REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2519** (CTA Case No. 9732)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
MISAMIS ORIENTAL II RURAL ELECTRIC SERVICE COOPERATIVE, INC. (MORESCO-II), Respondent.	Promulgated: APR 01 2024 4:12 p.m.

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner Commissioner of Internal Revenue's (**petitioner**'s/**CIR**'s) "Motion for Reconsideration [re: Decision dated 02 August 2023]" (**MR**) filed on 29 August 2023[1], with respondent Misamis Oriental II Rural Electric Service Cooperative, Inc.'s (**respondent**'s/**MORESCO-II**'s) "Comment and/or Opposition to the Motion for Reconsideration" (**Comment/Opposition**).[2] The MR seeks the reversal of the Court *En Banc*'s Decision dated 02 August 2023[3]

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1 *Rollo*, pp. 94-105.
2 Filed on 30 January 2024 and received by the Court on 19 February 2024.
3 Id., pp.73-88

(**assailed Decision**) which denied petitioner's Petition for Review.[4] The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE**, with the foregoing, the Petition for Review filed by petitioner Commissioner of Internal Revenue on 25 October 2021 is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated 11 November 2020 and 14 July 2021, respectively, of the First Division in CTA Case No. 9732, entitled *Misamis Oriental II Rural Electric Service Cooperative, Inc[.] (MORESCO-II) v. Commissioner of Internal Revenue*, are **AFFIRMED**.
>
> Accordingly, petitioner Commissioner of Internal Revenue is **ENJOINED** from pursuing any actions against respondent Misamis Oriental II Rural Electric Service Cooperative, Inc[.] (MORESCO-II), relative to the assessment in herein case.
>
> **SO ORDERED.**
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> ...

In the MR, petitioner argues that prior to the promulgation of the case of *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*[5] (**McDonald's case**), prevailing jurisprudence did not require that revenue officers (**ROs**) be armed with a Letter of Authority (**LOA**) to conduct an assessment. Petitioner also claims that this Court has no power to enjoin the collection of taxes by virtue of Section 218[6] of the National Internal Revenue Code (**NIRC**) of 1997, as amended.

On the other hand, respondent counters that petitioner's MR are the same arguments that were exhaustively considered and passed upon in the assailed Decision. Thus, the Court *En Banc* did not err in affirming the Division's findings that the subject assessments are void for lack of authority of the revenue officers who conducted the audit.

We resolve.

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[4] Filed on 25 October 2021, *Rollo*, pp. 1-29.

[5] G.R. No. 242670, 10 May 2021.

[6] **SEC. 218.** ***Injunction not Available to Restrain Collection of Tax.*** - No court shall have the authority to grant an injunction to restrain the collection of any national internal revenue tax, fee or charge imposed by this Code.

At the onset, it is readily observed that petitioner's arguments are nothing more than a rehash of those already raised and considered by the Court's First Division and the Court *En Banc* in deciding the case at bar. Petitioner even admits this fact, as he or she aptly reminds the Court in the MR that the instant motion should not be considered *pro forma* although it merely reiterates previous arguments that had already been decisively passed upon.

As regards the LOA's validity as a condition precedent to a lawful assessment, We find this issue not only exhaustively addressed in the assailed Decision but also off-tangent as the ruling in *McDonald's case* is not novel insofar as the former principle is concerned.

Equally unpersuasive is petitioner's insistence that the Court *En Banc* is devoid of authority to enjoin the collection of taxes when Section 11 of Republic Act (**R.A.**) No. 1125[7], as amended by R.A. No. 9282[8] already clearly provides an exception to the "non-injunction" rule in Section 218[9] of the NIRC of 1997, as amended. The said provision reads -

> ...
>
> No appeal taken to the CTA from the decision of the Commissioner of Internal Revenue or the Commissioner of Customs or the Regional Trial Court, provincial, city or municipal treasurer or the Secretary of Finance, the Secretary of Trade and Industry and Secretary of Agriculture, as the case may be shall suspend the payment, levy, distraint, and/or sale of any property of the taxpayer for the satisfaction of his tax liability as provided by existing law: Provided, however, That **when in the opinion of the Court the collection by the aforementioned government agencies may jeopardize the interest of the Government and/or the taxpayer the Court any stage of the proceeding may suspend the said collection and require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount with the Court.**[10]
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> ...

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7 AN ACT CREATING THE COURT OF TAX APPEALS.

8 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

9 Supra at note 6.

10 Emphasis supplied.

In the case of *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc.*[11], the Supreme Court has again stamped with *imprimatur* this exception to the "non-injunction" rule -

> ...
>
> The Court also rejects the CIR's argument that the CTA Division acted without jurisdiction when it was enjoined to collect taxes against QLDI. For the CIR, the CTA Division has no power to issue writs of injunction and prohibition, but may only suspend the collection of taxes.
>
> While an injunction is not available to restrain the collection of taxes, this rule admits of exception under Section 11 of RA 1125, as amended by RA 9282, which allows the suspension of collection of taxes if...
>
> ...
>
> Pursuant to the foregoing, the CTA may enjoin the collection of taxes if such collection will jeopardize the interest of the government or the taxpayer. In this regard, the Court ruled that the CTA has ample authority to issue injunctive writs to restrain the collection of tax, especially in cases where prescription has set in.
>
> ...

Considering the nature of petitioner's arguments, We do not find it worthwhile to make further exposition. In *Ortigas and Company Limited Partnership v. Judge Tirso Velasco*[12], the Supreme Court ruled:

> ...
>
> 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 the 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, 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, Constitution); i.e., the motion

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

[12] G.R. Nos. 109645 & 112564, 04 March 1996.

> 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.
>
> ...

Furthermore, the Supreme Court in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[13] held:

> ...
>
> 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.**[14]
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> ...

It is the movant's duty to convincingly show grounds for a reconsideration of an assailed judgment or order, or at the least give its previous arguments a fresh perspective in such a way that would warrant a re-examination of its case. Unfortunately for petitioner, he or she had failed to do so.

WHEREFORE, the foregoing premises considered, petitioner's "Motion for Reconsideration [re: Decision dated 02 August 2023]" filed on 29 August 2023 is hereby **DENIED** for lack of merit.

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13 G.R. No. 159938, 22 January 2007; Citation omitted and emphasis supplied.

14 Emphasis supplied

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Ma. Belen M. Ringpis-Liban
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

x - x

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice