REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

COSTNER TRADING CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9428

Members:

DEL ROSARIO, *P.J., Chairperson,*
FABON-VICTORINO,
MANAHAN, *JJ.*

Promulgated:

JUL 2 1 2020 9:06am

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RESOLUTION

MANAHAN, *J.:*

For resolution is respondent Commissioner of Internal Revenue's *Motion for Reconsideration* posted on January 29, 2020 with petitioner's *Comment (To Respondent's Motion for Reconsideration)* filed on March 6, 2020.

Respondent seeks reconsideration of the Court's Decision promulgated on January 3, 2020, the dispositive portion of which reads:

> "**WHEREFORE,** in light of the foregoing considerations, the instant Petition for Review is hereby **GRANTED**. Accordingly, the deficiency VAT assessment issued by respondent against petitioner for the period January to June of calendar year 2013, in the total amount of Php59,916,699.34, is **CANCELLED** and **SET ASIDE.**
>
> **SO ORDERED**."

Respondent submits that the Court erroneously cancelled the deficiency VAT assessment issued against petitioner for the period January 1 to June 2013. He cites that the application of the doctrine of *estoppel* against petitioner's assertion of lack of authority of the Regional Director would have convinced the Court to ignore said argument and conclude that the issuance of the subject assessments is in accordance with existing laws, rules and regulations.

Respondent elaborates by pointing to the acts of petitioner of receiving several notices addressed to their office in Makati such as the Preliminary Assessment Notice (PAN) and the Subpoena Duces Tecum and admitting in its protest against the Final Assessment Notice (FAN), of receipt of said notices without mentioning that these were sent to the wrong address. It is for this reason that respondent insists that petitioner is already estopped from claiming that the deficiency VAT assessment is void for lack of authority of the Regional Director (RD) of Revenue Region (RR) No. 8-Makati to issue said assessment. Respondent belittles the claim of petitioner that it had already transferred its registration in calendar year 2015 when it had in fact, still received official notices in its address at 6754 Ayala Avenue, Makati City which is within the jurisdiction of RR No. 8-Makati. Respondent further raised the fact that petitioner never questioned the invalidity of the FAN in its protest filed on January 19, 2016, thus emphasizing the application of the doctrine of *estoppel* in the instant case.

In its Comment, petitioner stands firmly behind the decision of the Court that the Regional Director or RR No. 8 – Makati went beyond his authority to issue the subject VAT assessment against the petitioner when the latter had already transferred its office and registration with the Bureau of Internal Revenue (BIR) from Makati City to the City of Manila, starting 2015. Petitioner mentions that the evidence it presented during trial (Exhibit "P-23-D") shows clearly that as early as January 2015, it was already under the tax jurisdiction of Revenue District Office No. 29 of RR No. 6-Manila. Its acts of receiving official notices addressed to its former Makati address do not change the fact that the new address was already in Manila at that time according to petitioner and it is not difficult to imagine that documents (wrongly addressed) can be forwarded to the correct address by concerned persons such as personnel of its sister companies.

Petitioner also explained that its submission of documents relative to its protest against the FAN to RR No. 8- Makati which issued the same, was for fear of possible legal repercussions in case it failed to comply with the latter's order. In addition, petitioner cites Revenue Memorandum Order (RMO) No. 11-25 and asserts that the Regional Director who has authority over the new RDO in Manila should have issued a new Letter of Authority (LOA) to conduct an audit or investigation prior to the issuance of a tax assessment. Sans such issuance, the petitioner, as a matter of prudence, complied with the order of RR No. 8-Makati.

Lastly, petitioner belies the claim of respondent that it did not notify the BIR of the transfer of its registration from RR No. 8-Makati to RR No. 6- Manila because the records clearly show that it properly notified the BIR of its change of address.

RULING OF THE COURT

We find for the petitioner.

Encrusted beneath the issues raised by both parties is the foremost issue of proper notification of the change of address of petitioner, i.e., whether or not it duly informed the BIR of the transfer of its office address from Makati City to Manila. Certain compliance procedures have to be followed by a taxpayer to properly notify the tax authorities of its change of address especially in a case where the transfer is within a locality covered by a different revenue region and correspondingly a new RDO, as in this case.

Section 236 (D) of the 1997 National Internal Revenue Code (NIRC), as amended, confers the obligation of taxpayers to inform the tax authorities of change of address, and we quote:

> Section 236. *Registration Requirements.-*
>
> *(D) Transfer of Registration.* – In case a registered person decides to transfer his place of business or his head office or branches, **it shall be the duty to update his registration status by filing an application for registration information update in the form prescribed therefor.** (emphasis supplied)

The prescribed form specified in the aforequoted provision is properly identified as the Application for Registration Information Update or BIR Form 1905 which the taxpayer needs to file with the RDO having jurisdiction over the original address.

From the perspective of proper governance, a taxpayer is mandated to inform the BIR of his change of address, otherwise the revenue officers of a particular revenue region and RDO cannot be faulted for (continuously) exercising their taxing powers over said taxpayers.

Records show that petitioner duly informed respondent of its change of address from Makati to Manila and was in fact given by the BIR a new Certificate of Registration (COR) (Form 2303) indicating the new address.[1] The photocopy of the new COR was presented by petitioner as Exhibit "P-23-D" dated January 29, 2015 signed by Ms. Teresita Y. Lumayag of RDO No. 29, RR No. 6-Manila. So at the time the Preliminary Assessment Notice (PAN) and the Final Assessment Notice (FAN) dated October 27, 2015 and December 16, 2015, respectively, were issued by the Regional Director of RR No. 8-Makati, petitioner already formally transferred its registration from RR No. 8-Makati to RR No. 6- Manila. Respondent could not feign ignorance of the transfer as the new COR of petitioner dated January 29, 2015 (and issued by the BIR) bears its new address and RDO.

The principle of *estoppel* relied upon by respondent finds no application in a case where petitioner duly satisfied all the compliance requirements in notifying the BIR of its change of address and even securing a new COR from the latter which serves as an official notice of the change of taxing jurisdiction. The doctrine of *estoppel* is based on public policy, fair dealing, good faith and justice and its purpose is to forbid a party to speak against its own act or omission, representation or commitment to the injury of another to whom the act, omission, representation or commitment was directed and who reasonably relied thereon.[2] Petitioner already fulfilled its duty

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[1] Exhibit "P-23-D" submitted as part of the scanned copies contained in the compact disc attached to the report of the Independent Certified Public Accountant (ICPA) offered by petitioner as evidence and admitted by the Court in its Resolution dated December 6, 2017.

[2] *ASB Realty Corp. vs. Ortigas and Co. Limited Partnership*, G.R. No. 202947, December 9, 2015.

to inform the tax authorities of its change of address, hence it could not be said that it performed acts contrary to the same.

The fact that petitioner continued to submit the documents requested by the VAT audit team of said RR No. 8-Makati despite its change of office address to RR No. 6- Manila may be attributed to petitioner's prudent efforts to comply with the order of the Makati Revenue Region lest it courts potential court action from respondent for ignoring said order.[3] Besides, since the FAN originated from RR No. 8-Makati, then petitioner rightfully addressed its protest and supporting documents to said office.

In fine, petitioner is already beyond the jurisdiction of RR No. 8-Makati when the FAN was issued, hence said FAN loses any legal efficacy and is rendered void.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration* posted on January 29, 2020 is hereby **DENIED** for lack of merit.

Accordingly, the Decision promulgated by the Court on January 3, 2020 is **AFFIRMED.**

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

[3] National Internal Revenue Code
Section 5. *Power of the Commissioner to Obtain Information, and to Summon, Examine, and Take Testimony pf Persons.* - xxx xxx xxx