REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 1524** (CTA Case No. 8703)
-versus-	
HOYA GLASS DISK PHILIPPINES, INC. *Respondent.*	

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HOYA GLASS DISK PHILIPPINES, INC. *Petitioner,*	**CTA *EB* NO. 1529** (CTA Case No. 8703)
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** *and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 10 2018 3:48 p.m.

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R E S O L U T I O N

MANAHAN, *J.*:

For resolution is the Motion for Reconsideration filed by the Commissioner of Internal Revenue (CIR) on September 20, 2017. In his Motion, the CIR assails the Decision dated August 16, 2017, which disposed of the consolidated petitions, as follows:

> WHEREFORE, premises considered, the Petition for Review filed by the Commissioner of Internal Revenue in CTA EB No. 1524 is hereby DENIED. Hoya Glass Disk Philippines, Inc.'s Petition for Review is GRANTED. The Decision dated April 25, 2016 and Resolution dated September 21, 2016 are hereby REVERSED. Accordingly, the Formal Letter of Demand dated February 19, 2013 is CANCELLED on the ground of prescription. The Final Notice Before Seizure received on October 1, 2013 is likewise CANCELLED.[1]

In his motion, the CIR raises the sole ground that:

> The Honorable Court erred in ruling that the assessment for penalties and interest on the March 10, 2007 FWT payment already prescribed for having been issued beyond the three-year prescriptive period.[2]

The CIR relies on *Aznar v. Commissioner of Internal Revenue*,[3] which defined a false return as simply a deviation from the truth whether intentional or not. On this basis, the CIR argues that the return filed by Hoya Glass Disk Philippines, Inc. (Hoya) on March 10, 2007 is a false return because the final withholding tax (FWT) on the dividends should have been paid on February 10, 2007. There being a false return, the CIR argues that the assessment for deficiency surcharge and interest may be made within ten (10) years from the discovery of the false return.

In its Comment,[4] Hoya argues that the Court *En Banc* correctly ruled that the entry of wrong information due to mistake, carelessness, or ignorance, without intent to evade tax, does not constitute a false return, consistent with the ruling in *Commissioner of Internal Revenue v. Philippine Daily Inquirer*.[5] Hoya further asserts that the Government was not in any way prejudiced or disadvantaged by any delay in the filing of the FWT return considering that Hoya paid the full and correct amount of Php145,191,934.68 and that the CIR failed to show any evidence that any such delay was intended to evade the payment of the interest.

The motion has no merit.

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[1] *Rollo*, CTA EB No. 1524, Decision dated August 16, 2017, p. 108.
[2] *Rollo*, CIR's Motion for Reconsideration, p. 121.
[3] G.R. No. L-20569, August 23, 1974.
[4] *Rollo*, pp. 136-142.
[5] G.R. No. 213943, March 22, 2017.

The Court *En Banc* finds no reason to reconsider the Decision dated August 16, 2017, which reasoned that Hoya's "act of considering the cash dividends as income payments for the month of February (instead of January) and paying the withholding tax due only on March 10, 2007 (instead of February 10, 2007) was a mistake. No evidence is on record which would show that said mistake was intentionally made to evade the payment of tax. As such, said mistake in Hoya's FWT return, absent proof of intent to evade tax, does not trigger the operation of the ten-year prescriptive period. This is in keeping with the recent Supreme Court ruling in *Commissioner of Internal Revenue v. Philippine Daily Inquirer* which stated that the entry of wrong information due to mistake, carelessness, or ignorance, without intent to evade tax, does not constitute a false return.

There being no false return filed with intent to evade tax, the three-year prescriptive period should apply. Thus, considering that the FWT being assessed is for the period March 2007, the Formal Letter of Demand dated February 19, 2013, was clearly issued beyond the three-year prescriptive period and therefore void.

WHEREFORE, premises considered, the instant Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(I reiterate my 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

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

(Inhibited)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice