

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

**COMMISSIONER OF INTERNAL
REVENUE,**

CTA EB NO. 2375
(CTA Case No. 9624)

Petitioner,

Present:

-versus-

**DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, JJ.**

AUTOSTRADA MOTORE, INC.,

Respondent.

Promulgated:

JAN 30 2024

X

X

RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court *En Banc*'s resolution is petitioner's "Motion for Reconsideration (Re: Decision promulgated 21 July 2022)"¹ ("Motion"), filed on 10 August 2022, to which a Comment/Opposition was lodged by respondent on 5 September 2022.²

In his Motion, petitioner raises four points:

First, this Court has jurisdiction over the Petition for Review as his Motion for Reconsideration against the 10 July 2020 assailed Decision was timely filed. Second, a liberal construction of the rules of procedure should be applied and his right to appeal should be recognized. Third, the assessments issued by virtue of a

¹ *EB Records*, pp. 107-126.

² *Id.*, at pp. 130-149.

Mission Order are not void. Fourth, the right to assess had not yet prescribed when the subject FLD and FDDA were issued on 10 October 2016.

In its Comment, respondent counters that the Motion for Reconsideration of petitioner was filed out of time; liberality in construing the rules of procedure is not applicable in this case; the Revenue Officers who conducted the audit were not duly authorized, making the assessments void; and for the ten-year prescription period banked upon by petitioner to apply, the alleged falsity must be proven by clear and convincing evidence.

The Motion for Reconsideration of petitioner must be denied.

Petitioner's Motion for Reconsideration was filed out of time.

As found by the Court's former First Division in its Resolution denying the Motion for Reconsideration filed before it, and as confirmed by this Court in the assailed Decision, such was filed out of time.

His present allegation, that the Notice of Decision was served to the Office of the Commissioner on 14 July 2020, not to the Litigation Division which was petitioner's counsel and that the actual receipt of the Litigation Division was only on 15 July 2020, cannot save the day for him.

As observed by respondent in its Comment, such claim of date of receipt by the litigation department is a mere unsupported statement. On the other hand, respondent has pointed out that the very website of petitioner would show that receipt of the Decision by both the Bureau of Internal Revenue ("BIR") Main (which refers to BIR Litigation) and the Office of Commissioner is indicated as 14 July 2020. Respondent has also brought out that both the Office of the Commissioner and BIR Litigation are located in the same BIR Main Building and that during the pandemic, the BIR implemented a single area receiving system. Petitioner, then, cannot hope to escape the consequences of his late filing of his Motion for Reconsideration.

On top of all these, the Supreme Court had already directed the Bureau of Internal Revenue to "adopt mechanisms, procedures, or measures that can effectively monitor the progress of cases"³ rendering its failure to timely file the Motion for Reconsideration inexcusable.

³ Commissioner of Internal Revenue v. Yi Wine Club, Inc., G.R. No. 250698 (Notice), 23 November 2021; Commissioner of Internal Revenue v. Kepco Ilijan Corp., G.R. No. 199422, 21 June 2016.

A liberal construction of the Rules of Procedure will not merit a reversal of the assailed Decision.

Petitioner cites *Section 2, Rule 1 of the Revised Rules of the Court of Tax Appeals* calling for the liberal construction of the Rules as well as several Supreme Court cases espousing liberality.

Our Courts are constantly faced with the opposing dogmas of liberality and relaxation of procedural rules on one hand, as relied upon by petitioner, and strict adherence to the rules to facilitate adjudication of cases, on the other.

In the instant case, such a plea for liberality loses its grip since the Court has proceeded to rule on the merits of the Petition for Review notwithstanding its pronouncement that it has no jurisdiction over it in view of the late filing of petitioner's Motion for Reconsideration.

Indeed, the Court finds that even if the procedural error committed by petitioner were set aside, the Petition and the instant Motion for Reconsideration remain bereft of merit.

The assessments issued pursuant to a mere Mission Order are void.

At this point, the Court brings out its observation that the arguments posed by petitioner in his Motion for Reconsideration on this ground appearing on pages 8-12 of his Motion⁴ are exact verbatim reproductions of those contained on pages 5-9 of his Petitioner for Review.⁵

As such, in the Decision sought to be reconsidered, the Court already ruled on these very same arguments.⁶ On this score, alone, the Motion for Reconsideration must already be denied.

In the oft-cited case of *Harry L. Roque, Jr., et al. v. Commission on Elections, represented by Hon. Chairman Jose Melo, et al.*,⁷ the Supreme Court *En Banc* ruled that whenever the issues raised in the Motion for Reconsideration have already been addressed and passed upon in the Decision, and the Motion for Reconsideration fails to raise matters which are substantially plausible or compellingly persuasive, enough to lead the Court to rule in favor of the desired course of action, then the Motion for Reconsideration must be denied by the Court, to wit:

⁴ EB Records, pp. 116-118.

⁵ *Id.*, pp. 11-15.

⁶ See Decision, pp. 10-14; *id.*, pp. 96-100.

⁷ G.R. No. 188456, Resolution, 10 February 2010.

“Petitioners’ above contention, as well as the arguments, citations, and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again...

XXX XXX XXX

While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered—and this should not be an obstacle for a reconsideration—the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.

XXX XXX XXX

WHEREFORE, the instant separate motions for reconsideration of the main and intervening petitioners are DENIED.”

This was earlier expressed in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*:⁸

“The bulk of the aforementioned grounds is a mere rehash of movant’s previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.

Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.”

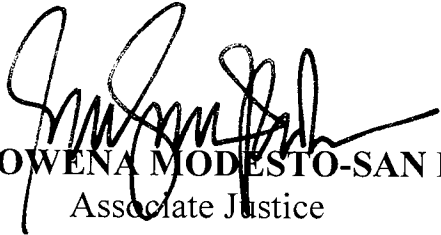
Given that petitioner’s arguments have already been passed upon, discussed, threshed out, and judiciously resolved by this Court in the assailed Decision, the Motion discloses no cogent reason to disturb our earlier findings and conclusions. There is nothing that the Court can add to its previous disposition and accordingly, nothing is left for this Court to do but to deny the Motion.

In light of the above, the Court need not delve on the remaining issue of prescription raised by petitioner.

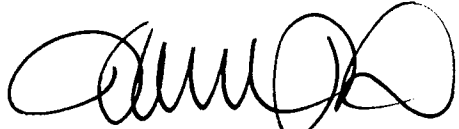
⁸ G.R. No. 159938, Resolution, 22 January 2007.

WHEREFORE, petitioner's Motion for Reconsideration is hereby **DENIED** for lack of merit. The Court *En Banc*'s Decision, dated 21 July 2022, is hereby **AFFIRMED**.

SO ORDERED.


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

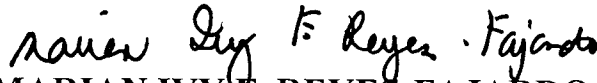
WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice


HENRY S. ANGELES
Associate Justice