REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

SAN MIGUEL FOODS, INC. (as surviving corporation in a merger involving MONTEREY FOODS CORPORATION),
Respondent.

CTA EB NO. 1880
(CTA CASE NO. 9046)

Present:
Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ*

Promulgated:

JAN 07 2020 3:11p.m.

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is the petitioner's "Motion for Reconsideration Re: Decision dated 06 August 2019"[1] received by the Court on September 2, 2019, with respondent's Comment filed on October 17, 2019.[2]

Petitioner seeks reconsideration of this Court's Decision, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is **DENIED for lack of merit**. The Decision dated

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[1] Rollo, CTA EB NO. 1880, pp. 146-160.
[2] Ibid., pp. 164-198.

February 12, 2018 and the Resolution dated June 4, 2018 are **AFFIRMED**.

SO ORDERED."

Petitioner claims that the Court *En Banc* erred in ruling that there was no violation of due process when the Court in Division granted a relief that was not prayed for by respondent San Miguel Foods, Inc.; that the Court *En Banc* erred when it cancelled the assessment on the sole ground that the Memorandum of Assignment was signed by a Division Chief allegedly not authorized by the Commissioner of Internal Revenue (CIR); and that the Court *En Banc* erred in ruling that the Formal Letter of Demand (FLD) and Final Assessment Notice (FAN) are void because they failed to demand payment thereof within a specific period.

On the other hand, respondent counter-argues that the petitioner's Motion for Reconsideration should be denied for utter lack of merit as it is nothing but a mere rehash of the arguments already raised and adequately passed upon by the Court in Division and by the Court *En Banc*; that the authority of the revenue officers to conduct the audit resulting to the deficiency tax assessment is necessarily incorporated in the issue of whether or not the deficiency assessments have legal basis; that the revenue officer conducting the audit must be authorized by a valid Letter of Authority; and that the FAN and Final Decision on Disputed Assessment (FDDA) are inherently void for failing to state a definite demand for payment.

After consideration, the Court *En Banc* resolves to deny the petitioner's "Motion for Reconsideration Re: Decision dated 06 August 2019". In assailing the Court *En Banc*'s Decision, petitioner mainly rehashed his arguments which were sufficiently passed upon and discussed by this Court in the assailed Decision and the Court in Division in its Decision and Resolution.

In fine, this Court finds no cogent reason to deviate from the previous ruling that the revenue officers who conducted the audit have no authority to continue the audit examination of respondent's accounts. Revenue Officers Maria Gracielle Cecilia F. San Pedro and Group Supervisor Juvy S. De la Peña who conducted the examination of respondent's records may be deemed authorized to do so without need for a new LOA, only if said letter or notice or memorandum was signed by the Assistant Commissioner/Head Revenue Executive Assistant of the Large Taxpayers Service.

Even assuming that the LOA was valid, still respondent cannot be held liable for the assessed taxes because the FLD and FAN were void. Both notices failed to demand payment of taxes within a specific period. The FLD states that respondent is requested to pay its deficiency tax liabilities using the BIR

Payment Form (BIR Form 0605) through eFPS within the time shown in the enclosed assessment notice. However, the enclosed Details of Discrepancies[3] failed to indicate the specific period when the payment should be made and the portion in the Audit Result/Assessment Notice[4] indicating the "DUE DATE" was left blank. It must be emphasized that the requirement to indicate a fixed and definite period within which a taxpayer must pay the tax deficiencies is essential to the validity of the assessment.

In the case of *Ferdinand Marcos et al. vs. Hon. Raul Manglapus et al.*[5], the Supreme Court emphasized that in all motions for reconsideration, the burden is upon the movant, petitioner herein, to show that there are compelling reasons to reconsider the decision of the Court. In the present case, petitioner was not able to convince the Court *En Banc* that its ruling is erroneous, improper, contrary to law or evidence. Having failed to do so, the petitioner's Motion for Reconsideration must fail.

WHEREFORE, premises considered, the petitioner's "Motion for Reconsideration Re: Decision dated 06 August 2019" is **DENIED for lack of merit**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

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[3] BIR records, pp. 654 - 655.
[4] Ibid., pp. 651 – 653.
[5] *Marcos vs. Manglapus*, G.R. No. 88211, October 27, 1989.

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice