REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

UNIVERSAL ROBINA CORPORATION,
Respondent.

CTA EB NO. 2280
(CTA Case No. 9530)

Present:
DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
MAY 25 2022 3:35 PM

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RESOLUTION

RINGPIS-LIBAN, ***J.:***

This resolves Petitioner's "Motion for Reconsideration (Re: Decision dated 07 December 2021)"[1] ("Motion for Reconsideration") filed on January 10, 2022 *via* registered mail, with Respondent's "Comment/Opposition (To Petitioner's Motion for Reconsideration Re: Decision promulgated on 7 December 2021)"[2] ("Comment/Opposition") filed on March 25, 2022.

Petitioner's Motion for Reconsideration prays for the reversal and setting aside of the Decision promulgated on January 14, 2020 and Resolution dated June 08, 2020, both issued by the Court in Division, and that a new one be rendered ordering Respondent to pay its assessed deficiency improperly accumulated earnings tax (IAET) for fiscal year (FY) ended September 30, 2010 in the amount of Php2,099,212,108.60 plus twenty-five percent (25%) surcharge,

[1] Rollo, pp. 109-122.
[2] *Id.,* pp. 126-136.

twenty percent (20%) deficiency and delinquency interest until December 31, 2017, as well as twelve percent (12%) interest on the total unpaid amount computed from January 01, 2018 until full payment thereof pursuant to Section 249(c) of the National Internal Revenue Code of 1997 ("NIRC") of 1997, as amended by Republic Act No. (RA) 10963, also known as the Tax Reform for Acceleration and Inclusion (TRAIN), and as implemented by Revenue Regulation No. (RR) 21-2018.

The dispositive portion of the Assailed Decision[3] promulgated by this Court on December 07, 2021 reads:

> "**WHEREFORE**, premises considered, the Petition for Review is **DENIED**. The assailed Decision dated January 14, 2020 and the Resolution dated June 8, 2020 of the First Division in CTA Case No. 9530 are **AFFIRMED**.
>
> **SO ORDERED.**"[4]

In his Motion for Reconsideration, Petitioner contends that the validity of the Formal Letter of Demand ("FLD") was never questioned in Respondent's Petition for Review nor in the course of trial. Hence, the Court erred when it ruled upon an issue that was never raised. Petitioner avers that he was denied procedural and substantive due process as he was neither heard nor given the opportunity to be heard on the issue.

Likewise, Petitioner argues that the Court erred in ruling that the deficiency tax assessment is void for allegedly not containing a definite due date for payment.

According to Petitioner, the FLD has fixed and definitely set the deficiency tax liabilities of Respondent, including the basic tax deficiency as well as the surcharge and interest. However, as provided for in Section 249 of the NIRC of 1997, as amended, if Respondent still fails to pay the stated tax liability on or before the date up to where the interests were computed, the deficiency interest will have to be adjusted accordingly. As the Petitioner has no control over when Respondent will pay its deficiency tax assessment, the phrase "be adjusted if paid beyond the date specified therein" is merely a safeguard should Universal Robina Corporation (URC) pay beyond the period provided.

On the other hand, Respondent in its Comment/Opposition claims that the Court is empowered to rule on related issues necessary to achieve an orderly disposition of the case. Respondent maintains that there was no violation of

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3 *Id.,* pp. 83-94.
4 *Id.,* Decision dated December 07, 2021, p. 101.

Petitioner's right to due process for the issue on the absence of definite amount and due date for payment in the FLD and Assessment Notices are intertwined with the validity of the assessment, which is the subject of Respondent's Petition for Review with the Court in Division.

Respondent further asserts that the Court correctly held that the FLD and Assessment Notices lacked the required definite amount of tax liabilities and due date for the payment of assessed taxes. Following *Commissioner of Internal Revenue v. Fitness By Design, Inc.*[5], the assessment is void.

The Court is not persuaded by Petitioner's motion.

Petitioner's contentions are mere reiterations of the arguments raised in his Petition for Review. These issues have been amply considered, weighed and resolved in the Assailed Decision, and will not suffice to warrant the reconsideration of the same. Thus, to discuss anew the explanation of the court on these matters is superfluity.

In sum, the Court *En Banc* finds no cogent reason to overturn the Assailed Decision.

WHEREFORE, premises considered, Petitioner's "Motion for Reconsideration (Re: Decision dated 07 December 2021)" is **DENIED** for lack of merit.

Petitioner is **ENJOINED** and **PROHIBITED** from collecting against Respondent the amounts representing the assessed deficiency tax liability which was set aside and cancelled by this Court.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

(I reiterate my Concurring Opinion on the Assailed Division Decision)
ROMAN G. DEL ROSARIO
Presiding Justice

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[5] G.R. No. 215957, November 09, 2016.

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

ERLINDA P. UY
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice