REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

JED MARKETING, CORP.,
Respondent.

CTA EB NO. 2377
(CTA Case No. 9687)

Present:
DEL ROSARIO, *P.J.,*
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

Promulgated:
FEB 02 2023 3:03 pm

x- -x

RESOLUTION

RINGPIS-LIBAN, *J*.:

This resolves Petitioner's "Motion for Reconsideration (RE: Decision Promulgated on September 12, 2022)"[1] ("Motion for Reconsideration") filed on September 29, 2022 *via* registered mail, with Respondent's "Comment/Opposition"[2] filed on November 04, 2022.

In his Motion for Reconsideration, Petitioner prays that the "Petition for Review"[3] filed in the instant case be given due course and that the Decision[4] promulgated on September 12, 2022 ("Assailed Decision") be reconsidered and set aside, and a new one be issued ordering Respondent to pay the deficiency income tax in the amount of Php22,640,164.15 inclusive of interests for taxable year 2007.

---

1 Rollo, pp. 153-161.
2 *Id.,* pp. 165-169.
3 *Id.,* pp. 16-28.
4 *Id.,* pp. 120-131.

The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, premises considered, the Petition for Review filed with the Court *En Banc* through registered mail on November 10, 2020 is **DENIED** for lack of merit. Accordingly, the June 10, 2020 Decision and October 06, 2020 Resolution in CTA Case No. 9687 are **AFFIRMED**.
>
> Consequently, Petitioner is **ENJOINED** and **PROHIBITED** from collecting against Respondent the amount representing the assessed deficiency income tax which was set aside and cancelled by this Court.
>
> **SO ORDERED.**"[5]

In his Motion for Reconsideration, Petitioner contends that the subject tax assessment is valid because a Letter of Authority ("LOA") was validly issued which in effect informed Respondent that audit investigation of its books of accounts and other accounting records for taxable year 2007 shall be conducted. Thereafter, the reassignment of audit investigation to another revenue officer was made known to Respondent through the issuance of a reassignment notice. Significantly, the assessments were made pursuant to the prevailing guidelines and procedures of the Bureau of Internal Revenue (BIR) at the time when the investigation of the books of accounts of Respondent was made.

Likewise, Respondent never questioned the validity of the assessment on the ground of lack of authority of the revenue officers. Consequently, Respondent is deemed estopped by silence to question the validity of the assessment on the ground of lack of an LOA.

On the other hand, Respondent in its Comment/Opposition claims that the issuance of a LOA prior to the conduct of an examination of a taxpayer's books and other accounting records by any revenue officer is indispensable to the validity of an assessment.

Respondent also asserts that while taxes are the lifeblood of the government, the power to tax has its limits in spite of all its plenitude.

Lastly, Respondent maintains that the doctrine of estoppel cannot validate an act that contravenes law or is against public policy.

---

5 *Id.,* Decision dated September 12, 2022, p. 130.

The court is not persuaded by Petitioner's motion.

Petitioner's contentions are mere reiterations of the arguments raised in his "Petition for Review". These issues have been amply considered, weighed and resolved in the Assailed Decision, and will not suffice to warrant the reconsideration of the same.

Furthermore, Petitioner's argument that Respondent is estopped from questioning the authority of the revenue officers is untenable.

The principle of estoppel is provided in Article 1431[6] of the Civil Code of the Philippines and Rule 131, Section 2(a)[7] of the Revised Rules on Evidence. In particular, "[e]stoppel by silence' arises where a person, who by force of circumstances is under a duty to another to speak, refrains from doing so and thereby leads the other to believe in the existence of a state of facts in reliance on which he acts to his prejudice."[8]

The Court finds that Petitioner failed to establish the elements of estoppel. No sufficient evidence was presented to prove that Respondent had knowledge, notice or suspicion that the revenue officers had no authority to conduct the audit when it was made. There is also no indication that Respondent communicated such fact to Petitioner in a misleading way, either by words, conduct, or silence. More importantly, it is Petitioner's duty under Section 6(A)[9] in relation to Section 10(c)[10] of the National Internal Revenue Code (NIRC) of 1997, as amended, not the Respondent's, to ensure that there was valid authority to audit before an assessment is made. Finally, the doctrine of estoppel is

6 **Art. 1431.** Through estoppel an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon.

7 **Section 2.** *Conclusive presumptions.* — The following are instances of conclusive presumptions:
(a) Whenever a party has, by his or her own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he or she cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it...

8 Santiago Syjuco, Inc. v. Hon. Jose P. Castro, Et. Al., G.R. No. 70403, July 07, 1989.

9 **SEC. 6.** *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* -

(A) Examination of Return and Determination of Tax Due. After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax, notwithstanding any law requiring the prior authorization of any government agency or instrumentality [5]: Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer...

10 **SEC. 10.** *Revenue Regional Director.* - Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the Revenue Regional director shall, within the region and district offices under his jurisdiction, among others:

xxx xxx xxx

(c) Issue Letters of authority for the examination of taxpayers within the region;

predicated on equity[11], which cannot be applied in contravention of statutory law.[12]

In sum, the Court *En Banc* finds no cogent reason to overturn the Assailed Decision.

WHEREFORE, premises considered, Petitioner's "Motion for Reconsideration (RE: Decision Promulgated on September 12, 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
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

---

11 *See* Nora Bueno Pasion v. Simplicio R. Melegrito, represented by Anselma Timones, G.R. No. 166558, March 28, 2007.

12 Antonio R. Agra, Et. Al. v. Philippine National Bank, G.R. No. 133317, June 29, 1999.

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice