REPUBLIC OF THE PHILIPPINES

Court of Tax Appeals

QUEZON CITY

Third Division

DEREK ARTHUR P. RAMSAY,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8456

Members:

Bautista, *Chairperson*
Fabon-Victorino, *and*
Ringpis-Liban, *JJ.*

Promulgated:

DEC 16 2015
3:00 p.m.

x -- x

R E S O L U T I O N

BAUTISTA, J:

For resolution is respondent's "Motion for Reconsideration (re: Decision promulgated on 17 September 2015)" filed on October 9, 2015; with petitioner's "Comment To Respondent's Motion for Reconsideration to the 17 September 2015 Decision of this Honorable Court" filed on November 23, 2015.

On September 17, 2015, the Court promulgated a Decision, disposing of the case as follows:

> **WHEREFORE**, the instant Petition for Review is hereby **GRANTED**. Accordingly, the Formal Letter of Demand dated January 4, 2012, demanding the payment of deficiency income and VAT assessment in the total amount of [Php]18,230,498.46 for the period covering taxable years 2006 to 2009, which is void, is hereby **CANCELLED** and **WITHDRAWN**.

by respondent; that the Formal Letter of Demand ("FLD") and Final Assessment Notice ("FAN") are final, executory and demandable; that petitioner was accorded due process; and that petitioner is liable to pay income tax and value-added tax ("VAT") for taxable years 2006 to 2009.

Petitioner, on the other hand, argues that the Motion filed by respondent is a mere reiteration of the matters already resolved and passed upon by the Court, hence, should be denied outright; and that respondent failed to show that the Decision is based on insufficient evidence or that the same is contrary to law.

Further petitioner reiterates that he did not receive the Preliminary Assessment Notice ("PAN"), FAN and FLD; that respondent did not present proof that he ever received the PAN, FAN or FLD; that the authority and identity of the person who purportedly received the PAN and FLD was never established by respondent; that he only got hold of the FAN on January 4, 2012; that on its face, the FLD is not accompanied by any FAN; that the FLD is not sufficient in form or substance to be considered as a FAN; that respondent denied him the opportunity to dispute the assessment; that having denied receipt of the PAN, FAN and FLD, the burden of proof shifts to respondent; that respondent failed to prove proper service of the PAN, FAN and FLD; that respondent did not exert due diligence in serving the notices to petitioner's known address indicated in his tax returns; that since there is no valid service of the notices, no assessment is deemed made; that the right to assess has prescribed; that there is no law prohibiting the late filing of annual income tax returns, hence, respondent cannot use this as basis for the denial of petitioner's availment of the Optional Standard Deduction ("OSD"); that he is not engaged in business from 2006 to 2007; that from 2008 to 2009, the amount indicated in his quarterly VAT returns were paid; and that a disallowance of fifty percent (50%) of his claimed deduction should be made instead of disallowing the amount of input tax in full.

After a careful study of the arguments and counter-arguments raised by both parties, the Court finds no merit in the Motion for Reconsideration filed by petitioner since it was a mere reiteration of the allegations in her Memorandum and it did not raise any new argument that would merit reconsideration of the assailed Decision.

WHEREFORE, petitioner's "Motion for Reconsideration (re: Decision promulgated on 17 September 2015)" is hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice