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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

DAEWOO ENGINEERING & CONSTRUCTION COMPANY LIMITED,
Respondent.

CTA EB No. 1799
(CTA Case No. 8829)

Present:

DEL ROSARIO, *PJ*,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, and
MODESTO-SAN PEDRO, *JJ*.

Promulgated:

JUN 05 2020 4:01 p.m.

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RESOLUTION

Fabon-Victorino, J.:

On August 29, 2019, the Court rendered a Decision,[1] disposing the case in the following fashion:

> **WHEREFORE**, the Petition for Review dated March 19, 2018 filed by the Commissioner of Internal Revenue is **DENIED**. The impugned Decision and Resolution respectively dated November 17, 2017 and February 7, 2018, both rendered by the Court in Division are **AFFIRMED**.
>
> **SO ORDERED**.

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[1] *Rollo,* pp. 133-146.

In so ruling, the Court explained that since petitioner sent the Preliminary Assessment Notice (PAN), together with the Final Assessment Notice (FAN) to respondent's old address, despite having attained previous knowledge of its new address, no PAN and FAN were validly served, let alone received by respondent, thereby transgressing respondent's right to due process on assessment. As such, the assessments in question are a patent nullity, justifying their cancellation and withdrawal.

In moving[2] to reconsider the impugned Decision, petitioner argues that:

> I. There is no valid transfer of address by respondent for failure to comply with all the requirements of Section 11 of Revenue Regulations (RR) No. 12-85. Hence, the sending the PAN and FAN to respondent's address at 29th Floor, Enterprise Center, Tower I, 6766 Ayala Venue, Makati City is legally binding upon the latter; and
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> II. He complied with the due process requirement set forth in Section 228 of the National Internal Revenue Code (NIRC), as amended, and Section 3 of RR No. 12-99.

In refutation,[3] respondent retorts that with petitioner's mailing of the PAN and the FAN to its old address at 29th Floor, Enterprise Center, Tower I, 6766 Ayala Venue, Makati City notwithstanding its previous knowledge of its new address at 15th Floor, the Taipan Place F. Ortigas Jr. Road, Ortigas Center, Pasig City, it failed to receive the foregoing assessment notices, hence, its due process on assessment was violated, citing Decisions of this Court,[4] as well as of that of High Tribunal[5] as authorities.

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[2] Petitioner's Motion for Reconsideration (Decision dated 29 August 2019), ibid. at pp. 159-164.

[3] Respondent's Comment/Opposition (Re: petitioner's Motion for Reconsideration), id., unpaged.

[4] *Commissioner of Internal Revenue vs. Coolmate Corp.*, CTA EB No. 1226, June 8, 2016; and *Commissioner of Internal Revenue vs. Yukon General Manpower Services Corp.*, CTA EB No. 1444, July 24, 2017.

[5] *Commissioner of Internal Revenue vs. BASF Coating + Inks Phils., Inc.*, G.R. No. 198677, November 26, 2014.

Further, respondent states that both its testimonial and documentary evidence are rich with information that petitioner was duly notified about its change of address for which reason, petitioner may not be permitted to feign ignorance of its new address at Pasig City in connection with the alleged mailing of the PAN and FAN to it.

Glossing over the impugned Decision of August 29, 2019, as well as the arguments put forward by petitioner in his Motion for Reconsideration and by respondent in its Comment reveal that their contentions are mere replication of those advanced in their previously filed pleadings, all of which have been considered and passed upon by the Court *En Banc*. Without any novel or significant matter warranting modification, much more reversal of the impugned Decision of August 29, 2019, petitioner's Motion for Reconsideration dated September 23, 2019 should be denied.

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

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice