner's representative on September 8, 2011 and September 4, 2012, respectively. Regional Director Bajador also stated in his December 16, 2013 letter to petitioner that the PAN and FAN were sent and received by the latter on September 4, 2012.

In view of the foregoing conflicting averments of the parties, the case at hand cannot be simply dismissed on the basis of the pleadings submitted before this Court. The interest of justice would be more adequately served if trial would ensue and both parties be given the opportunity to present both testimonial and documentary evidence to support their respective claim.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is hereby **GRANTED**. Accordingly, the Resolution promulgated on April 5, 2017 is hereby **REVERSED** and **SET ASIDE**.

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[1] Annex "E" to the Petition for Review.
[2] Annex "F" to the Petition for Review

Let the initial presentation of petitioner's evidence be set on July 3, 2017 at 9:00 a.m.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

CATHERINE T. MANAHAN
Associate Justice