REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

JOHN V. OLEGARIO, Petitioner,	**CTA CASE NO. 10967**
	Members:
-versus-	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAY [illegible] 4:30 pm

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is respondent's *Motion for Reconsideration with Leave of Court (Re: Decision dated December 18, 2024)*, filed on February 19, 2025, with petitioner's *Comment/Objection to Respondent's Motion for Reconsideration*, filed via licensed courier on March 24, 2025, assailing this Court's Decision, dated December 18, 2024, which granted petitioner's Petition for Review.

In the Motion, respondent asks this Court to (1) accept his Motion for Reconsideration despite its late filing, as while the Bureau of Internal Revenue's ("BIR") legal division received the assailed Decision on January 2, 2025, respondent's counsel only found out about it on February 11, 2025; and (2) set aside Our ruling and instead deny the instant Petition for Review, considering the he issued a later Formal Letter of Demand ("FLD") that, unlike the first, was not prematurely issued.

The Motion cannot be granted.

The Court notes that respondent did not explain why his counsel only discovered the assailed Decision in February despite the BIR receiving it over a month earlier. Without even an attempt at an excuse, We must thus conclude that the late filing was due to plain negligence, which cannot overturn the prescriptive period for filing Motions for Reconsideration under *Rule 15,* *Section 1 of the Revised Rules of the Court of Tax Appeals, as amended.* On this score, alone, the Motion must be denied.

Even if We were to take cognizance of the Motion, however, We would still find it bereft of merit. The issuance of the 2nd FLD does not negate the violative issuance of the 1st FLD. Indeed, nothing in either the 2nd FLD nor the October 20, 2021 letter that preceded it withdrew the 1st FLD or otherwise clarified the latter's status. The 2nd FLD thus fails to cure the violation of due process rights committed with the 1st FLD.

If anything, the issuance of the 2nd FLD exacerbates the problem. A valid assessment must demand a definite amount of tax liabilities and provide a clear due date for payment of such, with the absence of either requirement being a violation of due process rights.[1] These required certainties were thrown into disarray by the issuance of the 2nd FLD without any clear withdrawal of the 1st FLD. Did petitioner owe ₱238,243.82 in deficiency income tax ("IT") and ₱347,405.49 in deficiency value-added tax ("VAT"), due on October 15, 2021, as per the 1st FLD, or did he owe ₱147,906.97 in deficiency IT and ₱330,742.26 in deficiency VAT, due on February 4, 2022, as per the 2nd FLD?

In other words, the issuance of the 2nd FLD, without any concomitant withdrawal of the 1st, resulted in *two distinct assessments*, without any clarity about or way to choose which of the two was the "actual" assessment. This rendered the assessed amount and due date *indefinite*, violating petitioner's right to due process and consequently voiding any involved assessment.

That petitioner was able raise protests throughout is of not moment, as already explained in the assailed Decision, following *Prime Steel Mill v. Commissioner of Internal Revenue*.[2]

With the assessment still being void when the 2nd FLD is considered in more detail, We see no reason to grant the instant Motion, even if We were to overlook its late filing.

ACCORDINGLY, petitioner's *Motion for Reconsideration with Leave of Court (Re: Decision dated December 18, 2024)*, filed on February 19, 2025, is hereby **DENIED** for late filing. The Decision, dated December 18, 2024, is hereby **AFFIRMED**.

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[1] *Commissioner of Internal Revenue v. Fitness By Design, Inc.*, G.R. No. 215957, November 9, 2016.
[2] G.R. No. 249153, September 12, 2022.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice