REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2518** (CTA Case No. 9131)
	Present:
-versus-	**DEL ROSARIO,** *P.J.*, **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
DIGOS MARKET VENDORS MULTI-PURPOSE COOPERATIVE (DIMAVEMC), represented by its CHAIRMAN OF THE BOARD OF DIRECTORS, CONSTANTINO L. RABAYA, JR., *Respondent.*	Promulgated: SEP 16 2024 2:00 p.m.

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RESOLUTION

CUI-DAVID, J.:

For the Court *En Banc's* resolution is petitioner's *Motion for Reconsideration (Re: Decision dated 30 November 2023)*[1] filed on December 18, 2023, without respondent's comment per Records Verification dated June 19, 2024.[2]

Petitioner assails the Decision promulgated by the Court *En Banc* on November 30, 2023 (assailed Decision), with the following dispositive portion:

> **WHEREFORE,** premises considered, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the Decision dated November 16, 2020, and the Resolution dated August

[1] *En Banc (EB)* Docket, pp. 94-102.
[2] *Id.*, unpaged.

31, 2021, of the Court's First Division in CTA Case No. 9131 are **AFFIRMED**.

SO ORDERED.

Petitioner argues that the Court in Division has no jurisdiction over the original Petition for Review filed by respondent because the deficiency tax assessments against it have become final, executory, and demandable for failure to file a protest to the Preliminary Assessment Notice (PAN) and Formal Letter of Demand and Final Assessment Notice (FLD/FAN) within the period provided under Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, and its implementing regulations, i.e. Revenue Regulations (RR) No. 12-99. Petitioner alleges that since there is no disputed assessment over which this Court can take jurisdiction, it should dismiss the original Petition for Review outright for lack of jurisdiction over the subject matter.

The instant *Motion for Reconsideration (Motion)* is without merit.

Petitioner's *Motion* raised the same argument that has been sufficiently considered and passed upon by the Court *En Banc* in the assailed Decision.

In *Shangri-La International Hotel Management v. Developers Group of Companies, Inc.*,[3] the Supreme Court made clear that it is incumbent upon the movant to raise substantially plausible matters to warrant the relief sought, to wit:

> "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.

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[3] *Shangri-la International Hotel Management, Ltd. v. Developers Group of Companies, Inc.*, G.R. No. 159938 (Resolution), January 22, 2007.

> 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."

This judicial pronouncement was similarly echoed in the case of *Harry L. Roque, Jr. et al. v. Commission on Elections, represented by Hon. Chairman Jose Melo et al.,*[4] where the Supreme Court *En Banc* ruled that whenever the motion for reconsideration fails to raise matters that are substantially plausible or compellingly persuasive enough to lead the court to rule in favor of the desired course of action, then the same must be denied by the court, thus:

> "Petitioner's above contention, as well as the arguments, citations and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again. . .
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> xxx xxx xxx
>
> While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered — and this should not be an obstacle for a reconsideration — the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action."

Petitioner failed to persuade the Court *En Banc* to reverse its finding that respondent's right to due process was violated when petitioner caused the service of PAN and FLD/FAN on the same day, April 21, 2010.

Well-settled is the rule that an assessment that fails to strictly comply with the due process requirements set forth in Section 228 of the NIRC of 1997, as amended, and RR No. 12-99, as amended, is void and produces no effect.[5]

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[4] G.R. No. 188456 (Resolution), February 10, 2010.
[5] *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*, G.R. No. 249153, September 12, 2022.

Given the foregoing, the Court *En Banc* finds no compelling reason to reverse or modify the findings and conclusions in the assailed *Decision*.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (Re: Decision dated 30 November 2023)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
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

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice