REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ASIAN NAVIGATION AND TRACKING SYSTEMS, INC.,

Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

CTA CASE NO. 7999

Members:
CASTAÑEDA, JR., *Chairperson*
CASANOVA, and
COTANGCO-MANALASTAS, *J.J.*

Promulgated:

JUL 07 2016 4:26 pm

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RESOLUTION

For resolution is the *Motion for Reconsideration (on the Decision of the Honorable Court dated 17 March 2016)*[1] filed by respondent on April 4, 2016, praying that the March 17, 2016 *Decision*[2] be set aside and that petitioner be held liable for the deficiency income tax, deficiency value-added tax (VAT) and expanded withholding tax in the aggregate amount of P10,449,903.13 for taxable year 2005.

In support of her *Motion*, respondent maintains that she did not violate the right of the petitioner to due process as the Preliminary Assessment Notice (PAN) and Assessment Notice with Formal Letter of Demand (FAN) were served by mail at the petitioner's registered address and that she was compliant with the provisions of Revenue Regulations (RR) No. 12-99 relative to the service of the PAN and FAN.

Respondent further alleges that: she relied on the registered business address provided by the petitioner which had already been encoded by the respondent in the Integrated

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[1] Docket, pp. 1149-1153.
[2] Docket, pp. 1129-1148.

Tax System; petitioner failed to comply with the requirement under Section 236 (D) of the National Internal Revenue Code of 1997 (1997 NIRC) which requires taxpayer to notify the Bureau of Internal Revenue (BIR) in case the taxpayer decides to transfer place of business; that said failure on the part of petitioner is the very reason that respondent served the PAN and the FAN at Unit 1903 The Centerpoint Building, Doña Julia Vargas Avenue, Ortigas Center, Pasig City; and that petitioner was duly informed of the facts and the law on which the assessment is made, and thus, respondent did not violate the right of the petitioner to due process.

On May 5, 2016, petitioner filed its *Comment [To The Motion for Reconsideration Dated 4 April 2016]*. Petitioner manifests that: respondent did not present new arguments for the consideration of this Court but merely reiterates the argument that petitioner was furnished with copies of the PAN and FAN because respondent relied on the registered address in the Integrated Tax System; based on this Court's pre-trial order, respondent never denied/disputed and even admitted having knowledge of the fact that respondent were aware of petitioner's new address located at 3rd floor LPL Tower 215 Gil Puyat Avenue, Makati; despite such knowledge, respondent also admitted having sent the FAN and PAN to petitioner's old address; and that considering that the letter of authority, subpoena, assessment notices, formal demand and other notices were not duly served on petitioner, petitioner was deprived of due process.

Respondent's *Motion for Reconsideration (on the Decision of the Honorable Court dated 17 March 2016)* must fail. The grounds relied upon by the respondent in her *Motion for Reconsideration* are clear rehash of the previous arguments and issues already passed upon and resolved by this Court in the assailed *Decision*[3].

The Supreme Court ruled that the cancellation and setting aside of an assessment against a taxpayer is warranted in cases where the CIR mailed the FAN to the taxpayer's old address despite knowledge of the taxpayer's new address as

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[3] Supra, Note 2.

shown in the documents replete in the records.[4] The Court reiterates the aforesaid ruling of the Supreme Court in the case of *CIR vs. BASF Coating + Inks Phils., Inc.*[5], *viz*:

> "Furthermore, petitioner should have been alerted by the fact that prior to mailing the FAN, petitioner sent to respondent's old address a Preliminary Assessment Notice but it was "returned to sender." This was testified to by petitioner's Revenue Officer II at its Revenue District Office 39 in Quezon City.[31] Yet, despite this occurrence, **petitioner still insisted in mailing the FAN to respondent's old address**.
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> **Hence, despite the absence of a formal written notice of respondent's change of address, the fact remains that petitioner became aware of respondent's new address as shown by documents replete in its records. As a consequence, the running of the three-year period to assess respondent was not suspended and has already prescribed.**
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> xxx xxx xxx
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> As to the second assigned error, petitioner's reliance on the provisions of Section 3.1.7 of BIR Revenue Regulation No. 12-99[44] as well as on the case of Nava v. Commissioner of Internal Revenue[45] is misplaced, because in the said case, **one of the requirements of a valid assessment notice is that the letter or notice must be properly addressed. It is not enough that the notice is sent by registered mail as provided under the said Revenue Regulation. In the instant case, the FAN was sent to the wrong address. Thus, the CTA is correct in holding that the FAN never attained finality because respondent never received it, either actually or constructively."** (Emphasis supplied)

In this case, considering that the PAN and the FAN with Formal Letter of Demand were sent to the wrong address, there was no valid service of said notices to petitioner. Consequently, the subject assessments are void.

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[4] *CIR vs. BASF Coating + Inks Phils. Inc.*, G.R. No. 198677, November 26, 2014.
[5] Supra.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (on the Decision of the Honorable Court dated 17 March 2016)*[6] is **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On wellness leave)
CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

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[6] Supra, Note 1.