CTA Form No. 8 (For DCC)

22-000365-0049

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10937

SOUTH COTABATO 1 ELECTRIC COOPERATIVE, INC.,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. CHRISTINE C. CATIMBANG
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam Defensor-Santiago Avenue
Diliman, Quezon City

CABRERA & COMPANY
28th Floor, AIA Tower (Formerly Philamlife Tower)
8767 Paseo de Roxas
1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **September 9, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **September 12, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SOUTH COTABATO 1 ELECTRIC COOPERATIVE, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10937

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

SEP 0 9 2024 3:35PM

x- -x

RESOLUTION

CUI-DAVID, J.:

For resolution of this Court is respondent's ***Motion for Reconsideration (Re: Decision promulgated on April 18, 2024)*** filed on May 10, 2024, with petitioner's *Comment/Opposition (Re: Respondent's Motion for Reconsideration dated 10 May 2024)* filed on June 3, 2024.

Respondent's *Motion* assails the *Decision* of the Court in the above-captioned case promulgated on April 18, 2024. The dispositive portion of the assailed *Decision* reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **GRANTED**. Respondent Commissioner of Internal Revenue's right to collect from petitioner South Cotabato 1 Electric Cooperative, Inc. the alleged deficiency taxes in the amount of ₱56,711,558.26 including interest and surcharge, for CY 2004 is declared to have **PRESCRIBED.**
>
> Accordingly, the undated Warrant of Distraint and/or Levy No. RR18-22-113 enforcing collection of the deficiency tax liabilities per the Formal Letter of Demand dated December 10, 2007, is **CANCELLED** and **SET ASIDE** for being **NULL and VOID**.

Further, respondent is **ENJOINED** from proceeding with the collection of taxes in the above-captioned case.

SO ORDERED.

In his *Motion*, respondent argues that the Court erred in ruling that it had jurisdiction over the case. According to respondent, there is no valid protest filed by petitioner as petitioner opted to apply and pay for the Tax Amnesty of its deficiency tax liability. Respondent theorizes that the assessment has become final and executory. Thus, according to respondent, the assessment cannot be said to have prescribed.

On the other hand, in its *Comment*, petitioner states that the Court has jurisdiction over "other matters" arising from the National Internal Revenue Code (**NIRC**). Petitioner likewise echoed its jurisdictional allegations in the *Petition for Review* that the basis for obtaining jurisdiction is the issuance of the Warrant of Distraint and Levy (**WDL**). Petitioner further posits that assuming that a valid protest is necessary to question the assessment contained in the WDL, it is still well within its rights to contest the WDL before the Court due to its availment of tax amnesty. Finally, petitioner asserts that respondent's right to collect has prescribed. According to petitioner, it is not the issuance of the Preliminary Collection Letter (**PCL**) which tolls the prescriptive period, but rather, it is the issuance of the WDL.

The *Motion* is bereft of merit.

At the onset, the Court notes that a review of respondent's *Motion for Reconsideration* reveals that the arguments presented are mere reiterations of the arguments that have already been thoroughly considered, resolved, and passed upon by this Court in the assailed *Decision*.

It is well-settled that a motion for reconsideration containing a mere reiteration or rehash of grounds and arguments that have already been considered, weighed, passed upon, and resolved by the court before the *Decision* sought to be reconsidered is rendered does not need a new judicial determination.[1] Therefore, there is no necessity to discuss and rule again on these grounds since this would be a useless formality of ritual invariably involving merely a reiteration of the

[1] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005; *Madeleine Mendoza-Ong v. Hon. Sandiganbayan, et al.*, G.R. Nos. 146368-69 (Resolution), October 18, 2004.

reasons for rejecting the arguments advanced by the movant already set forth in the judgment.[2]

In *Shangri-La International Hotel Management v. Developers Group of Companies, Inc.*,[3] the Supreme Court pronounced that it is incumbent upon the movant to convince the Court that certain findings or conclusions are contrary to law, to wit:

> "The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought."

Accordingly, the Court reiterates that its jurisdiction is not limited to the CIR's decisions on disputed assessments and claims for refunds but also includes the CIR's decisions on **"other matters"** arising from the NIRC of 1997, as amended, or other laws administered by the BIR. Accordingly, this includes, but is not limited to, a review of the CIR's authority and decision to compromise,[4] a **prescription** of the CIR's right to collect taxes,[5] and a determination of the **validity of a WDL**.[6]

Further, this Court affirms its ruling that respondent's right to collect the alleged deficiency taxes from petitioner has already prescribed, *viz.*:

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[2] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005 and *Ortigas Land Co. Ltd. Partnership v. Judge Velasco*, G.R. No. 109645 (Resolution), March 4, 1996.

[3] *Shangri-la International Hotel Management, Ltd. v. Developers Group of Companies, Inc.*, G.R. No. 159938 (Resolution), January 22, 2007.

[4] *Philippine National Oil Company v. Court of Appeals, et al.*, and *Philippine National Bank v. Court of Appeals, et al.*, G.R. Nos. 109976 and 112800, April 26, 2005.

[5] *Commissioner of Internal Revenue v. Court of Tax appeals Second Division*, G.R. No. 258947, March 29, 2022; *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.*, G.R. No. 169225, November 17, 2010.

[6] *La Flor Dela Isabela, Inc. c. Commissioner of Internal Revenue*, G.R. No. 202105, April 28, 2021; *Philippine Journalists, Inc. v. Commissioner of Internal Revenue*, G.R. No. 162852, December 16, 2004.

As pointed out in our Resolution dated January 6, 2023, a review of the FLD shows that it was issued on December 10, 2007, and was "released" on **December 27, 2007**. Applying the rules on the prescriptive period as discussed above, respondent had, at most, until **December 27, 2010,** to collect on the deficiency taxes if the FLD was issued within the 3-year ordinary period, or until **December 27, 2012,** if the FLD was issued within the extra-ordinary period of 10 years in case of false or fraudulent return or failure to file a return.

Here, none of the circumstances provided in Section 223 that may suspend the period to collect is present. Moreover, no WDL was served to petitioner, and no judicial proceeding was initiated by the CIR within the period to collect. As such, the prescriptive period counted from the "release" of the FLD on **December 27, 2007**, remains uninterrupted.

Verily, prescription had already set in when the WDL was served to petitioner's witness on **June 8, 2022,** more than **fourteen (14) years** after the "release" of the FLD. Regardless of which period to apply, i.e., *three years* under Section 203 or *five years* under Section 222, the CIR's collection effort was already barred by prescription.

All told, respondent's arguments in his *Motion for Reconsideration* do not provide compelling or sufficient reason to modify, much less set aside, the said assailed *Decision.*

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (Re: Decision promulgated on April 18, 2024)* is hereby **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ON OFFICIAL BUSINESS
ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice