REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

SM INVESTMENTS CORPORATION,
Respondent.

CTA EB NO. 2306
(CTA Case No. 9322)

Present:
DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
MAR 0 2 2022 11:30 am

x- -x

RESOLUTION

RINGPIS-LIBAN, *J.*:

This resolves Petitioner's "Motion for Reconsideration (Re: Decision promulgated 28 October 2021)"[1] ("Motion for Reconsideration") filed on November 12, 2021, with Respondent's "Comment/Opposition [To Petitioner's Motion for Reconsideration (Re: Decision promulgated 28 October 2021) dated 10 November 2021]" ("Comment/Opposition") filed on November 29, 2021 through email, a hard copy of which was received by the Court on December 02, 2021.

Petitioner's Motion for Reconsideration prays for the reversal and setting aside of the Decision[2] promulgated on October 28, 2021 ("Assailed Decision"), and for the issuance of a new one denying the entire claim for refund.

[1] Rollo, pp. 108-125.
[2] *Id.,* pp. 96-107.

The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **DENIED**. The Amended Decision dated November 18, 2019 and the Resolution dated June 30, 2020 of the Second Division in the case docketed as CTA Case No. 9322 are **AFFIRMED**.
>
> **SO ORDERED.**"[3]

In his Motion for Reconsideration, Petitioner contends that the court erred when it allowed the recall of Respondent's witnesses to explain the recording of related income in its books of accounts. This, according to Petitioner, is tantamount to reopening the case since a decision has already been rendered. Petitioner reasons that Respondent had already been given more than ample opportunity to proper ventilate its case.

Petitioner also avers that the National Internal Revenue Code (NIRC) of 1997, as amended, and Bureau of Internal Revenue ("BIR") issuances provide that in order for any claim for refund to prosper, it is incumbent upon the claimant to prove actual remittance of the same alleged withheld taxes to the BIR.

On the other hand, Respondent in its Comment/Opposition maintains that the grounds stated in Petitioner's Motion for Reconsideration have already been denied in the Assailed Decision, and will not suffice to warrant the reconsideration of the same and deprive Respondent of the refund granted to it.

We agree with Respondent.

Petitioner's contentions are mere reiterations of the arguments raised in his "Petition for Review". Moreover, these issues have been amply considered, weighed and resolved in the Assailed Decision. Thus, to discuss anew the explanation of the Court on these matters is superfluity.

In sum, the Court *En Banc* finds no cogent reason to warrant a reconsideration of the Assailed Decision.

WHEREFORE, premises considered, Petitioner's "Motion for Reconsideration (Re: Decision promulgated 28 October 2021)" is **DENIED** for lack of merit.

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[3] *Id.,* Decision dated October 28, 2021, pp. 105-106.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

(On Leave)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice