REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Third Division

GRAND UNION SUPERMARKET, INC., *Petitioner,*	**CTA CASE NO. 10299**
	Members:
-versus-	**RINGPIS-LIBAN,** *Chairperson* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 23 2024 11:50 a.m.

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is respondent's "Motion for Reconsideration [re: Decision dated 25 October 2023]" ("Motion"), filed via registered mail on December 1, 2023, with petitioner's "Comment/Opposition to Motion for Reconsideration dated 30 November 2023)" ("Comment"), filed on December 27, 2023.

Respondent seeks the reversal of Our Decision, dated October 25, 2023 ("Assailed Decision"), which granted the Petition for Review in this case. He claims that (a) the Court of Tax Appeals ("CTA") cannot rule on issues not raised at the administrative level; and (b) the doctrine laid down by *Fitness by Design, Inc. v. Commissioner of Internal Revenue*[1] ("*Fitness by Design*") should be revisited as it is erroneously based on *Commissioner of Internal Revenue v. Dominador Menguito*[2] ("*Menguito*") which supposedly involves significantly different facts.

Meanwhile, petitioner, through its Comment, insists that (a) exceptions to the general prohibition on ruling on issues not raised at a lower level apply here; and (b) the assessments are void.

[1] G.R. No. 215957, November 9, 2016.
[2] G.R. No. 167560, September 17, 2008.

The Motion must be denied.

Regarding respondent's claims as to issues not raised at the administrative level, this Court is not convinced. None of the jurisprudence respondent cites to bolster its claim of estoppel is applicable here. *Commissioner of Internal Revenue v. South Entertainment Gallery, Inc.*[3] involves the alleged non-receipt of an issuance, not a questioning of its validity. Meanwhile, *Commissioner of Internal Revenue v. Hon. Raul M. Gonzales et al.*[4] involves a failure to avail of both administrative and judicial remedies, while both *Commissioner of Internal Revenue v. Transitions Philippines Optical, Inc.*[5] and *Aguinaldo Industries Corporation v. Commissioner of Internal Revenue et al.*[6] involve self-contradicting positions. They are thus not applicable here and do not contradict Our ruling.

Neither can we give credence to respondent's contention that *Fitness by Design* should be revisited. First, We cannot simply and knowingly contradict a clear mandate by the Supreme Court—it is not within Our authority to do so. Furthermore, the claim that *Fitness by Design* is "based mainly" on *Menguito* is misplaced. The Supreme Court discusses various provisions of the *National Internal Revenue Code of 1997, as amended*, and various Revenue Regulations. *Menguito* is invoked in only seven of the 147 footnotes across the entire Decision. As such, We cannot agree with respondent's mischaracterization of the doctrine. Our ruling thus stands.

ACCORDINGLY, petitioner's Motion for Reconsideration [re: Decision dated 25 October 2023] is hereby **DENIED** for lack of merit. The Decision, dated October 25, 2023, is hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

3 G.R. No. 225809, March 17, 2021.
4 G.R. No. 177279, October 13, 2010.
5 G.R. No. 227544, November 22, 2017.
6 G.R. No. L-29790, February 25, 1982.