REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
Quezon City

***EN BANC***

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| **CAGAYAN DE ORO DOCTORS, INC. (Madonna and Child Hospital)**, Petitioner, | **CTA EB NO. 2234** (CTA Case No. 9260) |
| | *Present*: |
| - versus - | **DEL ROSARIO**, P.J., **UY**, **RINGPIS-LIBAN**, **MANAHAN**, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, *and* **FERRER-FLORES**, JJ. |
| **COMMISSIONER OF INTERNAL REVENUE**, Respondent. | Promulgated: DEC 0 6 2022 4:30 pm |

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# RESOLUTION

For the Court *En Banc*'s resolution is petitioner Cagayan De Oro Doctors, Inc. (Madonna and Child Hospital)'s (**petitioner**'s) "Motion for Reconsideration"[1] (**MR**) filed on 28 June 2022, with respondent Commissioner of Internal Revenue's (**respondent**'s) "Comment/Opposition (to Petitioner's Motion for Reconsideration)"[2] (**Comment/Opposition**) filed on 01 August 2022. The MR seeks the reversal of the Court's 13 June 2022 Resolution (**assailed Resolution**) for violation of the rules on forum-shopping.

It will be recalled that on 21 September 2021, petitioner filed a "Manifestation (Re: Tax Amnesty Availment)"[3] averring, among others, that it sent an Offer of Compromise Agreement to the Bureau

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1 *Rollo*, pp. 138-145.
2 Id., pp. 149-151.
3 Id., pp. 91-115, including annexes.

of Internal Revenue's (**BIR**'s) Revenue District Office No. 98 (**RDO 98**), with the payment of the amount ₱146,244.20 as early as 22 July 2016. According to petitioner, the said offer has already been forwarded to the National Evaluation Board (**NEB**) for approval. Pending this request, petitioner also applied for tax amnesty under the provisions of Republic Act No. 11213 (**RA No. 11213**) sometime in 2017, paying an additional amount of ₱87,746.52.

In another application for tax amnesty, petitioner paid the amount of ₱4,852,187.71 to settle fully its basic Expanded Withholding Tax (**EWT**) deficiencies for taxable year (**TY**) 2010 on 09 March 2020.

In connection with its availment of tax amnesty, petitioner was able to secure a Certificate of Tax Delinquencies/Tax Liabilities for Value-Added Tax (**VAT**) and EWT on 23 January 2020 and 05 March 2020, respectively.

On 16 February 2016, petitioner filed a Petition for Review before the Court in Division. It received an unfavorable ruling on its case in the Third Division's Decision[4] dated 05 August 2019 and Resolution dated 05 February 2020. The Third Division found petitioner's assessment to be valid and held petitioner liable for the amount of ₱18,217,296.15, representing VAT and EWT deficiencies and interest amounting to ₱11,835,250.92.

Aggrieved, petitioner filed an appeal to the Court *En Banc via* a Petition for Review on 11 March 2020.

The records will show that pending proceedings before both the Third Division and the Court *En Banc*, petitioner was all the while pursuing other administrative remedies outside the Court which it never disclosed in its Certification against Forum Shopping either in its original Petition for Review nor its present one filed before the Court *En Banc*.

Furthermore, the Court *En Banc* found that the taxes over which petitioner made its offer of compromise and availments of tax amnesty are the ones being disputed before the Court. In dismissing petitioner's petition, it relied on the Supreme Court's ruling in *Teresa*

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[4] Penned by Associate Justice Erlinda P. Uy, and concurred by Associate Justice Ma. Belen M. Ringpis-Liban and Associate Justice Maria Rowena Modesto-San Pedro.

*Gabriel, et al. v. Hon. Court of Appeals, et al.*[5] (**Gabriel**) wherein it dismissed a case for failing to substantially comply with the requisites of a certificate against forum-shopping.

In the present MR, petitioner prays for the Court *En Banc* to recall the dismissal of its petition harking on the liberal construction on the rules against forum-shopping. It insists that its petition should not have been dismissed as it was compliant with the procedural rules.

On the other hand, respondent echoes the Court's assailed Resolution, thus finding no error in the dismissal on such ground.

**We resolve.**

Petitioner's reliance on *Gabriel* is misplaced. This case posed query on whether there is substantial compliance with the **formal requirements** of forum-shopping. There, what was in question is the authority of the affiant to sign the certification against forum-shopping. *Gabriel* does not have as its concern the act forum-shopping itself which petitioner at present has undoubtedly committed.

The records reveal that the Third Division already took cognizance of petitioner's original petition prior to filing an offer of compromise with RDO 98. Neither the Court nor the opposing counsels were informed of such matter. Subsequently, petitioner clandestinely applied for tax amnesty during the pendency of the proceedings. However, before the same was approved, the Third Division had already rendered its Decision.

In *Heirs of Marcelo Sotto, et al. v. Matilde S. Palicte*[6], the Supreme Court specified the different ways that forum-shopping may be committed, to wit:

> . . .
> ... (1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the

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[5] G.R. No. 149909, 11 October 2007.
[6] G.R. No. 159691, 17 February 2014; Emphasis supplied.

> ground for dismissal is *res judicata*); and (3) **filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*)**.
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> ...

Furthermore, in *Jesse Yap v. Court of Appeals (Special Eleventh [11th] Division), et al.*[7], the Supreme Court enumerated the requisites for the existence of *litis pendentia* which are:

> ...
>
> ... (a) the identity of parties, or at least such as representing the same interests in both actions; (b) the identity of rights asserted and the relief prayed for, the relief being founded on the same facts; and (c) the identity of the two cases such that judgment in one, regardless of which party is successful, would amount to *res judicata* in the other.
>
> ...

In the present case, it is clear that petitioner's offer of compromise filed with BIR RDO 98 is still pending before the NEB while petitioner prayed for the BIR to act favorably on its availments of tax amnesty. It is obvious that petitioner resorted to three (3) separate remedies in the hopes of getting a favorable outcome or at the very least a mitigation of its tax liability. Verily, the Third Division's ruling, if the same would have attained finality, would have constituted on *res judicata* on the actions of the NEB and the BIR.

Although it is true that rights may be waived through a compromise agreement, notwithstanding a final judgment that has already settled the rights of the contracting parties[8], it is completely a different matter when the same is still pending before the Court.

With the above, the grounds for the Court *En Banc*'s dismissal of the petition have already been exhaustively discussed in the assailed Resolution. Given that the arguments presented by petitioner are the same as those contained in its "Compliance and Submission" filed on 05 January 2022, the Court *En Banc* finds no reason to belabor itself with another lengthy disquisition on the matter. In these cases where an MR presents a mere rehash of the movant's arguments, the Court *En Banc* may deal with the motion summarily in keeping with the Supreme Court's ruling in the case of

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7 G.R. No. 186730, 13 June 2012.

8 *SM Systems Corporation v. Oscar Camerino, et al.*, G.R. No. 178591, 29 March 2017.

*Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[9], to wit:

> . . .
> 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, as above stated, 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.
> . . .

Given that petitioner's arguments have all been squarely addressed in the assailed Resolution, and no cogent reason has been presented to justify its reversal, the Court *En Banc* is constrained to affirm its previous ruling.

**WHEREFORE**, premises considered, petitioner's "Motion for Reconsideration" filed on 28 June 2022 is hereby **DENIED.** Accordingly, the Court's Resolution dated 13 June 2022 is hereby **AFFIRMED**.

**SO ORDERED.**

ROMAN G. DEL ROSARIO
Presiding Justice

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9 G.R. Nos. 109645 & 112564, 04 March 1996.

**ERLINDA P. UY**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

**ON OFFICIAL BUSINESS**
**CATHERINE T. MANAHAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

Marian Ivy F. Reyes-Fajardo
**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

**LANEE S. CUI-DAVID**
Associate Justice

**CORAZON G. FERRER-FLORES**
Associate Justice