Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

CITY OF MANILA and LIBERTY M. TOLEDO, (City Treasurer of the City of Manila),
Petitioners,

-versus-

PHILIPPINE BEVERAGE PARTNERS, INC., substituted by COCA-COLA BOTTLERS PHILIPPINES, INC., and the Hon. PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 173, MANILA,
Respondents.

C.T.A. AC No. 122
(RTC 47 CIVIL CASE NO. 07-116880)

Members:
CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
COTANGCO-MANALASTAS, *J.J.*

Promulgated:
JUL 2 0 2015
4:10 p.m.

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RESOLUTION

CASANOVA, J.:

For resolution of this Court is petitioners City of Manila and Liberty M. Toledo's Motion for Reconsideration[1], filed on May 22, 2015, with respondent Philippine Beverage Partners, Inc.'s "Comment (on the Petitioner's Motion for Reconsideration)", filed on June 11, 2015; respondent's "Manifestation", filed on June 15, 2015; and, petitioners' "Reply to the Comment of Private Respondent", filed on June 19, 2015.

The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE,** premises considered, the present Petition for Review is hereby **DENIED** for lack of merit. The Assailed Decision dated November 18, 2013 and Order dated July 4, 2014 of the Regional Trial Court of Manila, Branch 47, are both ***AFFIRMED.***
>
> **SO ORDERED.**"

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[1] Docket, pp. 160-167.

In support of their Motion for Reconsideration, petitioners raised the following issues for the consideration of this Court:

1. Petitioners' computation of P9,071,298.78 was based on the actual income of respondent as reflected in its 2006 and 2007 Audited Financial Statement, a newly discovered evidence submitted by the latter to the trial court when the former filed their motion for reconsideration, which motion should have been treated as a motion for new trial by the trial court;

2. Respondent had cheated and elevated the payment of the correct local taxes, fees and charges by declaring a lower gross income completely inconsistent with and different from its actual income contained and reflected in its 2006 and 2007 Audited Financial Statements;

3. Respondent's own computation of its local taxes, fees and charges in the amount of P506,080.89 for 2007 was based on a lower gross income it had declared and not on its actual income contained and reflected in its 2006 and 2007 Audited Financial Statements;

4. Allowing the refund or tax credit based on respondent's own computation using the incorrect and lower gross income it had declared, and not on its actual income contained and reflected in its 2006 and 2007 Audited Financial Statements, will be giving premium, reward, and undue benefits to a tax evader; and,

5. Courts must uphold the right of the local government units to collect taxes due.

By way of comment/opposition to the subject Motion for Reconsideration, respondent averred that:

A. The financial statements cannot be considered a newly discovered evidence;

B. The computation of the respondent company's purported tax deficiency is patently not correct and the same is already barred by prescription;

C. Section 1, Rule 9 of the Rules of Court is undoubtedly applicable to this case; and,

D. FELS Energy, Inc., vs. Province of Batangas (516 SCRA 186) is not applicable to this case.

In their "Reply to the Comment of Private Respondent", petitioners submitted the following arguments, to wit:

1. The argument that the financial statements cannot be considered a newly discovered evidence, is a clear manifestation of respondent's penchant to evade payment of the correct local taxes fees and charges to herein petitioners;

2. The acts and omissions of respondent in not providing its financial statement and in under declaring its gross income is plain and simple tax evasion;

3. Had respondent been truthful in declaring its gross income, by submitting its audited financial statement, there is no need to examine its books pursuant to Section 171 of the Local Government Code;

4. Petitioners' computation of respondent's tax deficiencies for taxable years 2007 and 2008 is correct as it was based on the Audited Financial Statements of respondent, which it had submitted to the Trial Court; and,

5. Since there is fraud and intent to evade the correct payment of taxes, fees, and charges, the applicable prescriptive period is ten (10) years pursuant to Section 194 of the Local Government Code.

Perusal of the grounds raised by petitioners in their Motion for Reconsideration and Reply to the Comment of Private Respondent reveals that the same are practically mere reiterations of their previous arguments which have been fully addressed and discussed at length by this Court in its Assailed Decision. Further, petitioners deemed to have waived the foregoing factual issues when they failed to invoke the same at the earliest possible time pursuant to Section 1, Rule 9 of the Rules of Court[2]. As such, *We* see no reason to further discuss the same.

Hence, this Court finds no cogent justification to disturb the findings and conclusions spelled out in its May 8, 2015 Decision. What

[2] Sec. 1. Defenses and objections not pleaded. — **Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived.** However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim. (Emphasis supplied)

the instant Motion for Reconsideration seeks is for the Court to view and appreciate the evidence in their own perspective of things, which unfortunately had already been considered and passed upon.

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

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice