REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

MINDANAO SANITARIUM AND HOSPITAL, INC.,
Respondent.

CTA EB No. 1807
(CTA Case No. 8927)

Present:

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, *JJ.*

Promulgated:
JAN 08 2020
x---x

RESOLUTION

CASTAÑEDA, JR., *J.*:

This resolves the "Motion for Reconsideration [Re: Decision dated September 03, 2019]"[1] filed by the Commissioner of Internal Revenue (CIR) on October 16, 2019. Mindanao Sanitarium and Hospital, Inc. (MSHI) filed its "Comment (on Petitioner's Motion for Reconsideration)" *via* registered mail on November 4, 2019, which was received by the Court on November 11, 2019. This motion was submitted for resolution on November 13, 2019.

The dispositive portion of the September 24, 2019 Decision states:

> **WHEREFORE,** premises considered, the present Petition for Review filed by the Commissioner of Internal Revenue is **DENIED.** Accordingly, the September 15, 2017

[1] The correct date of the Decision is September 24, 2019.

Decision and the February 20, 2018 Resolution of the then CTA First Division in CTA Case No. 8927 are **AFFIRMED.**

SO ORDERED.

CIR's ground of the Motion for Reconsideration:

The Honorable Court *En Banc* erred in ruling that there was violation of [MSHI]'s right to due process as [CIR] failed to show proof of actual receipt by [MSHI] of the PAN.

After a careful review of the ground raised and arguments presented by CIR, We find no valid or cogent reason to deviate from our findings and conclusions reached in our Decision dated September 24, 2019, thus, the motion is denied.

It is worthy to emphasize that there are irregularities in the mailing and service of the Preliminary Assessment Notice (PAN)[2] as found by the then CTA First Division, which this Court agreed. The PAN is a part of due process.[3] We reiterate that, "for failure of the CIR to prove the receipt of PAN by MSH[I], due process was not complied with."

WHEREFORE, premises considered, the Motion for Reconsideration filed by the Commissioner of Internal Revenue is **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[2] *Rollo*, p. 103.
[3] *Commissioner of Internal Revenue v. Transitions Philippines Optical, Inc.*, G.R. No. 227544, November 22, 2017.

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice