REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Special First Division

SOUTH LUZON TOLLWAY CORPORATION,
Petitioner,

- **versus** -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9272

Members:

DEL ROSARIO, *P.J., Chairperson*,
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:
JAN 14 2019 10:39am

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RESOLUTION

DEL ROSARIO, P.J.:

For resolution is respondent's "**Motion for Reconsideration (Re: Decision promulgated 27 July 2018)**" filed on August 17, 2018 with petitioner's "**Opposition to Respondent's 'Motion for Reconsideration.....' dated August 16, 2018"** filed on September 18, 2018.

Respondent prays that the Court reverse and set aside the Decision promulgated on July 27, 2018, and another one be rendered denying the entire claim for refund.

In support of his Motion, respondent contends that the Court erred in ruling that the Final Assessment Notice (FAN) against petitioner is void for not indicating a definite due date for the payment of the tax liabilities. He elaborates that the doctrine laid down in *Commissioner of Internal Revenue vs. Menguito (Menguito)*[1] was misapplied by the Supreme Court in *Commissioner of Internal Revenue vs. Fitness by Design, Inc. (Fitness by Design).*[2]

[1] G.R. No. 167560, September 17, 2008.
[2] G.R. No. 215957, November 9, 2016.

Respondent claims that the receipt of the Formal Letter of Demand (FLD) and Assessment Notices was not disputed by petitioner, and that the FLD and Assessment Notices are compliant with the basic requisites provided under Section 228. He posits that the assessment is valid as long as it states the fact, the law, the rules and regulations or jurisprudence on which it was based; that it remains to be valid irrespective of an additional requirement purportedly being prescribed by a regulation.

Respondent also argues that the Court erred in granting a relief that was not prayed for by petitioner. This violated his basic right to fair play and due process. He submits that the issue on whether the final assessment notice contains a definite due date for payment of tax liabilities was never raised by petitioner in its Petition for Review.

Petitioner, on the other hand, argues that the assailed Decision is supported by the Supreme Court cases of *Fitness by Design* and *Commissioner of Internal Revenue vs. Pascor Realty and Development Corporation.*[3]

After a thorough evaluation of the parties' respective positions, the Court finds respondent's proposition patently without merit.

Parenthetically, the application of the *Menguito* case in the *Fitness by Design* case, may not be the subject of this Court's review, much more, its reversal. Doctrines laid down by the Supreme Court, as the final arbiter of any justiciable controversy, are binding upon all lower courts.

The Supreme Court pronouncement in *Commissioner of Internal Revenue vs. San Roque Power Corporation,*[4] *Taganito Mining Corporation vs. Commissioner of Internal Revenue,*[5] *and Philex Mining Corporation vs. Commissioner of Internal Revenue*[6] illuminates what constitutes a binding precedent, *viz.*:

> "There is also the claim that there are numerous CTA decisions allegedly supporting the argument that the filing dates of the administrative and judicial claims are inconsequential, as long as they are within the two-year prescriptive period. Suffice it to state that CTA decisions do not constitute precedents, and do not bind this Court or the public. That is why CTA decisions are appealable

[3] G.R. No. 128315, June 29, 1999.
[4] G.R. No. 187485, February 12, 2013.
[5] G.R. No. 196113, February 12, 2013.
[6] G.R. No. 197156, February 12, 2013.

to this Court, which may affirm, reverse or modify the CTA decisions as the facts and the law may warrant. Only decisions of this Court constitute binding precedents, forming part of the Philippine legal system. As held by this Court in *The Philippine Veterans Affairs Office v. Segundo*:

> x x x Let it be admonished that decisions of the Supreme Court 'applying or interpreting the laws or the Constitution . . . form part of the legal system of the Philippines,' and, as it were, 'laws' by their own right because they interpret what the laws say or mean. **Unlike rulings of the lower courts, which bind the parties to specific cases alone, our judgments are universal in their scope and application, and equally mandatory in character**. Let it be warned that to defy our decisions is to court contempt.

The same basic doctrine was reiterated by this Court in *De Mesa v. Pepsi Cola Products Phils., Inc.*:

> 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."

The principle of *stare decisis et non quieta movere* binds this Court to adhere to a rule already established in a final decision of the Supreme Court. In this case, the doctrine laid down in *Fitness by Design* is a binding precedent to which this Court may not review nor revisit.

Anent respondent's contention that the FLD and Assessment Notices were compliant with Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, the Court finds the same untenable.

A fixed and definite period or a date certain within which petitioner must pay the assessed deficiency tax liabilities is not a mere formality but a substantive requirement -- the absence of which, violates petitioner's right to due process of law, and renders the assessment void. **This substantive requirement was categorically and expressly declared by the Supreme Court in *Fitness by Design*.** Applying the aforestated doctrine, this Court, in its assailed Decision, opined:

> "In ***Commissioner of Internal Revenue vs. Fitness by Design, Inc.***, the Supreme Court **invalidated** an assessment after noting its failure to state the due date for the payment of the tax liabilities:
>
> xxx xxx xxx
>
> > **<u>'The disputed Final Assessment Notice is not a valid assessment.</u>**
> >
> > xxx xxx xxx
> >
> > Second, **there are no due dates in the Final Assessment Notice. This negates petitioner's demand for payment. Petitioner's contention that April 15, 2004 should be regarded as the actual due date cannot be accepted. The last paragraph of the Final Assessment Notice states that the due dates for payment were supposedly reflected in the attached assessment:**
> >
> > > In view thereof, you are *requested to pay* your aforesaid deficiency internal revenue tax liabilities through the duly authorized agent bank in which you are enrolled *within the time shown in the enclosed assessment notice.* (Emphasis in the original)
> >
> > However, based on the findings of the Court of Tax Appeals First Division, **the enclosed assessment pertained to remained unaccomplished**.
> >
> > Contrary to petitioner's view, **April 15, 2004 was the reckoning date of accrual of penalties and surcharges and not the due date for payment of tax liabilities. The total amount depended upon when respondent decides to pay. The notice, therefore, did not contain a definite and actual demand to pay**.
> >
> > Compliance with Section 228 of the National Internal Revenue Code is a substantative requirement. It is not a mere formality. Providing the taxpayer with the factual and legal bases for the

> assessment is crucial before proceeding with tax collection. Tax collection should be premised on a valid assessment, which would allow the taxpayer to present his or her case and produce evidence for substantiation.' (Boldfacing and underscoring supplied)
>
> **The requirement to indicate a fixed and definite period or a date certain within which a taxpayer must pay the assessed deficiency tax liabilities is indispensable to the validity of the assessment.** Otherwise stated, an assessment *sans* a specific date or period within which the alleged tax liabilities must be settled is, in legal contemplation, void.
>
> In sum, the assessment in this case, being void, bears no fruit and may be slain at sight." (Underscoring supplied and citations omitted)

Respondent's argument that the issue whether the FAN contains a definite due date for payment of tax liabilities was never raised by petitioner in its Petition for Review is insignificant.

Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals, as amended,[7] is clear in providing that the Court **is not confined to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.**

A perusal of the parties' "Joint Stipulation of Facts, Documents, Issues, and Other Matters"[8] discloses that one of the main issues of the case is "whether or not SLTC is entitled to a cancellation of the disputed Documentary Stamp Tax assessment". The parties also agreed that one of the corollary issues is "whether or not SLTC is liable for the subject deficiency Documentary Stamp Tax assessment."

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[7] **RULE 14**
JUDGMENT, ITS ENTRY AND EXECUTION

SECTION 1. *Rendition of judgment.* –xxx

xxx xxx xxx

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.

[8] Docket, pp. 320-330.

Based on the foregoing, the Court has ample authority to review the propriety of the assessment, particularly as regards its compliance with Section 228 of the NIRC of 1997, as amended, in relation to Section 3.1.3 of Revenue Regulations (RR) NO. 12-99, as amended by RR No. 18-2013. As the FLD and FAN failed to demand payment of the basic deficiency Documentary Stamp Tax, surcharge, interest, and compromise penalty within a specific period, the Court reiterates its findings that the assessment is void.

Since **no new matter** invested with legal significance was raised in respondent's Motion for Reconsideration, the Court finds no cogent reason to reverse or modify the assailed Decision.

WHEREFORE, in light of the forgoing considerations, respondent's "**Motion for Reconsideration**" filed on August 17, 2018 is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice