REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1260** (CTA Case No. 8394)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA,** and **RINGPIS-LIBAN,** *JJ.*
MANUEL B. PALAGANAS, doing business under the Name & Style STEMIKO COMMERCIAL, Respondent.	***Promulgated:*** OCT 03 2016 2:30 p.m.

x - x

RESOLUTION

UY, *J.*:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (of the Decision dated 16 June 2016)"** filed on July 14, 2016, with respondent's **"COMMENT-OPPOSITION To the Motion for Reconsideration of Petitioner To the Decision dated 16 June 2016"** filed on August 4, 2016, praying for the reversal and setting aside of the Court *En Banc*'s Decision dated June 16, 2016, the dispositive portion of which reads:

> "**WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The Decision dated September 17, 2014 and the Resolution dated November 14, 2014, both promulgated by the Court in Division in CTA Case No. 8394 is **AFFIRMED.**

SO ORDERED."

In support of his Motion, petitioner raises the following arguments, to wit:

1. Respondent's right to due process of law was not violated when the assessment notices were issued.

2. Respondent's failure to file protest against the Final Assessment Notice renders the assessment final, executory and demandable.

3. Respondent should have filed the Petition for Review within thirty (30) days from receipt of the Preliminary Collection Letter. However, respondent belatedly filed the petition before the Court of Tax Appeals. Thus, the Court of Tax Appeals allegedly has no jurisdiction over the case.

In his Comment, respondent counters that:

1. Contrary to petitioner's claim, the notices were not properly served to respondent or to his duly authorized representatives or any of his employees.

2. The assessment has already prescribed and it never reached its final and executory character.

3. Considering that no tax notices were previously served to the respondent, the preliminary collection letter, which was personally secured by respondent, for all intents and purposes, shall be considered an assessment notice for filing of protest. As such, the filing of the Petition for Review should be reckoned within thirty (30) days from the denial of the protest or within thirty (30) days from the expiration of the period of inaction by the Commissioner.

THE COURT *EN BANC'S* RULING

Petitioner's Motion lacks merit.

After a careful examination and consideration of the petitioner's Motion for Reconsideration, it is noted that the arguments raised in the said Motion are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision. Thus, We shall not belabor, in this Resolution, to repeat the

pro

disquisitions made therein.

WHEREFORE, finding no new matters or arguments raised in petitioner's motion, which shall merit a reversal or reconsideration of the assailed Decision, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice