REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MACARIO LIM GAW, JR., Petitioner,	CTA EB No. 1247 (CTA Case No. 8502)
	Present:
-versus-	DEL ROSARIO, *PJ*; CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, and RINGPIS-LIBAN, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: OCT 17 2016 11:25 a.m.

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RESOLUTION

FABON-VICTORINO, J.:

For resolution is the Motion for Reconsideration (Re: Decision dated 20 May 2016)[1] filed by petitioner Macario Lim Gaw, Jr. on June 15, 2016, impugning the Decision of May 20, 2016, which dismissed his Petition for Review on jurisdictional ground.

In his bid for reconsideration, petitioner raises the following grounds, to wit:

I.

THE HONORABLE COURT ERRED IN DISMISSING THE *PETITION* AS THE *RESOLUTIONS* DATED 23 OCTOBER

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[1] *En Banc* Docket, pp. 254-278.

2014 AND 21 JULY 2014 RENDERED BY THE CTA FIRST DIVISION IN CTA CASE NO. 8502 FALL WITHIN THE JUDICIALLY-ESTABLISHED MEANING OF A JUDGEMENT OR FINAL ORDER.

II.

THE HONORABLE COURT ERRED IN NOT DISPOSING THE CASE ON THE MERITS CONSIDERING THE FOLLOWING:

A.

THE CTA FIRST DIVISION HAD ALREADY ACQUIRED JURISDICTION OVER PETITIONER'S *MOTION TO NULLIFY 29 APRIL 2014 AUCTION SALE,* AND THEREFORE COULD NOT BE DIVESTED OF SUCH JURISDICTION UNTIL FINAL JUDGMENT.

B.

THE SALE OF PETITIONER'S PROPERTIES DURING THE 29 APRIL 2014 AUCTION SALE WAS PREMATURE AND INVALID.

C.

THE POSTING OF A BOND IS NOT A CONDITION PRECEDENT TO THE SUSPENSION ORDER ISSUED BY THE CTA FIRST DIVISION ENJOINING THE CONDUCT OF THE 29 APRIL 2014 AUCTION SALE.

In his Comment filed on September 2, 2016, respondent Commissioner of Internal Revenue (CIR) points out that the instant Motion is a mere rehash of petitioner's arguments in his Petition for Review, which had been sufficiently discussed, passed upon and considered by the Court in the assailed Decision of May 20, 2016, justifying its denial.

Indeed, petitioner's Motion for Reconsideration did not raise any new or substantial arguments to warrant a reversal or even modification of the assailed Decision of May 20, 2016. Petitioner merely reiterates the arguments in his previously filed pleadings with the Court in Division and subsequently with the Court *En Banc* on appeal.

In fact, the Court *En Banc* in the assailed Decision, have discussed at length the fact that the questioned Resolutions of the Court in Division were merely interlocutory orders and could not be considered as judgments or final orders, which could be subject of an appeal. Thus, the remedy of appeal before the Court *En Banc* resorted to by petitioner is improper if not erroneous.

To repeat, a final order is one that which disposes of the whole subject matter or terminates a particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined. Upon the other hand, an order is interlocutory if it does not dispose of a case completely, but leaves something more to be done upon its merits.

Tested against the above criterion, the assailed Resolutions dated October 23, 2014 and July 21, 2014 rendered by the Court in Division in CTA Case No. 8502 is undoubtedly interlocutory in nature. Said Resolutions merely resolved petitioner's Motion to Nullify April 29, 2014 Auction Sale and Motion for Reconsideration, respectively, which were incidents to the main case. They did not in any way resolve the main issue in petitioner's case before the Court in Division, which involves the validity of the Final Decision on Disputed Assessment (FDDA) for deficiency Income Tax for 2007 issued by respondent against petitioner. Clearly, the assailed twin Resolutions issued by the Court in Division were interlocutory orders as they did not dispose of the case completely, but left something more to be done on its merits.

The Court generally frowns upon this remedial measure as regards interlocutory orders. The evident reason for such rule is to avoid multiplicity of appeals in a single action. To tolerate the practice of allowing appeals from interlocutory orders would not only delay the administration of justice but also would unduly burden the courts.[2]

WHEREFORE, the Motion for Reconsideration (Re: Decision dated 20 May 2016) filed by petitioner Macario Lim Gaw, Jr. on June 15, 2016 is hereby **DENIED**, for lack of merit.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

(Inhibited)
ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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

[2] Basa v. People. G.R. No. 152444, February 16, 2005, 451 SCRA 516-517.