REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

SAN MIGUEL FOODS, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9241

Members:

UY, *Chairperson*,
RINGPIS-LIBAN, and
MODESTO-SAN PEDRO, *JJ*.

Promulgated:

MAR 02 2020 2:24 p.m.

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RESOLUTION

UY, *J*.:

For resolution is respondent's ***Motion for Reconsideration***, filed on November 4, 2019, with petitioner's ***Comment [on Respondent's Motion for Reconsideration dated November 4, 2019]***, filed on November 29, 2019.

Respondent seeks reconsideration of the Decision dated October 2, 2019, which granted the Petition for Review filed on January 14, 2016. The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, in light of the foregoing considerations, the instant Petition for Review is **GRANTED.** Accordingly, the deficiency income tax assessment of ₱880,422,523.43 and deficiency VAT assessment amounting to ₱79,469,816.01, in the aggregate amount of ₱959,892,339.44, inclusive of

interests, for taxable year 2010, issued against petitioner, are hereby **CANCELLED** and **SET ASIDE**.

SO ORDERED."

In the instant motion, respondent argues that the Formal Letter of Demand and the Final Decision on Disputed Assessment are valid and issued in accordance with law. Moreover, respondent asserts that the *Menguito*[1] and the *Fitness*[2] cases under the guise of the principle of *stare decisis*, are inapplicable. Furthermore, respondent asserts that assuming that *stare decisis* is applicable, the *LM Camus*[3] case should have been used as basis instead of *Menguito* and *Fitness.* Lastly, respondent argues that due date is not a requirement for the validity of an assessment.

On the other hand, petitioner counter-argues that respondent's Formal Letter of Demand and Final Decision on Disputed Assessment are inherently void for failure to state a definite demand for payment. That contrary to respondent's allegations, the Court's reliance on the cases of *Menguito* and *Fitness* are consistent with well-settled legal principles and the Decision dated October 2, 2019 finds support in several cases decided by no less than the Supreme Court. Lastly, petitioner further argues that the *LM Camus* case is inapplicable to the instant Petition because the factual circumstances of the said case are not even close to being substantially similar to the instant case.

THE COURT'S RULING

The instant *Motion for Reconsideration* lacks merit.

The ruling of the Court that the Formal Letter of Demand and the Final Decision on Disputed Assessment are not valid for bearing no due date stands

In respondent's *Motion*, respondent argues that it is misplaced and without legal basis to say that a "due date" is a mandatory requirement for the validity of the assessment. Respondent claims

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[1] G.R. No. 167560, September 17, 2008.
[2] G.R. No. 215957, November 9, 2016.
[3] G.R. No. 177279, October 13, 2010.

that pursuant to Section 228 of the NIRC, there are only three mandatory requirements for an assessment to be valid, to wit: (1) the taxpayer must be informed of the findings of the audit; (2) the notice must be in writing, and (3) such notice must contain the facts and the aw on which the assessment is made. That nowhere does it specifically state that a "due date" is required for the validity of an assessment and neither it is provided anywhere in the NIRC that the omission thereof would invalidate the assessment.

The Court does not agree.

Respondent is mistaken for saying that there is no legal basis for the Court to rule that a "due date" is a mandatory requirement for the validity of an assessment.

In *Commissioner of Internal Revenue vs. Pascor Realty and Development Corporation, et.al.,*[4] the Supreme Court defined what an assessment is, to wit:

> "**An assessment contains not only a computation of tax liabilities, but also a <u>demand for payment within a prescribed period.</u>** It also signals the time when penalties and interests begin to accrue against the taxpayer. To enable the taxpayer to determine his remedies thereon, due process requires that it must be served on and received by the taxpayer. x x x" *(Emphasis and underscoring supplied)*

In relation thereto, the *Fitness* case **emphasized** the importance of stating the due date in the FAN, to wit:

> "**A final assessment notice provides for the amount of tax due with a demand for payment.** This is to determine the amount of tax due to a taxpayer. However, due process requires that taxpayers be informed in writing of the facts and law on which the assessment is based in order to aid the taxpayer in making a reasonable protest. To immediately ensue with tax collection without initially substantiating a valid assessment contravenes the principle in administrative investigations "that taxpayers should be able to present their case and adduce supporting evidence.

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[4] G.R. No. 128315, June 25, 1999.

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> The issuance of a valid formal assessment is a substantive prerequisite for collection of taxes. Neither the National Internal Revenue Code nor the revenue regulations provide for a "specific definition or form of assessment." However, the National Internal Revenue Code defines its explicit functions and effects. **An assessment does not only include a computation of tax liabilities; it also includes a demand for payment within a period prescribed. Its main purpose is to determine the amount that a taxpayer is liable to pay"**[5] (Emphasis and underscoring supplied).

Clearly from the foregoing pronouncements, an assessment must not only indicate the legal and factual bases of the assessment but must also state categorically a demand for payment of the computed tax liabilities within a specific period. Indicating a fixed and definite period within which a taxpayer must pay the tax deficiencies is necessary to the validity of an assessment. In the absence thereof, it negates the CIR's demand for payment making the FAN defective and therefore void. As a rule, a void assessment bears no valid fruit.[6]

The Menguito and Fitness cases are applicable to the instant case while the LM Camus case is not

Contrary to respondent's allegation, the application of the Court of the *Menguito and Fitness* cases is not a misapplication of the doctrine of *stare decisis.*

The doctrine of *stare decisis* enjoins judicial precedents. It requires courts in a country to follow the rule established in a decision of the Supreme Court thereof. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. The doctrine of *stare decisis* is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.[7]

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[5] G.R. No. 215957, November 9, 2016.

[6] *Commissioner of Internal Revenue vs. Liquigaz Philippines Corporation, etseq.* G.R. Nos. 215534 and 215557, April 18, 2016.

[7] Carmelo F. Lazatin et al. vs. Hon. Aniano A. Desierto as Ombudsman, G.R. No. 147097, June 5, 2009 citing Fermin vs. People, G.R. No. 157643, March 28, 2008, 550 SCRA 132.

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The Supreme Court further explained the foregoing doctrine in *Chinese Young Men's Christian Association of the Philippine Islands vs. Remington Steel Corporation,*[8] to wit:

> "Time and again, the court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. *Stare decisis et non quieta movere.* Stand by the decisions and disturb not what is settled. *Stare decisis* simply means for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue."

Otherwise stated, when the Supreme court has laid down a principle of law as applicable to a certain set of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same.[9]

Guided by the foregoing pronouncement, the Court finds that the *Menguito* and *Fitness* cases both apply to the instant case.

It is noteworthy to mention that in *Menguito,* the Supreme Court discussed what a valid formal assessment is, *i.e.,* an assessment contains not only a computation of tax liabilities but also a demand for payment within a prescribed period. The said pronouncement was reiterated in the *Fitness* case following previous pronouncements made by the Supreme Court in the cases of *Commissioner of Internal Revenue vs. Pascor Realty and Development Corporation, et.al.,*[10] and *Tupaz vs. Ulep.*[11]

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[8] G.R. No. 159422, March 28, 2008.

[9] *Commissioner of Internal Revenue vs. The Insular Life Assurance Co. Ltd.,* G.R. No. 197192, June 4, 2014, citing Chinese Young Men's Christian Association of the Philippine Islands vs. Remington Steel Corporation, 573 Phil. 320, 337 (2008).

[10] G.R. No. 128315, June 29, 1999.

[11] G.R. No. 127777, October 1, 1999.

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Anent respondent's argument that the *LM Camus* case should have been used as basis instead of *Menguito* and *Fitness*, the same is untenable. The *LM Camus* case is not on all fours with the instant case. The discussion in said case pertains to the formality of a control number in the assessment notice which is not a requirement for the validity of an assessment. Hence, it should not be applied to the present case.

Having addressed the aforementioned arguments of respondent, the Court finds no cogent reason to reverse or modify the assailed Decision.

WHEREFORE, in light of the foregoing considerations, respondent's *Motion for Reconsideration* filed on November 4, 2019 is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice