REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB No. 2564
(CTA Case No. 9701)

Present:

DEL ROSARIO, *PJ,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, *JJ.*

-versus-

ECOTECHNOVATIONS, INC.,
Respondent.

Promulgated:
DEC 05 2023 1:31 p.m.

x --x

RESOLUTION

DEL ROSARIO, PJ.:

For resolution is petitioner's "**Motion for Reconsideration (Re: Decision dated July 03, 2023)**" filed on July 25, 2023, with respondent's "**Comment (To the Motion for Reconsideration)**" filed *via* licensed courier on September 11, 2023.

In the said Motion, petitioner prays that the Court reconsider and set aside its Decision dated July 3, 2023, and render a new one dismissing the original Petition for Review filed before the Court in Division and ordering respondent to pay the amount of ₱10,515,521.49 for deficiency income tax and value-added tax, inclusive of interest, surcharge and penalties for taxable year 2012.

The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, in light of the foregoing, the Commissioner of Internal Revenue's Petition for Review filed on March 7, 2022 is hereby **DENIED** for lack of merit. The assailed Decision dated March 3, 2021 and the assailed Resolution dated December 17, 2021 of the Court in Division in CTA Case No. 9701 are **AFFIRMED**.
>
> The Commissioner of Internal Revenue, his authorized representatives, or any person acting on his behalf are hereby **ENJOINED** from enforcing the collection of the deficiency Value-Added Tax and Final Withholding Tax for taxable year 2012 contained in the Formal Letter of Demand with Demand No. 39-2017-B055-12 and two (2) Assessment Notices, all dated June 16, 2017. This order of suspension is **IMMEDIATELY EXECUTORY** consistent with Section 4, Rule 39 of the Rules of Court.
>
> **SO ORDERED.**"

In support thereof, petitioner asserts that he observed due process in the service of the Formal Letter of Demand (FLD) and Final Assessment Notices (FANs) to respondent. Petitioner also contends that the FLD/FANs are valid as there is nothing in the law which provides that a due date for payment is a substantive requirement for the validity of a final assessment notice.

Respondent counter-argues that petitioner's Motion for Reconsideration should be denied outright for lack of legal basis. Respondent maintains that there was no valid service of the FLD/FANs; thus, the same were void. Considering that the substituted service of the FLD/FANs were shown to be flawed, respondent reiterates that its right to due process of law was violated.

THE COURT'S RULING

After careful evaluation of the parties' respective arguments, the Court resolves to deny petitioner's "Motion for Reconsideration".

A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings and conclusions.[1] It is thus incumbent upon the movant to convince the

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[1] Section 2, Rule 37 of the Rules of Court.

Court that certain findings and conclusions in the assailed decision are not supported by evidence or are contrary to law.

The Court notes that no new substantial arguments have been adduced to warrant the reconsideration sought. Petitioner merely raised matters which the Court has thoroughly passed upon in the assailed Decision. Accordingly, the Court finds no cogent reason to reverse or modify the assailed Decision.

WHEREFORE, in light of the foregoing, petitioner's "**Motion for Reconsideration (Re: Decision dated July 03, 2023)**" is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding 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

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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice