REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

POLYSTAR PHILIPPINES CORPORATION 4th Floor Low Rise Pacific Star, Sen. Gil Puyat Avenue, Makati City

BETTY SISON HUANG (2308 Taft Avenue, Pasay City),

HONG ZHENG (F070 Otis 888 Residences Faz M. Guanzon St., Paco Manila), and

MARIA FE BANGAAN RAYALA (1058-F. Banawe St., corner Mauban, Barangay Manresa, Quezon City),
Accused.

CTA CRIM CASE NO. O-1140
(NPS NO: XV-05-INV-23K-3512)

For: Violation of Section 255 of the National Internal Revenue Code of 1997, as amended.

Members:

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

Promulgated:
APR 1 8 2025

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RESOLUTION

In a *Resolution* dated February 5, 2025, the Court *dismissed* the case because (a) Plaintiff failed to comply with the order of the Court for the *third time* despite fair warning; *and*, (b) Prescription of the alleged crime had already set in, under Section 281 of the National Internal Revenue Code of 1997 (NIRC).

Plaintiff now asks for a reconsideration of the dismissal stating that the Court *erred* in concluding that the taxpayer received the *Final Assessment Notice* (FAN) on February 7, 2018.[1]

[1] In the assailed *Resolution*, the Court found that, since the taxpayer received the FAN on February 7, 2018, it had thirty (30) days to lodge a protest. The assessment became final when the taxpayer failed to protest on the last day, March 9, 2018 (Friday). Consequently, the Court determined that plaintiff should have filed the *Information* in Court not later than March 12, 2023. However, the

The *Motion for Reconsideration* states that instead of February 7, 2018, the taxpayer actually received the FAN on August 8, 2018.

Plaintiff raises a factual issue which should readily be resolved by a review of the records. However, plaintiff tests the Court's reliance of these records by *contradicting* its own representation of facts found in *Information* and the supporting documents. Specifically, in the *Joint Complaint-Affidavit*, the revenue officers of the Bureau of Internal Revenue declared *under oath* that the FAN was served on February 7, 2018:[2]

> 5. **Preliminary Assessment Notice (PAN)** with Details of Discrepancies dated October 03, 2017 was issued to Respondent Polystar. Said PAN was personally received by taxpayer's representative, Laibin Liu on October 10, 2017.
>
> Certified True Copies of the PAN, Details of Discrepancies October 03, 2017 and Written Report on Personal Service or Substituted Service (WRPSSS) dated October 10, 2017 are attached hereto as Annexes "B", "B-1" and "B-2" and are made integral parts hereof.
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> 6. **Respondent Polystar** failed to refute the PAN. Thus, on November 06, 2017, **Formal Assessment Notice (FAN)** with Details of Discrepancies together with the corresponding assessment notices were issued pursuant to the provisions of Section 228 of the NIRC of 1997 and subsection 3.1.2 of Revenue Regulations No. 12-99. Said FAN was served by substituted service on based on Written Report on Personal Service or Substituted Service (WRPSSS) dated February 7, 2018. However, the FAN's receipt was later acknowledged by Respondent Polystar.
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> Certified True Copies of the FAN, Details of Discrepancies, Assessment Notices No. ELA34446-14-17-1346 (IT, VT, WE,) and WRPSSS dated February 07, 2018 are attached hereto as **Annexes "C", "C-1", "C-2", "C-3", "C-4" and "C-5",** respectively, and made integral parts hereof.
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> 7. Thereafter, **the assessment issued to Respondent Polystar became final, executory, unappealable and demandable** for failure of the subject taxpayer to file protest within the thirty (30)-day period from receipt of FAN as provided for in Section 228 of the NIRC of 1997.
>
> 8. On July 27, 2018, a Memorandum of Assignment (MOA) #2018-07-27-0305-DA was issued relative to the preparation of the **Preliminary Collection Letter (PCL)** and **Final Notice Before Seizure (FNBS)** to be issued to **Respondent Polystar** for taxable year 2014. Thereafter, PCL dated July 30, 2018 and FNBS dated August 13, 2018 were issued against Respondent Polystar. Both PCL and FNBS were registered mailed and were not returned to sender.

Information was filed only on April 8, 2024, which is past the five-year period of limitation in Section 281.

[2] Docket, pp. 25-26.

> Certified True Copies of the said MOA#2018-07-27-0305-DA dated July 27, 2018, PCL dated July 30, 2018 and FNBS dated August 13, 2018 are attached hereto as **Annexes "D", "D-1" and "D-2"**, respectively, and made integral parts hereof." (*Underscoring supplied*)

As can be seen above, no less than the revenue officers themselves declared that the "assessment issued to Respondent Polystar became final, executory, unappealable and demandable" after the service on February 7, 2018. Thus, as early as July 27, 2018, a *Memorandum of Assignment* was issued for the preparation of the *Preliminary Collection Letter (PCL)* and *Final Notice Before Seizure (FNBS)*. If the taxpayer actually received the FAN only on August 8, 2018, the issuance of PCL and FNBS would have been premature and without basis.

WHEREFORE, premised considered, plaintiff's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Leave)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice