REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

LOADSTAR INTERNATIONAL SHIPPING, INC.,
Petitioner,

CTA EB NO. 2011
(CTA Case No. 9176)

Present:

- versus -

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO, *and*
REYES-FAJARDO, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated: OCT 21 2021 2:55pm

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner Loadstar International Shipping, Inc.'s (**petitioner's**) Motion for Reconsideration[1] (**MR**) posted on 02 December 2020.[2]

The MR seeks the reversal of the Court *En Banc*'s Decision promulgated on 11 November 2020[3] (**assailed Decision**). The dispositive portion of the assailed Decision reads:

[1] *Rollo*, pp. 349-359.
[2] Received on 16 December 2020.
[3] *Rollo*, pp. 328-342.

> ...
>
> **WHEREFORE**, premises considered, the instant Petition for Review filed by Loadstar International Shipping, Inc. is hereby **DENIED** for lack of merit. The assailed Decision and Resolution dated 30 July 2018 and 15 January 2019, respectively, in CTA Case No. 9176, entitled *Loadstar Shipping International, Inc. v. Commissioner of Internal Revenue,* are hereby **AFFIRMED**.
>
> **SO ORDERED.**
>
> ...

In its MR, petitioner claims that the Court in Division had jurisdiction over its case since the subject Final Decision on Disputed Assessment (**FDDA**) was not properly served upon it, pursuant to the provisions of the law and the rules.

Specifically, petitioner contends that while service to an employee is sanctioned by Revenue Regulations (**RR**) No. 18-2013[4], substituted service may be resorted to only when the party is not present and the notice must be left with his clerk or with a person having charge thereof. In this case, however, the FDDA was left without asking whether the party named therein is absent. Moreover, the one who received the subject FDDA, Rhianne Gustilo (**Gustilo**), is a Telephone Operator and neither a clerk nor a person in charge of the office.

Petitioner also reiterates its previous argument that the undated letter of a certain Ilagan & Associates is considered a forgotten evidence that is undeserving of any credence. While there is an exception to the rule that the court cannot consider any evidence that has not been formally offered, the same may not be applied herein since such document was never incorporated in the records of the case. Thus, the said undated latter should have been excluded and rejected by the Court as evidence.

Lastly, petitioner echoes its previous claims that it did not execute any waiver of the statute of limitations hence respondent Commissioner of Internal Revenue's (**respondent's**) right to assess it

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[4] Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment dated 28 November 2013.

for deficiency income tax (IT) and value-added tax (VAT) has already prescribed.

Although respondent filed an Opposition *via* email on 22 March 2021 (with the hardcopies thereof submitted on 08 June 2021[5]), the Court *En Banc* considered the same as not filed[6] for having been made in violation of CTA *En Banc* Resolution No. 4-2021.[7]

We resolve.

After going over the arguments raised by petitioner, We are constrained to deny its MR.

It must be emphasized that petitioner failed to raise any new argument or present novel matter which the Court, either in Division and *En Banc*, has not previously scrutinized, studied and discussed.

A simple reading of the instant MR would reveal that it contains the same arguments it earlier raised in its Memorandum[8] before the First Division, previous MR[9] (on the First Division's Decision dated 30 July 2018[10]) and in its Petition for Review[11] before the Court *En Banc*.

In *Licomcen Incorporated v. Foundation Specialists, Inc.*[12], the Supreme Court, citing *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[13], held that:

> ...
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision.

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5 *Rollo*, pp. 368-370.
6 *See* Resolution dated 07 July 2021, id., pp. 379-380.
7 Re: Pleadings, Motions and Other Court Submissions Filed by Email dated 24 February 2021.
8 *Rollo*, pp. 288-304.
9 Id., pp. 101-112.
10 Id., pp. 74-100.
11 Id., pp. pp. 39-67.
12 G.R. Nos. 167022, 31 August 2007.
13 G.R. Nos. 109645, 04 March 1996.

> This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, x x x deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
>
> ...

As petitioner merely recycled its previous submissions and arguments, the Court *En Banc* finds no cogent reason to disturb the assailed Decision.

WHEREFORE, petitioner Loadstar International Shipping, Inc.'s Motion for Reconsideration dated 26 November 2020 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice