REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

XYTRIX SYSTEMS CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10629

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:

JAN 16 2025
3:50 p.m.

x- x

RESOLUTION

MANAHAN, J.:

This resolves respondent's **Motion for Reconsideration (Decision dated 6 August 2024)**[1] posted on September 4, 2024 and received by this Court on September 9, 2024, seeking for the cancellation and setting aside of the Court's Decision dated August 6, 2024 (Assailed Decision) and dismissal of petitioner's Petition for Review.

Respondent argues that this Court erred in ruling that there was no proper service of the Preliminary Assessment Notice (PAN) to the petitioner considering that Ms. Cecile P. Cainag was the one who filed the Request for Reinvestigation allegedly representing the petitioner. Thus, petitioner was estopped from questioning the authority of Ms. Cainag.

On the other hand, petitioner, in its **Comment (To Motion for Reconsideration dated 4 September 2024)**[2] filed through licensed courier on October 8, 2024 and received by this Court on October 9, 2024, counter-argues that it disputed the authority of Ms. Cainag in receiving said PAN in its petition and considering its refusal to receive it, the PAN should have been left to a barangay official with two (2) disinterested persons as

[1] Docket, CTA Case No. 10629, pp. 465-469.
[2] *Id.*, no pages.

witnesses on such service pursuant to the Bureau of Internal Revenue (BIR) guidelines on substituted service of BIR notices.

We resolve.

Based on the records of the instant case, respondent received his copy of the Assailed Decision, through the Office of the Solicitor General, on August 22, 2024.

In accordance with Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA),[3] the respondent has fifteen (15) days from receipt of notice of said decision within which to file his motion for reconsideration. Thus, respondent had fifteen (15) days from August 22, 2024, or until September 6, 2024 to file the instant motion. The posting of the subject motion on September 4, 2024 was, thus, done within the reglementary period.

Going over the substantive disquisition, respondent's arguments did not have any novel lines of defense. The same issues have already been thoroughly discussed in the Assailed Decision, Nevertheless, for the sake of highlighting the basis of our findings, quoted herebelow are the relevant portions, to wit:

> "There was no evidence in the records of the instant case to prove that Ms. Cecile Cainag was authorized to receive any documents on behalf of petitioner.
>
> Considering that respondent failed to comply with the requirements stated under existing BIR rules and regulations, petitioner's right to due process was violated in the issuance of the subject PAN, pursuant to Section 228 of the NIRC of 1997, and Section 3.1 of RR No. 12-99, as amended by RR No. 18-2013. Such being the case, the said PAN and the subsequently issued FLD are void. Thus, respondent cannot exercise his authority to collect absent a valid final assessment notice. Therefore, the issuance of the WDL No. RR7B-WDL-2021-08-04-00116 is devoid of legal and factual bases.
>
> To reiterate, tax assessments issued in violation of the due process rights of a taxpayer are null and void. Furthermore, a void assessment bears no valid fruit. Such being the case, the subject tax assessments cannot be

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[3] "SECTION 1. Who may and when to file motion.- **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution, or order **of the Court**. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question." *(Emphasis supplied)*

> enforced against petitioner, and the BIR has no right to collect the same.
>
> xxx xxx xxx
>
> Overall, considering the invalid service of the PAN for violation of petitioner's right to due process, the succeeding notices issued relative to the subject assessment were null and void."

There being no new and substantial arguments propounded by respondent in his motion, the Court finds no compelling reason to reverse the Assailed Decision.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (Decision dated 6 August 2024)* is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo
(I reiterate my Concurring Opinion)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

(I concur with the result)
HENRY S. ANGELES
Associate Justice