REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

NEGROS SUGAR FARMERS MULTI-PURPOSE COOPERATIVE,
Petitioner,

CTA CASE NO. 9810

- versus -

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, *JJ*.

COMMISSIONER OF INTERNAL REVENUE, BIR REGIONAL DIRECTOR, REGION 12, BACOLOD CITY,
Respondent.

Promulgated:
SEP 15 2021 2:55 PM

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner-movant's "Motion for Reconsideration Re: Decision dated 11 January 2021" (**MR**) filed on 03 February 2021[1], with respondent's "Comment/Opposition (On Petitioner's Motion for Reconsideration dated 03 February 2021)", filed on 20 May 2021.

In its MR, petitioner-movant is still insistent that the assessment against it has prescribed and is void *ab initio*. Owing to its alleged tax exempt status as a cooperative, it maintains that it is not obliged to file returns for value-added tax (**VAT**) and pay the corresponding taxes.

[1] Received by the Court on 10 March 2021.

According to it, in lieu of the VAT returns for the withdrawal of its refined sugar from the sugar mill, it is instead required to secure the Authorization Allowing the Release of Refined Sugar (**AARRS**) from the Bureau of Internal Revenue (**BIR**).

Petitioner-movant also argues that the Preliminary Assessment Notice (**PAN**) and Formal Letter of Demand (**FLD**) were belatedly issued on 05 December 2008 and 08 December 2010, respectively, considering that the assessment involved fiscal year 2005. Thus, to petitioner-movant, it is apparent that the three-year period to assess under Section 203[2] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, has already prescribed. For petitioner-movant, the application of the ten-year prescriptive period under Section 222[3] of the NIRC of 1997, as amended, is not applicable in view of its tax-exempt status.

Petitioner-movant adds that, even granting that the assessment has attained finality, the period to collect deficiency taxes has already prescribed.

Expectedly, respondent opposes petitioner-movant's MR. He resonates the Court's assailed Decision of 11 January 2021 that the assessment against petitioner-movant has already become final and executory, thus, no longer appealable before the Court.

We resolve.

After a second hard look on the records of the case and the parties' contrasting arguments, We find the instant MR unmeritorius.

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2 **Sec. 203.** *Period of Limitation Upon Assessment and Collection.* – Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period. *Provided,* That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

3 **Sec. 222.** *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* -

(a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission...

...

A cursory reading of petitioner-movant's MR reveals that contentions raised are essentially reiterations of its previous arguments which the Court already considered and resolved in the assailed Decision of 11 January 2021. With a replication of the issues already resolved, We found that petitioner-movant failed to convince Us that a reversal of our decision is warranted.

In *Shangri-la International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[4], the Supreme Court opined that it is incumbent upon petitioner-movant to raise substantially plausible matters to warrant the relief sought, thus:

> ...
>
> 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 cause 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.[5]
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> ...

Lastly, with the obvious lack of jurisdiction on Our part, We are constrained to rule against petitioner-movant's argument that respondent's right to collect deficiency taxes has already prescribed and maintain that the assessment has become final.[6]

WHEREFORE, with the foregoing, the instant Motion for Reconsideration Re: Decision dated 11 January 2021 is **DENIED** for lack of merit.

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4 G.R. No. 159938, 22 January 2007.
5 Citation omitted.
6 See *Bernadette S. Bilag, et al. v. Estela Ay-ay, et al.*, G.R. No. 189950, 24 April 2017.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

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