

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Second Division

MS. FATIMA L. SIMBRE,
Petitioner,

CTA CASE NO. 11112

Members:

- versus -

RINGPIS-LIBAN, P.J., *Chairperson*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, JJ.

THE COMMISSIONER OF
INTERNAL REVENUE (CIR),
BUREAU OF INTERNAL
REVENUE,

Respondents.

Promulgated:

SEP 15 2026

12:11 PM

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RESOLUTION

RINGPIS-LIBAN, P.J.:

Before the Court is petitioner's **Motion for Reconsideration** filed on April 29, 2026, with respondent's **Comment/Opposition** filed on May 25, 2026.

On March 19, 2026, the Court promulgated a Decision partially granting the present *Petition for Review* by cancelling respondent's compromise penalties but upholding with modifications the deficiency income tax, value-added tax (VAT), and expanded withholding tax (EWT) assessments for the taxable year 2014, in the amount of Php1,239,154.53, the dispositive portion of which is quoted as follows:

"ACCORDINGLY, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED.**

Respondent's assessment on compromise penalties for the taxable year 2014 is **CANCELLED** and **SET ASIDE**, for lack of merit, while the assessments for deficiency income tax, VAT, and

EW'T for the taxable year 2014 are **UPHELD WITH MODIFICATIONS.**

Thus, petitioner is **ORDERED TO PAY** respondent the amount of **Php1,239,154.53**, inclusive of 25% surcharge, 20% deficiency and delinquency interest imposed under Sections 248(A)(3), 249(B) and (C) of the NIRC of 1997, as amended by Republic Act No. 10963, otherwise known as the 'Tax Reform for Acceleration and Inclusion' ('TRAIN') Law, and implemented through RR No. 21-2018, computed as follows:

x x x x x x x x x

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 of Php1,179,527.61 as of November 2, 2017, or equivalent to the amount of **Php387.79** per day, computed from January 1, 2018 until full payment thereof, pursuant to Section 249(C) of the NIRC of 1997, as amended by the TRAIN Law, and implemented by RR No. 21-2018.

Lastly, pursuant to Section 13 of RA No. 9282, considering that this decision is partly favorable to the national government, the BIR, through respondent, is hereby authorized to seize and distraint any goods, chattels, or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property and/or levy the real property of petitioner in sufficient quantity to satisfy the tax or charge with any increment thereto incident to delinquency.

SO ORDERED.” (*Citations omitted*)

In the present Motion, petitioner maintains that respondent violated her right to procedural due process since there were no valid audit, no valid service of notices, and no valid assessment that transpired in this case. Petitioner argues that there was nothing in respondent’s evidence that would prove that the revenue officers (ROs) named in the Letter of Authority (LOA) were the same ROs who delivered the LOA to her place of business. Petitioner contends that the Court also erred in concluding that the LOA was validly served to petitioner based merely on substantial assumptions, not strict proof, as specified by the Court in its Decision that “*no Affidavit of Service or Acknowledgement Receipt as required by paragraph 4 of RMC No. 110-2020 was offered to prove the service of the eLA/LOA, as confirmed by RO Ramos during the hearing held on October 22, 2024.*”¹

Moreover, petitioner likewise submits that he Court’s reliance on respondent’s substituted service of the *Preliminary Assessment Notice* (PAN) was

¹ Decision, p. 21.

erroneous since substituted service must be strictly proven and mere presence of the barangay officials' signatures does not automatically prove valid substituted service. Petitioner states that the Bureau of Internal Revenue (BIR) must satisfactorily establish that personal service was not practicable and that the circumstances required under Revenue Regulations (RR) No. 12-99,² as amended by RR No. 18-2013,³ were strictly followed. Petitioner further asserts that the PAN is not a mere formality, it is a mandatory due process requirement under Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, and failure to validly serve the PAN renders the assessment void. In this case, considering that petitioner denies receipt of the PAN, the burden rests on the BIR to show strict compliance in resorting to substituted service, and any doubt must be resolved in favor of due process.

Lastly, petitioner insists that the Court erred in sustaining the fifty percent (50%) disallowance of expenses based on the "Best Evidence Obtainable" assessment without actual proof of compliance with Revenue Memorandum Circular (RMC) No. 23-2000;⁴ the disallowance of salaries and wages due to the non-submission of the Annual Alphalist of Employees; the VAT assessment based on alleged sales discrepancy; and the disallowance of EWT and related professional fee based merely on the presumption of non-withholding, without any supporting evidence thereof.

On the other hand, in its Comment, respondent points out that the arguments raised by the petitioner in the present Motion are mere reiterations of issues already thoroughly considered, discussed, and resolved by the Court in its assailed Decision. Respondent contends that there is no more necessity for the Court to discuss the issues anew since "this would be a useless formality of ritual invariably involving merely a reiteration of the reasons already set forth in the judgement or final order for rejecting the arguments advanced by the movant."⁵

In any case, respondent insists that RO Mark Angelo Ramos of BIR Revenue District No. 001 personally served the PAN dated August 17, 2017 at petitioner's registered address on September 5, 2017. Respondent continues that petitioner was not present at the time of service and the front desk officer refused to receive the said document. As such, respondent recalls that the PAN was served to petitioner through substituted service with the help of, and as witnessed by, the barangay officials at Brgy. 49, Raraburan, Laoag City, particularly Kagawad Ferdinand Barayuga and Kagawad Jessie Santos, and one Khevin Abiva.

² SUBJECT: Implementing the Provisions of the National Internal Revenue Code of 1997, Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty.

³ SUBJECT: Amending Certain Sections of Revenue Regulations No. 12-99 Relative to the Due Process Requirement in the Issuance of a Deficiency Tax Assessment.

⁴ SUBJECT: Existing Revenue Procedures on the Assessment of Deficiency Internal Revenue Taxes Based on the "Best Evidence Obtainable."

⁵ Citing *People of the Philippines v. Florencio Agacer, et. al.*, G.R. No. 177751, January 7, 2013.

Respondent reiterates that, and as correctly found by the Court, sufficient service of BIR Notices was made to petitioner but she, however, continuously refused/ignored the notices despite several opportunities given to submit her records and refute the assessment. For the said reason, petitioner cannot claim that "no honest-to-goodness tax audit" was made herein, since procedural due process was accorded to her from the beginning of the assessment. Thus, respondent submits that the subject tax assessments are valid and there was no violation of petitioner's right to administrative due process.

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

As correctly pointed out by respondent, the grounds raised in petitioner's Motion are essentially rehash of the same issues and arguments which have already been thoroughly addressed and discussed in the Decision it assails. Notably, in the case of *Licomcen Incorporated v. Foundation Specialists, Inc., et seq.*,⁶ the Supreme Court emphasized that the filing of a motion for reconsideration does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial, *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

As to petitioner's argument that the Court erred in sustaining the disallowance of salaries and wages due to non-submission of the Annual Alphalist of Employees, the Court finds no reason to depart from its earlier ruling.

To reiterate, under Section 2.83.3 of RR No. 02-98,⁷ as amended by RR No. 1-2014,⁸ the non-submission of the *Alphalist of Employees*, which is required

⁶ G.R. Nos. 167022 and 169678, August 31, 2007; citing *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*, G.R. Nos. 109645 and 112564, March 4, 1996.

⁷ SUBJECT: Implementing Republic Act No. 8424, "An Act Amending the National Internal Revenue Code, as Amended" Relative to the Withholding on Income Subject to the Expanded Withholding Tax and Final Withholding Tax, Withholding of Income Tax on Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes

⁸ SUBJECT: Amending the Provisions of Revenue Regulations (RR) No. 2-98, as Further Amended by RR No. 10-2008, Specifically on the Submission of Alphabetical List of Employees/Payees of Income Payments

to be attached as an integral part of the Annual Information Return (BIR Form No. 1604-CF), renders the related expense non-deductible for income tax purposes.⁹

Here, petitioner did not formally offer in evidence the purported Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (BIR Form No. 1604-CF) and e-Submission Validation Report, which she claims was filed on time. By failing to do so, the Court cannot accurately determine the veracity of petitioner's claim.

Perforce, it must be emphasized that the Court shall consider no evidence which has not been formally offered.¹⁰ Section 8 of RA No. 1125,¹¹ as amended, categorically provides that this Court shall be a court of record and as such it is required to conduct a formal trial (*trial de novo*) where the parties must present their evidence accordingly if they desire the Court to take such evidence into consideration.¹²

With regard to petitioner's remaining arguments, the same have already been thoroughly considered and resolved by the Court. The burden of proof rests upon petitioner. It is axiomatic that all presumptions are in favor of the correctness of tax assessments, the assessment itself should not be based on presumptions no matter how logical the presumption might be. In order to stand the test of judicial scrutiny, the assessment must be based on actual facts. The presumption of the correctness of an assessment, being a mere presumption, cannot be made to rest on another presumption.¹³

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner in her Motion for Reconsideration, the Court finds no compelling reason to reverse or modify the Decision promulgated on March 19, 2026.

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

⁹ "Section 2.83.3. *Requirement for list of payees.* — xxx

The submission of the herein prescribed alphalist where the income payments and taxes withheld are lumped into one single amount (e.g., 'Various employees', 'Various payees', 'PCD nominees', 'Others', etc.) shall not be allowed. **The submission thereof, including any alphalist that that does not conform with the prescribed format thereby resulting to the unsuccessful uploading into the BIR system shall be deemed not as received and shall not qualify as a deductible expense for income tax purposes.**" (*Emphases added*)

¹⁰ Section 34, Rule 132 of the Revised Rules of Court.

¹¹ "AN ACT CREATING THE COURT OF TAX APPEALS", approved on June 16, 1954.

¹² *Commissioner of Internal Revenue v. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

¹³ Refer to *The Collector of Internal Revenue (now Commissioner) v. Benipayo*, G.R. No. L-13656, January 31, 1962.

SO ORDERED.

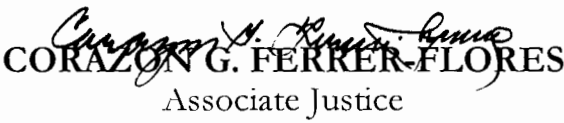


MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

We Concur:



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice



CORAZON G. FERRER-FLORES
Associate Justice