REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

DANILO G. GALANG, doing business under the name and style of ST. HILDEGARD GRAINS ENTERPRISES, and IVY M. SOUZA, doing business under the name and style of BOLD BIDDER MARKETING AND GENERAL MERCHANDISE,
Petitioners,

– versus –

The BUREAU OF CUSTOMS and the COMMISSIONER OF CUSTOMS,
Respondents.

CTA *EB* NO. 1451
(CTA Case No. 8885)

Present:
DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, *and*
MANAHAN, *JJ.*

Promulgated:
JUN 07 2018 2:35 p.m.

x---x

RESOLUTION

BAUTISTA, J:

For resolution is petitioners' Motion for Reconsideration filed on February 1, 2018 with respondents' Manifestation and Motion [In Lieu of Comment on Petitioners' Motion for Reconsideration dated 01 February 2018] filed by registered mail on March 14, 2018.

On December 19, 2017, the Court *En Banc* promulgated a Decision (the "Assailed Decision") denying the Petition for Review and affirming the Resolutions dated April 29, 2015[1] and April 1, 2016[2] promulgated by the Court of Tax Appeals First Division (the "Court in Division"), which dismissed the case with prejudice. The dispositive portion of the Assailed Decision reads:

---

[1] *Rollo, CTA EB No. 1451, Resolution*, pp. 83-99.
[2] *Rollo, Resolution*, pp. 58-78.

> **WHEREFORE**, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the April 29, 2015 and April 1, 2016 Resolutions of the Court of Tax Appeals First Division are hereby **AFFIRMED**.
>
> **SO ORDERED.**

Petitioners, in the present Motion for Reconsideration pray that the Assailed Decision be reconsidered, nullified, and set aside, and that a new order be issued granting the instant Petition and the reliefs prayed for therein. In this regard, petitioners argue the following: *(1)* the Court *En Banc* erred in ruling that the instant Petition was prematurely filed and that it has no jurisdiction over the same; *(2)* the principle of *litis pendentia* does not exist in the instant case; and *(3)* petitioners did not willfully and deliberately engage in forum shopping.

Respondents, on the other hand, manifest that it is readily observable that petitioners' Motion for Reconsideration merely reiterated issues and raised rehashed arguments already exhaustively refuted at length by respondents in their Comment dated October 4, 2016. Thus, to avoid a repetitive discussion of the same matters and issues, respondents will adopt the Comment as their comment on petitioners' Motion for Reconsideration.

At the outset, the Court *En Banc* **NOTES** and **GRANTS** respondents' Manifestation and Motion. Accordingly, the Court *En Banc* shall now rule on petitioners' Motion for Reconsideration.

After a careful review of the grounds raised in the Motion for Reconsideration as well as the counter-arguments raised in the Comment, the Court *En Banc* finds no new matters or arguments which were not considered in the Assailed Decision. Petitioner failed to raise any new or substantial matter, or any compelling reason to justify the reversal or modification of the Court *En Banc*'s findings in the Assailed Decision. Consequently, the Court *En Banc* finds petitioners' Motion for Reconsideration devoid of merit.

To reiterate, the Court *En Banc* holds that the Court of Tax Appeals ("CTA") has no jurisdiction over the subject matter as the Petition for Review filed with the Court in Division was prematurely done. At the time the Petition for Review therein was filed, there was no decision of the Commissioner of Customs ("COC") that could have been subject of judicial review yet. However, assuming the COC's act of setting a public auction for petitioners' rice shipments can be deemed as his decision which is appealable to the CTA, the same may fall under "other matters" which the CTA may take cognizance of except that the Court *En Banc* holds that the Petition for Review filed with the Court in Division must still fail as the elements of *litis pendentia* are present. Consequently, with the presence of the elements of *litis pendentia*, the Court *En Banc* finds that there exists willful and deliberate forum shopping as petitioners sought similar reliefs based on the same facts when they filed the Petition for Review with the Court in Division notwithstanding their pending actions before the Regional Trial Court as well as the Supreme Court.

Accordingly, for the foregoing reasons, the Court *En Banc* finds no cogent reason to disturb its findings in the Assailed Decision.

Premises considered, petitioners' Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice