**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

***EN BANC***

**COMMISSIONER OF INTERNAL REVENUE,**
Petitioner,

-versus-

**UNIVERSAL WEAVERS CORPORATION,**
Respondent.

**CTA EB NO. 1348**
**(CTA Case No. 8566)**

**Present:**

**Del Rosario,** *P.J.,*
**Castañeda, Jr.,**
**Bautista,**
**Uy,**
**Casanova,**
**Fabon-Victorino,**
**Mindaro-Grulla,**
**Ringpis-Liban,** *and*
**Manahan,** *JJ.*

**Promulgated:**

AUG 3 1 2017 2:51 p.m.

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# RESOLUTION

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

For resolution is the respondent's "Motion for Reconsideration" dated March 28, 2017, without petitioner's Comment thereon despite notice of the Court Resolution dated May 17, 2017.

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

"**WHEREFORE,** premises considered, the Petition for Review is **GRANTED.** Accordingly, the Decision promulgated on May 11, 2015 and the Resolution promulgated on August 10, 2015 are hereby **REVERSED AND SET ASIDE.**

Let this case be remanded to the Court in Division for further proceedings to determine and rule on the merits of UWC's petition in seeking nullification of the FLD and Assessment Notices dated January 3, 2012.

**SO ORDERED.**"

Respondent argues that Revenue Memorandum Order (RMO) No. 20-90 and Revenue Delegation Authority Order (RDAO) No. 05-01, which provide the procedure for the proper execution of a waiver, must be faithfully complied with; that the Next Mobile case is an exception rather than a general rule; that the doctrine of estoppel may not be applied against a taxpayer as an exception to the statute of limitations; and that the cases in the Court of Tax Appeals are litigated de novo.

After consideration, this Court finds no merit in the instant Motion for Reconsideration.

A perusal of respondent's motion shows that the arguments raised therein were fully addressed and discussed by the Court in the Assailed Decision.

This Court reiterates its ruling that it upholds the validity of the waivers in accordance with the ruling of the Supreme Court in the case of *Commissioner of Internal Revenue vs. Next Mobile, Inc. (formerly Nextel Communications Phils., Inc.).*[1]

In the Assailed Decision, the Court *En Banc* ruled in this wise:

"Following the doctrine laid down in the Next Mobile case, the waivers in this case cannot be invalidated. Even if there is non-compliance of the subject waivers of the statute of limitations set forth by RMO No. 20-90 and RDAO No. 05-01, UWC is estopped from claiming that the three waivers are invalid and that the CIR's right to assess for taxable year 2006 has prescribed because of UWC's acts that persuaded the BIR to postpone the issuance of the assessments.

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[1] G.R. No. 212825, December 7, 2015.

Moreover, in the protest letter[2] of UWC filed before the BIR and in the Petition filed by UWC before the Court in Division, UWC did not question the validity of the waivers and the prescription of the petitioner's right to assess respondent for the deficiency taxes. Hence, UWC cannot now invoke the said argument in order to benefit from its own wrongdoing.

The CIR and UWC are both aware of the defects of the three waivers and they transacted with each other relying on the defective waivers. Hence, both parties are at fault. The BIR is negligent in complying the provisions of the NIRC and the existing rules on the execution of waivers. While UWC, by its own positive actions of executing and delivering the subject waivers, is now estopped from questioning the validity of the waivers after it persuaded the BIR to delay the issuance of the assessment based on the waivers it executed.

The assessment for taxable year 2006 was issued on January 3, 2012[3] and was received by UWC on January 13, 2012. The FLD and Assessment notices were issued within the extended period provided in the Third Waiver executed on October 18, 2011.

From the foregoing, the Court finds that the CIR and UWC are both accountable for the defects in the Three Waivers. The application of estoppel is necessary to prevent undue injury to the government because of the cancellation of the CIR's assessment of UWC's responsibilities. Hence, this Court shall uphold the waivers."

In fine, this Court finds no cogent reason to deviate from the previous ruling that this case be remanded to the Court in Division for further proceedings to determine and rule on the merits of Universal Weavers Corporation's petition in seeking nullification of the FLD and Assessment Notices dated January 3, 2012.

In *Ferdinand Marcos et al. vs. Hon. Raul Manglapus et al.*[4], the Supreme Court emphasized that in all motions for reconsideration, the burden is upon the movant, petitioner herein, to show that there are compelling reasons to reconsider the decision of the Court. In this case, respondent did not satisfy this burden.

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[2] Ibid. page 1106.
[3] BIR Record page 1086
[4] *Marcos vs. Manglapuz,* G.R. No. 88211, October 27, 1989.

**WHEREFORE**, finding no compelling reason to reverse the ruling of the Court in the Assailed decision, the respondent's "Motion for Reconsideration" is DENIED for lack of merit.

**SO ORDERED.**

Ma. Belen

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

WE CONCUR:

*(I reiterate my Concurring Opinion)*
**ROMAN G. DEL ROSARIO**
Presiding Justice

Juanito C. Castañeda, Jr.

**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**LOVELL R. BAUTISTA**
Associate Justice

**ERLINDA P. UY**
Associate Justice

**CAESAR A. CASANOVA**
Associate Justice

**ESPERANZA R. FABON-VICTORINO**
Associate Justice

**(On Leave)**
**CIELITO N. MINDARO-GRULLA**
Associate Justice

Catherine T. Manahan

**CATHERINE T. MANAHAN**
Associate Justice