REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

RUBEN U. YU,
Petitioner,

CTA Case No. 9595

Members:

CASTAÑEDA, JR., *Chairperson,*
and
BACORRO-VILLENA, *JJ.*

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
SEP 15 2020 9:45 AM

x--x

RESOLUTION

CASTAÑEDA, JR., *J.:*

For resolution of this Court is respondent Commissioner of Internal Revenue's (CIR) *Motion for Reconsideration (Decision dated 15 June 2020)* filed via registered mail on July 2, 2020 with petitioner Ruben U. Yu's *Comment on Respondent's Motion for Reconsideration* also filed via registered mail on August 6, 2020.

Respondent assails the Decision dated June 15, 2020, (the "Assailed Decision") of this Court granting petitioner's Petition for Review based on the ground that this Court erred in ruling that the assessment is void because of violation of petitioner's due process rights.

In his *Motion*, respondent argues that the Preliminary Assessment Notice (PAN) was duly sent, mailed, and served to petitioner, and due process was rightfully observed. Respondent also asserts that the assessments have factual and legal basis.

In his *Comment*, petitioner maintains that the facts and issues of the present case have been extensively resolved and passed upon by this Court in the Assailed Decision. There is, therefore, no cogent reason to reconsider and set aside the same.

After judicious evaluation of the arguments raised by the parties and the relevant facts gathered from the records vis-à-vis the applicable laws, rules and regulations, and jurisprudence on the matter, this Court finds no substantial matter much less any compelling reason that would warrant the modification let alone the reversal of the Assailed Decision.

Truth be told, the arguments raised by respondent in his *Motion* are mere restatements, if not repetition, of those presented in his previous pleadings, which this Court already sufficiently discussed and passed upon in the Assailed Decision. Verily, respondent's *Motion* is devoid of any merit and thus should be denied.

To reiterate, respondent failed to discharge its burden of showing that petitioner actually received the PAN. Accordingly, this Court held that the assessment is void by reason of violation of petitioner's right to due process. While the registry return receipt as well as the Certification dated February 10, 2016 issued by the Postmaster were presented by respondent as evidence, the same are not sufficient to prove that petitioner actually received the notice. The Court cannot give credence to both of these documents. To begin with, Postmaster Pecundo was not the person who actually served the letter. The server of the letter neither executed a judicial affidavit nor was he presented before this court. Moreover, during trial, Postmaster Pecundo admitted that upon his inquiry, the server admitted to him that the letter containing the PAN was not actually served to petitioner but was merely left somewhere on the window of petitioner's office. It was also the server who signed the petitioner's name on the registry return receipt.

WHEREFORE, respondent's *Motion for Reconsideration (Re: Decision dated 15 June 2020)* is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice