REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

SUMITOMO CORPORATION - MANILA BRANCH,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10412

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

Promulgated:

AUG 1 5 2024 10:15 Am

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RESOLUTION

CUI-DAVID, J.:

Before this Court is respondent's ***Motion for Reconsideration (Re: Decision dated 14 May 2024)*** filed on May 31, 2024, with petitioner's ***Comment/Opposition (to the Motion for Reconsideration dated 30 May 2024)*** filed on June 26, 2024.

Respondent's *Motion for Reconsideration (Motion)* assails the *Decision* of the Court promulgated on May 14, 2024, with the following dispositive portion:

> **WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED**. Accordingly, the Formal Letter of Demand and the attached *Assessment Notices,* all dated September 27, 2017, assessing petitioner for deficiency taxes for fiscal year ended March 31, 2013 are **CANCELLED** and **WITHDRAWN**. Furthermore, the Final Decision on Disputed Assessment and the attached *Assessment Notices*, all dated October 23, 2020, assessing petitioner for deficiency income tax and VAT for fiscal year ended March 31, 2013 in the aggregate amount of **₱63,488,986.11**, inclusive of interests, are **REVERSED** and **SET ASIDE**.

SO ORDERED.

In his *Motion*, the respondent contends that petitioner was accorded due process and a real opportunity to refute the audit assessment; that the assessment is valid "as long as it states the fact [sic], the law, the rules and regulations or jurisprudence on which it was based;" that his power to assess petitioner has not yet prescribed, considering that before the expiration of the three-year prescriptive period, petitioner executed Waivers of the Defense of Prescription; and that petitioner did not raise the issue on prescription nor did it deny the validity of the waivers.

Petitioner, in its *Comment*, maintains the invalidity of the assessment notices. Petitioner points out that respondent does not deny that he replicated and carried over the findings in the PAN to the FAN/FLD and that he did not provide petitioner with adequate explanations as to why each of the arguments and supporting documents comprising its PAN Protest were deemed unacceptable by him. Petitioner also states that estoppel does not apply, considering that "there is a detailed procedure for the proper execution of the waiver which [respondent] must strictly follow."

The *Motion* is bereft of merit.

At the onset, the Court notes that the grounds raised in respondent's *Motion for Reconsideration* have been thoroughly considered, resolved, and passed upon in the assailed *Decision*.

It is well-settled that a motion for reconsideration containing a mere reiteration or rehash of grounds and arguments that have already been considered, weighed, passed upon, and resolved by the court before the *Decision* sought to be reconsidered is rendered does not need a new judicial determination.[1] Therefore, there is no necessity to discuss and rule again on these grounds since this would be a useless formality of ritual invariably involving merely a reiteration of the reasons for rejecting the arguments advanced by the movant already set forth in the judgment.[2]

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[1] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005; *Madeleine Mendoza-Ong v. Hon. Sandiganbayan, et al.*, G.R. Nos. 146368-69 (Resolution), October 18, 2004.

[2] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005 and *Ortigas Land Co. Ltd. Partnership v. Judge Velasco*, G.R. No. 109645 (Resolution), March 4, 1996.

In *Shangri-La International Hotel Management v. Developers Group of Companies, Inc. (Shangri-la),*[3] the Supreme Court ruled that it is incumbent upon the movant to convince the Court that certain findings or conclusions are contrary to law, 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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> 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."

As in the *Shangri-la* case, the instant *Motion* does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought. Accordingly, the Court maintains its ruling in the assailed *Decision* that the FLD/FANs are void due to respondent's violation of petitioner's right to administrative due process, *viz.*:

> While the BIR stated in the *Details of Discrepancies* attached to the FLD/FANs that petitioner's "arguments and documents submitted to refute the assessments per PAN are not sufficient to warrant a reversal and/or modification thereof, such a general statement did not sufficiently inform petitioner of the *specific* reasons for the BIR conclusions; thus, petitioner was not given a fair and reasonable opportunity to explain or defend itself and prepare an intelligent protest against the FLD/FANs.
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> As established in the *Avon case,* the CIR is not obliged to accept the taxpayer's explanation, like that of the petitioner. Nonetheless, it is imperative that he give the *particular facts* upon which his conclusion is based, and these facts must appear in the record.

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[3] *Shangri-la International Hotel Management, Ltd. v. Developers Group of Companies, Inc.*, G.R. No. 159938 (Resolution), January 22, 2007.

Regarding the issue of prescription, the Court sees no compelling reason to depart from its *Decision.* Jurisprudentially, it has been held that compliance with RMO No. 20-90 and Revenue Delegation Authority Order (RDAO) No. 05-01, which provide the guidelines for the proper execution of the *Waiver of Statute of Limitations* under the NIRC, is mandatory.

As found by the Court, petitioner's General Managers, Hiroshi Shiraishi and Sosuke Ishida, signed the waivers, but respondent's evidence and the *BIR Records* reveal that no notarized written authority from petitioner's board of directors was attached to all five waivers. Even if this was not raised as an issue, the Court is well within its authority to consider it in its decision.[4]

The Supreme Court, in *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*,[5] affirmed the authority of this Court to rule on issues not raised by the parties under the mentioned section, *viz.*:

> "On whether the CTA can resolve an issue which was not raised by the parties, we rule in the affirmative.
>
> Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA is not bound by the issues specifically raised by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. ... ...
>
> The above section is clearly worded. On the basis thereof, the CTA Division was, therefore, well within its authority to consider in its decision the question on the scope of authority of the revenue officers who were named in the LOA even though the parties had not raised the same in their pleadings or memoranda. The CTA *En Banc* was likewise correct in sustaining the CTA Division's view concerning such matter."

In the more recent case of *Commissioner of Internal Revenue v. Geniographics, Inc.*,[6] the Supreme Court again ruled that the Court of Tax Appeals, in deciding a case, may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.

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[4] Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals.
[5] G.R. No. 183408, July 12, 2017.
[6] G.R. No. 264572 (Notice), July 26, 2023.

All told, the Court sees no cogent reason to reverse or modify the assailed *Decision.*

WHEREFORE, in light of the foregoing considerations, respondent's *Motion for Reconsideration (Re: Decision dated 14 May 2024)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice