REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

JOLLIBEE WORLDWIDE PTE. LTD.,
Respondent.

CTA EB NO. 2447
(CTA Case No. 9005)

Present:

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

Promulgated:
JUN 01 2023 2:50 pm

x- x

RESOLUTION

MANAHAN, J.:

This resolves the *Motion for Reconsideration of Decision dated January 10, 2023*, filed by the Commissioner of Internal Revenue (CIR) on January 27, 2023, with *Comment (Re: CIR's Motion for Reconsideration dated January 10, 2023)* filed by Jollibee Worldwide Pte. Ltd. (Jollibee) on February 28, 2023.

The CIR assails the Decision, dated January 10, 2023, which affirmed the Court in Division's grant of Jollibee's claim for refund or issuance of a tax credit certificate in the amount of Php18,483,928.77 representing erroneously collected taxes.

To recall, the Court of Tax Appeals (CTA) Third Division rendered a Decision dated August 26, 2020, cancelling the assessments against Jollibee and granting a refund of the amounts garnished, as follows:

> **WHEREFORE**, in light of the foregoing considerations, the instant *Amended Petition for Review* is hereby **GRANTED**.
>
> Accordingly, the Final Assessment Notices, Formal Letter of Demand dated January 15, 2013 for deficiency income tax, withholding tax, and expanded withholding tax for taxable year 2009 issued against petitioner is hereby **CANCELLED** and **SET ASIDE**. The Warrant of Distraint and/or Levy issued by respondent on March 18, 2015 is declared **NULL and VOID**.
>
> Respondent is hereby **ORDERED** to refund or issue a tax credit certificate to petitioner the amount of P18,483,928.77, representing illegally assessed and erroneously collected income tax, withholding tax on compensation and expanded withholding tax for taxable year 2009.
>
> **SO ORDERED.**[1]

The CIR's Motion for Reconsideration before the CTA Third Division was denied in the Resolution dated January 29, 2021, as follows:

> **WHEREFORE**, in light of the foregoing considerations, respondent's *Motion for Reconsideration* is **DENIED** for being filed beyond the reglementary period.
>
> On the other hand, petitioner's prayer for the issuance of a writ of execution is **GRANTED**. Accordingly, let entry of judgment be made in due course, and thereafter, the corresponding Writ of Execution be issued to enforce the Decision dated August 26, 2020.
>
> **SO ORDERED.**

On appeal, the CTA *En Banc* rendered the assailed January 10, 2023 Decision, which affirmed the findings of the CTA Third Division.

In his *Motion*, the CIR argues that Jollibee's right to due process provided under Section 228 of the 1997 National Internal Revenue Code (NIRC), as amended, and Revenue Regulations (RR) No. 12-99, as amended, was faithfully observed, and, that due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself.

---

[1] EB Docket, Division Decision dated August 26, 2020, p. 28.

The CIR also states that the delay in the filing of the motion for reconsideration to the CTA Third Division can still be excused in the interest of substantial justice.

On the other hand, Jollibee states that the CIR's *Motion* contains mere rehash of arguments carefully considered and deconstructed by the Court and that the Court correctly concluded that due process was violated when the Final Assessment Notice (FAN)/Formal Letter of Demand (FLD) was prematurely issued. Jollibee also states that the CIR's motion for reconsideration before the CTA Third Division should not be admitted since the CIR failed to present any justifiable cause which would warrant a liberal application of the rules.

The instant *Motion for Reconsideration of Decision dated January 10, 2023* is denied.

It is clear that the arguments raised by the CIR have been thoroughly discussed and passed upon in the Division's Decision and Resolution, dated August 26, 2020 and January 29, 2021, respectively, in CTA Case No. 9005, and the CTA *En Banc*'s Decision dated January 10, 2023.

The CIR does not submit any compelling argument to warrant the reversal of the Court's findings that there was a violation of Jollibee's due process due to the premature issuance of the FAN/FLD. Neither has the CIR presented any justifiable reason for the liberal application of the rules and for the admission of his belatedly filed motion for reconsideration before the CTA Third Division.

In *Madeleine Mendoza-Ong v. Hon. Sandiganbayan and People of the Philippines*,[2] the Supreme Court ruled that courts need not tackle those rehashed or reiterated arguments because it will be useless to reiterate itself. The Supreme Court stated:

> Concerning the first ground abovecited, the Court notes **that the motion contains merely a reiteration or rehash of arguments already submitted to the Court and found to be without merit**. Petitioner fails to raise any new and substantial arguments, and no cogent reason exists to warrant a reconsideration of the Court's Resolution. **It**

---

[2] G.R. Nos. 146368-69, October 18, 2004.

> **would be a useless ritual for the Court to reiterate itself.** (*Emphases supplied)*

WHEREFORE, the *Motion for Reconsideration of Decision dated January 10, 2023*, filed by the Commissioner of Internal Revenue, is **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

(On Leave)
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