REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

MANILA MEDICAL SERVICES, INC. (MANILA DOCTORS HOSPITAL),
Respondent.

CTA EB NO. 2073
(CTA Case No. 8867)

Present:

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

Promulgated:
MAY 24 2021 3:30 pm

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner Commissioner of Internal Revenue's (**petitioner/CIR's**) "Motion for Reconsideration (Re: Decision promulgated on 29 October 2020)"[1] (**MR**), filed on 23 November 2020, with respondent Manila Medical Services, Inc.'s (**respondent/MMSI's**) "Comment (To Petitioner's Motion for Reconsideration dated November 19, 2020)"[2], filed on 18 January 2021.

---

[1] Rollo, pp.110-120.
[2] Id., pp.124-133.

Petitioner seeks the reversal of this Court *En Banc*'s Decision[3] in the above-captioned case dated 29 October 2020. The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE**, the instant Petition for Review is **DENIED** for lack of merit. Accordingly, the Decision dated 30 January 2019 and Resolution dated 09 May 2019 are hereby **AFFIRMED**.
>
> **SO ORDERED.**
>
> ...

In his MR, petitioner insists that the assessment against respondent for deficiency taxes for the taxable year 2009 had already attained finality for the latter's failure to timely dispute the same. Thus, he claims that We erred in assuming jurisdiction over respondent's Petition for Review.

Petitioner adds that, even assuming that the Court has jurisdiction, he nevertheless ably proved the fact of service of the Preliminary Assessment Notice (**PAN**) and Final Assessment Notice (**FAN**) on respondent through registered mail. As proof of the FAN, he points out the following documents: (1) transmittal of the FAN from the Assessment Division to the Administrative Division for mailing; (2) testimony of petitioner's witness as to the fact of mailing; and, (3) Registry Return Receipt No. 909401. According to petitioner, if indeed the *onus probandi* had shifted to him, he maintains his position that respondent received the FAN in the due course of mail.

Petitioner further states that, with the pieces of evidence and the presumption that respondent has duly received the FAN in the ordinary course of mail, respondent now has the burden to overturn this by the strength of its own evidence. He states that, despite this, respondent banked on bare denials and merely presented self-serving evidence that have no probative value.

In opposition, respondent maintains that the Court has jurisdiction over its petition as the cases cognizable by it are not limited to decisions or inactions of the CIR, but also includes other

---

3 Id., pp. 92-103.

matters arising under the National Internal Revenue Code (**NIRC**) or other laws administered by the Bureau of Internal Revenue (**BIR**).

Respondent echoes the Court *En Banc*'s findings that petitioner's assessment was void since it did not receive the PAN and FAN. It submits that the burden of going forward with the evidence in order to prove the actual receipt of the assessment notices had shifted to petitioner after it adequately controverted receipt thereof. Respondent points out that the records of the case are bereft of any showing that petitioner ever presented or offered the registry return card evidencing its alleged receipt of the FAN.

We resolve.

A careful perusal of petitioner's MR readily shows that the arguments put forward herein are mere rehash of the issues raised in his Petition for Review, which the Court already considered, passed upon and exhaustively discussed in the assailed Decision.

Nevertheless, even after We have obliged to go through the records of the case again, We can only find that petitioner has indeed failed to prove that respondent actually received the PAN and FAN. It is noted that, while it is true that he ably established the fact of *mailing* the assessment notices, he, however, fell short of providing proof of respondent's receipt thereof. Indubitably, as respondent asserted correctly, the burden of proof (to prove actual receipt) had shifted to petitioner after it denied its receipt of the PAN and FAN. Unfortunately, petitioner failed to discharge his burden of proof.

Be that as it may, it is also worth reiterating that even if We are to lend credence to petitioner's arguments that the PAN and FAN were validly served, the assessment would still be void for violation of respondent's right to due process. As borne by the case records, petitioner issued the FAN without waiting for the lapse of the 15-day period within which respondent can respond to the PAN, contrary to the rudiments of due process.

Additionally, in *Shangri-la International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[4], the Supreme Court held that it is incumbent upon petitioner-movant to raise substantially plausible matters to warrant the relief sought, thus:

> ...
> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired cause of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.
> ...

With petitioner failing to sufficiently substantiate his MR, We cannot thus depart from the assailed decision.

WHEREFORE, the foregoing considered, petitioner's Motion for Reconsideration (Re: Decision promulgated on 29 October 2020) is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision dated 29 October 2020 is **AFFIRMED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

---

4 G.R. No. 159938, 22 January 2007.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice