**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

*EN BANC*

**PEOPLE OF THE PHILIPPINES,**
*Petitioner,*

**CTA EB CRIM. NO. 057**
(CTA Crim. Case Nos. O-424 and O-426)

Present:

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, *JJ.*

- *versus* –

**FERDINAND P. MAHUSAY,**
*Respondent.*

Promulgated:
FEB 18 2021 11:55am

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## RESOLUTION

**CASTAÑEDA, JR., *J.:***

For resolution of the Court *En Banc* is petitioner's Motion for Reconsideration filed via registered mail on June 25, 2020. Petitioner's *Motion* seeks reconsideration of the Decision of the Court *En Banc* promulgated on May 27, 2020,[1] (Assailed Decision) denying the present Petition for Review for lack of merit.

Respondent failed to file his Comment as per Records Verification Report issued by this Court's Judicial Records Division dated January 6, 2021.

[1] Court *En Banc* Docket, pp. 105-134.

In its Motion for Reconsideration, petitioner asked this Court to reconsider respondent's civil liability. It submits that all notices of the Bureau of Internal Revenue (BIR) specifically the Letter of Authority (LOA), the Notice to Taxpayer, the Preliminary Assessment Notice (PAN), and the Formal Letter of Demand (FLD), all issued to respondent were served by the members of the investigating team.[2] Thus, according to petitioner, due process has been served on respondent as the latter had every opportunity to contest the assessment against him from the proceedings in the BIR, the Department of Justice (DOJ), and up to this Court.[3] It likewise argues that respondent's failure to file a protest within the statutory period rendered the disputed assessment final, executory and demandable thereby precluding him from interposing the defenses of legality or validity of the assessment.[4]

Petitioner also argues that the Commission on Audit's Report on Salaries and Allowances (COA ROSA) is admissible as secondary evidence as it is a public document in the custody of a public officer.[5]

Petitioner likewise contends that respondent was not a regular employee of MWSS and was therefore not qualified for substituted filing of the ITR in 2008 and 2009.[6]

Finally, petitioner submits that it was able to prove respondent's tax liability and that civil liabilities should be imposed on him.[7]

Petitioner's Motion for Reconsideration lacks merit.

A careful review of the case records and the arguments raised by petitioner in its Motion for Reconsideration reveals that the arguments relied upon are mere reiterations or restatement of the matters which have already been thoroughly discussed and passed upon by the Court *En Banc* in the Assailed Decision. Petitioner failed to raise any new or substantial matter or any compelling reason that will justify reversal or even modification of the Court *En Banc*'s findings.

The Court *En Banc* stands by its ruling that petitioner failed to establish that there was a final, demandable and executory assessment under which respondent is liable to pay deficiency taxes. The Court *En Banc* had

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[2] *Id.*, pp. 139-141.
[3] *Id.*
[4] *Id.*
[5] *Id.*, pp. 141-142.
[6] *Id.*, pp. 142-145.
[7] *Id.*, pp. 145-148.

stated in the Assailed Decision that based on the respective testimonies of petitioner's witnesses during trial, the identities let alone the authorities of the abovementioned persons who received the notices were not duly established. Thus, the failure of petitioner to prove actual receipt of the assessment notices by respondent leads to the conclusion that no assessment was validly issued.

In sum, the Court *En Banc* finds no plausible reason to deviate from its ruling in the Assailed Decision.

**WHEREFORE**, petitioner's Motion for Reconsideration is **DENIED**, for lack of merit.

**SO ORDERED.**

**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

*WE CONCUR:*

**ROMAN G. DEL ROSARIO**
Presiding Justice

**ERLINDA P. UY**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

**CATHERINE T. MANAHAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice