REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

GS MTE GRAINS CORPORATION,
Respondent.

CTA EB NO. 1958
(CTA Case No. 8837)

Present:

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

Promulgated:
JUN 2 4 2021 11:45 a.m.

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner Commissioner of Internal Revenue's (**petitioner-movant**'s/**CIR**'s) Motion for Reconsideration[1] (**MR**), filed on 21 July 2020[2], without respondent GS MTE Grains Corporation's (**respondent**'s/**GS MTE**'s) comment, *per* Records Verification Report[3] dated 22 February 2021.

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1 Rollo, pp. 81-88.
2 Received by the Court on 28 July 2020.
3 Id., p. 98.

Petitioner-movant seeks the reconsideration of the Decision[4] dated 06 July 2020 (**assailed Decision**) on the ground that "the Honorable Court *En Banc* erred in resolving the case on an issue not raised by the parties, resolving the case on the assumption that petitioner-movant failed to issue assessment notices". He contends that the Court committed error in granting respondent a relief that was not prayed for and that his right to fair play and due process was violated.

Petitioner-movant maintains that the non-issuance of the Assessment Notices (**ANs**) was not raised in the original Petition for Review before the First Division. He posits that the reliefs that ought to be granted to a litigant are only those specifically prayed for in the complaint; other reliefs prayed for may be granted only when related to the specific prayer(s) in the pleadings and supported by evidence on record. Thus, he claims to have been denied procedural and substantive due process as he was not given the opportunity to be heard on the particular issue.

Petitioner-movant is of the view that Section 1, Rule 14 of the Revised Rules of the Court of Tax Appeals (**RRCTA**), which provides that the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case, is intended to allow the Court to resolve the main issue under the proper perspective but not to resolve as a main issue a matter not derived from the pleadings. Petitioner-movant argues that the aim to achieve an orderly disposition of the cases should not result in the violation of litigants' basic right to fair play and due process.

The Court *En Banc*'s resolves below.

After considering petitioner-movant's arguments and upon a second hard look on the case records, We find the instant MR bereft of merit.

The last paragraph of Section 1, Rule 14 of the RRCTA states:

4 Id., pp. 69-80.

> ...
>
> **Section 1.** *Rendition of judgment.* –
>
> ...
>
> In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.
>
> ...

Apropos, one of the issues raised by the parties before the Court Division is "whether petitioner-[movant] is liable to pay the assessed amount of ₱12,970,415.01 representing its deficiency income tax, expanded withholding tax [EWT] and compromise penalty for taxable year 2006".[5]

The issue raised by the parties as quoted above necessarily prompted the Court to inquire into the assessment as a whole, including its validity and the correctness of the amount imposed against respondent. Certainly, prior to determining respondent's actual tax liability, if any, it presupposes that the Court must have first ascertained that the assessment issued against respondent is valid.

Contrary to petitioner-movant's contention, the non-issuance of the ANs is actually an integral part in the full resolution of the main issue, *i.e.*, whether respondent is liable for deficiency taxes. Thus, although not specifically raised as an issue or alleged in the pleading, the Court can look into the circumstances and documents surrounding the assessment.

In the often cited case of *Commissioner of Internal Revenue v. Lancaster Philippines, Inc.*[6], the Supreme Court affirmed this Court's power to resolve an issue not raised by the parties, thus:

> ...
>
> On whether the CTA can resolve an issue which was not raised by the parties, we rule in the affirmative.
>
> Under Section 1, Rule 14 of A.M. No. 05-11-07-CTA, or the Revised Rules of the Court of Tax Appeals, the CTA is not bound by the issues specifically raised by the parties but may also rule upon

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[5] Id., p. 37.

[6] G.R. No. 183408, 12 July 2017; Citation omitted and italics in the original text.

related issues necessary to achieve an orderly disposition of the case. The text of the provision reads:

> SECTION 1. *Rendition of judgment.* – xxx
>
> In deciding the case, the Court may not limit itself to the issues stipulated by the parties but may also rule upon related issues necessary to achieve an orderly disposition of the case.

The above section is clearly worded. On the basis thereof, the CTA Division was, therefore, well within its authority to consider in its decision the question on the scope of authority of the revenue officers who were named in the LOA even though the parties had not raised the same in their pleadings or memoranda. The CTA En Banc was likewise correct in sustaining the CTA Division's view concerning such matter.

...

Petitioner-movant likewise claims to have been deprived of his basic right to fair play and due process considering that the non-issuance of AN was not alleged.

We disagree.

Records reveal that Ms. Leila Jane L. Dohinog, OIC-Assistant Chief of Assessment Division of Revenue Region 18, in her Judicial Affidavit[7], identified the ANs and stated that they were attached to the Formal Letter of Demand (**FLD**) in the Bureau of Internal Revenue (**BIR**) Records, as follows:[8]

> ...
>
> Q: What happened after the PAN with attached Details of Discrepancies were issued to petitioner?
>
> A: Petitioner was unable to file a protest against the PAN, so we issued a Formal Letter of Demand, with attached Details of Discrepancies and **assessment notices**, thereafter.
>
> Q: I have with me documents denominated as "Formal Letter of Demand with attached Details of Discrepancies and **assessment notices found in pages 107 to 112 of the BIR Records, marked as Exhibit "R-9"**, for the respondent, what relation do these documents

[7] Exhibit "R-11", Division Docket, Volume I, pp. 379-383.
[8] Id., pp. 80-81.

> have to the Formal Letter of Demand, with attached Details of Discrepancies and assessment notices that you mentioned earlier?
>
> A: These are the same Formal Letter of Demand, with attached Details of Discrepancies and assessment notices that I mentioned earlier.[9]
>
> ...

Unfortunately, although, petitioner-movant also claims to have offered the FLD with Details of Discrepancies and the supposed ANs in evidence, no ANs can be found in the BIR Records. There is thus no evidentiary support to petitioner-movant issuance of the ANs with the FLD and Details of Discrepancies, as required by Section 3.1.4 of Revenue Regulations (**RR**) No. 12-99.[10] Petitioner-movant cannot now assert that he was denied due process as he, in fact, had actually testified as to the issuance of the ANs, albeit not existing in the records.

All told, We find no cogent reason to deviate from our earlier ruling. The assessment against respondent for deficiency taxes covering taxable year 2006 is cancelled and set aside.

WHEREFORE, with the foregoing premises, petitioner-movant's Motion for Reconsideration is **DENIED** for lack of merit.

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9 Emphasis supplied.

10 *Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.*

SEC. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* —

...

3.1.4 *Formal Letter of Demand and Assessment Notice.* — **The formal letter of demand <u>and assessment notice shall</u> be issued by the Commissioner or his duly authorized representative.** The letter of demand calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based, otherwise, the formal letter of demand and assessment notice shall be void (see illustration in ANNEX B hereof). The same shall be sent to the taxpayer only by registered mail or by personal delivery. If sent by personal delivery, the taxpayer or his duly authorized representative shall acknowledge receipt thereof in the duplicate copy of the letter of demand, showing the following: (a) His name; (b) signature; (c) designation and authority to act for and in behalf of the taxpayer, if acknowledged received by a person other than the taxpayer himself; and (d) date of receipt thereof.*(Emphasis and underscoring supplied)*

...

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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 M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice