REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ALBERTO LIM TANGSO/ A.L. ELECTRICAL SHOP & PARTS SUPPLY, Petitioner,	**CTA CASE NO. 10367** Members:
- versus -	**RINGPIS-LIBAN**, *Chairperson*, **MODESTO-SAN PEDRO**, *and* **FERRER-FLORES**, *JJ*.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: OCT 04 2024 3:11 pm

x -- x

RESOLUTION

RINGPIS-LIBAN, J.:

Before this Court is petitioner's **Motion for Reconsideration** posted on July 5, 2024, and received by the Court on July 15, 2024, with respondent's **Comment/Opposition to Petitioner's Motion for Reconsideration)** filed through accredited licensed courier[1] on August 2, 2024, and received by the Court on August 5, 2024.

On June 18, 2024, the Court promulgated a Decision partially sustaining respondent's deficiency income tax and value-added tax (VAT) assessments against petitioner for taxable year 2011, for the latter's failure to provide supporting documents to refute said assessments, the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, the instant Petition for Review is **PARTIALLY GRANTED**. The assessments issued by respondent against petitioner covering deficiency income tax and VAT for TY 2011 are to be **UPHELD IN PART**. Accordingly, petitioner is **ORDERED TO PAY** respondent the aggregate amount of **EIGHT MILLION THIRTY-FOUR THOUSAND FIVE HUNDRED EIGHTY-SEVEN PESOS AND EIGHTY-SIX CENTAVOS (₱8,034,587.86)**, inclusive of 25% surcharge, 20% deficiency interest and 20% delinquency interest imposed under Sections 248 (A)(3), 249(B)

[1] *See* Supreme Court OCA Circular No. 54-2023.

and (C)(3) of the NIRC of 1997, as amended, computed until December 31, 2017, as follows:

	IT	VAT	Total
Basic Tax Due	₱2,183,027.51	₱76,167.44	₱2,259,194.95
Add: 25% Surcharge	545,756.88	19,041.86	564,798.74
20% Deficiency Interest:			
IT: From April 16, 2012 to August 15, 2014 *[₱2,183,027.51 x 20% x 852/365 days]*	1,019,144.90		1,019,144.90
VAT: From January 26, 2012 to August 15, 2014 *[₱76,167.44 x 20% x 933/365 days]*		38,939.30	38,939.30
Total Amount Due, August 15, 2014	**₱3,747,929.29**	**₱134,148.60**	**₱3,882,077.89**
Add: 20% Deficiency Interest from August 16, 2014 to December 31, 2017			
[₱2,183,027.51 x 20% x 1,234/365 days]	1,476,085.45		1,476,085.45
[₱76,167.44 x 20% x 1,234/365 days]		51,501.71	51,501.71
20% Delinquency Interest from August 16, 2014 to December 31, 2017			
[₱3,747,929.28 x 20% x 1,234/365 days]	2,534,216.30		2,534,216.30
[₱134,148.60 x 20% x 1,234/365 days]		90,706.51	90,706.51
Total Amount Due as of December 31, 2017	**₱7,758,231.04**	**₱276,356.82**	**₱8,034,587.86**

In addition, petitioner is **ORDERED TO PAY** respondent delinquency interest at the rate of twelve percent (12%) per annum on the total unpaid deficiency taxes due as of August 15, 2014, in the amount of ₱3,882,077.89 or equivalent to ₱1,276.30 per day, computed from January 1, 2018 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN) and as implemented by RR No. 21-2018.

SO ORDERED."

In its Motion, petitioner prays that the Decision be reversed and set aside based on the following grounds, *viz.*:

i. The Revenue Officer assigned for reinvestigation should be authorized by a new Letter of Authority (LOA).

ii. The Audit Criteria for 2009-2010 cannot be used prospectively for taxable year 2011.

iii. The Final Decision on Disputed Assessment (FDDA) is void since petitioner's protest was not considered by the Bureau of Internal Revenue (BIR) in violation of due process pursuant to the case of *Commissioner of Internal Revenue v. Avon Products Manufacturing.*

iv. The right of the respondent to collect has prescribed.

On the other hand, in his Comment, respondent points out that the arguments present by petitioner in its Motion for Reconsideration are mere rehash of what have been said in its *Petition for Review* filed on October 2, 2020 and Memorandum filed on April 20, 2023. In any case, petitioner reiterates that an LOA is not necessary to authorize a revenue officer to reinvestigate the deficiency tax assessments since after the issuance of a Final Assessment Notice (FAN), the objective of the LOA becomes *functus officio*. Respondent also argues that, *assuming arguendo,* an LOA is required in case of reinvestigation, the absence thereof would only invalidate the resulting decision – the FDDA, and not the assessment per se.

Respondent further contends that after availing of the period to refute the collection of tax, petitioner is now raising prescription as a defense when the reason for the delay of the collection is due to its own doing. Lastly, respondent submits that petitioner's general assertion that the LOA should be declared void for violation of Revenue Audit Memorandum Order No. 1-2000[2] and Revenue Memorandum Order No. 44-2010[3], without specifically stating the section/s and provision/s that would support his claim, shows that the issue raised has no substance to be considered by the Court.

After due consideration, the Court finds petitioner's Motion for Reconsideration bereft of merit.

As correctly observed by respondent, the arguments proffered by petitioner in the present Motion are mere rehash of what has been previously raised, considered, weighed, and resolved by the Court in the Decision it assails.

---

2 "SUBJECT: Updated Handbook on Audit Procedures and Techniques Volume I (Revision —Year 2000)", dated March 17, 2000.

3 "SUBJECT: Electronic Issuance of Letters of Authority", dated May 12, 2010.

With emphasis, this Court maintains its conclusion that a new LOA is not needed to authorize revenue officer (RO) Agripina Vallestero to reinvestigate respondent's deficiency tax assessments.

As already settled herein, an LOA was issued in the present case authorizing, among others, RO Irene Calalang to conduct examination of petitioner's books of accounts. After conducting the audit investigation, RO Calalang filed her Memorandum Report recommending the issuance of the PAN and FAN against petitioner. Subsequently, petitioner filed a motion for reconsideration (or appeal) after receipt of the FAN. As such, RO Vallestero and group supervisor (GS) Alfredo O. Pagbilao, Jr. were then assigned to examine petitioner's records.

Again, upon issuance of an assessment, the LOA has already served its purpose. In the review of the taxpayer's request for reconsideration or reinvestigation, the new RO will just re-examine the books of accounts that were already considered and evaluated by the former RO, and the additional documents, if any, that were submitted for reinvestigation. This is because a re-examination is not a continuation of audit investigation of petitioner's books of accounts, but only a review of what was already audited. Conversely, the audit investigation process is already finished and the danger or abuse sought to be avoided in the assessment (by not issuing an LOA) is already absent.

With regard to petitioner's reliance in the case of *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc., et seq.,*[4] wherein the Supreme Court ruled that there was violation of due process when the BIR failed to consider the explanations and pieces of evidence submitted by a taxpayer in its protest to the assessment notices, the Court finds petitioner's reliance thereon as misplaced.

As already elaborately discussed in the Decision, the doctrine in the aforementioned case applies to a situation where the BIR issued identical amounts of assessments in the PAN and FAN, without considering the arguments and documents submitted by a taxpayer in its protest. It does not apply to a situation where Formal Letter of Demand (FLD) and FDDA contains the same amounts of assessments and explanation. An assessment itself differs from a decision on a disputed assessment.

Lastly, petitioner argues that respondent's right to collect has already prescribed. Petitioner invokes the case of *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development Inc.,*[5] wherein the Supreme Court discussed that the statute of limitations on assessment and collection of national internal revenue taxes was shortened from five (5) years to three (3) years by

---

4 G.R. Nos. 201398-99 and G.R. Nos. 201418-19, October 03, 2018.
5 G.R. No. 258947, March 29, 2022.

virtue of Batas Pambansa Blg. 700,[6] and that the 3-year period for collection of the assessed tax begins to run on the date the assessment notice had been released, mailed or sent to the taxpayer. As such, petitioner now insists that considering the FLD was issued on July 14, 2014, respondent only has until July 15, 2017 within which to collect petitioner's alleged deficiency taxes.

The Court is not swayed.

As culled from the records of the case, on May 5, 2014, the BIR issued a PAN finding petitioner liable for deficiency taxes in the total amount of ₱3,261,446.71. Then on July 22, 2014, the BIR issued the FLD against petitioner (with accompanying Assessment Notices with No. 33557), finding the latter liable for deficiency taxes in the total amount of ₱3,315,749.98, consisting of deficiency income tax, VAT, and expanded withholding tax, plus compromise penalties, for taxable year 2011.[7] Thereafter, the BIR issued the FDDA dated March 28, 2016,[8] denying petitioner's request for reinvestigation/reconsideration to the subject FLD and Assessment Notices, covering the 2011 deficiency income tax and VAT. The FDDA was followed by the issuance of the Preliminary Collection Letter (PCL) dated September 6, 2016,[9] and the Final Notice Before Seizure (FNBS) dated September 22, 2016.[10] After which on August 1, 2016, petitioner filed with the BIR a Motion for Reconsideration, which was then denied by respondent in his Decision dated August 17, 2020.[11]

Form the foregoing timeline of events, respondent had apparently commenced its collection effort as early as 2016 via the issuance of PCL and FBNS. Clearly, respondent's right to collect has not yet prescribed.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised in petitioner's Motion for Reconsideration, the Court finds no compelling reason to reverse or modify the Decision promulgated on June 18, 2024.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.

---

6 "An Act Amending Sections 318 and 319 of the National Internal Revenue Code, as Amended, So as to Reduce the Period of Limitation for Assessment of Internal Revenue Taxes from Five (5) to Three (3) Years", approved on April 5, 1984.

7 *See* paragraphs 4 and 5, Joint Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), Docket – Vol. I, p. 282; Exhibit "P-3", Docket – Vol. I, pp. 305 to 311; Exhibits "R-10", "R-11", "R-12", "R-13", "R-13-A", "R-13-B", "R-14", BIR Records, pp. 1233 to 1239.

8 Par. 6, Joint Stipulation of Facts, JSFI, Docket – Vol. I, p. 373; Exhibit "P-8", BIR Records, pp. 1464 to 1465.

9 Exhibit "P-11", BIR Records, p. 1470.

10 Par. 7, Joint Stipulation of Facts, JSFI, Docket – Vol. I, p. 373.

11 Exhibits "P-9" and "P-10", Docket – Vol. I, pp. 335 to 367 and pp. 74 to 85, respectively.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

We Concur:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice