REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

FIRST BALFOUR, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE AND UNITED COCONUT PLANTERS BANK,
Respondents.

CTA CASE NO. 8984

Members:

FABON-VICTORINO, and
RINGPIS-LIBAN, *JJ.*

Promulgated:

JUL 05 2019
3:28 p.m.

x -- x

RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is respondent's **Motion for Reconsideration**, filed through registered mail on February 22, 2019 and received by the Court on March 4, 2019, with petitioner's **Comment and/or Opposition (To Respondent's Motion for Reconsideration)**, filed on April 10, 2019.

Respondent moves for reconsideration of the Court's Decision (assailed Decision) dated January 25, 2019, granting petitioner's Petition for Review. The dispositive portion of the assailed Decision states:

> "**WHEREFORE**, premises considered, the Petition for Review filed by First Balfour, Inc. is hereby **GRANTED**. Accordingly, the deficiency tax assessment under Assessment No. F-044-LNTF-07-VT-IT-MC-027 for taxable year 2007 is **CANCELLED** and **SET ASIDE**."
>
> **SO ORDERED**."

Respondent maintains that the Petition for Review was filed out of time on the basis that from the Petition and Letters of petitioner to United Coconut

Planters Bank (UCPB), it is clear that petitioner is consistently denying and want us to believe that the warrant of garnishment was issued in favor of First Philippine Balfour Beatty, Inc., a company different from petitioner.

Respondent argues that based on the testimony of Atty. Cecilia M. Cabatit and the Certificate of Filing of Amended Articles of Incorporation and Amended Articles of Incorporation of First Balfour, Inc. (Exhibits "R-23" and "R-24"), First Philippine Balfour Beatty, Inc. and First Balfour, Inc. are one and the same. Respondent stresses that most of the stockholders/officers of First Philippine Balfour Beatty, Inc. are the very same stockholders/officers of First Balfour, Inc. He further claims that petitioner discreetly changed its name and business address without informing respondent to evade their obligation with the Bureau of Internal Revenue.

Moreover, respondent avers that the records show that in a Letter dated September 4, 2014 by UCPB, petitioner had already been informed by the bank that its account has been put on hold pursuant to the Warrant of Garnishment issued by the respondent and it responded twice to the said letter of UCPB: first through a letter dated September 17, 2014 and the second letter dated November 17, 2014.

According to respondent, if petitioner considered the Warrant of Garnishment as a ground for appeal, then it should have filed the petition thirty (30) days from receipt of the September 4, 2014 letter of UCPB or until October 4, 2014. However, petitioner only filed the petition on February 6, 2015 or more than five (5) months from September 4, 2014, which is clearly beyond the period allowed by law to file an appeal with the Court. Thus, for failure to file the petition on time, respondent argues that the Court has no jurisdiction to take cognizance of the case.

In its comment and/or opposition, petitioner counters that the Court has already ruled upon the issue on jurisdiction in its Resolution dated July 13, 2015 and in the assailed Decision.

Petitioner emphasizes that the UCPB Letter dated September 4, 2014 does not form part of the evidence it offered and cannot be ruled upon by the Court. Further, while respondent presented the said letter, the admission thereof was denied by the Court in its Resolution dated September 20, 2017 for failure to present the original for comparison.

Petitioner maintains that the petition was timely filed as it was only during the letter sent on January 9, 2015 by UCPB that it became manifest that it was indeed petitioner to whom the letters and garnishment were being addressed and subjected. Consequently, it was only then that it could be said that the petitioner actually knew and was duly informed that it was the subject of the said garnishment.

On respondent's claim that most of the stockholders/officers of First Philippine Balfour Beatty, Inc. are the very same stockholders/officers of First Balfour, Inc., petitioner contends that respondent did not present any document, particularly the General Information Sheet of either petitioner or of First Philippine Balfour Beatty, Inc. to duly identify who the stockholders or officers of these corporations are. Hence, respondent merely made a self-serving allegation without any evidence offered to support such statement.

Lastly, petitioner noted that in his Motion to Dismiss, respondent impliedly admitted that he did not send anything to petitioner and that it is in fact UCPB which has been informing petitioner of the issues of the case. It claims that up to the filing of the petition, there was in fact no communication, correspondence, or notice in any form coming from the respondent as addressed to petitioner.

The Court finds the instant motion without merit.

The arguments raised by respondent are a mere rehash of the same facts and issues which have already been thoroughly discussed in the assailed Decision.

As ruled in the assailed Decision, the thirty (30) day period to appeal should be counted from the receipt of the UCPB Letter dated January 9, 2015 as petitioner is deemed to have acquired knowledge of the assessment against it. Further, it was only then that petitioner was furnished a copy of the Warrant of Garnishment indicating the Letter Notice from which said Warrant was based upon. Hence, the Petition for Review filed on February 6, 2015 was timely filed.

On the argument that petitioner and First Philippine Balfour Beatty, Inc. are one and the same based on the testimony of Atty. Cabatit, the Certificate of Filing of Amended Articles of Incorporation and Amended Articles of Incorporation of First Balfour, Inc., and the allegation that most of the stockholders/officers of both companies are the same, the Court maintains that respondent failed to present clear and convincing evidence to prove such allegation.

Finding no cogent reason to reverse the ruling in the assailed Decision, the granting of the Petition for Review filed by First Balfour, Inc. is affirmed.

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

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

I CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice