REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Special Third Division

UNISPHERE INTERNATIONAL, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8782

Members:

FABON-VICTORINO, *Acting Chairperson, and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

JUL 25 2019
3:14 p.m.

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RESOLUTION

RINGPIS-LIBAN, *J*.:

For resolution is respondent's **Motion for Reconsideration (Re: Decision dated January 21, 2019)**, filed thru registered mail on February 26, 2019 and received by the Court on March 7, 2019, without petitioner's comment as per Records Verification Report dated May 2, 2019.

Respondent moves for reconsideration of the Court's Decision (assailed Decision) dated January 21, 2019, granting petitioner's Petition for Review, and cancelling and setting aside the Assessment Notice, Warrant of Distraint and/or Levy, Warrants of Garnishment, and the Notice to Tax Lien on TCT No. PT-100571. The dispositive portion of the assailed Decision states:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. Accordingly, Assessment No. 34-1-000219-94 dated March 5, 1998, and the Warrant of Distraint and/or Levy No. 11-1476-13, the Warrants of Garnishment, and the Notice of Tax Lien on TCT No. PT-100571 issued pursuant to the said assessment are all **CANCELLED** and **SET ASIDE**."
>
> **SO ORDERED**."

Respondent maintains that petitioner was validly served with the Assessment Notice (FAN) at its registered address per the BIR Integrated Tax System (ITS) which is at 1885 Pres. Quirino Avenue, Paco, Manila. Hence, petitioner's right to due process under Section 228 of the Tax Code of 1997, as amended, was not violated.

Respondent further contends that petitioner is duty bound to update its registration status as required by Section 236 of the Tax Code of 1997, as amended, by filing an application for registration update (BIR Form No. 1905) with its Revenue District Office (RDO) when it transferred business in Pasig. As respondent heavily relied on petitioner's representation that it is still a registered taxpayer of RDO 33, both Preliminary Assessment Notice (PAN) and FAN were all sent to petitioner by registered mail to its registered address in the ITS. Hence, petitioner is estopped from claiming the subject PAN and FAN were sent to the wrong address.

Moreover, respondent claims that since petitioner filed an application to compromise its deficiency tax liabilities for CY 1994, and in fact, paid the total amount of P354,604.88, petitioner is already estopped from questioning the validity of the subject assessment.

The Court finds the arguments in the instant motion without merit.

The arguments raised by the respondent are mere rehash of the same facts and issues which have already been thoroughly discussed in the assailed Decision.

As ruled in the assailed Decision, prior to the mailing of the FAN, respondent already knew of petitioner's new address at 213 C. Santos St., Bo. Ugong, Pasig, as reflected in the following correspondence: the Letter of Authority, Second Final Request for Presentation of Books of Accounts and Other Relevant Records and Notice of Informal Conference. Since respondent still chose to send the FAN to petitioner's old address despite knowledge that petitioner had moved to its new address, it cannot be said that the mail matters were properly addressed.

On his allegation that, by applying for compromise settlement, petitioner is already estopped from assailing the validity of the assessment, the Court finds the argument without basis.

As found by the Court, petitioner filed an application to compromise its alleged deficiency tax liabilities for CY 1994 on the **ground of doubtful validity of the assessment**. It paid the minimum compromise rate of ten (10%) percent of the basic tax on August 27, 2008 in the amount of ₱90,331.60

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and an additional compromise payment on February 25, 2009 in the amount of ₱264,273.28, raising the compromise payment to a total of ₱354,604.88, or more than 40% of the basic tax assessed for CY 1994. However, on March 11, 2011, respondent's Ms. Elvira R. Vera, Assistant Commissioner for Collection Service issued a letter denying petitioner's application.

In this regard, Section 204 of the NIRC of 1997, as amended, provides for the authority of respondent to compromise taxes, the pertinent portion of which reads:

> "SEC. 204. **Authority of the Commissioner to Compromise, Abate, and Refund or Credit Taxes.** –
>
> (A) Compromise the payment of any internal revenue tax when:
>
> (1) A reasonable doubt as to the validity of the claim against the taxpayer exists; or
> (2) The financial position of the taxpayer demonstrates a clear inability to pay the assessed tax.
>
> xxx xxx xxx"

There is nothing in the foregoing provision which would show that a taxpayer shall be estopped from assailing the validity of the assessment when it applies for compromise. In fact, one of the grounds for the compromise of tax payment is when a reasonable doubt as to the validity of the assessment exists, which petitioner invoked in filing its application for compromise. Clearly, even in the filing of the application for compromise, petitioner is still questioning the validity of the assessment. Thus, respondent's allegation that petitioner is already estopped from assailing the validity of the assessment is likewise devoid of merit.

Consequently, finding no cogent reason to reverse the ruling in the assailed Decision, the granting of the Petition for Review filed by Unisphere International, Inc. is affirmed.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration (Re: Decision dated January 21, 2019)** is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

I CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice