REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

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MAKATI CITY AND HON. NELIA A. BARLIS, IN HER CAPACITY AS CITY TREASURER, Petitioners,	**CTA EB NO. 1890** (CTA AC No. 182) (Civil Case No. 14-612)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR.**, **UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
DESTINY CABLE, INC., Respondent.	Promulgated: JAN 21 2021 2:57 pm.

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioners' "Motion for Reconsideration (of the Decision dated 01 July 2020)"[1] (**MR**) on 29 July 2020. It seeks the reversal of the Decision[2] reached by this Court in the above-captioned case. The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE,** the Amended Petition for Review dated January 8, 2019, filed by petitioners Makati City and Hon. Nelia A. Barlis, in her capacity as City Treasurer is **DENIED.** The Decision dated March 14, 2018, and Resolution dated June 22, 2018, both rendered by the Court in Division in CTA AC No. 182 are **AFFIRMED**.
>
> **SO ORDERED.**

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1 *Rollo*, pp. 193-198.
2 Id., pp. 177-188.

. . .

In the assailed Decision, the Court denied petitioners' petition on the ground of irregularities in the conduct of their assessment of respondent Destiny Cable, Inc. (**respondent/DCI**).

As the Court found, petitioners served DCI's Notice of Assessment (**NOA**) and Final Notice of Assessment (**FNA**) through a certain Renario Cu Garfin (**Garfin**), an employee of Sky Cable Corporation (**SCC**), a separate and distinct entity from that of respondent. In sum, the Court held such erroneous service invalid and could not constitute as sufficient notice to DCI of its tax liabilities therefore, resulting in the violation of the latter's right to due process.

A review of the records shows that Garfin received a Letter of Authority (**LOA**) and Final Notice of Compliance (**FNC**) addressed to DCI. Garfin forwarded the foregoing documents to DCI's Accounting Manager, Cecilia Lo (**Lo**). Lo, in compliance with petitioners' directives, submitted to the latter the documents requested in the FNC.

As a result of such compliance, petitioners were thus informed of DCI's correct address at Solid House Building, Pasong Tamo Extension, Makati City. Having been apprised of their previous error in serving the LOA and FNC to SCC at U-102, Global Tower cor. Capt. Reyes and Gen. Mascardo Sts., Brgy. Bangkal, Makati City, there was no longer any reason for petitioners to issue its subsequent notices to the wrong address, not to mention, the wrong taxpayer. However, despite such fact, petitioners continued to serve the NOA and FNA at SCC's office.

The facts are clear cut. Petitioners failed to rectify the error in their service of the NOA and FNA despite due notice of their mistake. Consequently, respondent DCI was not given the opportunity to contest petitioners' assessment of the former. Petitioners have no reasonable expectation that Garfin, who was not DCI's employee, to continue forwarding petitioners' issuances to the correct address moreso, that DCI had already notified petitioners with its correct address prior to the NOA and FNA's service.

We, therefore, find no cogent reason to abandon Our previous ruling on the matter especially since petitioners' sole argument rests on the premise that DCI never directed Garfin to refrain from receiving notices on its behalf, and the latter could be expected to forward all of petitioners' issuances to respondent.

Despite such issue having been raised and previously passed upon in the assailed Decision, it is propitious to likewise note that petitioners' own argument is a further admission of the NOA's and FNA's service to the wrong taxpayer.

As cited in the assailed Decision, for the principle of apparent authority to apply in the case at bar in a manner as to constitute Garfin as DCI's agent, petitioners must prove concurrence of the following elements:

> . . .
> ...(a) the acts of the respondent justifying belief in the agency by the petitioner; (b) knowledge thereof by the respondent which is sought to be held; and, (c) reliance thereon by the petitioner consistent with ordinary care and prudence.[3]
> . . .

Given the established facts, the Court remains unconvinced that petitioners have sufficiently proven the existence of any of the foregoing requisites to justify their erroneous service of the NOA and FNA to Garfin.

WHEREFORE, the foregoing considered, petitioners' "Motion for Reconsideration (of the Decision dated 01 July 2020)" filed on 29 July 2020 is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision of this Court dated 01 July 2020 is hereby **AFFIRMED.**

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[3] *Woodchild Holdings, Inc. v. Roxas Electric and Construction Company, Inc.*, G.R. No. 140667, 12 August 2004.

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WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice