REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE
Petitioner,

-versus-

KENNETH C. PUNDANERA,
Respondent.

CTA EB No. 1285
(CTA Case No. 8333)

Present:

DEL ROSARIO, *PJ*;
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA, and
RINGPIS-LIBAN, JJ.

Promulgated:
DEC 05 2016 2:35 p.m.

x---x

RESOLUTION

Fabon-Victorino, J.:

For resolution is the Motion for Reconsideration (Re: Decision dated July 14, 2016)[1] filed by petitioner Commissioner of Internal Revenue (CIR) on August 9, 2016, impugning the Decision of July 14, 2016, the dispositive portion of which reads:

> **WHEREFORE**, the Petition for Review filed by the Commissioner of Internal Revenue on April 1, 2015, is hereby **DENIED**, for lack of merit. Accordingly, the assailed Decision and Resolution promulgated on December 2, 2014 and February 20, 2015, respectively, are **AFFIRMED**.

[1] *En Banc* docket, pp. 102-108.

SO ORDERED.

In his motion, petitioner claims that:

> THE HONORABLE COURT OF TAX APPEALS-*EN BANC* ERRED IN AFFIRMING THE ASSAILED DECISION AND RESOLUTION OF THE COURT IN DIVISION PROMULGATED ON DECEMBER 2, 2014 AND FEBRUARY 20, 2014, RESPECTIVELY, GRANTING RESPONDENT'S PETITION FOR REVIEW, DECLARING NULL AND VOID THE SUBJECT PRELIMINARY ASSESSMENT NOTICE DATED DECEMBER 21, 2009, FORMAL LETTER OF DEMAND NO. 34-2006 DATED 14 JANUARY 2010 AND ASSESSMENT NOTICES NO. 34-2006 FOR INCOME TAX, VAT, EWT, ALL DATED JANUARY 14, 2010, AND CANCELLING THE WARRANT OF DISTRAINT AND/OR LEVY.

In rejecting the motion, respondent argues that the instant Motion for Reconsideration is *pro forma* for it miserably failed to raise substantial errors of law to merit the reversal of the Court *En Banc*'s Decision of July 14, 2016. Respondent points out that the Court *En Banc* was correct in holding that the burden of proof of actual receipt of the PAN and FDL is upon petitioner who was unable to discharge such burden. Further, petitioner erred in stating that respondent's Protest and Petition for Review were filed out of time.

It is glaringly clear that all the arguments raised by petitioner have already been thoroughly addressed and passed upon by the Court *En Banc* in the assailed Decision of July 14, 2016. In fact, petitioner merely reiterated and restated his arguments in the Petition for Review[2] and Memorandum[3]. Petitioner failed to raise any new or

[2] *En Banc* docket, pp. 10-13.
[3] *Ibid.*, pp. 80-83.

substantial issues or arguments to warrant the reversal or even modification of the assailed Decision. To discuss them anew is superfluous if not a waste of the time and resources of the Court.

WHEREFORE, petitioner's Motion for Reconsideration (Re: Decision dated July 14, 2016) filed on August 9, 2016, is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice