REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB NO. 2662** (CTA Case No. 8978)
	Present:
- versus -	**DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
BERRINGER MARKETING, INC., *Respondent.*	Promulgated: APR 24 2025

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RESOLUTION

ANGELES, *J.*:

For the Court *En Banc*'s resolution is the ***Motion for Reconsideration (Decision dated 04 November 2024)***[1] filed by petitioner Commissioner of Internal Revenue (CIR) on November 20, 2024, seeking the reversal of the *Decision* dated November 4, 2024, and praying that the respondent be ordered to pay the alleged deficiency Income Tax (IT), Value-Added Tax (VAT), Expanded Withholding Tax (EWT), and Withholding Tax on Compensation (WTC) for taxable year (TY) 2010 in the amount of ₱112,572,390.00.

To recall, on August 8, 2022, the CIR filed a *Petition for Review* praying for the nullification of the *Decision*[2] dated July 13, 2021, and *Resolution*[3] dated June 30, 2022, both promulgated in CTA Case No.

[1] EB Docket, *Motion for Reconsideration (Decision dated 04 November 2024)* dated November 18, 2024, pp. 111-133.
[2] EB Docket, *Decision* dated July 13, 2021, pp. 36-52.
[3] EB Docket, *Resolution* dated June 30, 2022, pp. 54-58.

8978, entitled *"Berringer Marketing, Inc., vs. Commissioner of Internal Revenue"*, by the Third Division and Special Third Division of this Court, respectively (the "Court in Division").

On November 4, 2024, the Court *En Banc* rendered the *Decision* denying the *Petition*, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the CIR's *Petition for Review* filed on August 8, 2022, is hereby **DENIED** for lack of merit.
>
> Accordingly, the *Decision* dated July 13, 2021, and *Resolution* dated June 30, 2022, both promulgated in CTA Case No. 8978, are **AFFIRMED**.
>
> **SO ORDERED**.

Aggrieved by the said *Decision*, the CIR filed the instant *Motion*, based on the following grounds:[4]

I.

THE HONORABLE COURT ERRED WHEN IT GRANTED A RELIEF THAT WAS NOT PRAYED FOR BY [RESPONDENT].

II.

THE HONORABLE COURT ERRED IN RULING THAT THE FLD AND FAN ARE VOID BECAUSE THEY FAILED TO DEMAND PAYMENT THEREOF WITHIN A SPECIFIC PERIOD.

In his *Motion*, CIR argues that: ***(a)*** respondent's failure to raise the issue of lack of definite due date for payment in the Formal Letter of Demand (FLD) and Final Assessment Notices (FANs) in its administrative protest is a waiver of its right to raise the same before the Court, citing cases on doctrine of estoppel; ***(b)*** he was denied procedural and substantive due process as he was neither heard nor given the opportunity to be heard on such issue; ***(c)*** Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals (RRCTA) was intended to allow the Court to resolve the main issue under the proper perspective, but not to resolve as a main issue a matter which is not derived from the pleadings; and ***(d)*** the FLD and FANs were issued in accordance with the Tax Code and pertinent rules and regulations.

[4] *Supra* note 1, pp. 111-112.

On January 10, 2025, respondent filed its *Comment (On the Petitioner's Motion for Reconsideration)*,[5] claiming that the instant *Motion* presents no new arguments, evidence, or legal basis that was not previously considered by the Court and therefore, should not be given due course.

The *Motion* is **denied** for lack of merit.

It is important to note that, except as to the first ground regarding estoppel, a cursory reading of the CIR's *Motion* reveals that it is a near-verbatim rehash of his arguments in the *Petition for Review*. The remaining grounds raised in the *Motion* have been exhaustively passed upon, duly considered, and resolved by the Court *En Banc* in the assailed *Decision*.

In *Ortigas and Co. Ltd. Partnership v. Judge Velasco*,[6] the Supreme Court explained the effect and disposition of a motion for reconsideration, as follows:

> 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. **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, as above stated, 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 <u>reiteration or rehash of arguments</u> 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. (Emphasis supplied)

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[5] EB Docket, *Comment (On the Petitioner's Motion for Reconsideration)* dated January 10, 2025, pp. 140-142.
[6] G.R. No. 109645, March 4, 1996.

Based on the foregoing, the Court may deny a motion for reconsideration if it contains mere reiteration of arguments which were already passed upon and considered without merit.

Relative thereto, it is well-settled that if the grounds relied upon are mere reiterations of the issues already passed upon, the Court need not "cut and paste" pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the Motion for Reconsideration.[7] Accordingly, there is no need for the Court *En Banc* to repeat its evaluation on the very same issues previously raised in the *Petition for Review* and which were discussed at length in the assailed *Decision*.

With respect to the additional matter alleged by the CIR in his *Motion*, it was argued that since the respondent did not raise the issue of lack of definite due date in its protest, it has waived the right to raise the same before the Court, and as such, the doctrine of estoppel should apply.

We are not convinced.

The doctrine of estoppel cannot be applied against the respondent since it would operate to give validity to the issuance of the void FLD and FANs.

It bears to emphasize that the doctrine of estoppel is predicated on, and has its origin in, equity which, broadly defined, is justice according to natural law and right. As such, the doctrine of estoppel cannot give validity to an act that is prohibited by law or one that is against public policy. It should be resorted to solely as a means of preventing injustice and should not be permitted to defeat the administration of the law, or to accomplish a wrong or secure an undue advantage, or to extend beyond them requirements of the transactions in which they originate.[8]

Thus, the CIR cannot be permitted to hide behind the doctrine of estoppel to cover and legitimize its failure to indicate the due date for payment in the FLD and FANs. As held in the assailed *Decision*, the Court in Division correctly found that the FLD and FANs for deficiency IT, VAT, EWT, and WTC for TY 2010 do not constitute a definite demand for payment for lack of a specific due date, thereby, resulting in the invalidity of the subject assessments.

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[7] *Social Justice Society Officers (SJS) v. Lim*, G.R. Nos. 187836 & 187916, March 10, 2015.
[8] *Commissioner of Internal Revenue v. Kudos Metal Corporation*, G.R. No. 178087, May 5, 2010.

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In view of the foregoing, the Court finds no merit in the instant *Motion* as the same did not raise new, cogent, or substantial ground to warrant reconsideration of this Court's *Decision* dated November 4, 2024.

WHEREFORE, premises considered, the CIR's ***Motion for Reconsideration (Decision dated 04 November 2024)*** filed on November 20, 2024, is hereby **DENIED** for lack of merit.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice