REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

KULTURA STORE INC.,
Respondent.

CTA EB No. 2342
(CTA Case No. 9315)

Present:

DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, and
CUI-DAVID, JJ.

Promulgated:

FEB 22 2022 3:50pm

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DECISION

UY, J.:

Before the Court *En Banc* is a *Petition for Review*[1] filed on October 23, 2020 by petitioner Commissioner of Internal Revenue against respondent Kultura Store Inc., praying for the reversal and the setting aside of Decision dated November 11, 2019[2] and the Resolution dated September 18, 2020,[3] both rendered by the Second

[1] EB Docket, pp. 7 to 22.

[2] Penned by Associate Juanito C. Castañeda, Jr. and concurred by Associate Justice Jean Maria A. Bacorro-Villena, EB Docket, pp. 38 to 70; Division Docket – Vol. 4 (CTA Case No. 9315), pp. 1694 to 1726.

[3] Penned by Associate Juanito C. Castañeda, Jr. and concurred by Jean Maria A. Bacorro-Villena, EB Docket, pp. 30 to 37; Division Docket – Vol. 4 (CTA Case No. 9315), pp. 1767 to 1774.

Division of this Court (Court in Division) in CTA Case No. 9315, entitled "*Kultura Store, Inc., Petitioner, versus Commissioner of Internal Revenue, Respondent*". The dispositive portions respectively read as follows:

***Decision* dated November 11, 2019:**

> "**WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. Accordingly, respondent's deficiency assessments for IT, VAT, EWT, WTC, and IAET for taxable year 2010 issued against petitioner in the total amount of ₱516,822,789.32, inclusive of interest and penalties, is hereby **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED.**"

***Resolution* dated September 18, 2020:**

> "**WHEREFORE**, premises considered, respondent's Motion for Reconsideration (re: Decision dated November 11, 2019) is **DENIED** for lack of merit.
>
> **SO ORDERED**."

THE FACTS

Petitioner is the Commissioner of Internal Revenue (CIR), having been duly appointed to exercise the powers and perform the duties of his office, including *inter alia*, the power to decide disputed assessments, penalties, fees and other charges imposed, or other matters arising under the National Internal Revenue Code (NIRC) of 1997, as amended.

On the other hand, respondent Kultura Store, Inc., is a corporation duly organized and existing under the laws of the Republic of the Philippines. It holds its principal office at SM Corporate Offices Bldg. A, Pasay City. Respondent is primarily engaged in the business of trading, importing and exporting of goods such as but not limited to Philippine Arts & Crafts and other native products on wholesale and retail basis.

On September 23, 2011, petitioner, through Alfredo Misajon, then Officer-in-charge – Assistant Commissioner for Large Taxpayers Service, issued a *Letter of Authority* (LOA) No. 116-2011-00000113 dated September 23, 2011 against petitioner to examine its books of accounts and other accounting records for all internal revenue taxes for the period from January 1 to December 31, 2010.

Thereafter on June 9, 2014, petitioner, through [*Alfredo V. Misajon*] Officer-in-charge – Assistant Commissioner for Large Taxpayers Service, issued a *Formal Letter of Demand/Assessment Notice* (FLD-FAN) dated June 9, 2014 against respondent for alleged deficiency taxes, penalties and interests in relation to taxable year 2010.

On September 24, 2015, respondent received the *Final Decision on Disputed Assessment* (FDDA) dated September 23, 2015, signed by Assistant Commissioner Nestor S. Valeroso, denying respondent's protest in part and found respondent liable for alleged deficiency taxes, penalties, and interests in relation to taxable year 2010 as follows:

Nature of Tax	Basic Tax	Increments	Total
IT	143,478,887.10	200,909,750.55	344,388,637.65
VAT	68,220,218.37	97,358,662.19	165,578,880.56
EWT	773,385.29	734,398.00	1,507,783.29
WTC	1,012,315.32	832,706.00	1,845,021.32
IAET	1,592,327.60	1,910,138.90	3,502,466.50
Total	215,077,133.68	301,745,655.64	516,822,789.32

Respondent filed a *Motion for Reconsideration of the FDDA* on October 26, 2015. Then, on February 17, 2016, petitioner rendered a *Decision* denying the motion for reconsideration and reiterated its assessment in the FDDA.

Aggrieved, respondent filed a *Petition for Review* before the Court in Division on March 18, 2016, docketed as CTA Case No. 9315 entitled "*Kultura Store, Inc. vs. Commissioner of Internal Revenue*".

After several extensions granted by the Court in Division, petitioner filed his *Answer* on June 29, 2016 interposing, among others, the following special and affirmative defenses:

1) The Court has no jurisdiction over the Petition for review and the Petition for Review was filed out of time;

2) Assuming that the Court has jurisdiction over the Petition for Review, the assessments have bases both in fact and in law;

3) Respondent is liable for deficiency IT in the total amount of ₱344,388,637.65 and the corresponding surcharge and interest. The deficiency IT are based on the following grounds:

   a. From sales not subjected to Income Tax from discrepancy per Terminal Accountability Report (TAR) vs. sales per Income Tax Return (ITR) in the amount of ₱137,292,760.04.

   b. From other income not subjected to income tax in the amount of ₱220,310,622.51.

   c. From unsupported purchases in the amount of ₱79,064,822.95.

   d. From additional gross income in the amount of ₱15,069,993.46.

   e. From income payments not subjected to Expanded Withholding Tax in the amount of ₱20,961,14.73 [*sic*]

   f. From salaries wages and benefits not subjected to withholding tax on compensation in the amount of ₱2,740,352.75.

   g. From disallowed tax credit in the amount of ₱846,977.57.

   h. Respondent is further liable for the corresponding imposition of the 50% surcharge amounting to ₱71,739,443.55.

4) Respondent is liable for deficiency VAT in the total amount of ₱165,578,880.56 and the corresponding surcharge and interest. The deficiency VAT are based on the following grounds:

   a. From sales not subjected to income tax in the amount of ₱78,122,683.91.

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b. From other income not subjected to VAT in the amount of ₱240,919,077.51.

c. From additional taxable sales in the amount of ₱55,814,790.60.

d. From disallowed input tax from unsupported purchases in the amount of ₱9,487,778.75.

e. From disallowed input tax for failure to meet the invoicing requirements in the amount of ₱13,749,653.37.

f. Respondent is further liable for corresponding 50% surcharge for deficiency VAT.

5) Respondent is liable for deficiency EWT in the total amount of ₱773,385.29 and the corresponding interest.

6) Respondent is liable for deficiency WTC in the total amount of ₱185,021.32 and the corresponding interest.

7) Respondent is liable for IAET in the amount of ₱3,502,466.50 including the corresponding surcharge and interest.

After the pre-trial conference held on December 8, 2016, the parties filed their *Joint Stipulation of Facts and Issues* on January 6, 2017. Thereafter, the Court in Division issued a *Pre-Trial Order* on January 17, 2017.

During the trial, respondent presented two (2) witnesses, namely: respondent's Controller, Rosalyn V. Vinzon and the Court-commissioned Independent Certified Public Accountant (ICPA), Madonna Mia S. Dayego.

Thereafter, respondent filed its *Formal Offer of Evidence* on July 25, 2017. In the Resolutions dated November 6, 2017 and January 26, 2018 respectively, the Court in Division admitted all of respondent's exhibits.

For his part, petitioner presented two (2) witnesses, namely: Revenue Officers Joel M. Aguila and Marie Gracielle Cecilia S. Anaban.

On November 23, 2018, CTA Case No. 9315 was submitted for decision considering the filing of respondent's *Memorandum* on November 9, 2018 and the Records Verification Report of the Judicial Records Division dated November 13, 2018, stating that petitioner failed to file his memorandum.

On November 11, 2019, the Court in Division rendered the assailed *Decision*[4] granting the *Petition for Review* in CTA Case No. 9315. Accordingly, petitioner's deficiency assessments for IT, VAT, EWT, WTC and IAET for taxable year 2010 issued against respondent in the total amount of ₱516,822,789.32, inclusive of interest and penalties, were cancelled and set aside by the Court *a quo*.

Aggrieved, petitioner filed a *Motion for Reconsideration (Re: Decision dated November 11, 2019)* on November 27, 2019, with petitioner's *Comment (on the Respondent's Motion for Reconsideration)* filed on December 18, 2019.

In the assailed *Resolution*[5] dated September 18, 2020, the Court in Division denied petitioner's *Motion for Reconsideration* for lack of merit.

Thereafter, on October 7, 2020, petitioner filed a *Motion for Extension of Time to File Petition for Review*,[6] praying for an additional period of fifteen (15) days from October 8, 2020 or until October 23, 2020, within which to file his Petition for Review. As prayed for and subject to the condition that the motion for extension was filed on time, petitioner was granted a final and non-extendible period of fifteen (15) days from October 8, 2020, or until October 23, 2020, within which to file his Petition for Review.[7]

On October 23, 2020, petitioner filed the instant *Petition for Review*[8] before the Court *En Banc*, docketed as CTA EB No. 2342.

In the *Resolution* dated November 10, 2020,[9] the Court *En Banc* ordered respondent to file its comment to the Petition for

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[4] EB Docket, pp. 38 to 70; Division Docket – Vol. 4 (CTA Case No. 9315), pp. 1694 to 1726.
[5] EB Docket, pp. 30 to 37; Division Docket – Vol. 4 (CTA Case No. 9315), pp. 1767 to 1774.
[6] EB Docket, pp. 1 to 3.
[7] Minute Resolution dated October 9, 2020, EB Docket, p. 6.
[8] EB Docket, pp. 7 to 22.
[9] EB Docket, pp. 72 to 73.

Review within ten (10) days from receipt thereof. On November 24, 2020, respondent filed its *Comment*.[10]

The Court *En Banc* noted respondent's Comment in the Resolution dated December 11, 2020,[11] and referred the case to mediation in the Philippine Mediation Center-Court of Tax Appeals (PMC-CTA) pursuant to Section II of the *Interim Guidelines for Implementing Mediation in the Court of Tax Appeals* (or Interim Guidelines).

On January 29, 2021, the Court *En Banc* received *PMC-CTA Form 6 – No Agreement to Mediate*[12] dated January 26, 2021, stating that the parties appeared before the PMC-CTA and after having carefully considered the benefits and advantages of mediation as fully explained to them, they decided not to have their case mediated by the PMC-CTA.

In the Resolution dated February 23, 2021, the Court *En Banc* ordered the termination of mediation proceedings and reinstated the proceedings in the instant case. Thus, the instant Petition for Review was submitted for decision.[13]

Hence, this *Decision*.

THE ISSUE

Petitioner raises one ground in support of the instant Petition, to wit :

> " THE HONORABLE COURT IN DIVISION ERRED IN RULING THAT THE ASSESSMENT NOTICES AGAINST RESPONDENT IS A NULLITY FOR ALLEGEDLY NOT INDICATING A DEFINITE DUE DATE FOR THE PAYMENT OF THE TAX LIABILITIES. "[14]

[10] EB Docket, pp. 74 to 82.
[11] EB Docket, pp. 84 to 85.
[12] EB Docket, p. 86.
[13] EB Docket, pp. 88 to 89.
[14] EB Docket, p. 10.

Based on the foregoing, the issue for the resolution of this Court is: "Whether or not the Court in Division erred in granting the Petition for Review in CTA Case No. 9315, and in ordering the cancellation and setting aside of the deficiency assessments for IT, VAT, EWT, WTC and IAET for taxable year 2010 issued against herein respondent Kultura Inc. in the total amount of P516,822,789.32 inclusive of interest and penalties".

Petitioner's arguments:

Petitioner argues that the Court in Division erred in ruling that the assessment notices against respondent is a nullity for allegedly not indicating a definite due date for the payment of the tax liabilities.

Allegedly, the doctrine laid down in the case of *Commissioner of Internal Revenue vs. Fitness by Design Inc.*[15] (*Fitness by Design* case) should be revisited. According to petitioner, the wordings of the decision in the *Fitness by Design* case reveals that the ratio is based mainly on the decision of the Supreme Court in the case of *Commissioner of Internal Revenue vs. Dominador Menguito*[16] (*Menguito* case).

Petitioner submits that the ruling in *Menguito* was misapplied in the decision of the Supreme Court in *Fitness by Design*. Petitioner contends that the main issue for resolution of the Supreme Court in *Menguito* is only as to whether there were post-reporting notice and pre-assessment notice issued by the CIR and whether the taxpayer actually received them.

Petitioner argues that the assessment issued against respondent categorically stated the due date or the demand for payment. Allegedly, the FLD has fixed and definitely set the deficiency tax liabilities of respondent, which stated therein "to be due on or before 27 June 2014."

Moreover, petitioner argues that the FLD and Assessment Notices issued against respondent are compliant with the basic requisites under Section 228 of the NIRC of 1997, as amended; that the assessment is valid as long as it states the fact, the law, the rules and regulations or jurisprudence on which it was based; that it remains to be valid irrespective of an additional requirement

[15] G.R. No. 215957, November 9, 2016.
[16] G.R. No. 167560, September 17, 2008.

purportedly being prescribed by a regulation; and the law is clear and provides for that particular requirement for validity and no other.

Citing various jurisprudence, petitioner points out that the rules of procedure are designed to secure and not to override substantial justice. Hence, petitioner submits that the Court in Division should have considered the merits of the case considering that respondent was given every opportunity to present its side but failed to fully refute the assessment against them. The procedural lapses, if any, should not be allowed to overshadow the fact that respondent failed to pay the correct taxes as assessed by petitioner.

Lastly, petitioner argues that assessments are presumed correct and made in good faith. The taxpayer has the duty of proving otherwise. In the absence of proof of any irregularities in the performance of official duties, an assessment will not be disturbed. Even an assessment based on estimates is *prima facie* valid and lawful where it does not appear to have been arrived at arbitrarily or capriciously.

Respondent's counter-arguments:

Respondent counter-argues that petitioners' allegations have already been addressed by the Court in Division in the Resolution on petitioner's Motion for Reconsideration filed before the court *a quo*.

Respondent asserts that the Court in Division was correct in applying *Fitness by Design* in the present case.

Allegedly, the *Menguito* case gave emphasis to the importance of a valid final assessment notice, i.e., an assessment does not only include a computation of tax liabilities; it also includes a demand for payment within a prescribed period.

According to respondent, petitioner overlooked the doctrine of *stare decisis* which states that, once the Court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle, and apply it to all future cases where facts are substantially the same, regardless of whether the parties and property are the same.[17]

[17] Chinese Young Men's Association of the Philippine Islands doing business under the name of Manila Downtown YMCA vs. Remington Steel Corporation, G.R. No. 159422, March 28, 2008.

Further, respondent contends that petitioner was not able to raise a valid ground or cite a contrary decision by the Supreme Court which would strengthen the challenge he raised against the decision in *Fitness by Design.*

Respondent submits that the petitioner failed to consider that Section 249 (B) of the NIRC, as amended, speaks of "date prescribed for its payment", which does not pertain to the date prescribed in the FAN, but the date prescribed for payment of certain taxes under the law. Thus, the requirement of a demand of payment of the tax liability per FAN could only be complied with when the actual 'due date' for payment is indicated and not merely inferred from a vague statement of a date when an adjustment of the "interest and the total amount due" will be made at a future time.

Lastly, respondent points out that petitioner's reliance on the case of *Commissioner of Internal Revenue vs. Hon. Raul Gonzales et. al.,*[18] *(Gonzales case)* is misplaced. The *Gonzales* case discussed the lack of a "control number" in the assessment notice which would not invalidate the assessment. Such absence of a "control number" is different from the absence of "due date" for payment. The former may be considered trivial but the latter has been jurisprudentially established as important and indispensable.

THE COURT *EN BANC*'S RULING

The instant *Petition for Review* is bereft of merit.

The FLD and Assessment Notices issued against respondent are invalid for failure to state a definite due date for the payment of the supposed tax liabilities.

Petitioner reiterates his argument that the FLD has fixed and definitely set the deficiency tax liabilities of respondent as that due on or before 27 June 2014. Petitioner claims that the FLD and Assessment Notices issued are compliant with the basic requisites under Section 228 of the NIRC of 1997, as amended. Petitioner claims that the assessment is valid as long as it states the fact, the law, the rules and regulations or jurisprudence on which it was based,

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[18] G.R. No. 177279 October 13, 2010.

and remains to be valid irrespective of an additional requirement purportedly being prescribed by a regulation.

Petitioner is mistaken.

In the context in which it is used in the NIRC, an assessment is a written notice and demand by the BIR on the taxpayer for the settlement of a due tax liability **that is there definitely set and fixed**.[19] Hence, a valid tax assessment must contain not only a computation of tax liabilities but also a demand for payment **within a prescribed period**.

In *Petronila C. Tupaz vs. Honorable Benedicto B. Ulep and People of the Philippines,*[20] the Supreme Court held that:

> "An assessment contains not only a computation of tax liabilities, **but also a demand for payment within a prescribed period**. The ultimate purpose of assessment is to ascertain the amount that each taxpayer is to pay. An assessment is a notice to the effect that the amount therein stated is due as tax and a demand for payment thereof." (*Emphasis supplied*)

In relation thereto, We affirm the correct application by the Court in Division of the ruling in the *Fitness by Design* case. In the said case, it **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 taxpayer 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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[19] *Adamson, et al., vs. Court of Appeals, et. al., G.R. No. 120935 and 124557*, May 21, 2009.
[20] G.R. No. 127777, October 1, 1999.

xxx xxx xxx

> 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; <u>it also includes a demand for payment within a period prescribed</u>. Its main purpose is to determine the amount that a taxpayer is liable to pay."** (*Emphasis and underscoring ours*)

Based on the foregoing pronouncements, an assessment must not only indicate the legal and factual bases of the assessment but must also categorically 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 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.[21]

In this case, We agree with the Court in Division that the FLD and Assessment Notices dated June 9, 2014 bear no fixed due date. The subject Assessment Notices attached to the FLD reveal that the respective "DUE DATE" portion thereof are all left blank.[22] We quote with approval the foregoing discussion in the assailed Decision, to wit:

> "In the present case, the last part of the subject FLD dated June 9, 2014 states that the due dates for payment were supposedly reflected in the attached assessment notice, thus:
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> > 'The complete details covering the aforementioned discrepancies established during the investigation of this case are shown in the accompanying ANNEX A of this letter.

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[21] *Commissioner of Internal Revenue vs. Liquigaz Philippines Corporation, et seq.*, G.R. Nos. 215534 and 215557, April 18, 2016.
[22] Refer to Exhibits "P-3", Docket – Vol. 2, pp. 693 to 710; Exhibits "R-11" to "R-11-e", BIR Records, pp. 748-753.

> The 20% interest per annum has been imposed pursuant to the provision of Section 249(B) of the National Internal Revenue Code of 1997.
>
> The twenty five percent (25%) and fifty percent (50%) surcharges have been imposed pursuant to the provisions of Section 248 of the National Internal Revenue Code of 1997.
>
> The compromise penalty was imposed pursuant to Sections 250 and 255 of the Tax Code, with reference to RMO No. 1-90, as amended by RMO No. 19-2007.
>
> In view thereof, you are requested to pay your aforesaid deficiency tax liabilities through eFPS using BIR Payment Form (BIR Form 0605) **within the time shown in the enclosed assessment notice**. xxx' (*Emphasis supplied*)

> However, a careful scrutiny of the enclosed Audit Result/Assessment Notices referred to in the FLD reveals that there is no definite period or date certain within which petitioner must pay the alleged deficiency tax assessments. Remarkably, the due dates on the enclosed Audit Result/Assessment Notices were left blank. xxx"

Moreover, petitioner's contention that the basic tax deficiency as well as the surcharge and interest were already fixed in the said FLD as that due on or before June 27, 2014 is specious.

As correctly held by the Court in Division, the supposed "due date" referred to by petitioner refers to the reckoning date of the accrual of penalties and surcharges which does not refer to the due date for payment of tax liabilities. It bears pointing out that the factual circumstance of the present case is similar to the *Fitness by Design* case, which ruled in this wise:

> "Second, **there are no due dates in the Final Assessment Notice. This negates petitioner's demand for payment. Petitioner's contention that April 15, 2004 should be regarded as the actual due date**

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> **cannot be accepted. The last paragraph of the Final Assessment Notice states that the due dates for payment were supposedly reflected in the attached assessment:**
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> > In view thereof, you are requested to pay your aforesaid deficiency internal revenue tax liabilities through the duly authorized agent bank in which you are enrolled *within the time shown in the enclosed assessment notice.* (Emphasis in the original)
>
> However, based on the findings of the Court of Tax Appeals First Division, **the enclosed assessment pertained to remained unaccomplished**.
>
> **Contrary to petitioner's view, April 15, 2004 was the reckoning date of accrual of penalties and surcharges and not the due date for payment of tax liabilities. The total amount depended upon when respondent decides to pay. The notice, therefore, did not contain a definite and actual demand to pay**."[23] (*Emphasis supplied*)

Correspondingly, the subject tax assessments cannot be considered as valid since the same do not contain a demand for payment within a prescribed period. It bears emphasizing that the issuance of a valid formal assessment is a substantive prerequisite for collection of taxes.[24] In other words, tax collection should be premised on valid assessment.[25]

The Menguito and Fitness by Design cases are applicable to the present case.

Petitioner argues that the ruling in *Menguito* was misapplied in the decision of the Supreme Court in *Fitness by Design* because the main issue in the *Menguito* case is only as to whether there were post-reporting notice and pre-assessment notice issued by the CIR and whether the taxpayer actually received them.

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[23] G.R. No. 215957, November 9, 2016.
[24] *Commissioner of Internal Revenue vs. Fitness By Design, Inc.*, supra.
[25] Supra.

We do not agree.

The Court in Division has already extensively discussed in the assailed Decision and Resolution the sound application of the said cases herein. To reiterate, the Supreme Court in the *Menguito* case discussed the difference among a formal assessment notice, a post-reporting notice and pre-assessment notice and made it clear 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. Parenthetically, the application of the *Menguito* case in the *Fitness By Design* case may not be the subject of this Court's review, much more, its reversal.

It bears stressing that 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 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.[26]

In *Chinese Young Men's Christian Association of the Philippines Islands vs. Remington Steel Corporation,*[27] the Supreme Court ruled:

> "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

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[26] Carmelo F. Lazatin et al., vs. Hon Aniano A. Desierto as Ombudsman, et al., G.R. No. 147097, June 5, 2009 citing Fermin vs. People, G.R. No. 157643, March 28, 2008.
[27] G.R. No. 159422, March 28, 2008.

> 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.[28]

In sum, the Court *En Banc* finds no reversible error committed by the Court in Division that would warrant the modification, much more, the reversal of the assailed Decision and Resolution.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. Accordingly, the *Decision* dated November 11, 2019, and the *Resolution* dated September 18, 2020, rendered by the Second Division of this Court in CTA Case No. 9315 are hereby **AFFIRMED**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

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[28] Commissioner of Internal Revenue vs. The Insular Life Assurance Co. Ltd., G.R. No. 197192, June 4, 2014.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice