

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

**COMMISSIONER OF INTERNAL
REVENUE,**

Petitioner,

CTA *EB* NO. 2206
(CTA Case No.8943)

Present:

**DEL ROSARIO, P.J.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, and
CUI-DAVID, JJ.**

-versus-

**JOPAUEN REALTY
CORPORATION,**

Respondent.

Promulgated:

OCT 05 2022

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RESOLUTION

MODESTO-SAN PEDRO, J.:

Before this Court *En Banc* is petitioner's Motion for Reconsideration (Re: Decision dated 21 February 2022), filed on 10 March 2022 through registered mail ("Motion for Reconsideration"),¹ with respondent's Comment/Opposition to Petitioner's Motion for Reconsideration filed on 19 April 2022 ("Comment").²

In the Motion for Reconsideration, petitioner alleges that:

1. The Court *En Banc* erred in affirming the Court in Division's ruling that the assessment issued against respondent is void;

¹ Records, pp. 150-160.

² *Id.*, pp. 164-174.

2. The Preliminary Assessment Notice (“PAN”) was sent to the registered address provided by the respondent and should thus be considered to be properly served;
3. The pronouncements in the cases of *Commissioner of Internal Revenue v. Sony Philippines, Inc.*³ and *Medicard Philippines v. Commissioner of Internal Revenue*⁴ are not applicable to the instant case; and
4. The investigating revenue officers had authority to inspect respondent’s books and issue the questioned assessments.

Contrarily, respondent counter-argues as follows in its Comment:

1. The Motion for Reconsideration is pro-forma and raised issues which were already exhaustively passed upon by this Court *En Banc*, and petitioner has not raised any new argument; and
2. The Court *En Banc* correctly affirmed the Court in Division in ruling that the assessment is void.

Respondent’s arguments are, indeed, a mere rehash of those already resolved in the assailed Decision, as observed by petitioner. As such, we **DENY** the Motion for Reconsideration for lack of merit.

In *Ortigas and Company Limited Partnership vs. Judge Tirso Velasco and Dolores V. Molina, and Dolores V. Molina vs. Hon. Presiding Judge, RTC, Quezon City, Br. 105, and Manila Banking Corporation*,⁵ the Supreme Court had the occasion to rule in this wise:

*“Effect, and Disposition of
Motion for Reconsideration*

The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards be issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, ART. VIII,

³ G.R. No. 178697, 17 November 2010.

⁴ G.R. No. 222743, 5 April 2017.

⁵ G.R. Nos. 109645 and 112564, Resolution, 4 March 1996.

Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.”

Moreover, in *H. Harry L. Roque, Jr., et al. v. Commission on Election, represented by Hon. Chairman Jose Melo, et al.*,⁶ the Supreme Court *En Banc* ruled that whenever the issues raised in the Motion for Reconsideration have already been addressed and passed upon in the Decision, and the Motion for Reconsideration failed to raise matters which are substantially plausible or compellingly persuasive, enough to lead the Court to rule in favor of the desired course of action, then the Motion for Reconsideration will be denied by the Court, to wit:

“Petitioners’ above contention, as well as the arguments, citations, and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again...

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While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered—and this should not be an obstacle for a reconsideration—the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.

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WHEREFORE, the instant separate motions for reconsideration of the main and intervening petitioners are DENIED.”

This is consistent with the Supreme Court’s earlier pronouncement in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*:⁷

“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

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⁶ G.R. No. 188456, Resolution, 10 February 2010

⁷ G.R. No. 159938, Resolution, 22 January 2007.

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.”

As stated above, a perusal of the Motion for Reconsideration would show that the arguments raised therein were already raised by petitioner in his Petition filed before this Court *En Banc*. As such, these have been sufficiently passed upon, discussed, threshed out, and judiciously resolved in the Decision sought to be reconsidered. The Motion for Reconsideration discloses no cogent reason to disturb the findings and conclusions which this Court made in said Decision.

Applying the judicial pronouncements, above, nothing is left for this Court to do but to deny the same.

WHEREFORE, the instant Motion for Reconsideration (Re: Decision dated 21 February 2022) is hereby **DENIED** for lack of merit.

SO ORDERED.



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:



ROMAN G. DEL ROSARIO
Presiding Justice

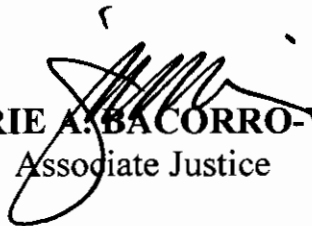


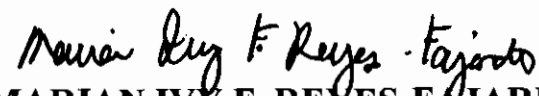
ERLINDA P. UY
Associate Justice



MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice 