REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2232** (CTA Case No. 9421)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID,** *and* **FERRER-FLORES,** *JJ.*
SUNNYPHIL INCORPORATED, Respondent.	Promulgated: FEB 03 2023

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner Commissioner of Internal Revenue's (**petitioner**'s/**CIR**'s) "Motion for Reconsideration (RE: Decision Promulgated May 24, 2022)"[1] (**MR**) filed on 08 June 2022[2], without respondent Sunnyphil Incorporated's (**respondent**'s/**SI**'s) comment/opposition.[3]

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1 *Rollo,* pp. 171-176.
2 Received by the Court on 16 June 2022.
3 *Per* Records Verification dated 08 November 2022, id., p. 181.

On 24 May 2022, the Court promulgated a Decision[4] (**assailed Decision**) in the above-captioned case, denying petitioner's Petition for Review[5] filed on 12 March 2020. The dispositive portion of the assailed Decision reads, thus:

> ...
>
> **WHEREFORE**, premises considered, the instant Petition for Review filed by petitioner Commissioner of Internal Revenue on 12 March 2020 is hereby **DENIED** for lack of merit. Accordingly, the Decision dated 09 October 2019 and Resolution dated 06 February 2020, respectively, of the Third Division in CTA Case No. 9421 entitled *Sunnyphil Incorporated v. Commissioner of Internal Revenue*, are hereby **AFFIRMED.**
>
> **SO ORDERED.**
>
> ...

In the assailed Decision, the Court ruled the collection of respondent's deficiency taxes to have already prescribed, to wit:

> ...
>
> The records show that respondent received the FAN on 14 January 2010. From then on, petitioner would have five (5) years or until 14 January 2015 to collect respondent's alleged tax deficiencies through distraint, levy, or a collection suit instituted before this Court. However, petitioner took no action to collect from respondent within the said 5-year period. As the records clearly show, respondent received the FDDA, PCL, and FNBS only on 13 May 2016, 03 May 2016, and 16 May 2016, respectively, or more than a year after the end of the 5-year prescribed period.
>
> Lastly, even if the Court *En Banc* were to uphold the assessment as petitioner argued or deem that administrative *res judicata* should preclude an inquiry into the validity of the assessment, still, a refund to respondent is in order as petitioner's right to collect had indubitably prescribed.[6]
>
> ...

In the instant MR, petitioner argues that respondent is estopped from raising the issue of prescription before this Court as it failed to do so at the administrative level.

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4 Id., pp. 123-134.
5 Id., pp. 9-18.
6 Supra at note 4, pp. 132-133; Citation omitted and underscoring in the original text.

We resolve.

After a careful review of the records and the parties' arguments, We find the instant MR to be wanting of merit.

Petitioner's arguments have already been addressed by the Court in the assailed Decision when We ruled that even assuming that respondent was barred from raising such issue, the prescription of petitioner's right to collect deficiency taxes from respondent has been clearly established.

The fact of prescription of the collection becomes even more glaring given that the Supreme Court in *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc.*[7] (QL) has categorically ruled that under ordinary circumstances, the period to collect prescribes not in five (5) but in three (3) years. The pertinent portion of the said case reads:

> ...
>
> Applying the foregoing ruling, the Court holds that the CTA Division erred when it applied the five-year period to collect taxes. The five-year period for collection of taxes only applies to assessments issued within the extraordinary period of 10 years in cases of false or fraudulent return or failure to file a return. ...
>
> ...
>
> Here, given that the subject assessment was issued within the three-year ordinary prescriptive period to assess, the CIR had another three years to initiate the collection of taxes by distraint or levy or court proceeding. Accordingly, since the FAN/FLD was mailed on December 12, 2014, the CIR had another three years reckoned from said date, or until December 12, 2017, to enforce collection of the assessed deficiency taxes. Verily, prescription had already set in when the CIR initiated its collection efforts only in 2020. The Court also notes that regardless of which period to apply, *i.e.*, five years as determined by the CTA Division or three years, the CIR's collection efforts were, as they are, barred by prescription.
>
> ...

Following the ruling in *QL*, the period for petitioner to collect taxes would have prescribed at the earlier date of 14 January 2013

[7] G.R. No. 258947, 29 March 2022; Citations omitted.

or three years after respondent's receipt of the Final Assessment Notice (FAN).

The Supreme Court in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[8] ruled:

> ...
>
> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. **As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.**
>
> ...

All told, the Court finds petitioner's arguments too insubstantial to warrant a reversal or modification of its previous ruling. In conclusion, the Court shall no longer belabor itself with a lengthy disquisition on this matter considering that the issue of the collection's prescription has been more than adequately discussed in the assailed Decision.

WHEREFORE, the foregoing premises considered, petitioner's "Motion for Reconsideration (RE: Decision Promulgated May 24, 2022)" filed on 08 June 2022 is **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[8] G.R. No. 159938, 22 January 2007; Citation omitted and emphasis supplied.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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