REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

GOODYEAR STEEL PIPE CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10555

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:
JUL 0 7 2025 11:50 AM

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RESOLUTION

FERRER-FLORES, J.:

Submitted before this Court are the following:

1. petitioner's **Motion for Reconsideration** filed on January 20, 2025, with respondent's **Comment/Opposition (Re: Motion for Reconsideration dated 17 January 2025)** filed on March 14, 2025; and,

2. respondent's **Motion for Partial Reconsideration (Re: Decision dated 16 December 2024)** filed on January 23, 2025, with petitioner's **Comment (to Motion for Partial Reconsideration [Re: Decision dated 16 December 2024])** filed on March 3, 2025.

On December 16, 2024, the Court promulgated a Decision partially granting the *Petition for Review* by cancelling respondent's deficiency documentary stamp tax (DST) and improperly accumulated earnings tax (IAET) and administrative penalties, while upholding with modifications the deficiency income tax, value-added tax (VAT), withholding tax on compensation (WTC), and expanded withholding tax (EWT) assessments against petitioner for taxable year (TY) 2011, the dispositive portion of which reads as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.
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> Respondent's assessment of deficiency DST, IAET and administrative penalties, for taxable year 2011 are **CANCELLED** for lack of merit, while the assessments for deficiency income tax, VAT, WTC, and EWT, for taxable year 2011, are **UPHELD WITH MODIFICATIONS**.
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> Petitioner is **ORDERED TO PAY** respondent the amount of **₱87,805,773.35**, inclusive of the 25% surcharge, 20% deficiency interest, and 20% delinquency interest, imposed under Sections 248(A)(3), 249(B) and (C) of the NIRC of 1997, as amended, respectively, computed until December 31, 2017, broken down as follows:

	Total Amount Due – September 10, 2016	20% Deficiency Interest	20% Delinquency Interest	Total Amount Due – December 31, 2017
Income tax	₱ 56,126,671.94	₱ 6,881,928.54	₱ 14,669,820.56	₱ 77,678,421.04
VAT	125,194.45	15,037.52	32,722.06	172,954.03
WTC	5,268,435.79	631,219.81	1,377,010.34	7,276,665.94
EWT	1,938,725.92	232,281.89	506,724.53	2,677,732.34
Total	**₱63,459,028.10**	**₱7,760,467.76**	**₱16,586,277.49**	**₱87,805,773.35**

> In addition, petitioner is **ORDERED TO PAY** respondent delinquency interest at the rate of twelve percent (12%) per annum on the total amount due of ₱63,459,028.10 as of September 10, 2016, as determined above, or equivalent to the amount of ₱20,863.24 189 per day, from January 1, 2018 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by the TRAIN Law and as implemented by Revenue Regulations No. 21-2018.
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> **SO ORDERED.**

Undaunted, both parties implore the Court to take a second and hard look on the conclusions reached in the above Decision and prays that the same be reconsidered based on the arguments in their respective *Motions*.

Petitioner's Motion for Reconsideration

In its *Motion*, petitioner primarily asserts that the Formal Letter of Demand (FLD) and the attached Final Assessment Notices (FAN) are void considering that the FAN failed to state the correct taxable period covered by the said assessment. Petitioner expounds that the upper left-hand corner of each of the FAN show that the "Return Period" indicated therein is "Taxable period 12/31/20**12**", notwithstanding that the taxable year in question herein is 2011. It submits that a valid assessment must contain the facts and law on which the assessment is based, and by having the "Return Period" wrong, petitioner was not fully informed of the facts on which the FLD/FAN was based. Petitioner further states that both the FLD and the FAN are inseparable requirements for a valid assessment. Since the FLD demands payment for taxable period 2011 while the FAN assesses the period 2012, the assessment against petitioner is incomplete and legally flawed, thereby violating its right to due process of law. Petitioner insists that there is no valid assessment to speak of since the FLD and the FAN assess two different periods, and the uncertainty of the period covered by the notices makes the assessment defective and the entire assessment must be struck down and cancelled.

Moreover, petitioner also avers that the period to collect the deficiency taxes had already prescribed. It explains that two (2) waivers were executed in this case, the first on February 4, 2014 and the second on October 8, 2015, which effectively extended the period to assess until December 31, 2016. Petitioner contends that, while it filed requests for re-investigation on September 8, 2016 and November 4, 2016, there was however no showing that respondent granted the said requests. Considering that the FLD was received on August 5, 2016 and no other assessment was made by December 31, 2016, petitioner claims that respondent therefore only had five years from the date petitioner received the FLD on August 5, 2016, or until August 5, 2021, within which to initiate collection efforts. Respondent, however, issued a Warrant of Distraint and/or Levy (WDL) only on October 6, 2021. For the said reason, petitioner insists that the period to collect had already prescribed. Similarly, petitioner likewise asserts that respondent cannot also claim that the five-year period to collect should be reckoned from the date of issuance of the Final Decision on Disputed Assessment (FDDA), since the Court already found that the FDDA in this case is void.

On the other hand, in his *Comment*, respondent assumes that if for the sake of argument the pertinent portion of the FAN indicates the wrong taxable period, the same will not invalidate the assessment since petitioner was fully aware of the audit examination and was able to intelligently file its protest thereto. Respondent points out that petitioner fully knows what TY is involved in the assessment, and that the period indicated in the FAN appears to be a mere typographical error which did not in any way misled petitioner because it was able to file a protest, without mentioning therein, the alleged defect thereto.

Respondent further argues that the Protest and Request for Reinvestigation filed by petitioner was impliedly granted by the issuance of the FDDA. Respondent expounds that he was even able to reconsider some of the documents submitted by petitioner in view of the fact that some adjustments were made to the assessment, and petitioner cannot deny the fact that it benefited from the issuance of the FDDA because of the modifications made therein. Thus, considering that there was an implied admission of respondent's action about the protest and request for reinvestigation filed by petitioner in the FDDA, the period to collect was therefore effectively suspended.

Lastly, respondent maintains that, even assuming arguendo the FDDA is void, the same does not totally invalidate the assessment against petitioner since it was very well informed of the tax deficiencies it incurred for the period covered by the Letter of Authority (LOA) dated June 13, 2013. Hence, the assessments issued remain to be valid.

After due consideration, the Court finds petitioner's *Motion for Reconsideration* bereft of merit.

While it appears that the FAN indicates the wrong taxable period (*i.e.* "Taxable period 12/31/20**12**"), a scrutiny of the assessment notice reveals that it is a mere typographical error. The Court gives material weight to the fact that petitioner was able to intelligently file its protest thereto knowing fully that the subject of the assessment is TY 2011. In the same vein, further scrutiny of the FAN shows that the "*Assessment Number*" located on the upper right corner thereof cites as reference **LOA No. 116-0000134**, which corresponds to the LOA dated June 13, 2013, in authorizing the examination of the petitioner's books of accounts and other accounting records for all internal revenue taxes including DST, and other taxes (Miscellaneous Tax) for the period from January 1, 2011 to December 31, 2011. Also worth noting is that the *Details of Discrepancies* attached to the FLD/FAN, clearly shows the factual and legal bases of the assessment against petitioner. Taken all together, petitioner cannot deny the fact that it was fully informed of the facts on which the FLD/FAN was based, petitioner also cannot claim that it was denied of its right to due process because it was given full opportunity to be heard; and, in fact, it was able to file an intelligent protest to the assessments coupled with the submission of supporting documents relative to TY 2011. Consequently, the Court maintains the conclusion that the FLD/FAN remains valid.

With regard to petitioner's contention that there was no showing that respondent granted its Requests for Reconsideration and that respondent only had until August 5, 2021 to initiate collection efforts, the Court finds petitioner's arguments misplaced.

Verily, Section 223 of the National Internal Revenue Code (NIRC) of 1997, as amended, provides for the suspension of the running of the statute of limitations via a request for reinvestigation, to wit:

> SEC. 223. *Suspension of Running of Statute of Limitations.* – **The running of the Statute of Limitations provided in Sections 203 and 222 on the making of assessment and the beginning of distraint or levy or a proceeding in court for collection, in respect of any deficiency, shall be suspended for the period** during which the Commissioner is prohibited from making the assessment or beginning the distraint or levy or a proceeding in court and for sixty (60) days thereafter; **when the taxpayer requests for a reinvestigation which is granted by the Commissioner**; when the taxpayer cannot be located in the address given by him in the return filed upon which a tax is being assessed or collected: *Provided,* That, if the taxpayer informs the Commissioner of any change in address, the running of the Statute of Limitations will not be suspended; when the warrant of distraint or levy is duly served upon the taxpayer, his authorized representative, or a member of his household with sufficient discretion, and no property could be located; and when the taxpayer is out of the Philippines. *(Emphases supplied)*

The above provision is clear. It distinctly limits the suspension of the running of the statute of limitations to instances when, among others, a reinvestigation is requested by a taxpayer and is granted by the Commissioner of Internal Revenue (CIR). To reiterate, a request for reinvestigation alone will not suspend the statute of limitations. Two things must concur: there must be a request for reinvestigation and the CIR must have granted it.[1]

In the case of *Bank of the Philippine Islands v. Commissioner of Internal Revenue*,[2] the Supreme Court had the opportunity to rule as follows:

> The burden of proof that the taxpayer's request for reinvestigation had been actually granted shall be on respondent BIR Commissioner. **The grant may be expressed in communications with the taxpayer or implied from the actions of the respondent BIR Commissioner or his authorized BIR representatives in response to the request for reinvestigation.**
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> x x x
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> In all these cases, the request for reinvestigation of the assessment filed by the taxpayer was evidently granted and actual reinvestigation was conducted by the BIR, which eventually resulted in the issuance of an amended assessment. On the basis of these facts, this Court ruled in the same cases that the period between the request for reinvestigation and the revised assessment should be subtracted from the total prescriptive period for the assessment of the tax; and, once the assessment had been reconsidered at the taxpayer's instance, **the period for collection should begin to run from the date of the reconsidered or modified assessment**. *(Emphases supplied)*

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[1] *China Banking Corporation v. Commissioner of Internal Revenue*, G.R. No. 172509, February 4, 2015.

[2] G.R. No. 139736, October 17, 2005.

Apparently, the request for reinvestigation plainly requires that it be granted by the CIR to suspend the running of the prescriptive period for assessment and collection. No further condition was provided by law. The grant may either be expressed in direct communications with the taxpayer or implied from the actions of the respondent or his authorized representatives in response to the request for reinvestigation.

Herein, the Protest and Request for Reinvestigation by petitioner was impliedly granted by respondent upon issuance of the FDDA whereby some adjustments were made to the assessment based on the documents submitted by petitioner. The running of the statute of limitations to collect was, thus, effectively tolled. Nonetheless, albeit being declared void for violation of petitioner's right to administrative due process, the issuance of the FDDA should still be the reckoning point for the running of the period to collect, since the assessment was deemed to have been reconsidered at such time. Again, the Court reiterates that a void FDDA does not *ipso facto* result in the nullification of the assessment, the void FDDA only equates to as if there was no decision rendered yet by respondent on petitioner's request for reinvestigation.

In the case of *Commissioner of Internal Revenue v. Liquigaz Philippines Corporation*,[3] the Supreme Court clarified that a void FDDA does not *ipso facto* render the assessment void since a decision on a disputed assessment differs from the assessment itself. Hence, the invalidity of one does not necessarily result in the invalidity of the other— unless the law or regulations otherwise provide. To stress, a "decision" differs from an "assessment" and failure of the FDDA to state the facts and law on which it is based renders the decision void but not necessarily the assessment. Perforce, tax laws may not be extended by implication beyond the clear import of their language, nor their operation enlarged so as to embrace matters not specifically provided.

Applying the ruling to the instant case, the subsequent invalidity of the FDDA herein does not render the assessment void, it is only considered as if there was no decision rendered by respondent. It is synonymous to a denial by inaction by respondent, which may still be appealed before this Court and the assessment evaluated on the basis of the available evidence and documents.[4]

That having been settled, the Court shall now proceed to determine the merit of respondent's *Motion*. ℳ

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[3] G.R. Nos. 215534 and 215557, April 18, 2016.
[4] *Ibid.*

Respondent's Motion for Partial Reconsideration

In his *Motion*, respondent moves for partial reconsideration of the Court's Decision based on the following grounds, *viz.*:

i. The Court erred in ruling that petitioner is not liable to the full amount of the assessment as indicated in the Final Decision on Disputed Assessment.

ii. The Court erred in ruling that some items of the assessments had prescribed.

iii. The Court erred in ruling that imposition of 50% surcharge is incorrect.

Respondent maintains that the deficiency tax assessments issued against petitioner were correctly made, had factual bases, and were properly imposed administrative penalties. Respondent asserts that the audit procedures adopted during the assessment included the analysis of petitioner's accounting system, reconciliation of the books of accounts against the returns petitioner filed, third party matching of data, and sampling and verification of revenue as to whether the income it reported truly reflected the actual results of petitioner's business operation. Respondent continues that he based his assessment for undeclared sales and purchases on the actual reported sales and purchases of taxpayers pursuant to the clear mandate of the NIRC of 1997, as amended.

Respondent further expounds that the documents relied upon by the handling revenue officers (ROs) that were used as basis for the undeclared income, gross profit on undeclared sales per Summary List of Sales (SLS) vs. Summary Alphalist of Withholding Tax (SAWT) At Source vs Letter Notices (LN)[5], were the same documents submitted by petitioner and those gathered by the ROs based on the third-party information (TPI), which were executed under oath upon submission before them. Respondent also submits that in arriving their conclusion, cost ratio was used to arrive at gross profit on undeclared purchases and its discrepancies. Hence, respondent states that the details extracted from the system are valid and reliable.

As to the other assessed items, however, respondent argues that petitioner failed to provide supporting documents to support its claim. As such, respondent maintains that petitioner is still liable to pay the deficiency

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[5] Later on changed to "TPI" in the FDDA dated May 19, 2021.

taxes, and the corresponding compromise penalty should be imposed pursuant to Section 255 of the NIRC of 1997, as amended.

On the other hand, in its *Comment*, petitioner states that it adopts the arguments and statements it made in the present *Motion for Reconsideration*– that the FAN attached to the FLD in this case is void, and the assessment must be cancelled in entirety.

As to respondent's argument regarding undeclared income, petitioner contends that under Section 106(D) of the NIRC of 1997, as amended, credit memoranda are sufficient to support the sales returns and discounts, considering that the sales reported in its VAT Returns are "net of sales returns and discounts". Petitioner asserts that it has sufficiently substantiated its position against this item of assessment for income tax, as well as its corresponding item of assessment under VAT. With regard to gross profit on undeclared sales per SLS vs SAWT vs LN, gross profit on undeclared purchases and gross profit on undeclared importation, petitioner insists that the assessment cannot be upheld since the same are not supported by third party verification as required by the rules. Lastly, petitioner reiterates its position stated in its *Memorandum* filed on December 14, 2023, that compromise penalties cannot be imposed if the taxpayer does not agree to its imposition.

After due consideration, the Court likewise finds respondent's *Motion for Partial Reconsideration* bereft of merit.

Notably, the arguments proffered by respondent in his Motion have already been considered, weighed, and resolved by the Court in the Decision he assails. Perforce, in the case of *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*,[6] the Supreme Court denied a Motion for Reconsideration for being a mere reiteration of previous arguments and for failing to raise matters substantially plausible or compellingly persuasive to warrant the reversal of the Decision being assailed, to wit:

> 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 course of action.

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[6] G.R. No. 159938, January 22, 2007, citing *Guerra Enterprises Company, Inc. v. Court of First Instance of Lanao del Sur, et al.*, G.R. No. L-28310, April 17, 1970.

> 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.

The above judicial pronouncement was similarly echoed in the case of *Harry L. Roque, Jr., et. al. v. Commission on Elections, represented by Hon. Chairman Jose Melo, et al.,*[7] where the Supreme Court *En Banc* ruled that whenever the Motion for Reconsideration fails to raise matters which are substantially plausible or compellingly persuasive enough to lead the Court to rule in favor of the desired course of action, then the same must be denied by the Court, thus:

> Petitioner's above contention, as well as the arguments, citations and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again x x x.
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> While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered – and this should not be an obstacle for a reconsideration – the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.

Herein, respondent's *Motion* merely reiterates the audit procedures adopted and performed in the examination of the petitioner's books of accounts and other accounting records for all internal revenue taxes including DST and other taxes.

Respondent failed to point out which findings or conclusions in the assailed Decision are contrary to law, and provide justification to convince the Court to reconsider the same. Neither does the present *Motion* raise any new nor substantial argument to justify the reconsideration sought. For the said reason, the Court maintains its ruling that petitioner is only liable for deficiency income tax, VAT, WTC and EWT, but not for deficiency DST and IAET, as well as administrative penalties, for TY 2011.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by the parties in their respective *Motions*, the Court finds no compelling reason to reverse or modify the conclusions reached in the Decision promulgated on December 16, 2024.

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[7] G.R. No. 188456 (Resolution), February 10, 2010.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration** and respondent's **Motion for Partial Reconsideration (Re: Decision dated 16 December 2024)** are both **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

We Concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice