REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

CALUMPIT WATER DISTRICT,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9493

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MANAHAN, *JJ.*

Promulgated:
JAN 31 2018 4:10 pm

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RESOLUTION

On January 11, 2018, Respondent Commissioner of Internal Revenue (CIR) filed a **Manifestation and Motion**[1] seeking for the dismissal of petitioner's petition for review for being moot and academic due to the approval made by the Regional Evaluation Board (REB) of petitioner's compromise offer of settlement.

Said pleading shall be considered as respondent's motion for reconsideration on this Court's Amended Decision dated December 1, 2017 which was received[2] by the respondent through the Office of the Solicitor General (OSG) on December 6, 2017.

Respondent argues that prior to the filing of said petition for review in this court, petitioner "took a last ditch effort to settle" its franchise tax liability by entering into a compromise settlement before the Bureau of Internal Revenue (BIR)-Revenue Region 5 (RR5), Caloocan City pursuant to Section 204 of the National Internal Revenue Code of 1997, as amended, which was subsequently approved by its REB and allegedly paid by the petitioner.

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[1] Docket, CTA Case No. 9493, pp. 257-259.
[2] *Id.*, Notice of Amended Decision, p. 248.

However, respondent failed to adduce evidence as to the alleged payment by the petitioner. It was only the 2nd page of the purported settlement of said franchise tax liability that was presented.[3] Thus, there is no proof that indeed such alleged settlement was paid by the petitioner.

Furthermore, the filing of the said pleading which we considered as a motion for reconsideration (MR) for the said Amended Decision was filed out of time. In the case of *Asia Trust Development Bank, Inc. v. Commissioner of Internal Revenue*,[4] the Supreme Court ruled that an MR is necessary on amended decision in order for the case to go further, to wit:

> Thus, in order for the CTA *En Banc* to take cognizance of an appeal via a petition for review, a timely motion for reconsideration or new trial must first be filed with the CTA Division that issued the assailed decision or resolution. Failure to do so is a ground for the dismissal of the appeal as the word "must" indicates that the filing of a prior motion is mandatory, and not merely directory.

Also, Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals provides that:

> SECTION 1. Who may and when to file motion. - Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question. (*Emphasis supplied.*)

The records of the case reveal that respondent received the said Amended Decision on December 6, 2017 through its counsel, OSG. Thus, respondent had until December 21, 2017 to file the required MR.

However, respondent filed the instant manifestation and motion only on January 11, 2018. Hence, the said pleading was filed beyond the prescriptive period for filing an MR and therefore, the Amended Decision already attained its finality.

WHEREFORE, premises considered, petitioner's **Manifestation and Motion** is hereby **DENIED** for lack of merit

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[3] Docket, Manifestation and Motion, Annex A, p. 259.
[4] G.R. Nos. 201530 and 201680-81, April 19, 2017.

and for being filed out of time. Accordingly, the Amended Decision dated December 1, 2017 becomes final and executory.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice