REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

FREELIFE PHILIPPINES DISTRIBUTION, INC. – PHILIPPINE BRANCH, Petitioner,	**CTA CASE NO. 8838**
- versus -	Members: **CASTAÑEDA, JR.,** *Chairperson,* **CASANOVA,** *and* **MANAHAN,** *JJ.*
HON. KIM S. JACINTO – HENARES – IN HER CAPACITY AS THE COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 29 2017 1:30 pm

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For the Court's resolution is respondent's **Motion for Reconsideration**, filed on May 17, 2017, with petitioner's **Comment/Opposition (To Respondent's Motion for Reconsideration)**, filed on May 31, 2017.

Respondent moves for the reconsideration of the Decision promulgated on April 27, 2017, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Petition for Review is **GRANTED**. Thus, the assailed Decision of respondent dated May 22, 2014 upholding the FLD-FAN dated January 25, 2013 is **REVERSED** and **SET ASIDE**.

> 'The term 'relevant supporting documents' should be understood as those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer. The BIR can only inform the taxpayer to submit additional documents. The BIR cannot demand what type of supporting documents should be submitted. Otherwise, a taxpayer will be at the mercy of the BIR, which may require the production of documents that a taxpayer cannot submit.'

Thus, petitioner may choose to file its protest even with no supporting documents without however invalidating its protest.

Section 7 of Republic Act (RA) No. 1125, as amended, grants the CTA the exclusive appellate jurisdiction to review the decisions of respondent in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, and penalties in relation thereto, or other matters arising under the NIRC of 1997, as amended. Moreover, Section 11 of RA No. 1125 provides that any taxpayer adversely affected by a decision of the CIR may file an appeal with the CTA within thirty (30) days after the receipt of such decision.

Records reveal that petitioner received the FLD-FAN on January 25, 2013 and it had thirty (30) days or until February 25, 2013 to submit its protest. On February 22, 2013, petitioner filed its protest to the FLD-FAN. Hence, petitioner has sixty (60) days from the filing of the said protest or until April 23, 2013 to submit relevant supporting documents, only if it chooses to do so. On May 22, 2014, the BIR issued the FDDA, reiterating the assessment and requesting the payment of the alleged deficiency taxes. Petitioner, therefore, complied with the requisites provided in Section 228 of the NIRC of 1997, as amended, when it filed the present Petition for Review on June 20, 2014.

Accordingly, the tax assessment cannot be considered as final, executory, and demandable; and petitioner was correct in filing the present Petition for Review with the Court, which in turn, has jurisdiction to entertain the same."

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Respondent further argues that the Preliminary Assessment Notice (PAN) was issued on January 4, 2013 and that petitioner received the same on January 10, 2013. The Final Assessment Notice/Formal Letter of Demand (FAN/FLD) was issued on January 25, 2013 or after a period of 21 days from the issuance of the PAN. Hence, respondent complied with the fifteen-day period in the issuance of the FAN/FLD. However, the Court has already discussed and resolved this matter, as follows:

> "xxx after the issuance of the PAN, the Commissioner of Internal Revenue or his duly authorized representative is duty bound to wait for the expiration of fifteen (15) days from the date of receipt thereof. If during the said period, the taxpayer failed to respond to the PAN, it is only then that the Commissioner of Internal Revenue or his duly authorized representative can consider the taxpayer in default, and correspondingly cause the issuance of a formal letter of demand and assessment notice, which shall be subsequently served to the said taxpayer. Such a process or procedure is part and parcel of the due process requirement in the issuance of a deficiency tax assessment.
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> xxx xxx xxx
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> xxx In this case, the PAN was issued on January 4, 2013 and received by petitioner on January 10, 2013. Petitioner therefore has fifteen (15) days from January 10, 2013 or until January 25, 2013 within which to respond to the PAN. However, even before filing its protest to the PAN, petitioner received through electronic mail, the FLD-FAN on January 25, 2013. Respondent's issuance of the FLD-FAN on January 25, 2013 (which was prior to the expiration of the fifteen-day period), deprived petitioner of its right to due process. Consequently, the subject FLD-FAN is a nullity."

In the case of *Ortigas and Company Limited Partnership vs. Judge Velasco and Molina* and *Molina vs. Hon. Presiding Judge, RTC, Quezon City and Manila Banking Corporation*[1], the Supreme Court held that: *gr*

[1] G.R. Nos. 109645 and 112564, March 4, 1996.

> "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, as above stated, 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."

Notably, the motion contains merely a reiteration or rehash of the arguments already submitted and found to be without merit by the Court. Respondent failed to raise any new and substantial arguments. Thus, there exists no cogent reason to warrant a reconsideration of the assailed Decision.

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

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

CATHERINE T. MANAHAN
Associate Justice