REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

ARTURO E. VILLANUEVA,
Respondent.

CTA EB NO. 1771
(CTA Case No. 8935)

Present:
DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
SEP 16 2019
3:02 p.m.

x- -x

RESOLUTION

RINGPIS-LIBAN, *J.*:

This resolves Petitioner's "Motion for Reconsideration (Re: Decision promulgated on March 13, 2019)"[1] ("Motion for Reconsideration") filed on April 10, 2019 *via* registered mail, without Respondent's comment thereon,[2] seeking to set aside the Decision[3] promulgated on March 13, 2019 ("Assailed Decision"), the dispositive portion of which reads:

> "**WHEREFORE**, the Assailed Decision dated August 18, 2017 and Assailed Resolution dated January 10, 2018 are **AFFIRMED**. Accordingly, the Petition for Review filed with the Court *En Banc* on January 29, 2018 is **DENIED** for lack of merit.

---

1 Rollo, pp. 79-89.
2 Records Verification Report issued by the Judicial Records Division on July 24, 2019 stating that Respondent failed to file a comment.
3 Rollo, pp. 57-75.

SO ORDERED."[4]

In his Motion for Reconsideration, Petitioner raises the following arguments:

1) The Honorable Court erred in holding that Petitioner failed to prove that the Formal Letter of Demand was received by Respondent;

2) The Honorable Court erred in holding that the assessments are already barred by prescription; and

3) The Honorable Court erred in cancelling and withdrawing the assessments despite the fact that the assessments are already final, executory and demandable for failure of the Petitioner to file a valid protest within the reglementary period from receipt of the assessments.

We resolve to deny the motion for lack of merit.

After a careful consideration of the grounds raised in Petitioner's Motion for Reconsideration, the Court finds that the issues and arguments raised therein had already been amply discussed, passed upon and considered by this Court in the Decision sought to be reconsidered.

First, Petitioner claims that mere presentation of registry receipt is sufficient to prove receipt of the Formal Letter of Demand ("FLD"), despite the taxpayer's denial.

Petitioner is mistaken.

As aptly cited in the Assailed Decision, in the case of *Republic of the Philippines vs. The Court of Appeals and Nielson & Co., Inc.*[5] and in *Barcelon, Roxas Securities, Inc. (now known as UBP Securities, Inc.) vs. Commissioner of Internal Revenue*[6], the Supreme Court held that a direct denial of the receipt of the mail shifts the burden upon the party favored by the presumption to prove that the mailed letter was indeed received by the addressee.

---

[4] *Id.,* p. 69.
[5] G.R. No. L-38540, April 30, 1987.
[6] G.R. No. 157064, August 07, 2006.

Based on the evidence presented, there is a direct denial of the receipt of the mailed FLD in this case. Thus, the said denial shifts the burden upon Petitioner to prove that the mailed letter was indeed received by Respondent.

To reiterate, it is a requirement of due process that the taxpayer must actually receive the assessment.[7] However, in this case, Petitioner failed to establish by sufficient evidence that the FLD was indeed received by Respondent.

As for the second and third grounds stated in the Motion for Reconsideration, We find the same to be a replica of Petitioner's Petition for Review with the Court *En Banc*. Indeed, we already pointed out in the Assailed Decision that the instant Petition for Review is a mere reproduction of the "Motion for Reconsideration" filed by Petitioner on September 07, 2017 before the Court in Division and the issues raised by Petitioner therein are mere rehash of its arguments which have been sufficiently discussed in the Decision and Resolution promulgated by the *court a quo*.[8]

Considering the fact that the Petitioner did not raise any new argument that would merit a reconsideration of the Assailed Decision, the Court finds its Motion for Reconsideration bereft of merit. Finding no compelling reason to reconsider, modify or reverse the Assailed Decision, We shall no longer belabor in this Resolution, to repeat the disquisitions and rulings made therein.

WHEREFORE, finding no cogent reason to reverse the Assailed Decision, Petitioner's "Motion for Reconsideration (Re: Decision promulgated on March 13, 2019)" is **DENIED** for lack of merit.

SO ORDERED.

Ma. Belen S

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

(I reiterate my Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

---

7 Estate of the Late Juliano Diez Vda. De Gabriel vs. Commissioner of Internal Revenue, G.R. No. 155541, January 27, 2004.

8 Rollo, p. 61.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On Leave)
ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice