REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

NEW FARMERS PLAZA, INC.,
Respondent.

CTA EB No. 2290
(CTA Case No. 9475)

Present:

Del Rosario, P.J.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo, and
Cui-David, JJ.

Promulgated:
SEP 19 2022 11:28 am

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RESOLUTION

RINGPIS-LIBAN, J.:

For resolution of the Court *En Banc* is respondent New Farmers Plaza, Inc.'s *Motion for Reconsideration [Re: Decision Promulgated on 6 May 2022]*[1] (the "*Motion*") filed on May 27, 2022 with petitioner Commissioner of Internal Revenue (CIR)'s *Comment/ Opposition (Re: Respondent's Motion for Reconsideration dated May 27, 2022)*[2] filed on July 22, 2022.

Respondent's *Motion* seeks reconsideration of the Decision of the Court *En Banc* promulgated on May 6, 2022,[3] ("Assailed Decision") granting the

[1] *En Banc* Docket, pp. 183-206.
[2] *Id.*, pp. 210-216.
[3] *Id.*, pp. 155-174.

Petition for Review filed by the CIR and reversing the judgment of the First Division ("Court in Division") of this Court in CTA Case No. 9475. The Assailed Decision likewise remanded the case to the Court in Division for the determination of the validity and/or correctness of the Notice of Denial dated June 1, 2016 of respondent's Offer of Compromise dated May 2, 2014. The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, the present Petition for Review is **GRANTED.** Accordingly, the Decision dated January 14, 2020 as well as the Resolution dated June 26, 2020 of the First Division of this Court in CTA Case No. 9475 are **REVERSED** and **SET ASIDE**.
>
> Let the case be **REMANDED** to the Court in Division for the determination of the validity and/or correctness of the *Notice of Denial* dated June 1, 2016 of respondent New Farmers Plaza, Inc.'s *Offer of Compromise* dated May 2, 2014.
>
> **SO ORDERED.**"

In its *Motion*, respondent insists that this Court has jurisdiction to rule on the validity of the assessment as it falls under the CTA's "other matters" jurisdiction.[4] It added that this Court gravely erred in refusing to decide on the validity of the assessment despite it being incidental and necessary to determine the correctness of the denial of the compromise based on doubtful validity.[5] Respondent also contends that this Court erred in ruling that there must be a disputed assessment before it can have jurisdiction to rule on the validity of an assessment.[6]

Respondent likewise submits that the subject assessment is void because: (1) petitioner violated respondent's right to due process when it issued the FLD merely ten (10) days after respondent received the PAN, or within respondent's statutory 15-day period to file a reply to the PAN; (2) the audit was re-assigned to a new group supervisor without the issuance of a new letter of authority; (3) the assessments were naked assessments based on mere presumptions from a table audit; (4) the CIR failed to properly serve the FLD to respondent; and (5) the assessment did not become final, demandable, and executory for having been issued beyond the prescriptive period under the Tax Code.[7]

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[4] *Id.*, pp. 184-187.
[5] *Id.*
[6] *Id.*, pp. 187-190.
[7] *Id.*, pp. 190-200.

Respondent also postulates that this Court erred in ruling that the Warrant of Distraint and/or Levy (WDL) has attained finality and that this Court has no authority to review the validity thereof.[8]

Finally, respondent asserts that this Court erred in ruling that the Court in Division should make a definitive pronouncement on the validity and correctness of the Notice of Denial.[9]

On the other hand, petitioner, in its *Comment/Opposition* submits that this Court should not pass upon the validity of the assessment given that respondent failed to raise the same as an issue in its Petition for Review before the Court in Division.[10] Petitioner also asserts that if this Court were to allow the nullification of an assessment and the setting aside of the WDL that have long attained finality, the same would set a dangerous precedent inimical to the interest of the Republic.[11]

Petitioner also points out that respondent, despite the receipt of the PAN, FLD, Final Notice Before Seizure (FNBS), and the WDL, did not file a protest as provided by law nor appeal the WDL with this Court within thirty (30) days from receipt thereof.[12] Thus, according to petitioner, the deficiency tax assessments have become final and executory.[13] Petitioner likewise posits that respondent, as borne out by the records, had no intention to question the assessment despite numerous opportunities given by petitioner to present its side and it was only when petitioner's offer of compromise was denied that it decided to question the validity of the assessment which already attained finality for almost three (3) years.[14]

After careful evaluation of the arguments raised vis-à-vis the records of the case, the Court *En Banc* resolves to deny respondent's *Motion for Reconsideration [Re: Decision Promulgated on 6 May 2022]* for lack of merit. Respondent failed to raise any compelling reason to warrant the modification much less reversal of this Court's findings.

The Court *En Banc* maintains its position that this Court has jurisdiction to take cognizance of the *Notice of Denial* dated June 1, 2016 issued by petitioner of the respondent's *Offer of Compromise* concerning the latter's deficiency tax assessments for CY 2007. This Court's authority to inquire into the manner of exercise of the CIR's power to enter into a compromise agreement falls under

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[8] *Id.*, pp. 200-201.
[9] *Id.*, pp. 201-203.
[10] *Id.*, p. 211.
[11] *Id.*, p. 213.
[12] *Id.*, p. 214.
[13] *Id.*
[14] *Id.*

the "other matters" jurisdiction as conferred to this Court by RA 1125, as amended.

The Court *En Banc* also maintains its ruling that respondent's failure to file any protest against the FLD dated June 24, 2011 inevitably resulted to the finality of the deficiency tax assessments. Accordingly, this Court was barred from inquiring into the correctness and/or validity of the assessments. In a similar vein, respondent's failure to question the validity of the WDL within thirty (30) days from receipt thereof is fatal to its cause as the said WDL likewise attained finality upon the lapse of the 30-day reglementary period. As a result, this Court was divested of any authority to inquire into the validity of the WDL.

Lastly, the Court *En Banc* adheres to its ruling in the Assailed Decision that as the present Petition for Review strictly involves a challenge to the correctness of the denial by petitioner of respondent's offer of compromise, the judicial review of this Court in the present case should focus only on the manner by which the CIR exercised its discretionary power to enter into compromise, *i.e.*, whether or not the parameters set by law were properly observed, or whether the CIR abused his discretion in denying or approving the compromise.

WHEREFORE, respondent's *Motion for Reconsideration [Re: Decision Promulgated on 6 May 2022]* is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice