Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

MISSOURI SQUARE, INC.,
Respondent.

CTA EB NO. 1521
(CTA Case No. 8707)

Present:
DEL ROSARIO, P.J.,
CASTAÑEDA, JR.
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, JJ.

Promulgated:
MAR 28 2018 11:39a.m.

x---x

RESOLUTION

MINDARO-GRULLA, J.:

This resolves petitioner's "Motion for Reconsideration" of the Decision dated January 24, 2018 of this Court *En Banc*, the pertinent portion of which states:

> *"In sum, not only is the petition procedurally infirm but also the arguments raised to support the petition were likewise bereft of merit. Hence, there is no compelling reason to disturb the findings and conclusion of the Court in Division as it is supported by the evidence on record. It is well-settled that a void assessment bears no fruit.*
>
> ***WHEREFORE****, the Petition for Review is* ***DENIED,*** *for lack of merit. Accordingly, the Amended Decision dated September 8, 2016 is* ***AFFIRMED****. No pronouncement as to costs.*
>
> ***SO ORDERED.****"*

In assailing this Court's Decision, respondent argues that the rules of procedure may be relaxed in some cases to attain the ends of substantial justice and that respondent was not denied due process of law when the Final Assessment Notice (FAN) was issued seven (7) days after the receipt of the Preliminary Assessment Notice (PAN).

We are not persuaded.

Even if we disregard the procedural infirmity in filing the petition, the arguments raised to support the petition which were rehashed in this motion were likewise bereft of merit. Petitioner insists that there was no violation of due process. However, petitioner's failure to strictly comply with the requirements laid down by law and its own rules is a denial of the taxpayers right to due process.[1]

To reiterate, Section 3 of Revenue Regulations (RR) No. 12-99[2], provides the due process requirements in the issuance of a deficiency tax assessment. In particular, Section 3.1.2 refers to the due process requirements for the issuance of the PAN and the subsequent issuance of the formal letter of demand and final assessment notice, to wit:

> *"3.1.2 Preliminary Assessment Notice (PAN). - If after review and evaluation by the Assessment Division or by the Commissioner or his duly authorized representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer, at least by registered mail, a Preliminary Assessment Notice (PAN) for the proposed assessment, showing in detail, the facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based (see illustration in ANNEX A hereof).* ***If the taxpayer fails to respond within fifteen (15) days from date of receipt of the PAN, he shall be considered in default, in which case, a formal letter of demand and assessment notice shall be caused to be issued by the said Office, calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties."*** *(Emphasis Supplied)*

Evidently, respondent's receipt of the FAN, seven (7) days after the receipt of the PAN is a violation of the due

[1] Commissioner of Internal Revenue vs. Metro Star Superama, Inc., G.R. No. 185371, December 8, 2010.
[2] Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-judicial Settlement of a Taxpayer's Criminal violation of the Code Through Payment of a Suggested Compromise Penalty.

2

process requirements in the issuance of a deficiency tax assessment.

In sum, We find no substantial argument was raised to merit reconsideration of our Decision promulgated on January 24, 2018.

WHEREFORE, premises considered, petitioner's "Motion for Reconsideration" is hereby **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

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)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice