REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

SIEMENS-FIRST BALFOUR JOINT VENTURE, SIEMENS, INC., AND FIRST BALFOUR, INC.,
Petitioners,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 8884

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MANAHAN,*JJ.*

Promulgated:
AUG 2 2 2017 1:47 pm [signature]

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RESOLUTION

MANAHAN, *J.:*

This resolves respondent's Motion For Reconsideration (Decision dated 8 June 2017) filed on June 28, 2017, with petitioner's Comment/Opposition filed through registered mail on July 27, 2017 and received by the Court on August 2, 2017.

Respondent assails this Court's Decision dated June 8, 2017, which disposed this case, as follows:

> WHEREFORE, the instant Petition for Review is hereby GRANTED. Accordingly, the Formal Letter of Demand No. 038-B146-10 dated January 27, 2014 and its attendant Final Notices, demanding the payment of deficiency income tax of Php29,742,532.44 and deficiency VAT of Php12,148,635.20 for taxable year 2010 are hereby CANCELLED and WITHDRAWN.
>
> Furthermore, the Preliminary Collection Letter dated August 15, 2014; Final Notice Before Seizure dated September 1, 2014; and Warrant of

Distraintand/or Levy dated September 29, 2014 are likewise cancelled and withdrawn.[1]

In its Motion, respondent argues that the Court has no jurisdiction over the Petition for Review based on two alternative grounds. First, that the Final Decision dated May 9, 2014 was sent by registered mail on the same date and should be presumed to have been received a few days thereafter. Thus, the Petition for Review filed on August 29, 2014 was filed way beyond the mandatory 30-day period to file an appeal with the Court of Tax Appeals (CTA). In the alternative, respondent argues that petitioner's receipt of a photocopy of the Final Decision on August 1, 2014 only means that petitioner has yet to be properly served with such Final Decision, and therefore, the instant Petition for Review was filed prematurely.

As to the receipt of the PAN, respondent argues that the properly addressed PAN was served through registered mail, however, said registered address pertains to a shanty at a squatter's area. On this ground, respondent alleges that the non-receipt of the said PAN was beyond respondent's control.

In its Comment/Opposition, petitioner argues that the 30-day period to appeal should be counted "after receipt of a copy of such decision or ruling." Petitioner argues that it offered its evidence which states when it received a copy of the Final Decision, on the other hand, respondent did not present any evidence to refute petitioner's evidence or to show that the receipt of the Final Decision was not on August 1, 2014.

As to the PAN, petitioner states that the burden of proving that the PAN has actually been received lies with the respondent, and that respondent failed to prove that petitioner actually received said PAN.Petitioner argues that respondent's own witness testified that she did not know if the PAN was received.

After a careful review of the records and arguments presented by respondent and petitioner, the Court finds no reason to reverse or modify the Decision dated June 8, 2017. Respondent's arguments have already been thoroughly discussed and passed upon by the Court in said Decision.

[1]Docket, CTA Case No. 8884, p. 1377.

The Court rejects respondent's argument that petitioner's appeal to the CTA was premature considering that the receipt of a mere photocopy of the Final Decision means that the same has not yet been served upon petitioner.

The Court emphasizes that respondent's witnesses and evidence show that said Final Decision dated May 9, 2014 was sent through registered mail on the same date. Thus, it is necessary to determine when petitioner received said Final Decision. However, respondent's witnesses and evidence failed to show when petitioner received said Final Decision. On the other hand, petitioner's witness testified that it did not receive the Final Decision dated May 9, 2014 through registered mail. Rather, they were merely furnished a photocopy of said Final Decision on August 1, 2014 and only upon their request. Thus, the Court found that petitioner timely filed its petition for review within thirty days from August 1, 2014.

The same is true as to the receipt of the PAN, respondent failed to prove by testimony and evidence that said PAN was received by petitioner. As such, the assessments are void.

WHEREFORE, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On Official Business)
CAESAR A. CASANOVA
Associate Justice