REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Special First Division

JINNA MARIA O. YAP,
Petitioner,

-*versus*-

BUREAU OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10019

Members:

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

Promulgated:

JUL 14 2023, 10:50 AM

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RESOLUTION

MANAHAN, *J.*:

This resolves the following:

1. Respondent's **Motion for Reconsideration Re: Decision dated 09 March 2023**[1] filed on March 30, 2023, seeking the reversal and setting aside of the Court's *Decision* dated March 9, 2023 (Assailed Decision), and the issuance of a new judgment dismissing the petition for lack of jurisdiction, or in the alternative, upholding the assessment of deficiency taxes for taxable years (TYs) 2011, 2012, and 2013 with surcharges and interest; and,

2. Petitioner's **Motion for Reconsideration**[2] posted on April 4, 2023 and received by this Court on April 18, 2023, seeking the reversal and setting aside of the Assailed Decision as well as the cancellation of the Preliminary Assessment Notices (PANs), Formal Letters of Demand (FLDs) and Preliminary Collection Letters (PCLs) for TYs 2011 to 2013, and enjoining respondent from enforcing the collection of the deficiency taxes

[1] Docket, CTA Case No. 10019, pp. 551-562.
[2] *Id.*, at pp. 564-573.

inclusive of surcharge, interest, and penalties under the said FLDs and PCLs.

Respondent, in his motion, insists that this Court had no jurisdiction over the instant case, hence, it erred in ruling that the tax assessments for TYs 2011, 2012, and 2013 are partially incorrect.

Petitioner, in her **Comment (To Respondent's Motion for Reconsideration)**[3] posted on May 8, 2023 and received by this Court on May 16, 2023, counter-argues that the period to appeal before the Court of Tax Appeals (CTA) commences from the receipt of the WDL, citing the case of *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*,[4] and that respondent violated her right to due process by merely reiterating in the PCL the deficiency taxes found in the PAN and in the Final Assessment Notice (FAN)/FLD.

On the other hand, petitioner, in her motion, argues that the Letters of Authority (LOAs) were improperly served not at her registered address, and that respondent did not apprise her with the factual and legal bases of his conclusion or decision.

Respondent, in his **Comment (on Petitioner's Motion for Reconsideration dated 4 April 2023)**[5] filed on May 23, 2023, counter-argues that the Court is correct in ruling that the LOAs were properly served and that the assessment issued against petitioner was valid.

This Court shall determine first whether the instant motions were filed on time.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) 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** by filing a motion for reconsideration or new trial **within fifteen days from the date of receipt of notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

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[3] *Id.*, at pp. 581-587.
[4] G.R. No. 225809. March 17, 2021.
[5] Docket, CTA Case No. 10019, pp. 589-593.

Based on the records of the case, respondent received the Assailed Decision on March 15, 2023 while petitioner received the same on March 20, 2023.

In accordance with the abovementioned provision of the RRCTA, respondent and petitioner had fifteen (15) days from receipt of notice of the Assailed Decision from March 15, 2023 and March 20, 2023, or until March 30, 2023 and April 4, 2023, respectively, within which to file their motions for reconsideration. Thus, the filing of respondent's *Motion for Reconsideration (Re: Decision dated 09 March 2023)* on March 30, 2023, and petitioner's *Motion for Reconsideration* on April 4, 2023 was on time.

As to respondent's arguments on the Court's lack of jurisdiction, such have been already raised in the Answer and which were extensively passed upon and exhaustively discussed in the Assailed Decision, thus, 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*,[6] 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.
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> 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

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[6] G.R. Nos. 187836 and 187916, March 10, 2015. *am*

> because not asserted at the first opportunity. It suffices for the Court to deal generally and 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 petitioner's allegation that LOAs were served not on her registered address, we reiterate the factual findings of this Court, to wit:

> "Petitioner points out that she did not actually receive the LOAs for taxable years 2011 to 2013 issued by respondent against her; that the LOAs were also not served upon her employee; and that they were improperly served upon her sister, Dolly Cruz, who is neither authorized to do so, nor is her employee, and at a place that is not petitioner's registered business address.
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> It is noteworthy that **petitioner has not convincingly proved what her registered address is. As a corollary, petitioner's postal address, *i.e.*, Sillawit, Cauayan, Isabela, is exactly the same address as that indicated in the said three (3) LOAs**. Thus, petitioner cannot validly argue that the said documents were not received in her address.
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> More importantly, even granting that the same LOAs were served elsewhere and were supposedly received by petitioner's sister, Ms. Dolly Cruz, it may be concluded that the latter has an authority to do so, since the original copies thereof had reached petitioner. **Notably, during trial, petitioner was able to present the said originals for the marking of, and comparison with, the reproduced copies of the said LOAs**. Moreover, it was likewise noted that petitioner did not explain the circumstances as to how she was able to obtain the original copies of the subject LOAs, thereby enabling her to show before this Court such original copies.
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> Thus, the contentions of petitioner that she did not actually receive the LOAs for taxable years 2011 to 2013 issued by respondent against her, and that sister, Ms. Dolly Cruz, was not authorized to receive the same, do not hold water." (*Emphasis supplied*) gm

It is very clear from such factual findings that the LOAs were addressed and served to petitioner's postal address and the fact that she had in her possession the original copies of said LOAs which were properly presented before this Court proved otherwise.

On petitioner's allegation that respondent did not apprise her of the factual and legal bases of his conclusion or decision, such issue was not raised either in her petition for review nor in her pre-trial brief.

In her petition, she proffered the arguments that undeclared purchases and expenses cannot prove underdeclared income, and that the alleged disallowed unsupported expenses and purchases were already supported by her.

On the other hand, in her pre-trial brief, the issues raised were about the assessments made on the deficiency income tax, value-added tax, and expanded withholding tax and not on the failure of respondent to apprise her of the factual and legal bases of his conclusion or decision.

It should be noted that the deficiency taxes from the alleged undeclared purchases and expenses as undeclared income were already disallowed in the Assailed Decision, hence, the Court had already addressed such issue.

As regards the issue of unsupported expenses and purchases stated in the Details of Discrepancies of their respective FLDs for TYs 2011,[7] 2012,[8] and 2013,[9] petitioner, in her Legal Petition Notice,[10] merely alleged that the examiner failed to give the details of said unsupported operating expenses and that she believes that the documentary evidence, such as the official receipts and sales invoices, were already submitted.

The detailed accounts and amounts stated in the said Details of Discrepancies for TYs 2011, 2012, and 2013 belie petitioner's allegation that the examiner failed to give the details of the unsupported expenses. Petitioner also failed to categorically cite specific documents that will contradict the

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[7] Docket, CTA Case No. 10019, Exhibit "P-7", p. 357.
[8] *Id.*, Exhibit "P-8", p. 363.
[9] *Id.*, Exhibit "P-9", p. 369.
[10] *Id.*, Exhibit "P-10", pp. 376-383. *cgm*

findings of said examiner that the cited expense accounts were truly supported by valid official receipts or sales invoices. Thus, such failure was fatal to assailing the validity of the tax assessments for TYs 2011, 2012, and 2013.

There being no new and substantial arguments propounded by the parties in their motions, the Court finds no compelling reason to reverse the Assailed Decision.

WHEREFORE, respondent's *Motion for Reconsideration (Re: Decision dated 09 March 2023)* and petitioner's *Motion for Reconsideration* are hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(I reiterate my Dissenting Opinion)
MARIAN IVY F. REYES-FAJARDO
Associate Justice