REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	CTA EB No. 1974 (CTA Case No. 9345)
	Present:
-versus-	DEL ROSARIO, *PJ*, CASTAÑEDA, JR., UY, FABON-VICTORINO, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO, *JJ*.
MEGABUCKS MERCHANDISING, CORP., Respondent.	Promulgated: JUL 30 2020 4:13 p.m.

x- x

RESOLUTION

Fabon-Victorino, J.:

On February 12, 2020, the Court rendered a Decision,[1] disposing the instant case as follows:

> **WHEREFORE**, the petition for review dated December 21, 2018 filed by the Commissioner of Internal Revenue is hereby **DENIED**. The challenged Decision dated August 17, 2018 and Resolution dated November 22, 2018, both rendered by the Court in Division are **AFFIRMED**.
>
> **SO ORDERED**.

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[1] *Rollo*, pp. 91-109.

In his Motion for Reconsideration dated March 3, 2020, petitioner states that the Court erred when it determined the invalidity of the Formal Letter of Demand (FLD) dated September 10, 2015 due to lack of exact due date and amount for payment which respondent failed to raise as an issue before the Court in Division.

He claims that contrary to the Court's finding, the FAN/FLD issued against respondent were compliant with Section 228 of the National Internal Revenue Code (NIRC), as amended, since it allegedly contained the factual and legal bases of the assessments in question. For this reason, respondent should be held accountable for the deficiency taxes as indicated in the said FAN/FLD.

Petitioner also theorizes that the rules on prescriptive period to assess internal revenue taxes enshrined in Section 203 of the NIRC, as amended, may not be applied to withholding taxes, such as the subject withholding tax on compensation (WTC) and expanded withholding tax (EWT), as they are not internal revenue taxes but penalties.

Further, his failure to furnish respondent with a copy of the *third* waiver containing his acceptance thereof was of no moment since Section 222 (b) of the NIRC, as amended, merely requires that the waiver be in writing as obtaining in the instant case.

In its Comment dated July 3, 2020, respondent argues that the Court *En Banc* may address or resolve issues such as lack of date certain and exact amount of tax liability in the FAN/FLD even if they were not raised by the parties before the Court in Division if adjudication thereof would be necessary for orderly disposition of the case, as obtaining in the present conflict.

On this account, cancellation of FAN/FLD dated September 10, 2015 is in order since the subject assessments failed to indicate the due date and the exact amount of tax liability imposed upon respondent required under the Tax Code and relevant jurisprudence.

Quoting in part the assailed Decision, respondent posits that WTC and EWT are income taxes coursed through the withholding tax system, hence, internal revenue taxes with prescriptive periods for assessment pursuant to Section 203 of the NIRC, as amended.

Finally, respondent states that the petitioner's last day to assess it for internal revenue taxes ended on June 30, 2014, or the last day specified in the *second* waiver, since the *third, fourth,* and *fifth* waivers were void for being non-compliant with Section 222(b) of the NIRC, as amended, in relation to Revenue Memorandum Order (RMO) No. 20-90. In fine, the FAN/FLD was already barred by prescription when issued on September 10, 2015 pursuant to Section 203 of the NIRC, as amended.

The instant Motion must be denied.

Evidently, petitioner failed to present any new argument to dispute the finding and conclusion reached by the Court *En Banc.* He has not raised any new or compelling reason to warrant a finding different from what has already been rendered by the Court. There is nothing in his Motion for Reconsideration that has not been squarely addressed and meticulously passed upon by the Court *En Banc*.

WHEREFORE, petitioner's Motion for Reconsideration dated March 3, 2020 is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

I reiterate my Concurring Opinion
ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice