REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

THE RESIDENCES AT GREENBELT CONDOMINIUM CORPORATION,
Respondent.

CTA EB NO. 2810
(CTA Case No. 9942)

Present:

Del Rosario, P.J.,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, and
Angeles, JJ.

Promulgated:

DEC 19 2024 4:20pm

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RESOLUTION

RINGPIS-LIBAN, J.:

For resolution of the Court is petitioner Commissioner of Internal Revenue (CIR)'s *Motion for Reconsideration* filed on August 20, 2024 with respondent The Residences at Greenbelt Condominium Corporation's *Comment [To the Motion for Reconsideration dated 19 August 2024]* filed on September 30, 2024.

The CIR seeks reconsideration of the Decision of this Court promulgated on August 5, 2024, (the "Assailed Decision") which denied his Petition for Review for lack of merit. In seeking reconsideration of the Assailed Decision, the CIR raises the following arguments:

1. The Final Assessment Notice (FAN) dated December 27, 2017 was issued in accordance with Revenue Memorandum Order (RMO) No. 26-2016 and the BIR's action was in accordance with Revenue Regulations No. 18-2013;

2. Reply/Protest against the Preliminary Assessment Notice (PAN) is optional and not mandatory;

3. Under the National Internal Revenue Code (NIRC), as amended, and RMO No. 26-2016, the FAN is recognized as the assessment that must be protested by the taxpayer. Consequently, it is permissible for the BIR [not] to take into account the taxpayer's protest against the PAN in subsequent assessment notices, such as the Final Decision on Disputed Assessment (FDDA).

4. The *Avon Products* case,[1] in relation to the *Ang Tibay* case,[2] is not applicable to the present case due to difference in factual milieu; and

5. Reiteration of an assessment does not constitute a violation due process; instead, it only signifies the denial of the protest and/or irrelevant documents.

After careful evaluation of the arguments raised vis-à-vis the case records as well as the relevant statutory rules and jurisprudence, this Court resolves to deny the CIR's *Motion for Reconsideration* for lack of merit.

This Court stands by its ruling in the Assailed Decision that the factual circumstances of the present case justify the application of the *Avon Products* case and the purported factual differences between these two (2) cases as pointed out by the CIR are more apparent than real. The Court in Division also correctly ruled that the CIR had violated respondent's right to due process thereby invalidating the subject assessment. The other points raised by the CIR were already sufficiently discussed in the Assailed Decision and these discussions need not be repeated here.

As the CIR merely recycled his arguments previously raised and passed upon by both this Court *En Banc* and the Court in Division, there is simply no compelling reason to modify much less reverse the Court in Division's Decision. In the absence of proof of gross error, abuse or improvident exercise

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[1] *Commissioner of Internal Revenue v. Avon Products Manufacturing,* G.R. Nos. 201398-99, October 03, 2018.
[2] *Ang Tibay v. Court of Industrial Relations,* G.R. No. L-46496, February 27, 1940.

of authority, conclusions reached by this Court supported by substantial evidence shall not be disturbed on appeal.[3]

WHEREFORE, the *Motion for Reconsideration* filed on August 20, 2024 by the Commissioner of Internal Revenue is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[3] *Fortune Tobacco Corporation v. Commissioner of Internal Revenue*, G.R. No. 192024, July 1, 2015; *Commissioner of Internal Revenue v. Philippine Daily Inquirer, Inc.*, G.R. No. 213943, March 22, 2017; *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*, G.R. No. 240729, August 24, 2020.

(On Leave)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice