REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PMFTC, INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2613
(CTA Case No. 10110)

Present:

Del Rosario, *P.J.*,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, and
Angeles, *JJ.*

Promulgated:

OCT 2 3 2023 3:22pm

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RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution of the Court *En Banc* is petitioner's *Motion for Reconsideration (Re: Decision dated 18 May 2023)*[1] filed on June 6, 2023 with respondent Commissioner of Internal Revenue's *Comment (to Petitioner's Motion for Reconsideration)*[2] filed on August 3, 2023.

Petitioner's *Motion* seeks reconsideration of the Decision of the Court *En Banc* promulgated on May 18, 2023,[3] ("Assailed Decision") denying the Petition for Review for lack of merit and, accordingly, affirmed the judgment of the Second Division ("Court in Division") of this Court in CTA Case No. 10110 dismissing the Petition for Review for lack of jurisdiction. The dispositive portion of the Assailed Decision reads:

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[1] *En Banc* Docket, pp. 158-173.
[2] *Id.*, pp. 180-182.
[3] *Id.*, pp. 120-135.

"**WHEREFORE**, premises considered, the Petition for Review is **DISMISSED** for lack of jurisdiction.

SO ORDERED."

In its *Motion*, petitioner insists that the provisions of Revenue Regulations (RR) No. 17-2012 and Revenue Memorandum Circular (RMC) No. 90-2012 which have been invalidated by the Supreme Court cannot be the source of legal rights, duties, or protection, even after the lapse of two years.

Petitioner likewise claims that the doctrine of operative fact does not apply in this case. It also maintains that this Court should consider the case of Sain Wealth Ltd. v. Bureau of Internal Revenue as the jurisprudence applicable to this case instead of the cases of *San Miguel*, *Meralco*, and *Metrobank*.

On the other hand, respondent, in his *Comment (to Petitioner's Motion for Reconsideration)* submits that as the arguments raised by petitioner in its Motion for Reconsideration have already been exhaustively passed upon by the Court in its Decision dated 18 May 2023, respondent reiterates his Comment/Opposition (to Petitioner's Petition for Review) dated 26 July 2022 and adopts the same as his Comment to the Motion for Reconsideration.

After careful evaluation of the arguments raised by petitioner vis-à-vis the records of the case, the Court *En Banc* resolves to deny petitioner's *Motion for Reconsideration (Re: Decision dated 18 May 2023)* for lack of merit. Petitioner failed to raise any compelling reason to warrant the modification much less reversal of this Court's findings.

The Court *En Banc* maintains its position that the two-year prescriptive period under Section 229 is mandatory and jurisdictional and that Section 229 mandatorily applies notwithstanding any supervening cause that may arise after payment.

The Court *En Banc* likewise stands by its ruling in the Assailed Decision that the principle of *solutio indebiti* cannot suspend the operation of, or supplant the mandatory application of Section 229 in tax refund cases.

Lastly, the Court *En Banc* holds that the case of *Saint Wealth Ltd. v. Bureau of Internal Revenue*[4] finds no application to the present case considering that its does not involve the question of the proper application of Section 229.

WHEREFORE, petitioner's *Motion for Reconsideration (Re: Decision dated 18 May 2023)* is **DENIED** for lack of merit.

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[4] G.R. Nos. 252965 & 254102, December 7, 2021.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(On Official Leave)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

(Took No Part)
HENRY S. ANGELES
Associate Justice