REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

ALLEGRO MICROSYSTEMS PHILS., INC.,
Respondent.

CTA EB NO. 1329
(CTA Case No. 8445)

Present:

Del Rosario, *P.J.,*
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban, ***and***
Manahan, *JJ.*

Promulgated:

APR 27 2017 3:28 p.m.

x- x

RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is petitioner's "Motion for Reconsideration" with respondent's Comment/Opposition.

Petitioner seeks reconsideration of this Court's Decision, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **DENIED for lack of merit**. Accordingly, the

decision dated February 12, 2015 and Resolution dated June 10, 2015 are hereby affirmed.

SO ORDERED.”

Petitioner argues that the records of this case clearly show that petitioner was able to refute by contrary evidence the Court in Division’s finding that there is no understatement of income made by respondent in the amount of P26,600,000.00, considering the contents of the IERD vis-à-vis the subject SLI and the testimony of respondent’s witness, Mr. Ronald B. Dela Rosa; that petitioner was correct when it found respondent to have an understatement of gross income due to overstatement of cost in the amount of P26,600,000.00 and assessed respondent a deficiency income tax in the amount of P17,755,765.05 for Fiscal Year (FY) ending March 31, 2008; and that the BIR examiner’s assessment should be given full weight and credit, in the absence of proof submitted by a taxpayer to the contrary.

On the other hand, respondent avers the motion for reconsideration is a mere rehash of the Petition for Review; the motion for reconsideration presented nothing new and the arguments therein were already thoroughly addressed by the Court in Division and Court *En Banc*; the Court correctly ruled that respondent did not judicially admit that it overstated its cost and understated its income to the extent of P26,600,000.00 for FY 2008; the Court correctly ruled that respondent sufficiently proved that there was no understatement of gross income for FY 2008; and that the presumption of correctness of assessment does not apply because sufficient evidence was presented that the assessment was issued without factual basis.

After consideration, the Court resolves to deny the instant motion.

The Court agrees with respondent that the contentions presented by petitioner in the instant Motion for Reconsideration are a mere rehash of his previous arguments which have been duly considered and adequately discussed in the assailed Decision.

In fine, this Court finds no cogent reason to deviate from the previous rulings.

In *Ferdinand Marcos et al. vs. Hon. Raul Manglapus et al.*[1], the Supreme Court emphasized that in all motions for reconsideration, the burden is upon the movant, petitioner herein, to show that there are compelling reasons to reconsider the decision of the Court. In this case, petitioner did not satisfy this burden.

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[1] *Marcos vs. Manglapuz,* G.R. No. 88211, October 27, 1989.

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

SO ORDERED.

Ma. Belen S L

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

J. 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

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice