REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

ROBINSONS CONVENIENCE STORES, INC.,
Respondent.

CTA *EB* NO. 2388
(CTA Case No. 9178)

Present:

DEL ROSARIO, *P.J.,*
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

Promulgated:
NOV 02 2022 3:36pm

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RESOLUTION

MANAHAN, J.:

To be resolved before this Court is petitioner's **Motion for Reconsideration (Re: Decision dated 13 May 2022)**[1] filed on June 2, 2022, praying for the reversal and setting aside of this Court's *Decision* dated May 13, 2022 (Assailed Decision), of which the dispositive portion reads as follow:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED**. Accordingly, the *Decision* dated June 30, 2020 and *Resolution* dated November 18, 2020 are hereby **AFFIRMED.**
>
> Petitioner, his representatives, agents, or any person acting on his behalf are hereby **ENJOINED** from collecting the deficiency IT, VAT, EWT, and WTC for taxable year 2010 against respondent.
>
> **SO ORDERED.**"

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[1] *Rollo*, CTA EB No. 2388, pp. 282-296.

Petitioner argues that this Court erred in ruling that the Court *a quo* has jurisdiction over the original petition as the assessment has attained its finality.

Petitioner further avers that this Court erred in ruling that the Revenue Officers (ROs) who conducted the audit and subsequent reinvestigation were not authorized to examine respondent's books of accounts and other tax records.

Respondent, on the other hand, in its **Comment (Re: Motion for Reconsideration dated May 27, 2022)**[2], argues that the Court *a quo* has jurisdiction over its original petition which was timely filed and that the ROs were not clothed with a valid authority to conduct the 2010 tax assessments.

Petitioner alleges that the Formal Letter of Demand (FLD) was sent to respondent on April 14, 2014 and received on April 16, 2014. Thus, the filing of protest to the FLD on June 6, 2014 was out of time.

On the other hand, respondent argues that petitioner admitted during the trial through the parties' Joint Stipulation of Facts and Issues (JSFI) that the filing of protest on June 6, 2014 was within the thirty (30) day prescriptive period.

We resolve.

As stated in the Court in Division's Decision, petitioner made a judicial admission in the parties' JSFI relative to the timeliness of the filing of petitioner's protest to the FLD. Thus, it did not require any further proof as held in *Tranquilino Agbayani v. Lupa Realty Holding Corporation*,[3] to wit:

> "The foregoing transcript of the preliminary conference indubitably shows that counsel for petitioners made a judicial admission and failed to refute that admission during the said proceedings despite the opportunity to do so. **A judicial admission is an admission, verbal or written, made by a party in the course of the proceedings in the same case, which dispenses with the need for proof with respect to the matter or fact admitted**. It may be contradicted only by a showing that it was made through palpable mistake or that no such admission was made.

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[2] *Rollo*, CTA EB No. 2388, pp. 301-308.
[3] G.R. No. 201193, June 10, 2019.

On the other hand, American jurisprudence sets the following parameters on judicial admissions:

> A judicial admission is a formal statement, either by party or his or her attorney, in course of judicial proceeding which removes an admitted fact from field of controversy. It is a voluntary concession of fact by a party or a party's attorney during judicial proceedings.
>
> Judicial admissions are used as a substitute for legal evidence at trial. **Admissions made in the course of judicial proceedings or judicial admissions waive or dispense with, the production of evidence, and the actual proof of facts by conceding for the purpose of litigation that the proposition of the fact alleged by the opponent is true.** x x x
>
> A judicial admission is a deliberate, clear, unequivocal statement of a party about a concrete fact within that party's peculiar knowledge, not a matter of law. x x x In order to constitute a judicial admission, the statement must be one of fact, not opinion. To be a judicial admission, a statement must be contrary to an essential fact or defense asserted by the person giving the testimony; it must be deliberate, clear and unequivocal x x x.
>
> Judicial admissions are evidence against the party who made them, and are considered conclusive and binding as to the party making the judicial admission. A judicial admission bars the admitting party from disputing it. x x x
>
> A judicial admission of fact may carry with it an admission of other facts necessarily implied from it.
>
> x x x x
>
> Judicial admissions may occur at any point during the litigation process. An admission in open court is a judicial admission. x x x" (*Emphasis supplied*)

Thus, reiterating such objection to a judicial admission at this level is nil.

As to petitioner's argument that this Court erred in ruling that there was an absence of authority of ROs who conducted tax examination, citing an excerpt of the Dissenting Opinion of the herein ponente in CTA EB No. 1956 dated August 22, 2019 in a case entitled, "*Commissioner of Internal Revenue v. Orient Overseas Container Line, Ltd., Represented by OOCL (Philippines), Inc.*", it should be noted that such opinion was made prior to the promulgation of the case of *AFP General*

Insurance Corporation vs. Commissioner of Internal Revenue,[4] and the recent case of *Commissioner of Internal Revenue vs. McDonald's Philippines Realty Corp.*,[5] where the Supreme Court categorically ruled that the absence of a Letter of Authority (LOA) shall nullify the resulting tax assessments. Thus, said opinion is not anymore applicable in the present case.

Further, the argument as to the absence of an LOA was exhaustively discussed and passed upon by the Assailed Decision. In *Social Justice Society (SJS) Officers, et al. v. Alfredo S. Lim, in his capacity as Mayor of the City of Manila*,[6] the Supreme Court ruled:

> The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motion.
>
> As succinctly put by then Chief Justice Andres R. Narvasa in *Ortigas and Co. Ltd. Partnership v. Judge Velasco* on the effect and disposition of a motion for reconsideration:
>
>> 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 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

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[4] G.R. No. 222133, November 4, 2020.
[5] G.R. No. 242670, May 10, 2021.
[6] G.R. Nos. 187836 & 187916, March 10, 2015.

> 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.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (Re: Decision dated 13 May 2022)* is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Leave)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(On Leave)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

(ON OFFICIAL BUSINESS)
CORAZON G. FERRER-FLORES
Associate Justice