22-000073-0067

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10775

JAMES FAUSTO CORP.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF RESOLUTION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor Santiago Avenue
Diliman, Quezon City

GALIAS & RIVERA LAW OFFICES
3/F, Prestige Tower, F. Ortigas Jr. Road
Ortigas Center, Pasig City 1605

GREETINGS:

You are hereby notified by these presents that on **May 6, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **May 7, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

JAMES FAUSTO CORP.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10775

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
MAY 06 2025; 10:05 AM

x- -x

RESOLUTION

CUI-DAVID, J.:

This resolves respondent's *Motion for Reconsideration [re: Decision dated 16 January 2025]*,[1] which was personally filed on February 4, 2025, and electronically filed on February 5, 2025, with petitioner's *Comment/Opposition (Re: Respondent's Motion for Reconsideration dated 04 February 2025)*[2] filed electronically and *via* accredited courier on March 3, 2025.

Respondent seeks a reconsideration of the Court's Decision[3] promulgated on January 16, 2025 (*assailed Decision*), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **GRANTED**. Accordingly, the Formal Letter of Demand with Final Assessment Notices dated January 19, 2021, and the Warrant of Distraint and/or Levy No. WDL-2021-RR4-AMS-000198, dated January 18, 2022, are **CANCELLED** and **SET ASIDE**. The Final Decision on Disputed Assessment dated July 5, 2021, assessing petitioner for deficiency income tax, value-added tax, fringe benefits tax,

[1] Docket, pp. 606-626.
[2] Docket, pp. 640-650.
[3] Docket, pp. 574-601.

and administrative fines and penalties for taxable year 2018, is **REVERSED** and **SET ASIDE**.

Furthermore, respondent is **ENJOINED** and **PROHIBITED** from enforcing the collection of the subject deficiency taxes against petitioner.

SO ORDERED.

In support of his *Motion for Reconsideration (Motion)*, respondent raises the following grounds, to wit:

I. THE HONORABLE COURT ERRED IN RULING ON AN ISSUE NEVER RAISED BY PETITIONER, NEVER JOINED BY THE PLEADINGS, NEVER RAISED DURING THE PRE-TRIAL AND NEVER DEFINED BY THE COURT IN THE PRE-TRIAL ORDER. THUS, RESPONDENT'S BASIC RIGHT TO FAIR PLAY AND DUE PROCESS WAS VIOLATED WHEN THE COURT RULED TO GRANT THE PETITION ON THE GROUND THAT PETITIONER'S RIGHT TO DUE PROCESS WAS VIOLATED BECAUSE OF THE IMPROPER SERVICE OF THE PAN AND RESPONDENT'S FAILURE TO CONSIDER PETITIONER'S REPLY TO THE PAN.

II. ASSUMING THE COURT MAY SUDDENLY DECIDE THE CASE BASED ON AN ISSUE THAT WAS NEVER RAISED BY PETITIONER, NEVER JOINED BY THE PLEADINGS, NEVER RAISED AT THE PRE-TRIAL ORDER, NEVER DEFINED BY THE COURT IN THE PRE-TRIAL ORDER NAD NEVER TRIED BY THE PARTIES – PETITIONER IS ESTOPPED FROM ASSAILING SERVICE OF THE PAN AND ISSUANCE OF THE FLD.

III. PETITIONER WAS ACCORDED DUE PROCESS.

IV. RESPONDENT COMPLIED WITH THE RULES AND REGULATIONS IN THE ISSUANCE OF THE ASSESSMENTS SUBJECT OF THE INSTANT CASE.

In its *Comment/Opposition*, petitioner submits that the *Motion* should be denied as the arguments presented therein have already been ruled upon by the Court, based on the evidence on record, applicable law, rules, and settled jurisprudence. Nonetheless, petitioner submits the following arguments in refutation of respondent's assertion:

1. The Honorable Court correctly ruled on the issue of due process;

2. Jurisprudence contradict respondent's argument that petitioner is estopped from raising the argument of improper service;

3. There was clear violation of due process; and

4. The Honorable Court correctly ruled that respondent failed to comply with its own rules due to its failure to obtain confirmation or verification for TPI data that were made to be the basis of the tax assessment.

Upon review, the Court finds that respondent's *Motion for Reconsideration* must be ***dismissed*** for having been filed out of time and for lack of merit.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) states:

> SECTION 1. *Who may and when to file motion.* — **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution or order of the Court **by filing a motion for reconsideration** or new trial **within fifteen days from the date of receipt of notice of the decision**, resolution or order of the Court in question. (*Emphasis supplied*)

The rule is clear that the period for filing a motion for reconsideration is non-extendible. [4] If no motion for reconsideration is filed on time, the judgment or final order of the court becomes final and executory.[5]

In the instant case, the records show that respondent received a copy of the assailed Decision through the Office of the Solicitor General on January 17, 2025.[6] Under the *Rules*, respondent had fifteen (15) days from said date, or until February 1, 2025, to file a motion for reconsideration. Since February 1, 2025 fell on a Saturday, the deadline was extended to the next working day, February 3, 2025.

However, respondent filed the *Motion for Reconsideration* only on February 4, 2025. Thus, the *assailed Decision* had

[4] *Apex Mining Co., Inc. v. Commissioner of Internal Revenue and Court of Appeals,* G.R. No. 122472, October 20, 2005.
[5] *Far East Bank & Trust Company v. Commissioner of Internal Revenue,* G.R. No. 149589, September 15, 2006.
[6] Notice of Decision, Docket, p. 572.

already attained finality by then, rendering the motion dismissible for being filed out of time.

At any rate, even assuming the *Motion* was timely filed, it would nonetheless be ***denied*** for lack of merit. A careful perusal of the *Motion* reveals that, except for the issue regarding the Court's authority to rule on matters not raised by the parties, all other arguments have already been extensively discussed and resolved in the *assailed Decision.* Rehashing the same arguments serves no purpose and unduly burdens the Court.

Anent petitioner's protestation that the Court erred in ruling on an issue not raised by the parties, suffice it to say that under Section 1,[7] Rule 14 of the RRCTA, the Court is not strictly bound by the issues raised by the parties and may consider other related matters necessary for the just and orderly disposition of the case.

In *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*,[8] the Supreme Court affirmed the authority of this Court to address such issues not raised by the parties in this wise:

> "On **whether the CTA can resolve an issue which was not raised by the parties, <u>we rule in the affirmative</u>**.
>
> Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA is not bound by the issues specifically raised by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. The text of the provision reads:
>
>> SECTION 1. *Rendition of judgment.* — x x x In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.

---

[7] SECTION 1. *Rendition of judgment.* — The Court shall decide the cases brought before it in accordance with Section 15, paragraph (1), Article VIII of the 1987 Constitution. The conclusions of the Court shall be reached in consultation by the Members on the merits of the case before its assignment to a Member for the writing of the decision. The presiding justice or chairman of the Division shall include the case in an agenda for a meeting of the Court En Banc or in Division, as the case may be, for its deliberation. If a majority of the justices of the Court En Banc or in Division agree on the draft decision, the ponente shall finalize the decision for the signature of the concurring justices and its immediate promulgation. Any justice of the Court En Banc or in Division may submit a separate written concurring or dissenting opinion within twenty days from the date of the voting on the case. The concurring and dissenting opinions, together with the majority opinion, shall be jointly promulgated and attached to the *rollo*.

In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.

[8] G.R. No. 183408, 12 July 2017.

x---x

> The above section is clearly worded. On the basis thereof, the CTA Division was, therefore, well within its authority to consider in its decision the question on the scope of authority of the revenue officers who were named in the LOA **even though the parties had not raised the same in their pleadings or memoranda**. The CTA En Banc was likewise correct in sustaining the CTA Division's view concerning such matter." (*Boldfacing and underscoring supplied*)

WHEREFORE, premises considered, respondent Commissioner of Internal Revenue's *Motion for Reconsideration [re: Decision dated 16 January 2025]* is hereby **DISMISSED** for having been filed out of time and for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice