REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1806** (CTA Case No. 8678)
- versus -	Present: **DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
SABRE TRAVEL NETWORK (Philippines), (formerly) ABACUS DISTRIBUTIONS SYSTEMS PHILIPPINE INC., Respondent.	Promulgated: **SEP 16 2019** 3:41 p.m.

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RESOLUTION

RINGPIS-LIBAN, *J.*:

This resolves Petitioner's "Motion for Reconsideration (Re: Decision dated 08 April 2019)"[1] ("Motion for Reconsideration") filed on April 30, 2019 *via* registered mail, with Respondent's "Comment/Opposition (To Commissioner of Internal Revenue's Motion for Reconsideration dated 29 April 2019)"[2] ("Comment") filed on July 29, 2019, seeking to set aside the Decision[3] promulgated on April 08, 2019 ("Assailed Decision") and praying that the instant Petition for Review be resolved on the merits.

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1 Rollo, pp. 188-196.
2 *Id.*, pp. 200-215.
3 *Id.* pp. 155-167.

The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, premises considered, the Petition for Review is **DISMISSED**.
>
> For violation of the anti-forum shopping rule, CIR's counsels, Atty. Sylvia R. Alma Jose and Atty. Cristina P. Castillo-Lim from the BIR Litigation Division are sanctioned with **SEVERE CENSURE.**
>
> **SO ORDERED.**"[4]

In his Motion for Reconsideration, Petitioner claims that the instant Petition for Review was not prematurely filed. According to him, the Amended Decision[5] dated February 15, 2018 had already resolved the parties' respective motions for partial reconsideration[6] on August 04, 2017. Thus, his only recourse is to elevate an appeal to the Court *En Banc.*

Petitioner also avers that the matters subject of the present appeal are the matters raised in his motion for partial reconsideration on the Decision[7] ("original Decision") dated July 19, 2017, which was denied by the court *a quo* through its Amended Decision. Petitioner believes that the present appeal was his only recourse to safeguard his right to question the denial of his motion for partial reconsideration.

Lastly, Petitioner's counsel offered her profuse apologies for not stating that there was a pending motion for partial reconsideration before the Court of Tax Appeals Second Division ("Second Division"). She admitted excusable negligence in the preparation of the Verification and Certification of Non-Forum Shopping[8], but opined that there was no intention to violate the rules on forum shopping.

On the other hand, Respondent, in its Comment, submits that if this Court assumes jurisdiction over the instant Petition for Review, it would result to two (2) conflicting rulings for the same case, which involves the same tax assessment against the taxpayer. This, according to Respondent, is absurd and a total waste of the government's time and resources.

We resolve to deny the motion for lack of merit.

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4 *Id.,* p. 166.
5 Docket, pp. 1757-1775.
6 *Id.*, pp. 1552-1585 and 1708-1717.
7 Penned by Associate Justice Juanito C. Castañeda, Jr., with Associate Justices Caesar A. Casanova and Catherine T. Manahan concurring; Docket, pp. 1478-1549.
8 Rollo, p. 18.

The facts are undisputed.

On July 19, 2017, the Second Division promulgated the original Decision partially granting the Petition for Review. On August 04, 2017, both herein Petitioner and Respondent filed their respective motions for partial reconsideration (to the original Decision). Accordingly, on February 15, 2018, an Amended Decision was issued. Thereafter, both Petitioner and Respondent filed another motion[9] for partial reconsideration (to the Amended Decision) on March 07, 2018. Indeed, the Second Division issued a Resolution[10] on March 13, 2018 ordering the parties to file their respective comments to their motions for partial reconsiderations within ten (10) days from notice; after which, both motions shall be deemed submitted for resolution.

It is therefore surprising that Petitioner filed a Petition for Review[11] with this Court on March 22, 2018 *via* registered mail, when in fact the proceedings in CTA Case No. 8678 was still ongoing, and the parties' motions for partial reconsideration (to the Amended Decision) was yet to be resolved by the court *a quo*.

It is elementary that **an appeal may only be taken from a judgment or final order that completely disposes of the case.**[12] The Amended Decision dated February 15, 2018 had not yet attained finality in view of the motion for partial reconsideration filed by Petitioner with the Second Division. Hence, the Amended Decision cannot be subject of an appeal to the Court *En Banc*.

Besides, under Section 4, Rule 15 of the Revised Rules of Court of Tax Appeals (RRCTA), the filing of a motion for reconsideration shall suspend the running of the period within which an appeal may be perfected. Simply put, the motion must be resolved first before an appeal can be made.

With the instant Petition for Review being filed without waiting for the resolution by the court *a quo* of the parties' motions for partial reconsideration (to the Amended Decision), the result is a multiplicity of suits and piece-meal appeal which is discouraged in our jurisdiction.[13]

As it happens, three (3) petitions for review are currently pending before the Court *En Banc*, involving the same parties and subject matter, with regard to the rulings rendered by the Second Division in CTA Case No. 8678. They are as follows:

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9 Docket, pp. 1776-1802 and 1803-1809.
10 *Id.*, p. 1811.
11 Rollo, pp. 8-18.
12 1997 Rules of Civil Procedure, Rule 41, Section 1.
13 *See* Riviera Golf Club, Inc. v. CCA Holdings, B.V., G.R. No. 173783, June 17, 2015; Alfredo Montelibano, Et Al. v. Bacolod-Murcia Milling Co., Inc., G.R. No. L-15092, September 29, 1962.

CTA EB No.	***Filed by***	***Date Filed***	***What was appealed***
1806 (*i.e., the instant case)*	Commissioner of Internal Revenue	March 22, 2018	a) original Decision dated July 19, 2017 b) Amended Decision dated February 15, 2018
1932	Commissioner of Internal Revenue	October 05, 2018	a) Amended Decision dated February 15, 2018 b) Resolution dated August 31, 2018
1937	Sabre Travel Network (Philippines)	October 10, 2018	a) original Decision dated July 19, 2017 b) Amended Decision dated February 15, 2018 c) Resolution dated August 31, 2018

The petitions for review in CTA EB 1932 and CTA EB 1937 (which were eventually consolidated), were filed with this Court when the Second Division issued the August 31, 2018 Resolution denying the parties' motions for partial reconsideration (to the Amended Decision).

From the acts that took place above, it is evident that Petitioner filed a petition for review for the same case/matter twice – the first one, after the Amended Decision was promulgated, and the second one, after the issuance of the Resolution on the motion for partial reconsideration (of the Amended Decision). The second one was correct, since there was already a final termination of the proceedings before the Court in Division. The first one, which is the subject of the instant Petition, was premature.

Lastly, We cannot brush aside Petitioner's violation of the rule on forum-shopping, when he did not inform this Court of his pending motion for partial reconsideration (of the Amended Decision) with the court *a quo*. Although the same is not deliberate and without any malice or evil intent, under the Rules the submission of a false certification on non-forum shopping shall be cause for the dismissal of the case.[14] Again, Petitioner's counsels are reminded not to commit the same act in the future.

WHEREFORE, finding no cogent reason to reverse the Assailed Decision, Petitioner's ""Motion for Reconsideration (Re: Decision dated 08 April 2019)" is **DENIED** for lack of merit.

[14] 1997 Rules of Civil Procedure, Rule 7, Section 5.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On Leave)
ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice