REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

FACTORY AUTOMATION AND INSTRUMENTATION CORP., Petitioner,	**CTA EB No. 1335** (CTA Case No.8518)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** and **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	***Promulgated:*** JAN 03 2018 4:15 p.m.

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RESOLUTION

UY, *J*.:

For this Court's resolution is petitioner's **"MOTION FOR RECONSIDERATION"** filed on August 9, 2017, without respondent's comment[1] despite due notice, seeking the reversal and setting aside of the Court *En Banc*'s Decision promulgated on July 7, 2017, denying the *Petition for Review* dated August 6, 2015 for lack of merit, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit. The Decision dated February 24, 2015 and Resolution dated July 6, 2015 rendered by the Court in Division in CTA Case No. 8518 are **AFFIRMED**.

[1] Records Verification issued by the Judicial Records Division on October 3, 2017.

SO ORDERED."

In the *Motion for Reconsideration*, petitioner argues that acquiescence or estoppel is not sufficient to satisfy the requirements laid down under Revenue Regulations (RR) No. 12-99 as estoppel in the present case may only attach to the service of the Preliminary Assessment Notice (PAN), but not upon the alleged service of the Final Assessment Notice (FAN) and Formal Letter of Demand (FLD).

Furthermore, petitioner points out that estoppel is not one of the exceptions laid down under RR No. 12-99 and that each notice must be treated independently from one another, otherwise, strict compliance with due process requirement provided under RR No. 12-99 will be defeated. According to petitioner, the testimony of the postman that he delivered the FAN and FLD to a "Irene Masula-Mother" does not satisfy the requirements of due process under RR No. 12-99 as she is clearly not the petitioner or a duly authorized representative of petitioner corporation.

THE COURT *EN BANC*'S RULING

The instant *Motion for Reconsideration* is bereft of merit.

Estoppel *in pais*, or equitable estoppel, arises when one, by his acts, representations or admissions or by his silence when he ought to speak out, intentionally or through culpable negligence, induces another to believe certain facts to exist and the other rightfully relies and acts on such beliefs so that he will be prejudiced if the former is permitted to deny the existence of such facts.[2]

Based on the said principles vis-à-vis the factual milieu of the instant case, petitioner is estopped from assailing the authority of "Irene Masula" who had previously received the PAN addressed to petitioner. Petitioner's conduct of acknowledging the receipt of the PAN on May 23, 2011[3] and the subsequent filing of its protest to the said PAN on June 8, 2011[4], induced respondent to believe that petitioner received the PAN and that "Irene Masula" was authorized to receive notices on behalf of petitioner. The actuations of petitioner

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[2] *Spouses Chung vs. Ulanday Construction Inc.,* G.R. No. 156038, October 11, 2010.

[3] Paragraph 9, Joint Stipulation of Facts and Issues, Division Docket (CTA Case No. 8518), p. 108.

[4] Exhibit "K", Division Docket (CTA Case No. 8518), p. 242.

effectively barred the latter from assailing the authority of "Irene Masula" under the principle of equitable estoppel.

As a corollary, if indeed "Irene Masula" has no authority whatsoever to receive any communication addressed to petitioner, then it behooves petitioner to show the Court the circumstances upon which the same "Irene Masula" was able to convey or deliver the PAN to petitioner which enabled the latter to protest the same. That petitioner failed to do so, only bolsters the finding that she has authority to subsequently receive the subject FAN and FLD, on petitioner's behalf.

Furthermore, anent petitioner's contention that estoppel is not one of the exceptions laid down under RR No. 12-99, the same is misplaced. The principles of equitable estoppel, sometimes called estoppel *in pais*, are made part of our law by Art. 1432[5] of the Civil Code.[6] Moreover, the rule on estoppel *in pais* is a well-settled rule of equity which has been adopted by the courts of law.[7] Thus, the said principles need not be "laid down" in RR No. 12-99 for it to be applied by the Court *En Banc* in this case.

Accordingly, We maintain Our ruling that "Irene Masula" has authority to bind petitioner in receiving the PAN, FAN and FLD by registered mail under the principle of estoppel.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[5] Art. 1432. The principles of estoppel are hereby adopted insofar as they are not in conflict with the provisions of this Code, the Code of Commerce, the Rules of Court and special laws.

[6] *Philippine Bank of Communications vs. Court of Appeals*, G.R. No. 106858, September 5, 1997.

[7] *Pasion vs. Melegrito*, G.R. No. 166558, March 28, 2007.

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

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

Ma. Belen R
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice