REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

MEDICARD PHILIPPINES, INC.,
Respondent.

CTA EB NO. **2603**
(CTA Case No. 9175)

Present:

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

Promulgated:
FEB 2 1 2024 1:30pm

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner Commissioner of Internal Revenue's (**petitioner**'s/**CIR**'s) "Motion for Reconsideration (Re: Decision dated [11] October 202[3])"[1] (**MR**) filed on 03 November 2023, with respondent Medicard Philippines, Inc.'s (**respondent**'s) "Comment (Re: Motion for Reconsideration dated October 27, 2023)"[2] (**Comment**) filed on 20 November 2023.

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1 *Rollo*, pp. 155-162; the original title of the pleading is "Motion for Reconsideration (Re: Decision dated 28 October 2021)".

2 Id., pp. 165-180.

The MR assails the Court *En Banc*'s Decision[3] promulgated on 11 October 2023 (**assailed Decision**). The dispositive portion of which reads:

> ...
>
> **WHEREFORE**, in view of the foregoing, the instant Petition for Review filed by petitioner Commissioner of Internal Revenue on 12 May 2022 is hereby **DENIED** for lack of merit. Accordingly, the Decision dated 28 October 2021 and Resolution dated 06 April 2022, respectively, of the First Division in CTA Case No. 9175 entitled *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*, are **AFFIRMED**.
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> Consequently, petitioner Commissioner of Internal Revenue or any person duly acting on his or her behalf is hereby **ENJOINED** from proceeding with the collection of the taxes assessed against respondent Medicard Philippines, Inc. as provided in the Final Decision on Disputed Assessment dated 23 September 2015 in the total amount of ₱485,969,817.68, representing deficiency value-added tax for taxable year 2008.
>
> **SO ORDERED.**
>
> ...

In the MR, petitioner asserts that the validity of the waivers is undisputed since respondent failed to raise the relevant issue in its protest or at any other time while the assessment was pending at the administrative level. Citing *Commissioner of Internal Revenue v. Hon. Raul M. Gonzalez et al.*[4], it avers that respondent was afforded ample remedies under the National Internal Revenue Code (**NIRC**) of 1997, as amended, yet it never made an issue on the waivers' invalidity. Absent any objection and considering also that respondent did not raise the defects of the waivers during the trial, the Court *En Banc* erred in ruling that the waivers were invalid.

Petitioner adds that respondent must be barred from assailing the validity of the waivers since it had already benefitted from the effects thereof. Had it been petitioner's intention not to extend the period of assessment, he or she should have refused the additional documents that respondent submitted during the supposed extended period to assess. Reiterating his or her prior argument in the Petition for Review,

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[3] Id., pp. 130-156.
[4] G.R. No. 177279, 13 October 2010.

petitioner insists that the doctrine of estoppel must be applied against respondent.

Lastly, petitioner contends that there is a substantial under-declaration of the value-added tax (**VAT**) liabilities for taxable year (**TY**) 2008 since respondent only declared a VAT payment of ₱68,756,387.04 out of the assessed aggregate amount of ₱278,226,134.04. Hence, it is beyond contest that respondent filed false or fraudulent returns; thus, the prescriptive period to assess the latter's books of accounts and accounting records should have been 10 years pursuant to Section 222(a)[5] of the NIRC of 1997, as amended.

Respondent, on the other hand, counters that petitioner failed to prove that the executed waivers are valid, thus the period to assess for VAT liability for TY 2008 had already prescribed. It also pointed out that petitioner did not comply with the Bureau of Internal Revenues (**BIR**'s) own issuances such as Revenue Memorandum Order (**RMO**) No. 20-90[6] and Revenue Delegation Authority Order (**RDAO**) No. 05-01[7], rendering the waivers defective and ineffectual. Respondent likewise maintains that a waiver is a bilateral agreement between two (2) parties to extend the assessment period. Contrary to petitioner's claim that he or she only needs to receive the waiver, it is his or her assent thereto that makes the waiver effective between them.

Respondent also argues that petitioner cannot insists on the application of the doctrine of estoppel to justify his or her failure to comply with the BIR issuances. To do so will allow petitioner to benefit from his or her own disregard of the BIR's rules and will set a dangerous precedent.

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5 **SEC. 222.** *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* -
(a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission: *Provided*, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.
...

6 Proper Execution of the Waiver of the Statute of Limitations under the National Internal Revenue Code.

7 Delegation of Authority to Sign and Accept the Waiver of the Defense of Prescription Under the Statute of Limitations.

Further, respondent stresses that petitioner did not establish the application of the 10-year prescriptive period to assess. Contrary to the latter's claim that there was a substantial under-declaration, in *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*[8], the Supreme Court already made a clear determination that amounts earmarked and actually spent for medical utilization of its members should not be included in the computation of its gross receipts. Thus, without any factual and legal basis, petitioner's MR must be denied.

We resolve.

Before proceeding to discuss the arguments raised by the parties, We find it propitious to first determine whether the present MR was filed within the prescribed reglementary period.

Section 1, Rule 15 of the Revised Rules of Court of Tax Appeals[9] (**RRCTA**) provides that an aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court by filing an MR or new trial within fifteen (15) days from the date the notice of the decision, resolution, or order of the Court in question is received.

In the instant case, the Office of the Solicitor General (**OSG**) received the assailed Decision of 11 October 2023 on **20 October 2023**.[10] Counting 15 days therefrom, petitioner had until **04 November 2023** to file his or her MR. As the records bear, the MR has been timely filed on 03 November 2023.

As regards the arguments raised, after due consideration thereof, We are constrained to deny petitioner's MR for lack of merit.

The reason is essayed below.

It must be emphasized that petitioner's defenses circled around the same allegations in its prior Petition for Review[11], specifically: (1) respondent's failure to raise the defects of the waivers; (2) that respondent is estopped from assailing the validity of the waivers; and,

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8 G.R. No. 222743, 05 April 2017.
9 A.M. No. 05-11-07-CTA.
10 See Notice of Decision, *Rollo*, p. 129.
11 Id., pp. 7-25.

(3) there is substantial under-declaration in petitioner's books which necessitates the application of the 10-year prescriptive period.

Clearly, petitioner failed to raise any new argument or present a novel matter which the Court *En Banc* has not previously scrutinized, studied, and discussed.

As a mere reiteration of our previous findings would be an exercise in futility, the Court *En Banc* is inclined to deny summarily the instant motion following the case of *Licomcen Incorporated v. Foundation Specialists, Inc.*[12], the Supreme Court, citing *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[13], held that:

> ...
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> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, x x x deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
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> ...

WHEREFORE, in view of the foregoing, petitioner Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision dated [11] October 202[3])" filed on 03 November 2023 is **DENIED** for lack of merit.

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[12] G.R. No. 167022, 31 August 2007.
[13] G.R. No. 109645, 04 March 1996.

x - x

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes · Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

x - x

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice