Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT (PSALM) CORPORATION,
Respondent.

CTA EB No. 1088
(CTA Case No. 8177)

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POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT CORPORATION
Petitioner

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 1089
(CTA Case No. 8177)

Present:
DEL ROSARIO, *PJ*,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:
OCT 12 2015
3:28 p.m.

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RESOLUTION

CASANOVA, J.:

Submitted for resolution is petitioner-Commissioner of Internal Revenue's (CIR) Motion for Partial Reconsideration filed on June 5, 2015, seeking partial reconsideration of this Court's Decision, promulgated on May 4, 2015, the decretal portion of which reads:

> "**WHEREFORE,** finding no cogent reason to reverse the Assailed Decision dated July 3, 2013 and the Assailed Resolution dated November 7, 2013, of the CTA Special Third Division, the Petitions for Review are hereby **DISMISSED** for lack of merit. Accordingly, the July 3, 2013 Decision and November 7, 2013 Resolution of the CTA Special Third Division are hereby **AFFIRMED.**"

Respondent-Power Sector Assets and Liabilities Management Corporation (PSALM) filed its Comment (On the Commissioner of Internal Revenue's 4 June 2015 Motion for Partial Reconsideration) on August 13, 2015.

In support of its Motion, petitioner-CIR submits: that, BIR Ruling 020-2002 does not deserve to provide petitioner a tax exemption which will bar any act of the Government to enforce its power to tax; that, seeing that the ruling is contrary to the text of RA 9337, respondent should not and cannot be clothed with good faith; and, finally, that respondent is liable for P315,472,516.55 as deficiency VAT and Withholding Taxes for Calendar Year 2006 plus 25% surcharge, 20% deficiency interest, and 20% delinquency interest.

Respondent, for its part, counters that "petitioner's Motion for Partial Reconsideration merely rehashed stale arguments that have been thoroughly studied, considered and passed upon by the Honorable Court". That, petitioner, likewise, failed to point out specifically the findings or conclusions in the Decision which are not supported by the evidence which are contrary to law. Thus, the Motion is pro-forma and did not toll the reglementary period of appeal thus making the Decision final and executory.

Respondent further argues that, contrary to petitioner-CIR's position that the subsequent enactment by RA 9337 (E-VAT Law) on July 1, 2005, amending Sections 106 and 108 of the NIRC and placing the electric power industry in the VAT System, superseded BIR Ruling 020-2002, the E-VAT Law does not render said BIR Ruling ineffective nor did it supersede the same.

After carefully evaluating petitioner-CIR's Motion for Partial Reconsideration, and the Comment (On the Commissioner of Internal Revenue's 4 June 2015 Motion for Partial Reconsideration), this Court finds no valid or compelling reason to grant the same. The Motion does not raise any new, cogent or substantial ground to warrant reconsideration of this Court's Decision dated May 4, 2015.

WHEREFORE, petitioner-CIR's Motion for Partial Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

(I maintain my Separate Concurring Opinion)
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

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice