REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

EGIS ROAD OPERATION S.A.,
Petitioner,

-versus-

THE SECRETARY OF FINANCE and COMMISSIONER OF INTERNAL REVENUE.
Respondents.

CTA CASE NO. 8414

Members:

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

Promulgated:

MAY 23 2017
12:35 p.m.

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RESOLUTION

RINGPIS-LIBAN, *J*.:

This resolves Respondent Secretary of Finance's "Motion for Reconsideration"[1] filed on January 12, 2017 and Respondent Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision Promulgated 15 December 2016)"[2] filed on January 24, 2017 seeking to set aside the Decision[3] promulgated on December 15, 2016 (assailed decision).

In response thereto, Petitioner filed its "Consolidated Comment/Opposition on Motions for Reconsideration (By Secretary of Finance and Commissioner of Internal Revenue"[4] on February 23, 2017 via registered mail.

The dispositive portion of the assailed decision reads as follows:

> **WHEREFORE**, premises considered, the Petition for Review is **GRANTED**. Accordingly, the ruling of the Secretary of Finance

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1 Docket, pp. 738-749.
2 Id. at pp. 752-757.
3 Id. at pp. 718-737.
4 Id. at pp. 760-765.

dated November 15, 2011 and BIR Ruling No. ITAD 210-11 dated August 15, 2011 are **REVERSED** and **SET ASIDE**.[5]

In their motions, both Respondents argue that Petitioner is disqualified from the application of the 10% preferential tax rate on dividends received for the sole reason that the Tax Treaty Relief Application was filed beyond the period prescribed under either Revenue Memorandum Order ("RMO") No. 1-2000 or RMO No.72-2010.

After a careful consideration, the Court finds that the issues and arguments raised in Respondents' motions had already been amply discussed, passed upon and considered by this Court in the assailed Decision. Respondents' arguments constitute neither compelling nor cogent reason to modify, much less reverse our Decision dated December 15, 2016.

We reiterate our finding that –

> xxx However, it has long been settled that a prior TTRA is not necessary before a taxpayer can avail of the preferential tax treatments under Philippine tax treaties. The Supreme Court in *Deustche Bank AG Manila Branch vs. Commissioner of Internal Revenue* squarely addressed the issue of "whether the failure to strictly comply with RMO No. 1-2000 will deprive persons or corporations of the benefit of a tax treaty." The High Court recognized the superiority of tax treaty over an administrative issuance xxx. *(Citations omitted.)*[6]

WHEREFORE, premises considered, Respondent Secretary of Finance's "Motion for Reconsideration" and Respondent Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision Promulgated 15 December 2016)" are hereby **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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[5] Id. at p. 736.
[6] Id. at p. 731.