REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

First Division

UNIVERSAL ROBINA CORPORATION,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9530

Members:

DEL ROSARIO, *P.J., Chairperson,*
FABON-VICTORINO, *and*
MANAHAN, *JJ.*

Promulgated:
JUN 08 2020 : 11:06am

x - x

RESOLUTION

MANAHAN, *J.:*

This resolves respondent's **Motion for Reconsideration Re: Decision dated 14 January 2020**[1] filed on January 31, 2020 praying that this Court's *Decision* dated January 14, 2020 (assailed Decision) be reversed and set aside and a new one be issued instead. The dispositive portion of the assailed *Decision* reads as follow:

> "**WHEREFORE**, in the light of the foregoing considerations, the instant *Petition for Review* is **GRANTED**. Accordingly, the assessment issued by respondent against petitioner for IAET for taxable year ended September 30, 2010 is **CANCELLED and SET ASIDE**.
>
> **SO ORDERED**."

Respondent argues that this Court erred in granting a relief that was not prayed for by the petitioner, hence, his right to fair play and due process was violated.

Respondent also faulted this Court in ruling that the deficiency tax assessment is void for allegedly not containing a definite due date for payment.

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[1] Dated January 30, 2020.

On the other hand, petitioner, in its Comment[2], argues that respondent was not denied his right to due process because it is incumbent upon the latter to prove that there is a valid assessment and a presumption cannot be made to rest on another presumption.

Petitioner also argues that the subject tax assessment is void because it lacks a definite amount payable and due date in violation of Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended, and that there is no need to revisit the *Fitness By Design* doctrine because the principle of *stare decisis* applies.

We deny the instant motion.

Petitioner is totally mistaken in believing that this Court may not rule on a matter that was not earlier raised, stipulated, or prayed for by any of the parties. Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides:

> SECTION. 1. *Rendition of judgment.* - The Court shall decide the cases brought before it in accordance with Section 15, paragraph (1), Article VIII of the 1987 Constitution. The conclusions of the Court shall be reached in consultation by the Members on the merits of the case before its assignment to a Member for the writing of the decision. The presiding justice or chairman of the Division shall include the case in an agenda for a meeting of the Court *en banc* or in Division, as the case may be, for its deliberation. If a majority of the justices of the Court *en banc* or in Division agree on the draft decision, the *ponente* shall finalize the decision for the signature of the concurring justices and its immediate promulgation. Any justice of the Court *en banc* or in Division may submit a separate written concurring or dissenting opinion within twenty days from the date of the voting on the case. The concurring and dissenting opinions, together with the majority opinion, shall be jointly promulgated and attached to the rollo.
>
> **In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case**. (*Emphasis supplied*)

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[2] Comment (To Respondent's Motion for Reconsideration Re: Decision Promulgated on 14 January 2020) dated February 27, 2020.

The above provision allows this Court to rule on related issues or matters necessary for the orderly disposition of the case although not stipulated earlier by the parties. Such provision was emphasized in the case of *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*[3], to wit:

> "On whether the CTA can resolve an issue which was not raised by the parties, we rule in the affirmative.
>
> Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA is not bound by the issues specifically raised by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case. The text of the provision reads:
>
> SECTION 1. Rendition of judgment. - x xx
>
> In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.
>
> The above section is clearly worded. On the basis thereof, the CTA Division was, therefore, well within its authority to consider in its decision the question on the scope of authority of the revenue officers who were named in the LOA even though the parties had not raised the same in their pleadings or memoranda. The CTA En Banc was likewise correct in sustaining the CTA Division's view concerning such matter."

Moreover, Section 1, Rule 9 of the Rules of Court provides:

> "Section 1. *Defenses and objections not pleaded.* — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. **However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction** over the subject matter, that there is another action pending between the same parties for the same cause, or that **the action is barred** by a prior judgment or **by statute of limitations**, the court shall dismiss the claim." (*Emphasis supplied*)

It is very clear from the records of the case that the matter on the lack of a definite due date for payment of tax was found particularly in the Formal Letter of Demand (FLD) marked as Exhibit "P-6" for petitioner's evidence and Exhibit

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[3] G.R. No. 183408, July 12, 2017.

"R-11" for respondent's evidence as cited in the assailed Decision, to wit:

In this case, the contents of the undated FLD issued against petitioner are as follows:

"FORMAL LETTER OF DEMAND

THE PRESIDENT
UNIVERSAL ROBINA CORPORATION
110 E. Rodriguez Jr. Ave., Bagumbayan, Quezon City
T.I.N.: 000-400-016

Sir:

This has reference to the Preliminary Assessment Notice (PAN) served on 25 November 2014 covering your deficiency Income Tax, Improperly Accumulated Earnings Tax, Value-Added Tax, Withholding Tax on Compensation, Fringe Benefits Tax, Expanded Withholding Tax, and Documentary Stamp Tax for the fiscal year ending September 30, 2010.

Pursuant to Revenue Regulations No. 18-2013, a Formal Letter of Demand is hereby issued on the deficiency Income Tax, Improperly Accumulated Earnings Tax, Value-Added Tax, Withholding Tax on Compensation, Fringe Benefits Tax, Expanded Withholding Tax, and Documentary Stamp Tax for the fiscal year ending September 30, 2010, as shown hereunder:

xxx xxx xxx

Assessment No. IAET-116-LOA-00000004-10-14-1306

Improperly Accumulated Earnings Tax		
Taxable Income for the year		Php1,082,958,199.00
Add: Income subj to Final Tax	Php1,875,178,938.00	
NOLCO	-	
Income exempt from tax	754,455,611.00	
Income excluded from gross income	-	2,629,634,549.00
Total		4,432,592,748.00
Less: Income tax paid	Php540,887,460.00	
Dividends declared and paid	-	540,887,460.00
Total		3,891,705,288.00
Add: Retained Earnings from prior years		13,496,883,910.00
Total		17,388,589,198.00
Less: Amount that may be retained (100% paid up capital)		2,227,638,933.00
Improperly Accumulated Taxable Income		15,160,950,265.00
Rate		10.00%
Basic Deficiency Tax		Php1,516,095,026.50
Add: Increments		
Surcharge	Php 758,047,513.25	
Interest 10.11.10 to 12.31.14	1,280,996,455.27	
Compromise Penalty	-	2,039,043,968.52
DEFICIENCY IMPROPERLY ACCUMULATED EARNINGS TAX		Php3,555,138,995.02

xxx xxx xxx

Please take note that the interest <u>will have to be adjusted if paid beyond the date specified therein</u>.

The complete details covering the aforementioned discrepancies established during the investigation of this case are shown in the accompanying SCHEDULE 1 of this letter.

The fifty percent (50%) surcharge and the twenty percent (20%) interest per annum has been imposed pursuant to Section[s] 248(B) and 249(B) of the NIRC of 1997, as amended due to your failure to pay the tax within the time prescribed by law for its payment.

Pursuant to the provision of Section 228 of the aforesaid Code and its implementing revenue regulations, you are hereby given the opportunity to present in writing your side of the case within thirty (30) days from receipt hereof. However, if you are amenable, you may pay the above assessment thru the EFPS facility. Afterwards, submit the proof of payment thereof to the Regular Large Taxpayers Audit Division I at Rm 216 BIR National Office Building, BIR Road, Diliman, Quezon City for updating of your records.

We hope that you will give this matter your preferential action.

Very truly yours,

KIM S. JACINTO-HENARES
COMMISSIONER OF INTERNAL REVENUE

By:

(SIGNED)
NESTOR S. VALEROSO
OIC- Assistant Commissioner
Large Taxpayers Service

xxx xxx xxx

DETAILS OF DISCREPANCY
Fiscal Year ending September 30, 2010

xxx xxx xxx

In case you disagree to the assessment, you or your duly authorized representative or your duly authorized BIR accredited Tax Agent, may protest administratively against the Formal Letter of Demand/Final Assessment Notice (FLD/FAN) within thirty (30) days from date of receipt thereof, and submit the same to the Office of the Assistant Commissioner, Large Taxpayers Service at Rm 307 BIR National Office Building, BIR Road, Diliman, Quezon City, stating the nature of the protest whether for reconsideration or reinvestigation, specifying the newly discovered or additional evidence you intend to present, the date of assessment notice, and the applicable law, rules and regulations or jurisprudence from which your protest is based pursuant to Revenue Regulations No. 18-2013, otherwise your protest shall be considered void and without force and effect. However, if you are amenable, whether in whole or in part, it is requested that you settle first the tax attributable to the undisputed issue and

> furnish this office a photocopy of the proof of payment thereof, otherwise a collection letter shall be issued calling for the payment of the said deficiency tax or attributable thereto, inclusive of the applicable surcharge and/or interest.
>
> In case of failure to file a valid protest or pay the tax within the time prescribed, the assessment shall become final, executory and demandable and therefore subject to delinquency penalties pursuant to RR No. 18-2013.
>
> Very truly yours,
>
> KIM S. JACINTO-HENARES
> COMMISSIONER OF INTERNAL REVENUE
>
> By:
>
> *(SIGNED)*
> NESTOR S. VALEROSO
> OIC- Assistant Commissioner
> Large Taxpayers Service"

(Emphases and underscoring ours)

A careful reading of the foregoing would reveal that the subject tax assessment lacks the definite amount of tax liabilities for which petitioner is accountable. Specifically, the FLD states that the interest will still *"be adjusted if paid beyond the date specified therein"*. Similar to the *Fitness By Design* case, although the disputed notice provides for a computation of petitioner's tax liability, the amount thereof remains indefinite, since the said tax assessment is still subject to modification or adjustment, depending on the date of payment by petitioner.

Furthermore, the said undated FLD does not contain any due date for the payment of the assessed taxes. Neither does this Court find any due date in the corresponding undated Audit Result/Assessment Notice No. IAET-116-LOA-00000004-10-14-1306. Particularly, the space in this Assessment Notice where the due date is to be stated *"remained unaccomplished"*, just as in the *Fitness By Design* case.

Respondent CIR should be aware that the Court is not confined solely to the issues raised by the party-litigants. It can delve on other issues or matters related to the *lis mota* of the case which will help in its complete resolution. As held in the case of *Salvador Comilang v. Francisco Burcena and Mariano Burcena*[4] and we quote:

> "**Once a court acquires jurisdiction over a case, it has wide discretion to look upon matters which, although not raised as an issue, would give life and meaning to the law**. Indeed, the Rules of Court recognize

[4] G.R. No. 146853, February 13, 2006.

the broad discretionary power of an appellate court to consider errors not assigned. **Section 8, Rule 51** of the 1997 Rules of Civil Procedure provides:

> SEC. 8 *Questions that may be decided.* No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered, unless stated in the assignment of errors, **or closely related to or dependent on an assigned error and properly argued in the brief**, save as the court may pass upon plain errors and clerical errors.

Thus, an appellate court is clothed with ample authority to review rulings even if they are not assigned as errors in the appeal in these instances: (a) **grounds not assigned as errors but affecting jurisdiction over the subject matter**; (b) matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law; (c) matters not assigned as errors on appeal but consideration of which **is necessary in arriving at a just decision and complete resolution** of the case or to serve the interests of justice or to avoid dispensing piecemeal justice; (d) matters not specifically assigned as errors on appeal but raised in the trial court and are **matters of record having some bearing on the issue submitted** which the parties failed to raise or which the lower court ignored; (e) matters not assigned as errors on appeal but **closely related to an error assigned**; and (f) matters not assigned as errors on appeal but **upon which the determination of a question properly assigned, is dependent**." (*Emphasis supplied*)

In the instant case, the issue on the absence of due date in the assessment notice was interwoven with the validity of the assessment itself. Thus, the Court in Division did not err in ruling upon a matter not raised by the parties as such was taken up during the trial and formed part of the case records.

Respondent also faulted this Court in relying upon the doctrine laid down in the case of *Commissioner of Internal Revenue vs. Fitness By Design, Inc.*[5] as to the absence of a definite amount payable and due date for payment in the FLD and assessment notices.

Respondent should be aware that this Court merely applied such ruling of the Supreme Court in the instant case because it is mandated by the law.

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[5] G.R. No. 215957, November 9, 2016.

In the case of *The Heirs of Felicidad Canque v. Court of Appeals et al.*,[6] this Court should take cognizant of such decision or rulings of the Supreme Court, to wit:

> Clearly, the Court of Appeals committed a reversible error because it palpably failed to consider in its August 25, 1994 Decision the aforementioned ruling of the Supreme Court promulgated twenty months earlier on January 27, 1993. Unfortunately, this is not the first time for this Court to come upon such a slip. *Peltan Development vs. Court of Appeals* ruled that **every court must take cognizance of decisions this Court has rendered because they are proper subjects of mandatory judicial notice** xxx [and] **more importantly form part of the legal system**. We stress that **members of the bench have a responsibility to know and to apply the latest holdings of the Supreme Court**. The nature of their calling requires no less. (*Emphasis supplied*)

Such duty to follow the legal doctrine enunciated by the Supreme Court is not only pursuant to the doctrine of judicial notice but because it is the only institution which the courts should follow as pronounced in the case of *Manila Electric Company v. Philippine Consumers Foundation, Inc. et al.*,[7] to wit:

> A lower court cannot reverse or set aside decisions or orders of a superior court, especially of this Court, for to do so will negate the principle of hierarchy of courts and nullify the essence of review. A final judgment, albeit erroneous, is binding on the whole world. Thus, it is the duty of the lower courts to obey the Decisions of this Court and render obeisance to its status as the apex of the hierarchy of courts. "A becoming modesty of inferior courts demands conscious realization of the position that they occupy in the interrelation and operation of the integrated judicial system of the nation." "**There is only one Supreme Court from whose decisions all other courts should take their bearings**," as eloquently declared by Justice J. B. L. Reyes. (*Emphasis supplied*)

Further, it is well-settled that courts must be cognizant of the decisions of the Supreme Court because of the doctrine of *stare decisis* as amply explained in the case of *Amelia D. De Mesa et al. v. Pepsi Cola Products, Inc. et al.*,[8] to wit:

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[6] G.R. No. 119184, July 21, 1997.
[7] G.R. No. 101783, January 23, 2002.
[8] G.R. Nos. 153063-70, August 19, 2005.

The principle of *stare decisis et non quieta movere* is entrenched in Article 8 of the Civil Code, to wit:

> ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.

It enjoins adherence to judicial precedents. It requires our courts to follow a rule already established in a final decision of the Supreme Court. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. **The doctrine of stare decisis is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument**. (emphasis supplied)

There being no other new issues or matters raised by the respondent in the instant motion, this Court finds no compelling reason to reverse the ruling in the assailed Decision.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration Re: Decision dated 14 January 2020* is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

I reiterate my Concurring Opinion

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice