REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

BONIFACIO GAS CORPORATION,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8520

Members:

Bautista, *Chairperson*
Fabon-Victorino, *and*
Ringpis-Liban, *JJ.*

Promulgated:

JUN 23 2015 3:55 p.m.

x -- x

RESOLUTION

BAUTISTA, J:

For resolution are petitioner's "Motion for Reconsideration" filed on April 13, 2015; and respondent's "Comment/Opposition (To Petitioner's Motion for Reconsideration)" filed on May 26, 2015 by registered mail.

On March 23, 2015, the Court promulgated a Decision, disposing of the case as follows:

> "**WHEREFORE,** in view of the foregoing, the present Petition for Review is hereby **DENIED** for lack of merit. Petitioner is hereby **ORDERED TO PAY** the deficiency Income Tax for the taxable year ended December 31, 2008, in the amount of Php348,554.85, inclusive of the 25% surcharge imposed under Section 248(A)(3) of the 1997 NIRC, computed as follows:

Type of Tax	Basic Deficiency	25% Surcharge	Total
Income Tax	278,843.88	69,710.97	348,554.85

In addition, petitioner is liable to pay:

(a) Deficiency interest at the rate of twenty percent (20%) per annum pursuant to Section 249(C) of the 1997 NIRC on the basic deficiency Income Tax of Php278,843.88 computed from April 15, 2009 until full payment thereof;

(b) Delinquency interest at the rate of twenty percent (20%) per annum on the total amount due of Php348,554.85 representing deficiency Income Tax, and on the 20% deficiency interest which have accrued as aforestated in (a), computed from July 30, 2012 until full payment thereof, pursuant to Section 249(C) of the 1997 NIRC, as amended.

SO ORDERED."

Petitioner alleges that the applicable Value-added Tax ("VAT") rate is 5% and not 12%; that the government was already unjustly enriched as a result of the higher rate without the credit of the 5% final VAT withheld; and that it should not be held liable to pay 25% surcharge, 20% deficiency interest, and 20% delinquency interest for having acted in good faith, were it not for the difficult provision of law.[1]

Respondent, on the other hand, argues that the Motion filed by petitioner is clearly *pro forma* since the arguments raised therein were mere repetitions and reiterations of the one ruled and passed upon by the Court; that it raises no new evidence or cogent reason to disturb the assailed decision; and that petitioner failed to refute the presumption of correctness of the tax assessment.

As to the issue of surcharge and interests, it must be stressed that in the cases cited, the taxpayer was misled by the issuances of the BIR itself. Therefore, it cannot be faulted for relying thereon in good faith, justifying the non-imposition of surcharge and interests. In the present case, the BIR was not remiss in providing guidelines to help taxpayers

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[1] *Cagayan Electic Power & Light Co., Inc. v. Commissioner of Internal Revenue*, G.R. No. L-60126, September 25, 1985, 198 SCRA 629; *Michel J. Lhuillier Pawnshop, Inc. v. CIR*, G.R. No. 166786, September 11, 2006, 501 SCRA 450; *Tuason, Jr. v. Lingad*, G.R. No. L-24248, July 31, 1974, 58 SCRA 170.

in preparing their returns. Hence, there was no reason for the waiver of surcharge and interests.

After a careful study of the other arguments and counter-arguments raised by petitioner and respondent, the Court finds no merit in the "Motion for Reconsideration" since it was a mere reiteration of the allegations in the Memorandum and it did not raise any new argument that would merit reconsideration of the said Decision.

WHEREFORE, petitioner's "Motion for Reconsideration" is hereby **DENIED** for lack of merit. Respondent's "Comment/Opposition (To Petitioner's Motion for Reconsideration)" is hereby **GRANTED.**

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

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