20-000242-0066

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10328

W.L. SEGOVIA & ASSOCIATES,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. ALBERT C. ARPON
ATTY. DYRENE MARA S. ROSARIO
Bureau of Internal Revenue
Legal Division, Revenue Region No. 8A- Makati City
36th Floor, Export Bank Plaza Building
Sen. Gil Puyat Ave. corner Chino Roces Avenue
Makati City

BUÑAG AND CORTES LAW OFFICES
Suites A & B, 10th Floor, Strata 100 Building
F. Ortigas Jr. Road (formerly Emerald Ave.)
Ortigas Center, Pasig City

GREETINGS:

You are hereby notified by these presents that on **April 2, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 3, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

W.L. SEGOVIA & ASSOCIATES, *Petitioner,*	**CTA Case No. 10328**
	Members: **DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** and **REYES-FAJARDO** *JJ.*
- versus -	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: APR 02 2024 3:30PM

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RESOLUTION

REYES-FAJARDO, *J*.:

In the Decision (assailed Decision) dated October 16, 2023,[1] CTA Case No. 10328 was dismissed for lack of jurisdiction because petitioner failed to prove that it received respondent's Final Decision on July 14, 2020, and that its Petition for Review was timely filed on August 24, 2020, as commanded by Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended, in relation to Section 7(a)(1) of Republic Act (RA) No. 1125, as amended by RA No. 9282. Ultimately, the Court decreed:

> **WHEREFORE**, the Petition for Review, filed on August 24, 2020, in CTA Case No. 10328, is **DISMISSED**, for lack of jurisdiction.
>
> **SO ORDERED.**

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[1] Docket (Volume II), pp. 1097-1109.

Unrelenting, petitioner filed its Motion for Reconsideration (of the DECISION dated 16 October 2023)[2] on November 8, 2023, claiming that its Petition for Review was timely filed before the Court on August 24, 2020. According to petitioner, it received respondent's Final Decision on July 14, 2020, and it had until August 28, 2020, to file an appeal before the Court.[3] To shore up its stance, petitioner puts premium on two documents, namely: (1) photocopy of the receiving copy of the respondent's Final Decision stamped received by petitioner's counsel[4]; and, (2) photocopy of the Letter addressed to respondent stating that petitioner's counsel received the copy of respondent's Final Decision on July 14, 2020 with courier receipts.[5]

Via Comment/Opposition (Re: Motion for Reconsideration dated 08 November 2023),[6] filed on December 11, 2023, respondent echoes the ruling of the Court that petitioner failed to demonstrate its supposed receipt of his Final Decision on July 14, 2020; hence, the Court lacks jurisdiction over the case.

Respondent asserts that the Court cannot consider the documents attached to petitioner's Motion for Reconsideration which were not formally offered in evidence under Section 34 of Rule 132 of the Revised Rules on Evidence, as amended. He also claims that the documents sought to be introduced by petitioner are forgotten evidence.

The Court agrees with respondent.

A judgment must be based on facts.[7] Facts are generated by evidence.[8] Before evidence may come into being, it must be formally

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2 *Id.* pp. 1110-1145.

3 Paragraphs 3 and 4, Petition for Review. Docket - Vol. I, p. 7.

Counting thirty (30) days from July 14, 2020, petitioner had until August 13, 2020 to file its appeal to this Court. Said date is covered by Supreme Court Administrative Circular (AC) No. 43A-2020, ordering the suspension of the reglementary periods for the filing of petitions, appeals, complaints, motions, pleadings, and other court submissions from 4 to 18 August 2020. The filing of pleadings and other court submissions shall resume on August 19, 2020. According to petitioner, it had until August 28, 2020 to file a Petition for Review.

4 Docket (Volume II) pp. 1134-1142.

5 *Id.* pp. 1143-1145

6 *Id,* unpaged.

7 See *Spouses Guidangen v. Wooden,* G.R. No. 174445, February 15, 2012.

offered, and admitted by the court.[9] *Fideldia v. Spouses Mulato*[10] expounded on said precepts, and their concomitant *rationale*, in this wise:

> ... Section 34, Rule 132 of the Rules of Court, provides that "[t]he court shall consider no evidence which has not been formally offered." **A formal offer is necessary, since judges are required to base their findings of fact and their judgment solely and strictly upon the evidence offered by the parties at the trial. To allow parties to attach any document to their pleadings and then expect the court to consider it as evidence, even without formal offer and admission, may draw unwarranted consequences. Opposing parties will be deprived of their chance to examine the document and to object to its admissibility. On the other hand, the appellate court will have difficulty reviewing documents not previously scrutinized by the court below.**[11]

Petitioner attached the photocopy of the receiving copy of respondent's Final Decision stamped received by petitioner's counsel, and the photocopy of the Letter addressed to respondent stating that petitioner's counsel received the copy of respondent's Final Decision on July 14, 2020 with courier receipts.[12] If petitioner is keen on having said documents assessed for whatever it is worth, it could have moved for new trial, for the introduction thereof as its evidence. Yet, despite the opportunity presented, petitioner did not even bother to specifically pray for such relief in its Motion.[13] On account of such failure, these documents may not be considered as petitioner's evidence; precisely, the information contained therein should automatically be ignored.

Besides, even if the Court treats petitioner's Motion as one of new trial, denial thereof is unavoidable. Relevant portions of Sections 5 and 6, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) respectively read:

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8 Section 1, Rule 128 of the Rules of Court, as amended reads: "**Section 1.** *Evidence defined.* - Evidence is the means, sanctioned by these rules, of ascertaining in a judicial proceeding the truth respecting a matter of fact."

9 Section 34, Rule 132 of the Rules of Court, as amended states in part: "**Section 34.** *Offer of evidence.* - The court shall consider no evidence which has not been formally offered. ..."

10 G.R. No. 149189, September 3, 2008.

11 Boldfacing supplied. Citations omitted.

12 Annexes "B, and "C," Petitioner's Motion for Reconsideration [of the DECISION dated 16 October 2023]. Docket (Volume II), pp. 1134-1145.

13 Prayer, Petitioner's Motion for Reconsideration [of the DECISION dated 16 October 2023]. Docket (Volume II), pp. 1110-1145.

RULE 15

MOTION FOR RECONSIDERATION OR NEW TRIAL

...

SEC. 5. *Grounds of motion for new trial.* — A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which the party could not, with reasonable diligence, have discovered and produced at the trial and, which, if presented, would probably alter the result.

A motion for new trial shall include all grounds then available and those not included shall be deemed waived.

SEC. 6. *Contents of motion for reconsideration or new trial and notice.* — The motion shall be in writing stating its grounds, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motions. A **motion** for the cause mentioned in subparagraph (a) of the preceding section **shall be supported by affidavits of merits** which may be rebutted by counter-affidavits. A motion for the cause mentioned in subparagraph (b) of the preceding section shall be supported by **affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents** which are proposed to be introduced in evidence.[14]

Indeed, if the ground relied upon for new trial is fraud, accident, mistake or excusable negligence, an affidavit of merit is required. On the other hand, affidavit of witness/es or duly authenticated documents are crucial if the reason invoked for the grant thereof is newly-discovered evidence. Here, there is none.

To be precise, there is no affidavit of merit in said Motion. Further, the documents appended are photocopies, and not duly authenticated documents. In addition, the supposed date of receipt by petitioner's counsel was *not* even an integral part of what appears

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[14] Boldfacing supplied.

to be respondent's decision dated May 18, 2020.[15] Moreover, the alleged date of receipt is like a cut-out emanating from another document.[16] On these accounts, petitioner's Motion, even if deemed as one of new trial, must be rejected.

WHEREFORE, petitioner's Motion for Reconsideration [of the DECISION dated 16 October 2023), filed on November 8, 2023 is **DENIED**, for lack of merit. The Decision dated October 16, 2023 is **AFFIRMED**.

SO ORDERED.

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

15 Docket (Volume II), p. 1167.
16 *Ibid.*