REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

ONG KIN KING & CO., INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10362

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

MAR 1 4 2025 4:20 pm

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is petitioner's *Motion for Reconsideration (On the Decision dated December 5, 2024)*, filed on December 20, 2024, without any comment from respondent.[1] Petitioner assails this Court's Decision, dated December 5, 2024, which denied his Petition for Review for lack of merit, by raising the following:

1) Considering (i) the threat of closure; and (ii) the lack of the amount's legal basis, the amount offered and paid by petitioner was involuntary;
2) The payment was erroneous and illegal as the amount was allegedly produced by respondent without complying with the relevant laws, rules, and regulations;
3) The two-year period for filing a claim for refund is relevant here as the 10-year period for assessing, as provided by *Section 222 of the National Internal Revenue Code of 1997, as amended* ("*NIRC*"), is only applicable in cases of fraud, which respondent failed to prove here.

The Motion lacks merit.

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[1] *See* Records Verification, dated February 13, 2025, *Rollo* Vol. 3, unpaginated.

Argument (i) is unconvincing and was already mostly refuted in the assailed Decision itself. The alleged lack of legal basis for the amount actually *supports* Our finding that the payment was voluntary. If petitioner had believed that the amount lacked legal basis, then it should have known that it could still protest said amount before this Court. In other words, with the belief that the amount lacked legal basis, petitioner should have known that the payment of said amount was not its only option. Petitioner, however, paid said amount, despite believing it to lack legal basis. It did *not* elevate the issue to this Court. This shows that, when given the choice to either (a) pay the amount; or (b) protest the amount before this Court, *both of which were open to it*, petitioner *chose* to pay the amount. Having *chosen* to pay despite the option of judicial protest still being open to it, such payment was voluntary.

Neither does the threat of closure prove that the payment was involuntary. Again, if petitioner believed that the amount had no legal basis, then it should have known that the issue could have (indeed, should have) been elevated to this Court. It should have known that the closure could have been prevented by seeking such prevention from this Court. It instead *chose* to pay the amount. Thus, the payment was voluntary.

Anent argument (ii), the same was also covered in the assailed Decision and found lacking in merit. Again, petitioner believed that the amount allegedly cited by respondent was procedurally irregular. It believed that the amount lacked legal basis. Despite this, it still *voluntarily* offered and paid said amount. Due to the voluntary nature of such payment, it cannot be considered erroneous. Further, and to reiterate, petitioner paid the amount despite believing it to be rife with irregularities. It thus cannot now game the relevant rules by weaponizing the irregularity it caused and produced itself, by having the payment it voluntarily made struck down as illegal.

As for argument (iii) the Court notes that while petitioner mentions the two-year period for claiming refunds in the header of its argument, the body of said argument focuses only on the two- or 10-year period for assessments. Our refutation, in the assailed Decision, of petitioner's earlier use of the two-year period for claiming refunds thus stands valid and unchallenged.

Focusing instead on the argument that the 10-year period for assessments does not apply here as respondent failed to prove fraud, the Court simply repeats that petitioner did not initiate and then maintain a protest against the Closure Orders or the findings of violations upon which said Closure Orders were based. The Court is thus constrained to accept said findings of violations. Consequently, and in light of such violations, We find the 10-year period applicable. And as petitioner is silent on this line of argument, which are the reasons We identified in the assailed Decision, We stand by Our finding.

All told, the Motion discloses no cogent reason to disturb Our previous ruling.

ACCORDINGLY, petitioner's *Motion for Reconsideration (On the Decision dated December 5, 2024)*, filed on December 20, 2024, is hereby **DENIED** for lack of merit. The Decision, dated December 5, 2024, 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