REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

BISAZZA PHILIPPINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9372

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MANAHAN, *JJ.*

Promulgated:
MAY 2 1 2018 4:05 pm

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RESOLUTION

MANAHAN, *J.:*

This resolves respondent's *Motion for Reconsideration Re: Decision dated 7 March 2018* filed on March 23, 2018. Respondent prays that this Court's Decision dated March 7, 2018 be reversed and set aside, and a new one be rendered ordering petitioner, Bisazza Philippines, Inc., to pay its assessed delinquent income tax, value-added tax (VAT), expanded withholding tax (EWT) fringe benefit tax (FBT) and compromise penalty for taxable year 2007.

The dispositive portion of the assailed Decision states:

> WHEREFORE, the instant Petition for Review is hereby GRANTED. Accordingly, the Assessment Notices dated January 7, 2011 for deficiency income tax, VAT, EWT, FBT and compromise penalty for taxable year 2007, and the Preliminary Collection Letter dated May 4, 2016 are CANCELLED and WITHDRAWN.
>
> SO ORDERED.

In his motion, respondent argues that the assessments have become final and executory due to petitioner's failure to submit the supporting documents to its protest, therefore, the

Court has no jurisdiction; that the revenue officers assigned to continue the audit were duly authorized to do so; that respondent's right to collect has not prescribed; and, that the assessments are presumed correct and made in good faith.

On April 20, 2018, the Court received petitioner's *Comment and/or Opposition (Re: Motion for Reconsideration Dated 22 March 2018)* filed through registered mail on April 13, 2018.

In its comment, petitioner argues that respondent's arguments are a mere replay or rehash of previous submissions which have already been resolved by the Court; that the Court has jurisdiction over the instant case considering the timely and appropriate appeal to the Court; that the assessment did not become final and executory; that the revenue officers who actually conducted the audit had no authority and are not named in the new Letter of Authority (LOA) issued; and, that respondent's right to collect the deficiency tax assessments for taxable year 2007 has prescribed.

The motion lacks merit.

The Court agrees with petitioner that the arguments are a mere rehash of the issues already resolved in the assailed Decision. Respondent raises no argument which would merit a reversal or reconsideration of the Court's findings.

Petitioner timely appealed to this Court within thirty (30) days from receipt of the Preliminary Collection Letter (PCL) on May 18, 2016, by filing its petition for review on June 16, 2016. It is also reiterated that petitioner timely filed its protest to the Assessment Notices/Formal Letter of Demand (FAN/FLD) together with supporting documents, thereby negating respondent's arguments that the assessments have become final, executory, and demandable.

The Court also reiterates its ruling that the revenue officer assigned to continue the audit/examination was not named in the LOA, nor was there a new LOA issued to authorize said revenue officer. As such, the investigation conducted on petitioner was without the requisite authority.

Finally, it is clear that respondent's right to collect on the FAN/FLD has prescribed. The FAN/FLD dated January 7, 2011, was sent through registered mail on January 10, 2011, and received by petitioner on January 18, 2011. Thus, when petitioner received the PCL on May 4, 2016, more than five (5) years has elapsed following the assessment of the deficiency taxes, as such, respondent's right to collect said deficiency taxes has prescribed.

WHEREFORE, respondent's *Motion for Reconsideration Re: Decision dated 7 March 2018* filed on March 23, 2018 is **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Juanito C. Castañeda, Jr.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice