REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

JULIO R. DE QUINTO,
Petitioner,

-*versus*-

BUREAU OF INTERNAL REVENUE (BIR), THRU REVENUE DISTRICT OFFICES NO. 04 MANDALUYONG CITY AND 07, QUEZON CITY,
Respondent.

CTA Case No. 9623

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

Promulgated:

OCT 26 2023 10:50AM

x - x

RESOLUTION

MANAHAN, *J.*:

This resolves respondent's ***Motion for Reconsideration (on Decision dated July 4, 2023)***[1] filed on July 26, 2023, seeking the reversal of the Court's Decision dated July 4, 2023 (Assailed Decision), the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, petitioner Julio R. De Quinto's *Verified Petition* filed on June 27, 2017 is hereby **GRANTED**. The PAN dated December 3, 2014, FLD and Assessment Notices for deficiency IT and VAT for calendar year 2011, all dated December 19, 2014, Letter dated March 13, 2017 issued by Regional Director Marina C. De Guzman, and the undated WDL are **CANCELLED and SET ASIDE**.
>
> The Commissioner of Internal Revenue, his representatives, agents, or any person acting on his behalf are hereby **ENJOINED** from enforcing the collection of deficiency IT and VAT assessments against petitioner Julio R. De Quinto arising from the PAN dated December 3, 2014, FLD and Assessment Notices, all dated December 19, 2014, Letter dated March 13, 2017 issued by Regional Director Marina C. De Guzman, and the undated WDL. This order of suspension

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[1] Docket, CTA Case No. 9623, pp. 389-398. cm

is **IMMEDIATELY EXECUTORY** consistent with Section 4, Rule 39 of the Rules of Court, as amended.

SO ORDERED."

Respondent also prays for the dismissal of petitioner's Petition for Review.

Respondent argues that the Court has no jurisdiction over the instant case and that it should have not been categorized as "other matters" under Republic Act No. 1125, as amended.

Respondent insists that tax assessments issued against petitioner have factual and legal bases and are presumed to be correct.

On the other hand, petitioner, in its ***Comment/Opposition (for Petitioner De Quinto)***[2] filed on August 24, 2023, counter-argues that the Court correctly ruled on the following issues: (1) as to the Court's jurisdiction; (2) the timely filing of its protest; (3) the cancellation and setting aside of the Preliminary Assessment Notice (PAN) dated December 3, 2014, Formal Letter of Demand (FLD) and Assessment Notices for deficiency income tax (IT) and value-added tax (VAT) for calendar year 2011, all dated December 19, 2014, the Letter dated March 13, 2017, and the undated Warrant of Distraint and/or Levy (WDL), and (4) the declaration of the assessments as null and void.

This Court shall determine first whether the instant motion was filed on time.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended, provides that:

> "SECTION 1. *Who may and when to file motion.-* **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution, or order **of the Court**. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

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[2] Docket at pp. 403-406.

In the instant motion, respondent avers that it received the Assailed Decision on July 12, 2023, which is also the date of respondent's receipt in the Notice of Decision dated July 6, 2023.[3]

In accordance with the abovementioned provision of the RRCTA, respondent has fifteen (15) days from receipt of said Assailed Decision from July 12, 2023, or until July 27, 2023, within which to file its motion for reconsideration. Thus, the filing of respondent's *Motion for Reconsideration (on Decision dated July 4, 2023)* on July 26, 2023 was on time.

On the issue of jurisdiction, the Court had already exhaustively and thoroughly discussed and passed upon the same in the Assailed Decision. Hence, there is no need for the Court to reiterate its ruling on such rehashed arguments. The wisdom of refraining from repetitious disquisition on similar issues is found in the case of *Social Justice Society (SJS), et al. v. Alfredo S. Lim, in his capacity as Mayor of the City of Manila,*[4] which held:

> "The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motion.
>
> As succinctly put by then Chief Justice Andres R. Narvasa in *Ortigas and Co. Ltd. Partnership v. Judge Velasco* on the effect and disposition of a motion for reconsideration:
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>> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and

[3] Docket at p. 364.
[4] G.R. Nos. 187836 and 187916, March 10, 2015.

> summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc."

As to respondent's argument on the presumption of correctness of its tax assessment, it is true that such assessment is presumed correct in accordance with Section 3(m), Rule 131 of the Rules of Court, as amended, or the disputable presumption that official duty has been regularly performed, and as ruled in the case of *Commissioner of Internal Revenue v. Bank of the Philippine Islands*:[5]

> "Tax assessments by tax examiners are presumed correct and made in good faith. The taxpayer has the duty to prove otherwise. In the absence of proof of any irregularities in the performance of duties, an assessment duly made by a Bureau of Internal Revenue examiner and approved by his superior officers will not be disturbed. All presumptions are in favor of the correctness of tax assessments."

However, such is merely a disputable presumption, hence, subject to rebuttal based on contrary evidence.

In the Assailed Decision, the factual findings of the Court reveal that the assessment was based merely on a presumption because of respondent's failure to validate from third party sources the information stated in the Letter Notice (LN) issued and relied mainly on petitioner's failure to respond to such LN where a notation therein states that failure to respond means that the information is "assumed to be true and correct." Thus, the presumption was totally destroyed by such factual findings.

There being no new and substantial arguments propounded by the respondent in its motion, the Court finds no compelling reason to reverse the Assailed Decision.

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[5] G.R. No. 134062, April 17, 2007. *cm*

WHEREFORE, respondent's *Motion for Reconsideration (on Decision dated July 4, 2023)* is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice