REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- *versus* -

MISAMIS ORIENTAL RURAL ELECTRIC SERVICE COOPERATIVE I, INC., (MORESCO-I),
Respondent.

CTA *EB* No. 2266
(CTA Case No. 9700)

Present:

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

Promulgated:
JUN 23 2023 3:55p.m.

x- x

RESOLUTION

MANAHAN, *J.:*

For resolution is petitioner's *Motion for Reconsideration (re: Decision dated 12 October 2022)* filed on November 2, 2022 with respondent's *Comment* filed via LBC on March 17, 2023.

Petitioner seeks reconsideration of the Court's Decision promulgated on October 12, 2022, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review posted by the CIR on July 9, 2020 is **DENIED**.
>
> Accordingly, the Decision dated November 4, 2019 and Resolution dated June 4, 2020 of the Second Division of this Court are **AFFIRMED**.
>
> **SO ORDERED**."

Petitioner presents the following grounds to warrant the reconsideration of the assailed Decision:

I.

WHETHER THE HONORABLE COURT IN DIVISION ERRED IN RULING THAT THE COURT CAN TAKE COGNIZANCE OF ISSUES NOT RAISED BY THE PARTIES.

II.

WHETHER OR NOT THE HONORABLE COURT ERRED IN RULING THAT THE ASSESSMENT IS VOID.

Petitioner invokes the oft-repeated argument that it was deprived of due process because the Court resolved the issue of want of authority of the revenue officers despite not having been raised by respondent in its Petition for Review nor raised during the pre-trial conference and never defined in the Pre-Trial Order by the Court. Petitioner contends that had he been aware that said matter would be raised as an issue, he could have presented evidence to prove authority of the revenue officers conducting the audit.

Be that as it may, petitioner insists that the deficiency assessment is valid because a Revenue District Officer (RDO) has the authority to re-assign the conduct of an audit to other revenue officers by the issuance of a Memorandum of Assignment (MOA), granting the revenue officers the proper authority to continue the audit examination.

Petitioner believes that the ruling of the Supreme Court in the case of *Commissioner of Internal Revenue (CIR) vs. McDonald's Philippines Realty Corp.,*[1] (*McDonald's* case) should not be applied retroactively citing the case of *Albino S. Co vs. Court of Appeals and People of the Philippines,*[2] where it was

[1] G.R. No. 242670, May 10, 2021.
[2] G.R. No. 100776, October 28, 1993.

supposedly ruled that a judicial decision which lays down a new doctrine must be applied prospectively.

Respondent in its Comment merely dismissed the arguments of petitioner as repetitions and rehashed arguments that have been fully and exhaustively passed upon by the Court in the assailed Decision.

RULING OF THE COURT

We agree with respondent that the arguments and issues raised by petitioner in his Motion for Reconsideration are mere reiterations and are in fact merely lifted from his Petition for Review filed with the Court *En Banc.* [3] These oft-repeated issues were exhaustively disposed of by the Court *En Banc* in its assailed Decision and not even a second look at the same arguments will merit a modification or reversal of the conclusions reached therein. While a movant may raise the same arguments precisely to convince the Court that its ruling is erroneous,[4] the Court is not duty bound to dwell upon said arguments if there are no substantially plausible or compelling reasons to reverse or modify the conclusions reached in the assailed Decision.[5]

On a final note, however, this Court finds it important to correct the misimpression of petitioner that the ruling of the Supreme Court in the *McDonald's* case lays down a new doctrine which should not be given a retroactive effect, because a careful perusal of said case clearly reveals that it primarily reiterates the ruling in previous cases that any re-assignment of cases to another revenue officer/officers requires the issuance of a new Letter of Authority (LOA). In the absence of such an authority, the assessment or examination is a nullity.[6]

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[3] Petition for Review, EB Docket, pp. 7-21.
[4] *Valencia (Bukidnon) Farmers Cooperative, et.al., vs. Heirs of Amante P. Cabotaje,* G.R. No. 219984, April 3, 2019.
[5] *Shangri-La International Hotel Management, Ltd., Shangri-La Properties, Inc., Makati Shangri-La Hotel and Resorts, Inc. and Kuok Philippine Properties, Inc. vs. Developers Group of Companies, Inc.*, G.R. No. 159938, January 22, 2007.
[6] Supreme Court Resolution in *Commissioner of Internal Revenue vs. Opulent Landowners, Inc.*, G.R. Nos 249883-84, January 27, 2020; *Medicard Philippines, Inc, vs. CIR,* G.R. No. 222743, April 5, 2017 and *Commissioner of Internal Revenue vs. Sony Philippines*, G.R. No. 178697. November 17, 2010.

WHEREFORE, premises considered, the *Motion for Reconsideration* filed by petitioner CIR is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
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