REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
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LEPANTO CONSOLIDATED MINING COMPANY, Petitioner,	**CTA EB No. 1720** (CTA Case No. 8889)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** and **MODESTO-SAN PEDRO,** *JJ.*
	Promulgated:
COMMISSIONER OF INTERNAL REVENUE, Respondent.	AUG 09 2019 2:23 p.m.

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RESOLUTION

UY, *J.*:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (of the Decision dated 3 May 2019)"**[1] filed on May 31, 2019, with respondent's **"OPPOSITION (To the Petitioner's Motion for Reconsideration dated 31 May 2019)"**[2] filed on June 28, 2019. In the said Motion, petitioner prays for the reversal and setting aside of the Court's Decision dated May 3, 2019, the dispositive portion of which reads:

> "**WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit. The Decision dated May 8, 2017 and the

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[1] Docket, pp. 244 to 252.
[2] Docket, pp. 256 to 260.

Resolution dated September 11, 2017 rendered by the Court in Division in CTA Case No. 8889 are **AFFIRMED.**

SO ORDERED."

In support of its Motion, petitioner argues that:

1. The Court erred in ruling that Section 2.3.6 of Revenue Regulation (RR) No. 13-2001 conflicts with Section 204(B)(1) of the National Internal Revenue Code (NIRC). There is no conflict as Section 2.3.6 of RR 13-2001 merely interpreted what is "unjust" and "excessive" assessment under Section 204(B)(1) of the NIRC.

2. Petitioner is entitled to the abatement of surcharges and compromise penalties in the aggregate amount of ₱10,230,248.71. The suffering of continuous heavy losses by petitioner from 2007 to 2011 is a clear and recognized ground for the abatement of surcharges and compromise penalties under RR No. 13-2001 of respondent.

In his Comment, respondent counters that:

1. He did not commit grave abuse of discretion when it denied petitioner's applications for abatement of surcharges and compromise penalties for it lacked legal basis.

2. The subject surcharges and compromise penalties sought to be abated cannot be deemed as excessively or erroneously assessed tax or penalty.

3. The grounds for abatement is limited to those provided under Section 204 of the NIRC, as amended.

4. There is nothing in the Decision that deviated from law, which would require its reversal. Moreover, petitioner did not present any compelling ground to justify its Motion. Hence, the same must be denied.

THE COURT *EN BANC'S* RULING

Petitioner's Motion lacks merit.

After a careful examination and consideration of the petitioner's Motion for Reconsideration, it is noted that the arguments raised in

the said Motion are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision. Thus, We shall not belabor, in this Resolution, to repeat the disquisitions made therein.

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On Leave)
ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

(no part)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice