REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

XPERT AIR SERVICES, INC., *Petitioner,*	**CTA CASE NO. 10171**
- versus -	*Members:* **BACORRO-VILLENA**, *and* **CUI-DAVID**, JJ.
THE COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 14 2023 10:05 AM

x- -x

RESOLUTION

CUI-DAVID, J.:

This resolves respondent's *Motion for Reconsideration* filed through registered mail on March 30, 2023 and received by the Court on April 18, 2023, with petitioner's *Comment/Opposition (Re: Motion for Reconsideration dated March 30, 2023)* filed on May 3, 2023.

Respondent seeks reconsideration of the Court's Decision promulgated on March 14, 2023, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, the Warrant of Distraint and/or Levy dated August 29, 2019, is declared **NULL and VOID** and is hereby **CANCELLED** and **SET ASIDE**.
>
> **SO ORDERED.**

Allegedly, the Court erred in ruling that the Warrant of Distraint and/or Levy (WDL) is void for being issued prematurely. Respondent explains that Revenue Memorandum Order (RMO) No. 42-2010[1] specifically provides that upon issuance of the Final Decision on Disputed Assessment (FDDA) against the taxpayer, the WDL and/or Warrant of Garnishment (WG) shall forthwith be immediately issued and served. In the instant case, an FDDA dated May 10, 2019 was issued to petitioner. Subsequently, a WDL dated August 29, 2019 was served to petitioner in accordance with RMO No. 42-2010.

By way of Comment/Opposition, petitioner counters that the Court correctly held that the WDL is void for having been issued prematurely. As observed by the Court, petitioner received the FDDA dated May 10, 2019, signed by Regional Director Romulo L. Aguila on an even date. Petitioner then appealed the FDDA before the Office of the Commissioner on June 6, 2019. However, pending action by the Commissioner on its appeal, petitioner received the WDL on August 29, 2019, enforcing the collection of the alleged deficiency tax assessments based on the FDDA.

Following the Supreme Court's ruling in *Light Rail Transit Authority v. Bureau of Internal Revenue, represented by the Commissioner of Internal Revenue (LRTA case)*,[2] petitioner agrees that the Court committed no error in holding that if a WDL is issued while the deficiency tax assessment is still pending with the Commissioner of Internal Revenue, the WDL is void and should have no force and effect.

Respondent's *Motion* must fail.

Let it be emphasized that the Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is; it is the final arbiter of any justifiable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings.[3] Courts are bound by prior decisions. Thus, once a case has been decided one way, courts have no choice but to resolve

---

[1] SUBJECT: *Prohibition on the Issuance of Temporary Restraining Orders on the Collection of Taxes Against the Bureau of Internal Revenue By Courts Other than the Court of Tax Appeals, the Issuance of Warrants of Distraint and Garnishment, and/or Levy on Final Decisions of the Bureau of Internal Revenue on Disputed Assessments, Cases Filed Before the Court of Tax Appeals, and the Sale of Property Distrained and Garnished*
[2] G.R. No. 231238, June 20, 2022.
[3] *Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop, Inc.*, G.R. No. 150947, July 15, 2003.

subsequent cases involving the same issue in the same manner.[4]

As the Supreme Court enunciated in the *LRTA* case, if a WDL is issued while the deficiency tax assessment is still pending appeal with the Commissioner of Internal Revenue, the WDL is void and should have no force and effect.

In the case at bar, petitioner opted to appeal the FDDA before the Office of the Commissioner. Pending action by the Commissioner on the appeal, petitioner received the subject WDL on August 29, 2019, enforcing the collection of the alleged deficiency tax assessments based on the FDDA.

Like the *LRTA* case, the subject WDL emanated from a "non-demandable assessment"; hence the issuance thereof is void and of no force and effect.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration* dated March 30, 2023, is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

---

[4] *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. Nos. 184360 & 184361; *Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 184384, February 19, 2014.