REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

VANGUARD LOGISTICS SERVICES PHILS., INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. **10155**

Members:

BACORRO-VILLENA, *Acting Chairperson,*
CUI-DAVID, *JJ.*

Promulgated:
JUL 21 2022 4:11pm

x - x

RESOLUTION

***BACORRO-VILLENA, J.*:**

For the Court's resolution is respondent Commissioner of Internal Revenue's (**respondent**'s) "Motion for Reconsideration (re: Decision dated 27 January 2022)"[1] (**MR**) filed on 04 March 2022[2], with petitioner Vanguard Logistics Services Phils., Inc.'s (**petitioner**'s) "Comment/Opposition (to Respondent's Motion for Reconsideration dated 04 March 2022)"[3] (**Comment**) filed on 04 April 2022.

The MR assails the Decision[4] promulgated on 27 January 2022 (**assailed Decision**). The dispositive portion of which reads:

> ...
>
> **WHEREFORE**, in view of the foregoing, the Petition for Review filed by petitioner Vanguard Logistics Services Phils., Inc. is hereby **GRANTED**. Accordingly, the Formal Letter of Demand with

---

1 Division Docket, Volume II, pp. 768-773.
2 Received by the Court on 15 March 2022.
3 Division Docket, Volume II, pp. 778-784.
4 Id., pp. 743-756.

> Details of Discrepancies Demand No. 33-14-45089-18-206 and Assessment Notices dated 27 December 2018 issued against petitioner for deficiency income tax, value-added tax, expanded withholding tax and miscellaneous tax for taxable year 2014, are hereby **CANCELLED** and **SET ASIDE**.
>
> Consequently, respondent Commissioner of Internal Revenue or any person duly acting on his behalf is hereby **ENJOINED** from proceeding with the collection of the taxes arising therefrom.
>
> **SO ORDERED.**
>
> ...

In the MR, respondent claims that the case was reassigned to a new counsel and the latter was able to verify only recently that the Bureau of Internal Revenue (**BIR**) Records of the case is under the custody of Revenue Region No. 8B–South NCR (**RR No. 8B**).

Respondent avers that upon verification of the receiving copy[5] of the Letter of Authority (**LOA**) contained in the said BIR Records, it shows that the same contains an annotation "CBL at registered address". According to respondent, the acronym CBL is commonly used by revenue officers (**ROs**) to refer taxpayers who cannot be located at its registered address *per* Integrated Tax System (**ITS**). As such, the RO concerned was able to serve the LOA at petitioner's new registered address at 13 Coral Way, Central Business Park, Pasay City only after verification with the Securities and Exchange Commission (**SEC**).

Respondent adds that petitioner updated its registration information with the BIR only on 11 January 2018 despite the fact that it amended its Articles of Incorporation (**AOI**) way back in 2014.

Lastly, respondent contends that his or her failure to file an answer was due to the excusable negligence of the former handling counsel as caused by circumstances beyond the latter's control.

On the other hand, petitioner claims that nowhere in the course of trial did respondent aver that it could not be located at its registered

---

5 Attached as Annex "A" to the Motion for Reconsideration dated 04 March 2022, id., p. 774.

address. Thus, the same argument can no longer be considered at this late stage.

Petitioner adds that respondent should not be allowed the liberty to give exclusive meaning to "CBL", it being a mere acronym. If it were to be accorded legal significance, then it should have been spelled out. According to petitioner, respondent's declarations and belated claims are simply self-serving.

Additionally, assuming for the sake of argument that petitioner did not inform respondent of its present address (which led to the untimely service of the LOA), the same should not suffice to validate the examination against it. According to it, respondent is still mandated to revalidate such LOA, pursuant to Revenue Audit Memorandum Order (**RAMO**) No. 01-00.[6]

Lastly, petitioner maintains that respondent failed to raise any meritorious ground for the Court to relax the technical rules of procedure. Corollary, petitioner argues that respondent's failure (1) to comply with the thirty (30)-day period to serve the LOA; (2) to revalidate an expired LOA; and, (3) to file an answer within the time allowed are not mere technicalities which violations could be lightly be set aside.

We resolve.

After a thorough consideration of the parties' arguments, the Court is unable to find cogent grounds to set aside or reverse the assailed Decision.

In this case, respondent was declared in default[7] for failure to file an answer despite the extension of time granted[8] to it to do so. When petitioner's motion to declare respondent in default was filed[9], the latter did not file any comment or opposition thereto.[10] Interestingly, even after being declared in default, respondent did not file any

---

6 Updated Handbook on Audit Procedures and Techniques Volume I (Revision —Year 2000).
7 See Resolution dated 11 March 2020, Division Docket, Volume II, pp. 559-563.
8 See Order dated 24 September 2019, id., Volume I, p. 130.
9 Division Docket, Volume I, pp. 517-520.
10 *Per* Records Verification dated 18 February 2019, id., Volume II, p. 557.

motion for the Court to reconsider its action. In other words, respondent made no effort for the Court to hear his or her refutation of petitioner's claims.

The effect of declaration of default is stated in Section 3(a), Rule 9 of the Rules of Court, as amended[11], to wit:

> ...
>
> **Sec. 3.** *Default; [d]eclaration of.* – ...
>
> (a) *Effect of order of default.* – A party in default shall be entitled to notice[s] of subsequent proceedings but <u>shall</u> not to take part in the trial.[12]
>
> ...

From the above, it is inconceivable for respondent to expect leniency at this stage in the proceedings. If the Court were to allow the respondent to present his defense, it will be a conduit to a clear breach or violation of the rules. Certainly, if acts that cannot be legally done directly can be done indirectly, then all laws would be illusory.[13]

Furthermore, similar to the case of *Momarco Import Company, Inc. v. Felicidad Villamena*[14] (**Momarco**), We find respondent's posturing rather unctuous as it had earlier already forsaken the expeditious remedies available to lift the order of default. In *Momarco*, the Supreme Court held that:

> ...
>
> We concur with the CA's justification. The RTC and the CA acted in accordance with the *Rules of Court* and the pertinent jurisprudence. <u>The petitioner was insincere in assailing the default judgment, and its insincerity became manifest from its failure to move for the lifting of the order of default prior to the rendition of the default judgment. The CA rightly observed that the petitioner had apparently forsaken its "expeditious remedy" of moving soonest for the lifting of the order of default in favor of "wager[ing]" on obtaining a favorable judgment</u>. The petitioner would not do so

---

11 A.M. NO. 19-10-20-SC.

12 Underscoring in the original text.

13 *Tawang Multi-Purpose Cooperative v. La Trinidad Water District*, G.R. No. 166471, 22 March 2011.

14 G.R. No. 192477, 27 July 2016; Citations omitted, emphasis and italics in the original text and underscoring supplied.

unless it intended to unduly cause delay to the detriment and prejudice of the respondent.

The sincerity of the petitioner's actions cannot be presumed. Hence, it behooves it to allege the suitable explanation for the failure or the delay to file the answer through a motion to lift the order of default before the default judgment is rendered. This duty to explain is called for by the philosophy underlying the doctrine of default in civil procedure, which Justice Narvasa eruditely discoursed on in *Gochangco v. CFI Negros Occidental,* to wit:

> The underlying philosophy of the doctrine of default is that the defendant's failure to answer the complaint despite receiving copy thereof together with summons, is attributable to one of two causes: either (a) to his realization that he has no defenses to the plaintiff's cause and hence resolves not to oppose the complaint, or, (b) having good defenses to the suit, to fraud, accident, mistake or excusable negligence which prevented him from seasonably filing an answer setting forth those defenses. It does make sense for a defendant without defenses, and who accepts the correctness of the *specific relief* prayed for in the complaint, to forego the filing of the answer or any sort of intervention in the action at all. For even if he did intervene, the result would be the same: since he would be unable to establish any good defense, having none in fact, judgment would inevitably go against him. And this would be an acceptable result, if not being in his power to alter or prevent it, provided that the judgment did not go beyond or differ from the *specific relief* stated in the complaint. It would moreover spare him from the embarrassment of openly appearing to defend the indefensible. **On the other hand, if he did have good defenses, it would be unnatural for him not to set them up properly and timely, and if he did not in fact set them up, it must be presumed that some insuperable cause prevented him from doing so: fraud, accident, mistake, excusable negligence. In this event, the law will grant him relief; and the law is in truth quite liberal in the reliefs made available to him: a motion to set aside the order of default prior to judgment, a motion for new trial to set aside the default judgment; an appeal from the judgment by default even if no motion to set aside the order of default or motion for new trial had been previously presented; a special civil action for *certiorari* impugning the court's jurisdiction.**

...

At any rate, even if We consider petitioner's belated argument, the same would not change the outcome of the case as the subject LOA remained *not* revalidated prior to its service on petitioner sixty-two (62) days after its issuance. Put differently, assuming for the sake of argument that petitioner could not initially be located, the same does not excuse respondent from revalidating the LOA and serving the same within the prescribed period of 30 days, as provided in RAMO No. 01-00.

In *AFP General Insurance Corporation v. Commissioner of Internal Revenue*[15], the Supreme Court invalidated the assessment of respondent when he failed to serve the LOA therein within 30 days from its issuance.[16] Confronted thus with the factual milieu in this case, the Court could only rule in the same fashion as the Supreme Court did.

WHEREFORE, in view of the foregoing, respondent Commissioner of Internal Revenue's Motion for Reconsideration (re: Decision dated 27 January 2022) filed on 04 March 2022 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

---

15 G.R. No. 222133, 04 November 2020; Citations omitted, italics in the original text and emphasis supplied.

16 See *Commissioner of Internal Revenue v. Sony Philippines, Inc.*, G.R. No. 178697, 17 November 2010.