REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

GRAND PLAZA HOTEL CORPORATION, Petitioner,	**CTA CASE NO. 8992**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson, and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 1 1 2019 3:04 PM

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RESOLUTION

CASTAÑEDA, JR., *J*.:

For resolution is respondent's **Motion for Reconsideration Re: Amended Decision dated 29 October 2018**, filed through registered mail on November 14, 2018 and received by this Court on November 23, 2018, with petitioner's **Comment/Opposition (to Respondent's Motion for Reconsideration dated 12 November 2018)**, filed on December 12, 2018.

Respondent seeks reconsideration of the Court's Amended Decision (assailed Amended Decision)[1] promulgated on October 29, 2018, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, petitioner's **Motion for Reconsideration (of the Decision dated 4 July 2018)**, is **GRANTED**.

[1] Docket, vol. II, pp. 946-956.

Accordingly, the dispositive portion of this Court's Decision dated July 4, 2018, is hereby amended to read as follows:

> '**WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. Accordingly, the assessment issued by respondent against petitioner for deficiency income tax, withholding tax on compensation, expanded withholding tax, documentary stamp tax, and value-added tax, in the total amount of ₱508,101,387.12 for taxable year 2008, are **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED.**'

SO ORDERED."[2]

In the assailed Amended Decision, the Court found that it has jurisdiction over the instant Petition for Review under "other matters" provided in Section 7(a)(1) of Republic Act (RA) No. 1125, as amended. The Court then found the subject Formal Letter of Demand and Assessment Notices invalid for failure to indicate a definite due date for payment by the taxpayer, which negates respondent's demand for payment.

Respondent moves for reconsideration of the assailed Amended Decision, on the ground that there is no disputed assessment, and thus, the Court erred in ruling that it can assume jurisdiction over the instant Petition for Review under "other matters". He contends that the "other matters" clause of Section 7 of RA No. 9282 does not include assessment cases but pertain to matters ancillary to disputed assessment and refunds of internal revenue taxes.

Respondent alleges that "other matters" should not pertain to the assessment and/or refund itself. However, respondent avers that the present case pertains solely on the validity of the assessment. Thus, respondent argues that the present petition must not, in the guise of other matters, be allowed to question a final and valid assessment. ge

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[2] Docket, vol. II, p. 955.

Moreover, respondent contends that a challenge to the collection procedure under "other matters" cannot reach back and examine an undisputed assessment.

Furthermore, respondent alleges that even assuming the present case falls under the scope of "other matters", the same was filed out of time. He avers that petitioner should have filed the petition for review to question the validity of the collection procedure, within 30 days from receipt of the Collection Letter dated December 4, 2013 on December 17, 2013. However, respondent avers that petitioner was only able to file the instant case on February 20, 2015.

Petitioner opposes respondent's motion and argues that the Amended Decision validly ruled that the Court of Tax Appeals (CTA) has jurisdiction to review collection proceedings.

Moreover, petitioner contends that contrary to the position of respondent, the Petition for Review has been filed on time. It alleges that it is the Final Notice which contained the demand of respondent to pay the alleged deficiency taxes. Hence, petitioner argues that the petition filed on February 20, 2015, four days after its receipt of the Final Notice on February 16, 2015, was filed within the 30-day period to file an appeal assailing the collection proceedings.

Respondent's motion for reconsideration is bereft of merit.

Contrary to respondent's contention, the Court can take jurisdiction over the present petition even if there was no disputed assessment. Section 7(a)(1) of RA No. 1125, as amended, confers upon the CTA the jurisdiction to decide not only cases pertaining to disputed assessments and refunds of internal revenue taxes, but also "other matters" arising under the National Internal Revenue Code of 1997, as amended.

Moreover, it must be emphasized that in determining the Bureau of Internal Revenue's right to collect, the validity or invalidity of an assessment, in relation to the due process requirements; or prescription of the right to assess; or the fact of payment of said assessment; may also be reviewed by the Court and are properly included as "other matters".[3] The failure to protest, or to raise said

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[3] *Commissioner of Internal Revenue, et al. vs. T Shuttle Services, Inc.*, CTA EB No. 1565 (CTA Case No. 8650), Resolution dated July 16, 2018.

issues in a protest, should not result to a waiver of said defenses, for the reason that "[a] void assessment bears no valid fruit."[4]

In this case, petitioner questions the legality of respondent's collection and argues that the assessments upon which the collection proceedings are based on are void. Thus, the Court may therefore review the validity of the assessments in this case under "other matters".

Furthermore, there is no merit to respondent's allegation that the Petition for Review was filed out of time.

Respondent avers that petitioner should have filed the petition for review, within 30 days from receipt of the Collection Letter dated December 4, 2013 on December 17, 2013 and not on the receipt of the Final Notice on February 16, 2015.

A perusal of the Final Notice[5] received on February 16, 2015 shows that respondent's request for petitioner to settle its tax liabilities therein is hinged upon the denial of petitioner's Request for Reconsideration by respondent, to wit:

> "Dear Mr. Yeo,
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> With reference to your Request for Reconsideration filed in behalf of GRAND PLAZA HOTEL CORPORATION regarding its 2008 Deficiency Tax Liabilities amounting to P506,028,288.24, please be informed that said request was denied by the Commissioner of Internal Revenue on November 6, 2014, copy of which was received on November 7, 2014 by Ms. Linda Lorejas, your representative. xxx
>
> xxx xxx xxx
>
> We, therefore, reiterate our appeal to please settle the abovementioned tax liabilities immediately within ten (10) days from receipt hereof thru Electronic Filing and Payment System (e-FPS) to any authorized Agent Bank in

[4] *Commissioner of Internal Revenue vs. Azucena T. Reyes*, G.R. Nos. 159694 & 163581, January 27, 2006.
[5] Exhibit "P-47", docket, vol. I, p. 529.

order to obviate the necessity of issuing the Warrant of Distraint and/or Levy (WDL) and Warrant of Garnishment (WG) to enforce its collection."

Thus, as found in the assailed Amended Decision, the Petition for Review was timely filed, to wit:

> "Records show that petitioner received the Final Notice requesting it to pay the deficiency taxes for fiscal year 2008, amounting to ₱506,028,228.24, on February 16, 2015. Counting thirty (30) days therefrom, petitioner had until March 18, 2015 within which to file its petition. Thus, the instant Petition for Review was timely filed on February 20, 2015. The Court, therefore, has jurisdiction over the Petition for Review."

Considering the foregoing, the Court finds no cogent reason to reverse or modify the assailed Amended Decision dated October 29, 2018.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration Re: Amended Decision dated 29 October 2018** is **DENIED** for lack of merit.

SO ORDERED.

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

I CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice