REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

JOSELITO B. YAP,
Petitioner,

- versus -

BUREAU OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10063

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

Promulgated:

AUG 01 2023; 3:20PM

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RESOLUTION

REYES-FAJARDO, J.:

For the Court's resolution are the following:

1) Respondent Bureau of Internal Revenue (BIR)'s **Motion for Reconsideration**[1] (of the Decision promulgated on November 29, 2022) filed on December 23, 2022 and

2) Petitioner Joselito B. Yap's **Motion to Admit Comment** (on the aforementioned Motion for Reconsideration) dated April 11, 2023

In the Assailed Decision, the Court granted Yap's Petition for Review and cancelled the Preliminary Assessment Notice (PAN), Final Assessment Notice/Formal Letter of Demand (FAN/FLD), and Preliminary Collection Letter (PCL) notices issued by the BIR against petitioner relative to taxable years 2011, 2012, and 2013. The dispositive portion of the Assailed Decision reads:

> WHEREFORE, in view of the foregoing, the instant Petition

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[1] *Rollo*, pp. 834-861.

for Review is GRANTED.

Accordingly, the PANs dated January 15, 2015, FAN/FLD dated June 22, 2015 and PCL notices dated April 4, 2019 for taxable years 2011, 2012 and 2013 are hereby CANCELLED and SET ASIDE.

Respondent, respondent's representatives, agents, or other persons acting in respondent's behalf are ENJOINED from enforcing the collection of the deficiency taxes inclusive of surcharge, interest, and penalty under the respective FAN/FLD issued on June 22, 2015 for TYs 2011 (Assessment Nos. R3-IT-015-0190 and R3-VT-015-019), 2012 (Assessment Nos. R3-IT-015-022 and R3-VT-015-022), and 2013 (Assessment Nos. R3-IT-015-016, R3-VT-015-016, and R3-RF-015-002) and the PCL Notices dated April 4, 2019 issued against petitioner.

SO ORDERED.

Aggrieved, on December 23, 2022, respondent filed a Motion for Reconsideration, citing the following grounds in support thereof:

WITH ALL DUE RESPECT, THIS HONORABLE COURT IS WITHOUT JURISDICTION OVER THE PRESENT CASE CONSIDERING THAT THE ASSESSMENT AGAINST PETITIONER HAS ALREADY BECOME FINAL, EXECUTORY AND DEMANDABLE. THUS, THE ONLY POWER THE HONORABLE COURT HAS IS TO DISMISS THE CASE.[2]

THE HONORABLE COURT ERRED IN RULING ON MATTERS THAT WAS RAISED BY PETITIONER FOR THE FIRST TIME ON APPEAL. THE ISSUE ON THE VALIDITY OF THE LOAs AND FLDs WAS NEVER RAISED BY PETITIONER IN THE ADMINISTRATIVE LEVEL. THUS, PETITIONER CAN NO LONGER RAISE SAID ISSUE ON THE GROUND OF LACHES.[3]

THE HONORABLE COURT ERRED IN RULING THAT THE ASSESSMENTS ARE VOID AS THERE WAS NO VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS.[4]

PETITIONER IS LIABLE FOR DEFICIENCY TAXES IN THE AMOUNT OF P80,383,007.61 FOR TAXABLE YEAR 2011, P12,304,439.24 FOR 2012 AND P87,245,634.18 FOR 2013.[5]

PETITIONER FAILED TO PRESENT SUFFICIENT EVIDENCE TO

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2 *Rollo*, pp. 835-836.
3 *Rollo*, pp. 842-843.
4 *Rollo*, p. 848.
5 *Rollo*, p. 855.

qfr

OVERTHORW THE FINDINGS OF RESPONDENT AND THUS, THE ASSESSMENTS SHOULD STAND.[6]

In the main, respondent re-asserts that: *First*, the CTA has no jurisdiction over Yap's Petition for Review. The CIR denied petitioner's protest *via* the Letter dated July 30, 2018. Petitioner received a copy of the denial on September 4, 2018 and had until October 4, 2018 (30 days) to appeal to the CTA. However, Yap filed a Petition for Review only on April 11, 2019. Petitioner's failure to appeal within the thirty (30)-day reglementary period allowed the assessment to lapse into finality.[7] *Second*, petitioner was estopped from questioning the validity of the service of the Letter of Authority (LOA) and assessment notices because he did not raise this issue at the administrative level.[8] *Third*, petitioner's right to due process was not violated on account of the valid service of the LOA and assessments notices,[9] as well as the ample opportunity given to petitioner to avail of legal remedies to refute the subject tax assessments.[10]

Subsequently, *via* registered mail, petitioner filed his Opposition (to Respondent's Motion for Reconsideration dated December 16, 2022) dated February 8, 2023 and Motion to Admit Comment dated April 11, 2023 with attached Comment of even date.

After a careful review of the records of the present case, the Court finds no compelling reason to reverse or modify the Assailed Decision. To be sure, respondent persists to convince the Court that it served the LOA and assessment notices properly and that, anyway, petitioner was allowed to protest the assessments at the administrative level. Clearly, the instant Motion raises the same issues already passed upon and discussed at length by the Court. It does not contain any substantial argument to warrant reconsideration or modification of the Assailed Decision. It is already settled that if the issues raised in the motion for reconsideration are mere reiterations of those which have already been passed upon and, in fact, adjudged as unmeritorious by the Court, these cannot be regarded as substantial and no longer require another full-blown discussion. Any further discourse will only be unnecessary and repetitive.[11]

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6 *Rollo*, p. 859.
7 *Rollo*, p. 842.
8 *Rollo*, p. 846.
9 *Rollo*, p. 850.
10 *Rollo*, p. 855.
11 *Social Justice Society (SJS) Officers, et al. v. Lim*, G.R Nos. 187836 & 187916, March 10, 2015.

WHEREFORE, in light of the foregoing considerations, petitioner's Motion to Admit Comment dated April 11, 2023 is **GRANTED**. Respondent's Motion for Reconsideration of the Decision promulgated on November 29, 2022 is **DENIED** for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

(With due respect, I reiterate my Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice