REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

POWERNET SYSTEMS CORP.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10383

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

OCT 03 2024
12:34 p.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

Before the Court is respondent's **Motion for Reconsideration (Re: Decision dated April 11, 2024)** filed on May 10, 2024, with petitioner's **Opposition (to the Motion for Reconsideration)** filed on May 16, 2024.

On April 11, 2024, the Court promulgated a Decision partially granting the *Petition for Review* by upholding respondent's deficiency expanded withholding tax (EWT) and withholding tax on compensation (WTC), while modifying the value-added tax (VAT) and cancelling the income tax assessments, the dispositive portion of which states:

> "**WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.
>
> Accordingly, petitioner is **ORDERED TO PAY** the amount of ₱438,100.37 representing deficiency taxes for the taxable year 2015, inclusive of the 25% surcharge and 20%/12% deficiency interest imposed under Sections 248(A)(3) and 249(B) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN), as implemented by Revenue Regulations (RR) No. 21-2018, computed until January 14, 2019, as follows:

	VAT	EWT	WTC	TOTAL
Basic Tax Due	₱305.71	₱171,306.16	₱76,333.25	₱247,945.12
Add: 25% Surcharge	76.43	42,826.54	19,083.31	61,986.28
20% Deficiency Interest January 26, 2016 to December 31, 2017 *(₱305.71 x 20% x 706/365)*	118.26			118.26
20% Deficiency Interest January 16, 2016 to December 31, 2017 *(₱171,306.16 x 20% x 716/365)*		67,208.33		67,208.33
20% Deficiency Interest January 16, 2016 to December 31, 2017 *(₱76,333.25 x 20% x 716/365)*			29,947.73	29,947.73
Total Amount Due, Dec. 31, 2017	₱500.40	₱281,341.03	₱125,364.29	₱407,205.73
Add: 12% Deficiency Interest January 1, 2018 to January 14, 2019				
(₱305.71 x 12% x 379/365)	38.09			38.09
(₱171,306.16 x 12% x 379/365)		21,345.22		21,345.22
(₱76,333.25 x 12% x 379/365)			9,511.33	9,511.33
Total Amount Due, Jan. 14, 2019	**₱538.49**	**₱302,686.25**	**₱134,875.62**	**₱438,100.37**

In addition, petitioner is **ORDERED TO PAY** delinquency interest at the rate of twelve percent (12%) per annum on the total unpaid deficiency taxes due as of January 14, 2019, in the amount of ₱438,100.37, as determined above, or equivalent to ₱144.03 per day, computed from January 15, 2019 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by RA No. 10963 and implemented by RR No. 21-2018.

SO ORDERED."

In his Motion, respondent prays that the Court reconsiders its findings on the following disallowances: (i) deficiency income tax arising from undeclared income; (ii) deficiency income tax arising from undeclared purchases; (iii) deficiency VAT arising from undeclared sales; and (iv) deficiency VAT arising from undeclared purchases on the ground that the Bureau of Internal Revenue (BIR) failed to follow the guidelines under Revenue Memorandum Order (RMO) Nos. 4-2003, 46-2004, and 13-2012, specifically on the verification of the discrepancies found on the sales and purchase reported by third parties and by petitioner.

Respondent maintains that the deficiency income tax and VAT assessments arising from unaccounted related party transactions should be upheld. He explains that the related party transactions were not properly supported by relevant documents during the audit investigation and petitioner was not able to sufficiently refute the same in its protest, as such, these unaccounted related party transaction must be considered as "income" pursuant to Section 32 of the National Internal Revenue Code (NIRC) of 1997, as amended.

Respondent also argues that the disallowed Net Operating Loss Carry-Over (NOLCO) in the amount of ₱587,737.00 should be added back in order to determine the adjusted taxable income, considering that petitioner still yielded income after the adjustments made by respondent in his audit investigation. He continues that the disallowed *Excess Tax Credits Forwarded to the Succeeding Period* in the amount of ₱775,785.00, and *Excess Minimum Corporate Income Tax (MCIT) over NCIT Carried Forward to the Succeeding Period* in the amount of ₱98,879.00 were properly made during the audit investigation and should not be excluded.

Moreover, respondent insists that the deficiency income tax and VAT assessments on its undeclared sales and income should likewise be upheld. He submits that failure to adhere to the requirements of the aforementioned RMOs does not render the deficiency tax assessment *ipso facto* void as these issuances do not grant any vested rights to a taxpayer. Respondent expounds that from the time of audit investigation up to the issuance of the Final Decision on Disputed Assessment (FDDA), petitioner was given ample opportunity to refute the findings of the discrepancies arising from comparing petitioner's *Summary List of Sales and Purchases* and the *Third-Party Information*, yet, it failed to do so.

Lastly, respondent asserts that petitioner failed to overcome the presumption of correctness of tax assessment as no supporting documents were submitted to prove the allegations in its protest. He states that the burden of proof is on the taxpayer contesting the validity or correctness of an assessment to prove that not only the Commissioner of Internal Revenue (CIR) is wrong but the taxpayer is right.

On the other hand, in its Opposition, petitioner points out that respondent's Motion for Reconsideration is *pro forma* and should be denied outright. Petitioner argues that nowhere in the said Motion did respondent make express reference to or point out a specific finding or conclusion in the assailed Decision that is not supported by testimonial or documentary evidence, or provisions of law alleged to be contrary to such findings or conclusions. Petitioner claims that respondent merely reiterated the affirmative defenses raised in his *Answer* filed on January 11, 2021 and that the issues raised by respondent in the present Motion have already been adequately discussed by the Court in the assailed Decision.

After due consideration, the Court finds respondent's Motion for Reconsideration bereft of merit.

As correctly pointed out by petitioner, the arguments raised by respondent in the present Motion are mere rehash of the same facts and issues which have already been exhaustively addressed to and passed upon by the Court in the Decision he assails, to discuss them anew would only be superfluous.

More so, applying the ruling of the Supreme Court in the case of *Social Justice Society (SJS) Officers, et al. v. Alfredo S. Lim, et seq.,*[1] it would be a useless formality for the Court to reiterate the reasons already set forth in the assailed Decision, it suffices for the Court to deal generally and summarily with the motion for reconsideration and merely state a legal ground for its denial, thus:

> "The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. **This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant**; and it would be a needless act, too, with respect to issues raised for the first time, these being, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc." *(Emphasis added)*

In view of the foregoing disquisitions, the Court finds no compelling reason to reverse or modify the Decision promulgated on April 11, 2024.

WHEREFORE, respondent's Motion for Reconsideration (Re: Decision dated April 11, 2024) is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[1] G.R. No. 187836, March 10, 2015 (Resolution on Motion for Reconsideration), citing *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al., et seq.*, G.R. No. 109645, March 4, 1996 (324 Phil. 483).

We Concur:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice