REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

CATERING PROFESSIONALS, INC., Petitioner,	**CTA CASE NO. 8852** Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **CASANOVA,** *and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 06 2018 9:00 AM

x - x

RESOLUTION

CASANOVA, J.:

This resolves respondent's **Motion for Reconsideration** filed, by registered, mail on December 14, 2017 with petitioner's **Comment/Opposition [Re: Respondent's Motion for Reconsideration dated 13 December 2017]**, filed on December 29, 2017.

The instant motion assails the Decision dated November 28, 2017 (assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant **Petition for Review** is hereby **GRANTED**. Accordingly, the assessment of petitioner's deficiency income tax and value added tax for the taxable year 2010, as well as the Preliminary Collection Letter and Final Notice Before Seizure issued by the respondent to enforce the collection of the said deficiency tax liabilities are **CANCELLED** and **DEEMED WITHDRAWN** for being **NULL AND VOID**.

SO ORDERED."

Respondent, in his motion, alleges that petitioner failed to file a valid protest on time and protested only on July 11, 2014, way beyond the prescriptive period for the filing thereof. Hence, it is now precluded from disputing the correctness of the assessment.

Respondent claims that petitioner was not denied due process of law but on the contrary it was given adequate opportunity to contest the assessment. According to respondent, petitioner failed to take advantage of the opportunity to protest when it discreetly transferred business address without informing the Bureau of Internal Revenue (BIR) so that all subsequent notices/collection letter will be directed to its new address.

Respondent further alleges that, based on rules and jurisprudence, the filing of an administrative protest against the Final Assessment Notice is of paramount importance since it must be done in the proper form and within the time prescribed by law, and failure to do so, as committed by petitioner in this case, will render the assessment final, executory and unappealable to this Court.

According to respondent, petitioner is still active in Revenue District Office No. 53 as per ITS of the BIR and up to this date, neither did it file an Application for Registration Information Update Form (1905) with the supporting documents duly received by the concerned Revenue District Office nor did it act with diligence of an ordinary prudent person to ascertain the veracity of the assessment and all the more file a timely protest to contest the same since it involves not only hundreds of thousands but millions of pesos more or less.

Petitioner opposes the above arguments and reiterates the arguments and discussions contained in its Petition for Review and Memorandum. Petitioner alleges that it was undoubtedly deprived of due process and that no Letter of Authority was ever issued by respondent.

A scrutiny of the foregoing allegations shows that the same are a mere rehash of the arguments which have already been addressed and passed upon in the assailed Decision.

To further clarify, the Court recognizes the fact that taxes are the lifeblood of government and should be collected without hindrance. However, the collection of taxes should be exercised "reasonably and in accordance with the prescribed procedure."[1]

In this case, respondent violated petitioner's right to due process when it conducted the examination and assessment of petitioner's tax liability without issuing a Letter of Authority as required by law and jurisprudence. Thus, the Court correctly found the assessment void and consequently cancelled the Preliminary Collection Letter and Final Notice Before Seizure.

As to respondent's allegation that the assessment has already become final and executory for failure of petitioner to timely file its protest, the Court finds it worthy to cite the case of *Commissioner of Internal Revenue vs. Metro Star Superama, Inc.*[2], where the Supreme Court stated that it "need not belabor to discuss the matter of Metro Star's failure to file its protest, for it is well-settled that a void assessment bears no fruit." Considering that the Court already found the assessment void, the issue as to whether petitioner timely filed a protest on the void assessment becomes irrelevant.

WHEREFORE, finding no compelling reason to reverse the ruling of this Court in the assailed Decision, respondent's **Motion for Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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[1] *Commissioner of Internal Revenue vs. Fitness By Design, Inc.*, G.R. No. 215957, November 9, 2016.
[2] G.R. No. 185371, December 8, 2010.