REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 2342** (CTA Case No. 9315)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, and CUI-DAVID,** *JJ.*
	Promulgated:
KULTURA STORE, INC., Respondent.	JUN 17 2022 11:02a.m.

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RESOLUTION

UY, *J.*:

For the Court *En Banc*'s resolution is petitioner's ***MOTION FOR RECONSIDERATION (Re: Decision dated 22 February 2022)*** filed on March 17, 2022,[1] with respondent's ***COMMENT (To the Commissioner of Internal Revenue's Motion for Reconsideration)*** filed on April 22, 2022.[2]

In the said *Motion*, petitioner moves for the reversal and setting aside of the Decision promulgated on February 22, 2022, the dispositive portion of which reads:

[1] EB Docket, pp. 112 to 118.
[2] EB Docket, pp. 122 to 127.

"**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. Accordingly, the *Decision* dated November 11, 2019 and the *Resolution* dated September 18, 2020, rendered by the Second Division of this Court in CTA Case No. 9315 are hereby **AFFIRMED**.

SO ORDERED."

Petitioner's arguments:

In its *Motion for Reconsideration*, petitioner argues that the Court *En Banc* erred in ruling that the assessment notices against respondent is a nullity for allegedly not indicating a definite due date for the payment of the tax liabilities.

Petitioner insists that the *Formal Letter of Demand* (FLD) have stated and definitely set the due date of the deficiency tax liabilities of respondent. The basic tax deficiency as well as the surcharge and interest were already fixed in said assessment notices as that due on or before June 27, 2014.

Allegedly, the said due date corresponds with the amount of interest due thereon and is necessarily intertwined with the deficiency interest citing Section 249 of the National Internal Revenue Code (NIRC) of 1997.

Petitioner also adds that respondent was given enough opportunity to present its case. Hence, there can be no showing that respondent was deprived of due process.

The doctrines laid down in *Commissioner of Internal Revenue vs. Dominador Menguito*[3] (*Menguito)* and *Commissioner of Internal Revenue vs. Fitness by Design*[4] *(Fitness by Design)* should allegedly be revisited as the ruling in the *Menguito* case was misapplied in the *Fitness by Design* case.

Lastly, petitioner posits that since the receipt of the FLD and Assessment notices was not disputed by respondent in this case, it

[3] G.R. No. 167560, September 17, 2008.
[4] G.R. No. 215957, November 9, 2016.

should be taken into consideration that respondent was given the chance to refute the findings but failed to do so and that the undisputed issues during the administrative proceeding are deemed final and executory and should not be considered in an appeal.

Respondent's counter-arguments:

Respondent counter-argues that the contentions raised in petitioner's Motion for Reconsideration are not new but just reiterations of his positions before the Court in Division and the present Petition before the Court *En Banc*.

Respondent reiterates the ruling in the assailed Decision that an assessment contains not only a computation of tax liabilities, but also a demand for payment within a prescribed period. It also signals the time when penalties and interest begin to accrue against the taxpayer. To enable the taxpayer to determine his remedies thereon, due process requires that it must be served on and received by the taxpayer.

Respondent asserts that the date June 27, 2014 cannot be inferred as the due date for payment of tax liabilities. The requirement of a demand for payment of the tax liability per final assessment notice could only be complied with when the accrual date for payment is indicated and not merely inferred from a vague statement of when an adjustment of "the interest and the total amount due" will be made.

Lastly, respondent counters that the *Menguito* and *Fitness by Design* cases are applicable in the instant case.

THE COURT *EN BANC'S* RULING

After due consideration, the Court *En Banc* finds no merit in petitioner's *Motion for Reconsideration*.

Notably, the arguments raised in the said Motion for Reconsideration raises no new and substantial issues but are mere rehash of the same issues and arguments which have already been discussed exhaustively in the Decision dated February 22, 2022.

Nevertheless, We reiterate that the FLD and Assessment Notices dated June 9, 2014 do not state a due date for the payment of the assessed taxes. It is clear from the records that the Assessment Notices attached to the FLD where the due date is to be indicated were left blank.

Consequently, the failure to indicate the due date for payment invalidates the assessment. An invalid assessment bears no valid fruit. The law imposes a substantive, not merely a formal requirement.[5]

Anent petitioner's argument that the cases of *Menguito* and *Fitness by Design* need to be revisited as the ruling in the *Menguito* case was misapplied therein, We maintain our position that the doctrine laid down in the *Menguito* and *Fitness by Design* are applicable in the instant case. We quote the pertinent portion in the assailed Decision, to wit:

> "x x x. To reiterate, the Supreme Court in the *Menguito* case discussed the difference among a formal assessment notice, a post-reporting notice and a pre-assessment notice and made it clear what a valid formal assessment is, *i.e.,* an assessment contains not only a computation of tax liabilities but also a demand for payment within a prescribed period. Parenthetically, the application of the *Menguito* case in the *Fitness by Design* case may not be the subject of this Court's review, much more, its reversal." [6]

Petitioner is reminded of Article 8 of the New Civil Code which provides that judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines. *Stare decisis et non quieta movere.* This principle of adherence to precedents has not lost its luster and continues to guide the bench in keeping with the need to maintain stability in the law.[7]

Hence, this Court finds no cogent reason to disturb the assailed Decision.

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[5] *Commissioner of Internal Revenue vs. BASF Coating +Inks Phils, Inc.,* G.R. No. 198677, November 26, 2014.
[6] EB Docket, p. 106.
[7] *Rep. Reynaldo Umali vs. The Judicial Bar Council,* G.R. No. 228628, July 25, 2017.

WHEREFORE, in light of the foregoing considerations, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

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

LANEE S. CUI-DAVID
Associate Justice