REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

FORMULA SPORTS, INC.,
Respondent.

CTA EB NO. 2674
(CTA Case No. 9625)

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
JUL 12 2024 3:30 pm

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner Commissioner of Internal Revenue's (**petitioner**'s/**CIR**'s) "Motion for Reconsideration (Re: Decision promulgated 6 March 2024)"[1] (**MR**) filed on 20 March 2024, with respondent Formula Sports, Inc.'s (**respondent**'s) "Comment/Opposition (to the Motion for Reconsideration dated March 15, 2024)"[2] (**Comment**) filed on 01 April 2024.

The MR seeks the reversal of this Court *En Banc*'s Decision dated 06 March 2024[3] (**assailed Decision**), denying petitioner's Petition for

[1] *Rollo*, pp. 134-142.
[2] Id., pp. 144-163.
[3] Id., pp. 99-129.

Review[4] filed on 15 September 2022. The dispositive portion of the assailed Decision reads, thus:

> ...
>
> **WHEREFORE**, premises considered, the present Petition for Review filed by petitioner Commissioner of Internal Revenue is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated 02 March 2022 and 28 July 2022, respectively, of the Third Division in CTA Case No. 9625, entitled *Formula Sports, Inc. v. Commissioner of Internal Revenue* are hereby **AFFIRMED**.
>
> Consequently, petitioner Commissioner of Internal Revenue or any person duly acting on his or her behalf is hereby **ENJOINED** from collecting or taking further action on the subject deficiency taxes assessed against respondent Formula Sports, Inc. as provided in the Final Decision on Disputed Assessment dated 20 February 2017 representing deficiency excise tax and value-added tax in the aggregate amount of ₱141,144,586.10, inclusive of interest, surcharges, and compromise penalties, for the taxable years 2010, 2011, and 2012.
>
> **SO ORDERED.**
>
> ...

In the MR, petitioner argues that a valid Letter of Authority (**LOA**) is not a requirement when an audit investigation is conducted under the office of the CIR as the power to assess is organic to his or her office. Under this premise, petitioner further contends that the LOA is not among the statutory requirements when the audit investigation is conducted by the Large Taxpayers Service (**LTS**), but is merely issued for administrative purposes to keep track of ongoing assessments.

Petitioner contends further that LOAs are only required for Revenue Officers (**ROs**) in Revenue District Offices (**RDO**), based on Section 13[5] of the National Internal Revenue Code (**NIRC**) of 1997, as amended.

Additionally, petitioner posits that the law does not specifically state that LOAs could be the only source of authority (for a Revenue Officer [**RO**]) to conduct audits, as such authority may be granted in another form (like a Mission Order).

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4 Id., pp. 7-23.

5 SEC. 13. *Authority of a Revenue Officer*. – ...[A] Revenue Officer assigned to perform assessment functions in any district may, pursuant to a Letter of Authority issued by the Revenue Regional Director[.] ...

Relying on Section 13[6] of Revenue Regulations (**RR**) No. 25-2003[7] as sufficient basis of authority for petitioner or his or her duly authorized representatives, petitioner insists that the assessment issued against respondent is thus valid notwithstanding the absence of a valid LOA or even a Mission Order.

Lastly, petitioner asserts that an assessment shall not be disturbed in the absence of proof of any irregularities in the performance of official duties. For petitioner, the burden of proof is on respondent in contesting the validity or correctness of an assessment, not only to prove that the CIR is wrong but also that the taxpayer is right.

In its Comment, respondent points out that the Court *En Banc* had already exhaustively evaluated petitioner's arguments. Respondent highlights that petitioner failed to point out any errors that would warrant the reversal of the assailed Decision or disturb the findings therein.

In response to petitioner's arguments, respondent counters that the requirement under the law to issue a valid LOA must be met, considering that petitioner had not been able to provide a basis for an exemption therefrom. It likewise opposes petitioner's view that a Mission Order may take the place of the LOA.

Similarly, respondent highlights the LOA's relevance in relation to due process requirements. According to it, a taxpayer must be given proof that the persons attempting to conduct an investigation of its books are clothed with the proper authority.

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6 SEC 13. *Manufacturer's/Assembler's or Importer's Sworn Statement.* — Every manufacturer/ assembler or importer of automobiles shall file with the Commissioner of Internal Revenue or his authorized representative on or before the end of months of June and December of every calendar year, or for every proposed registration of a new brand of automobiles, including its variants, a sworn statement showing, among others, the following information:

...

The sworn statement shall be subject to verification by the Commissioner of Internal Revenue or his duly authorized representative to determine its correctness and/or accuracy. For this purpose, the Commissioner of Internal Revenue or his duly authorized representative may examine and/or require the production of the manufacturer's/assembler's or importer's books of accounts or such other documents from which the accuracy and correctness of the sworn statement may be determined. In case it is determined that the sworn statement does not accurately and correctly reflect the prices of automobiles, the taxpayer shall be assessed of the deficiency excise tax, inclusive of surcharges and interests.

7 Amended Revenue Regulations Governing the Imposition of Excise Tax on Automobiles Pursuant to the Provisions of Republic Act No. 9224, An Act Rationalizing the Excise Tax on Automobiles, Amending for the Purpose the National Internal Revenue Code of 1997, and For Other Purposes.

We resolve.

At the onset, the Court *En Banc* must stress that petitioner's arguments are a mere rehash of those already raised and considered by the Court's Third Division and the Court *En Banc* in deciding the case at bar. Petitioner himself or herself has even admitted in the present MR that his or her arguments therein are reiterated and already resolved. Nonetheless, petitioner declares that even so, the MR is not necessarily *pro forma*.

In *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[8], the Supreme Court explained, to wit:

> ...
>
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
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> ...

Furthermore, the Supreme Court in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[9] ruled:

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8 G.R. No. 109645 (Resolution), 04 March 1996.

9 G.R. No. 159938, 22 January 2007; Citation omitted and emphasis supplied.

> ...
>
> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. **As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.**
>
> ...

It is clear from the above principles that it is the movant's duty to convincingly show grounds for a reconsideration of an assailed judgment or order, or at the least give its previous arguments a fresh perspective in such a way that would warrant a re-examination of the case. Unfortunately, in the instant case, petitioner had failed to do so.

WHEREFORE, the foregoing premises considered, petitioner's "Motion for Reconsideration (Re: Decision promulgated 6 March 2024)" filed on 20 March 2024 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice