REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

MORNING STAR MILLING CORPORATION,
Respondent.

CTA EB No. 2419
(CTA Case No. 9294)

Present:

Del Rosario, *P.J.*,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo, and
Cui-David, *JJ.*

Promulgated:
OCT 10 2022 3:30 pm

x---x

RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution of the Court *En Banc* is petitioner Commissioner of Internal Revenue's *Motion for Reconsideration (Re: Decision dated 21 June 2022)*[1] filed on July 15, 2022, with respondent Morning Star Milling Corporation's *Comment/Opposition (to the Motion for Reconsideration dated 15 July 2022)*[2] filed on August 15, 2022.

Petitioner's *Motion* seeks reconsideration of the Decision of the Court *En Banc* promulgated on June 21, 2022,[3] ("Assailed Decision") affirming the

[1] *En Banc* Docket, pp. 275-281.
[2] *Id.*, pp. 286-300.
[3] *Id.*, pp. 261-

judgment of the Second Division ("Court in Division") of this Court in CTA Case No. 9294. The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, premises considered, the present Petition for Review is **DENIED** for lack of merit.
>
> **SO ORDERED.**"

In her *Motion*, petitioner insists that this Court erred in ruling that the assessment issued against respondent is in violation of the right to due process rendering the same void. She claims that there was no violation of respondent's right to administrative due process as the latter's protest to the FLD was admitted and that it was able to refute petitioner's findings. Petitioner adds that respondent failed to show any new document or evidence to refute petitioner's findings in the assessment.

Petitioner also contends that there was no violation of right to due process as respondent had the opportunity to be heard. The request for reinvestigation gave respondent the opportunity to submit additional documents in support of its claim but which respondent failed to submit. Petitioner asserts that the essence of due process is simply an opportunity to be heard, or an opportunity to explain one's side or to seek reconsideration of the action or ruling complained of.

Petitioner likewise postulates that the lapses, if any, committed by her should not be allowed to overshadow the fact that respondent failed to pay the correct taxes as indicated in the assessment. Moreover, respondent's failure to prove its claim already showed that the assessment is undisputed.

On the other hand, respondent, in its *Comment/Opposition (to the Motion for Reconsideration dated 15 July 2022)* submits that petitioner's Motion for Reconsideration is pro forma and a mere scrap of paper as it merely contains a rehash of petitioner's arguments. Respondent likewise asserts that it was denied due process because both the PAN and the FAN were devoid of the facts on which the assessment was based.

After careful evaluation of the arguments raised by petitioner vis-à-vis the records of the case, the Court *En Banc* resolves to deny petitioner's *Motion for Reconsideration (Re: Decision dated 21 June 2022)* for lack of merit. Petitioner failed to raise any compelling reason to warrant the modification much less reversal of this Court's findings.

The Court *En Banc* maintains its position that there was violation of respondent's due process rights as the petitioner failed to strictly observe the clear mandate of Section 228 of the National Internal Revenue Code of 1997, as amended, in relation to Revenue Regulations 12-99, as amended. Petitioner merely reiterated the findings as stated in the said undated PAN in the FLD/FAN, without giving any reason for rejecting the refutations and explanations as well as consideration of respondent's request for clarification as indicated in the latter's Reply to PAN dated May 25, 2007.

Furthermore, the FDDA dated May 10, 2012 as well as the Decision dated January 7, 2016 are both bereft of any sufficient explanation or information as to how the figures reflected in the assessments were arrived at. Neither do they contain any reason for rejecting respondent's contention or request for clarification in its Reply to PAN dated May 25, 2007.

Respondent was thus left unaware on how the petitioner appreciated the explanations or defenses it raised against the undated PAN, in clear violation of its right to administrative due process, thereby rendering the subject assessments void.

WHEREFORE, petitioner's *Motion for Reconsideration (Re: Decision dated 21 June 2022)* is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

I reiterate my Concurring Opinion on the Decision dated June 21, 2022
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice