REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ALPHALAND MAKATI PLACE, INC.,	**CTA CASE NO. 9609**
Petitioner,	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **MINDARO-GRULLA,** and **BACORRO-VILLENA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 15 2020 11:00 AM

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RESOLUTION

MINDARO-GRULLA, J.:

Submitted before this Court is respondent's **Motion for Reconsideration Re: Decision dated 15 January 2020** filed on February 3, 2020, with petitioner's **Opposition (To Respondent's Motion for Reconsideration)** filed on February 20, 2020.

On January 15, 2020, a Decision was promulgated by this Court, annulling respondent's value-added tax (VAT) assessment against petitioner for having a flawed letter of demand, the dispositive portion of which reads as follows:

> **WHEREFORE**, in light of the foregoing considerations, the assailed subject assessments and FDDA, and respondent's *Decision*, holding petitioner liable for deficiency VAT in the amount of ₱10,708,088.80, and compromise penalty in the amount of ₱50,000.00, for the period of January 1, 2014 and June 30, 2014, are **CANCELLED and SET ASIDE**.
>
> **SO ORDERED**.

In his Motion, respondent assigned the following errors/arguments for this Court's consideration, *viz.*:

I.

WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED WHEN IT GRANTED A RELIEF THAT WAS NOT PRAYED FOR BY PETITIONER.

II.

WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED IN RULING THAT THE FLD AND FAN ARE VOID BECAUSE THEY FAILED TO DEMAND PAYMENT THEREOF WITHIN A SPECIFIC PERIOD.

III.

WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED IN RULING THAT PETITIONER IS NOT LIABLE TO PAY THE SUBJECT COMPROMISE PENALTY.

As to the first ground, respondent claims that the validity of the Formal Letter of Demand (FLD) was never questioned in petitioner's Petition for Review or in the course of trial. He further claims that he was denied procedural and substantial due process as he was neither heard nor given the opportunity to be heard on the particular issue. Thus, it is respondent's position that the Court should not have considered the same in deciding the instant case.

In his second assignment of error, respondent argues that the subject FLD has fixed and definite basic tax deficiency, surcharge and interest. He further insists that the phrase "to be adjusted if paid beyond the date specified therein" is but a safeguard for respondent in case petitioner files its protest or pays the amount beyond the period provided, and that interest adjusts depending on the date the amount is paid. Respondent likewise asserts that the doctrine laid down in the case of *Commissioner of Internal Revenue vs. Fitness by Design*[1] (*"Fitness by Design"* hereafter), which was mainly relied upon by this Court in its Decision, should be revisited as the same was based on *Commissioner of Internal Revenue vs. Dominador Menguito*[2], which was misapplied by the Supreme Court in the *Fitness by Design* case.

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[1] G.R. No. 215957, November 9, 2016.
[2] G.R. No. 167560, September 17, 2008.

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Finally, respondent claims that this Court erred in ruling that petitioner is not liable to pay the subject compromise penalty.

On the other hand, in its comment, petitioner claims that this Court did not err in cancelling and setting aside the assailed FLD and assessment notices for deficiency VAT, and that the Court did not err in ruling that the tax assessment is void for not containing a definite date of payment.

After due consideration, this Court finds respondent's Motion for Reconsideration bereft of merit.

While it is true that the validity of the FLD was never questioned in petitioner's Petition for Review or in the course of trial, this Court may still rule upon the same in order to secure a just disposition of the present case. This is very clear from the provision of Section 1[3] of Rule 14 of the Revised Rules of the Court of Tax Appeals[4], which explicitly states that the Court of Tax Appeals (CTA) may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. It is well within the authority of the CTA to look into validity of the FLD as the same must not only contain a computation of tax liabilities, but also a fixed and definite period when payment should be made.[5] In fact, the CTA has always been consistent that aspect.[6]

With regard to the applicability of the *Fitness by Design case,* this Court has already extensively discussed in the assailed Decision the application of the said case herein. Suffice it to say that as dictated by our policy of maintaining stability in jurisprudence in accordance with the legal maxim *"stare decisis et non quieta movere",* any pronouncement made by the Supreme Court must be followed by all courts of lower rank in subsequent cases where the

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[3] "SECTION 1. *Rendition of judgment.* — The Court shall decide the cases brought before it in accordance with Section 15, paragraph (1), Article VIII of the 1987 Constitution. x x x.

In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case."

[4] A.M. No. 05-11-07-CTA, November 22, 2005.

[5] *Commissioner of Internal Revenue v. Pascor Realty and Development Corporation.* G.R. No. 128315, June 29, 1999.

[6] *Commissioner of Internal Revenue v. Northern Tobacco Redrying Co.*, CTA EB No.1760 (CTA Case No. 8857), July 2, 2019; *Hon. Kim Henares in her capacity a[s] Commissioner of Internal Revenue and Esmeralda Tabule, in her capacity as Revenue Regional Director of Revenue Region No. 10, Legaspi City v. LKY Property Holdings, Inc., represented by Mr. Wilbert T. Lee,* CTA EB No. 1852 (CTA Case No. 9066), March 8, 2019.

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same legal issue is raised.[7] Perforce, there is only one Supreme Court from whose decisions all other courts should take their bearings.[8]

Lastly, as regards respondent's claim that this Court erred in ruling that petitioner is not liable to pay the subject compromise penalty, this Court reiterates that, in view of the invalidity of the subject FLD, there is no more basis for the imposition of compromise penalty.

WHEREFORE, premises considered, respondent's Motion for Reconsideration Re: Decision dated 15 January 2020, is **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

We Concur:

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[7] *Ayala Corporation v. Rosa-Diana Realty and Development Corp.*, G.R. No. 134284, December 1, 2000.

[8] Justice J.B.L. Reyes spoke in *Albert v. Court of First Instance of Manila [Branch VI]*, L-26364, May 29, 1968, 23 SCRA 948, 961., at pp. 230-231