REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB NO. 994
(CTA CASE NO. 7817)

-versus-

Present:

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

PHILIPPINE ALUMINUM WHEELS, INC.,
Respondent.

Promulgated:
JAN 05 2015
3:42 p.m.

x--x

RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is the Petitioner's "Motion for Reconsideration" filed through registered mail on June 11, 2014 and received by this Court on June 18, 2014, with respondent's "Comment" filed on October 7, 2014.

Petitioner seeks reconsideration of the Decision promulgated on May 19, 2014, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Petition for Review filed by the Commissioner of Internal Revenue is **DENIED**, for lack of merit. The decision of the First Division of this Court promulgated on November 12, 2012 in CTA Case No. 7817, captioned *Philippine Aluminum Wheels, Inc. vs. Commissioner of Internal Revenue*, and the Resolution of the said Division dated March 1, 2013, are **AFFIRMED** *in toto*.
>
> SO ORDERED."

Petitioner maintains that respondent is disqualified from the availment of the tax amnesty program under Republic Act No. 9480. Petitioner asserts that the original petition was filed out of time; that she has issued her final decision through the Final Decision on Disputed Assessment (FDDA) which was received by respondent on April 17, 2007; the said decision was reiterated in the letter dated July 16, 2008, which letter cannot and should not have been construed to be her final decision on the disputed assessment pursuant to Section 3(a)(1) of Rule 4 in relation to Section 2 of Rule 8 of the Revised Rules of the Court of Tax Appeals; that petitioner's decision made in the exercise of her quasi-judicial power became final with respondent's failure to properly and timely appeal the same to the Court; that is has the same effect as the final and executory judgment by the courts; that respondent is disqualified from availing tax immunity under Section 8 of the Tax Amnesty Act of 2007, Section 5, Rule II of Revenue Memorandum Circular (RMC) No. 55-2007 and RMC No, 19-2008.

In its Comment/Opposition, respondent avers that the arguments relied upon by petitioner were already passed upon, squarely and adequately, not only by this Court but also by the Court in Division.; that petitioner's decision denying respondent's application for tax amnesty squarely falls within the appellate jurisdiction of this Court and petitioners insistence that respondent is disqualified from availing tax amnesty under R.A. No. 9480 is baseless; that tax assessments which are already deemed final and executory pursuant to the last paragraph of Section 228 of the NIRC, may still be subject to amnesty under R.A. No. 9480 for so long as no final and executory judgments have been issued by the courts in relation thereto; that even assuming that the claimed exception in RMC No. 19-2008 is valid, the same cannot be used to validly deny respondent's application for tax amnesty since at the time respondent filed its application for tax amnesty on September 19, 2007, the applicable implementing BIR issuance then was only RMC No. 55-2007; petitioner's retroactive application of RMC No. 19-2008 is undeniably prejudicial to respondent since it will effectively exclude the latter from the coverage of the Tax Amnesty Law.

We agree with respondent that the arguments presented by petitioner in the instant Motion for Reconsideration are mere rehash of its previous arguments which have been duly considered and thoroughly discussed in the assailed Decision. Hence, this Court finds no cogent reason to modify or reverse the assailed Decision.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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
Associate Justice

AMELIA R. COTANGCO – MANALASTAS
Associate Justice