REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

JOSELITO RANADA LARAYA,
Respondent.

CTA *EB* NO. 2490
(CTA Case No. 8890)

Present:

DEL ROSARIO, *PJ*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

Promulgated:
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RESOLUTION

CUI-DAVID, J.:

This resolves petitioner's *Motion for Reconsideration (Re: Decision promulgated on 14 September 2022)* [1] filed by petitioner on September 30, 2022, with respondent's *Comment/Opposition*[2] filed *via* private courier and received by the Court on December 2, 2022.

Petitioner seeks reconsideration of the Decision [3] promulgated on September 14, 2022 (assailed Decision), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **DENIED**, for lack of merit. Accordingly, the Decision dated October 1, 2020 and the Resolution dated June 1, 2021, promulgated by the Court's Third Division in

[1] *En Banc* docket, pp. 108-119.
[2] *En Banc* docket, pp. 125-128.
[3] *En Banc* docket, pp. 91-107.

CTA Case No. 8890, are **AFFIRMED**. Petitioner, her agent, or any person acting on her behalf are hereby **ENJOINED** from enforcing the collection of the deficiency taxes arising from the said Final Decision on Disputed Assessment.

SO ORDERED.

In asking for a reconsideration, petitioner claims that:

I. THE HONORABLE COURT ERRED IN RULING THAT THE ASSESSMENT WAS VOID DUE TO THE SERVICE OF THE LETTER OF AUTHORITY BEYOND THE 30 DAYS FROM ITS ISSUANCE.

II. THE HONORABLE COURT ERRED IN RULING THAT THE ASSESSMENTS ISSUED AGAINST RESPONDENT HAS (SIC) NOT YET BECOME FINAL, EXECUTORY, AND DEMANDABLE.

By way of *Comment/Opposition*, respondent submits that the arguments propounded by petitioner in his *Motion for Reconsideration* are mere rehash of his arguments in his *Motion for Reconsideration* filed before the Court in Division and in his *Petition for Review* filed before this Court's *En Banc*, all of which have been considered and passed upon, first by the Court in Division, and on appeal by the Court *En Banc*.

Nevertheless, respondent counters that petitioner's invocation of Revenue Memorandum Order (RMO) No. 19-2009[4] is misplaced because the said RMO applies to the period during which the concerned Revenue Officer (RO) has to submit the required report of investigation and NOT the period for the RO to serve the Letter of Authority (LOA) upon the taxpayer. Respondent further counters that the Court is correct in considering the Final Decision on Disputed Assessment (FDDA) as the final decision appealable to the Court. According to respondent, the FDDA adjusted the previous assessments in resolving respondent's protest and clearly stated, "this is our final decision." And finally, said FDDA provided for the remedy to file a petition for review with the Court of Tax Appeals within thirty (30) days from receipt thereof.

Thus, having been repeatedly raised and repeatedly rejected by the Court, respondent submits that the denial of petitioner's *Motion for Reconsideration* is but proper.

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[4] 2009 Audit Program for Revenue District Offices.

We agree with respondent's contentions.

Petitioner's arguments in his *Motion for Reconsideration* merely mimic the same flawed arguments in his *Petition for Review*, all of which have been determined, exhaustively discussed, passed upon, and resolved by this Court in the assailed Decision.

As ruled in the assailed Decision:

> ***The Court in Division did not err in declaring the resulting tax assessments void due to the service of the Letter of Authority beyond 30 days from its issuance.***
>
> Petitioner claims that the Court in Division relied on RMO No. 43-90 and RAMO No. 1-00 in deciding the instant case.
>
> ... ...
>
> The above rule invalidates a previously issued LOA, which has remained unserved for more than 30 days after its issuance date unless the same is revalidated.
>
> In the instant case, LOA No. 2008-00015304 was issued by petitioner on May 15, 2009. Applying RAMO 1-00, the subject LOA should have been served to respondent within 30 days counted from May 15, 2009, or until June 14, 2009. However, the same was served to respondent only on June 30, 2009, or forty-six (46) days from the date of issue.
>
> As found by the Court in Division, there is no showing that the subject LOA has been revalidated. Hence, the same has already become null and void when served to respondent on June 30, 2009, and the revenue officer named in the LOA is deemed to have no authority to examine respondent's books of accounts and other accounting records for the taxable year 2006.
>
> ... ...
>
> Indeed, RAMO No. 1-00, in relation to RMO No. 43-90, is very clear. The LOA must be served or presented to the taxpayer within thirty (30) days from the date of its issuance, otherwise, it becomes null and void, unless revalidated. As the Court in Division correctly pointed out, the condition for an LOA to remain valid even if served after the 30-day period, is its subsequent revalidation, and not the taxpayer's acceptance thereof.

Indubitably, the "invalidity" of the LOA is not a mere concoction of the CTA, as claimed by petitioner through counsel, in a last-ditch effort to justify her non-observance of the revenue issuance she swore to enforce and uphold. 23 On the contrary, the said "invalidity" is a concoction of the petitioner CIR herself, who authored RAMO No. 1-00.

Let it be emphasized that the provision in any administrative issuance must be accorded with the same weight as any statute, as long as it is not contrary to law, or the Constitution. Petitioner failed to show that its issuance, RAMO No. 1-00, is contrary to law or the Constitution. Hence, it must be given effect.

The subject deficiency tax assessments are not yet final, executory, and demandable given respondent's timely appeal.

Finally, on petitioner's assertion that when the assessment has become final, and the CTA takes cognizance of the case, the latter can only resolve matters about the collection of tax, the Court En Banc finds the same inaccurate.

Contrary to petitioner's claim, the subject tax assessments are not yet final, demandable, and executory given the timely filing of respondent's appeal before the Court in Division.

Records show that on August 7, 2014, respondent received the FDDA dated July 2, 2014, stating that:

... ...

Guided by the foregoing, it is clear that the FDDA dated July 2, 2014, is the final decision appealable to the CTA within thirty (30) days from respondent's receipt thereof on August 7, 2014, or until September 6, 2014.

Respondent filed a Petition for Review challenging petitioner's final decision on September 5, 2014, which is well within the 30-day period. Hence, the deficiency tax assessments have not yet become final, executory, and demandable.

Indeed, petitioner failed to raise any new or substantial matter persuasive enough to merit a reconsideration, let alone a modification of the Court's findings in the assailed *Decision.*

WHEREFORE, the instant *Motion for Reconsideration (Re: Decision promulgated on 14 September 2022)* is **DENIED** for lack of merit.

x---x

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA G. MODESTO-SAN PEDRO
Associate Justice

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

CORAZON G. FERRER-FLORES
Associate Justice