REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

CTA EB CRIM. NO. 050
(CTA Crim. Case No. O-619)

-versus-

Present:
Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ.*

CROSS COUNTRY OIL & PETROLEUM CORP., ARTURO M. ZAPATA AND JACOB VALERIANO, JR.,
Respondents.

Promulgated:

JAN 03 2020 11:32 a.m.

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is the petitioner's "Motion for Reconsideration *(Re: Decision dated August 01, 2019)*"[1] received by the Court on August 22, 2019, with respondents' Comment filed on October 11, 2019.

Petitioner seeks reconsideration of this Court's Decision, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is **DENIED** for lack of merit. Accordingly, the

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[1] Rollo, CTA EB CRIM. NO. 050, pp. 117-125.

Resolutions dated December 5, 2017 and February 26, 2018 are AFFIRMED.

SO ORDERED."

Petitioner claims that the Court *En Banc* erred in holding that the evidence of petitioner failed to establish that the Final Decision on Disputed Assessment (FDDA) was validly served upon respondent corporation; that the mail matter containing the FDDA which was mailed to respondent at its registered business address at Rm. 3105 WTE Bldg., 215 Juan Luna St., Binondo, Manila, under Registry Receipt No. 904559, and duly received by respondent as shown in the Registry Return Receipt, was properly addressed and mailed pursuant to Section 3(v) of Rule 131 of the Rules of Court and in compliance with doctrine laid down in the case of *Nava vs. Commissioner of Internal Revenue* (G.R No. L-19470, January 30, 1965); and that the Court *En Banc* erred in holding that the respondents' civil liability was extinguished by their acquittal.

On the other hand, respondents raise the defense that they never received the FDDA. Hence, the burden was shifted to the petitioner to prove that the FDDA was in fact mailed and received by respondent corporation; that petitioner failed to prove that Registry Receipt No. 904559 exclusively pertains to the FDDA since the said registry receipt can only be found in the Bureau of Internal Revenue (BIR)'s supposed letter to the Postmaster dated 21 February 2013; that the Registry Return Receipt/Card is likewise inconclusive to prove that the FDDA was actually received by respondent corporation; that the prosecution did not present the affidavit or testimony of the postman who supposedly served the FDDA on respondent corporation; that the presentation of the Registry Return Receipt alone without the testimony or affidavit of the mailer is not proof that the FDDA was indeed received by respondent corporation; that the acquittal of accused negates the existence of any civil liability *ex delicto*; and that what was deemed instituted in CTA Crim. Case No. O-619 is the civil action to hold respondents liable for the commission of the crime, or the civil liability *ex delicto*, and not the civil action to collect the alleged unpaid deficiency taxes.

After a careful evaluation of the arguments raised by petitioner in the instant "Motion for Reconsideration *(Re: Decision dated August 01, 2019),*" the Court *En banc* finds that the same are mere rehash of the same facts and issues which have already been passed upon extensively in the assailed Decision.

To reiterate, petitioner failed to prove the actual receipt of the assessment notices. The Court in Division did not err in holding that there was no competent proof that the FDDA was duly sent to and received by respondent corporation. The presentation of the registered letter and the registry receipt, with an unauthenticated signature do not meet the required proof beyond reasonable doubt that respondent corporation or the accused received the subject assessment notices. Hence, they were not informed in writing of the facts and laws on which the assessments were made. The assessments in this case did not become final and executory. Accordingly, there is no reason to hold respondents liable for any civil liability since the obligation to pay the deficiency taxes did not arise in this case.

Considering the foregoing discussions, the Court *En Banc* finds no valid justification to compel a modification or reversal of the assailed Decision promulgated on August 1, 2019.

It must be stressed that among the ends to which a motion for reconsideration is addressed, one is precisely to convince the Court that its ruling is erroneous and improper, contrary to law or the evidence.[2] If the movant failed to do so, the motion for reconsideration must necessarily fail.

WHEREFORE, premises considered, the petitioner's "Motion for Reconsideration *(Re: Decision dated August 01, 2019)*" is **DENIED for lack of merit.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

[2] *Teodulo M. Coquilla vs. The Hon. Commission on Elections and Mr. Neil M. Alvarez*, G.R. No. 151914, July 31, 2002.

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice