REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

TOWER CLUB, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10384

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:
OCT 0 4 2024 3:05 pm

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is respondent's *Motion for Partial Reconsideration*, filed via registered mail on July 12, 2024, with petitioner's *Comment (On Respondent's Motion for Partial Reconsideration Dated July 11, 2024)*, filed on September 4, 2024. Respondent assails this Court's Decision, dated June 25, 2024 ("assailed Decision").

The Motion lacks merit.

Respondent's argument is based, once again, on a misuse of the mutual exclusivity of a taxpayer's options for judicially protesting an assessment, purportedly grounded on *Section 228 of the National Internal Revenue Code of 1997, as amended*, and *Lascona Land Co., Inc. v. Commissioner of Internal Revenue*.

However, as already discussed in the assailed Decision, such mutual exclusivity restricts the permissible actions of *taxpayers*, not those of Commissioner of Internal Revenue ("CIR"). Furthermore, the mutual exclusivity applies only to *appealing* an administrative decision either 30 days from receipt or 30 days from the lapse of the period given to the CIR for acting on a protest. Nowhere does the law and jurisprudence claim that the principle also applies to *accepting* a favorable decision.

Consequently, the administrative Decision, dated November 7, 2022 ("administrative Decision"), is valid, as its issuance was an act of the *CIR*, not a sudden change of chosen option by the taxpayer. Petitioner, for its part, is not barred from *accepting* said administrative Decision.

Again, the issue was already discussed in detail in the assailed Decision. As respondent's Motion fails to bring any new argument on the validity of the administrative Decision, and declines to refute the specific points raised there, the Court's reasoning stands unchallenged.

The above also renders moot respondent's argument that the Court gained jurisdiction over the assessment when petitioner filed its first Petition for Review. As observed in the assailed Decision, whether or not We gained such jurisdiction is of little bearing, considering the CIR's withdrawal and cancellation of the assessment through the administrative Decision. The ruling would ultimately be the same even if respondent were correct on this score—the Court would simply have to deny petitioner's prayers on the assessment for being moot and academic rather than for a lack of jurisdiction, while the Warrants would still be declared null and void.

In short, the Motion discloses no compelling reason to reverse Our previous ruling.

ACCORDINGLY, respondent's *Motion for Partial Reconsideration*, filed via registered mail on July 12, 2024, is hereby **DENIED** for lack of merit. The Decision, dated June 25, 2024, is **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice