REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

BERNHARD SCHULTE SHIPMANAGEMENT INTERNATIONAL (PHILIPPINES) CORP.,
Petitioner,

CTA EB NO. 2694
(CTA Case No. 10847)

Present:

Del Rosario, P.J.,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, and
Angeles, JJ.

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
NOV 2 1 2023 11:55am

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RESOLUTION

RINGPIS-LIBAN, *J.:*

For resolution of the Court *En Banc* is petitioner Bernhard Schulte Shipmanagement International (Philippines) Corp.'s *Motion for Reconsideration*[1] filed via accredited courier on July 7, 2023 and received by the Court on July 10, 2023, with respondent Commissioner of Internal Revenue's *Comment (to Petitioner's Motion for Reconsideration)*[2] filed on August 29, 2023.

Petitioner's *Motion* seeks reconsideration of the Decision of the Court *En Banc* promulgated on June 19, 2023,[3] ("Assailed Decision") affirming the judgment of the Second Division ("Court in Division") of this Court in CTA Case No. 10847. The Assailed Decision denied the Petition for Review for lack of merit.

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[1] Court *En Banc*'s Docket, pp. 85-90.
[2] *Id.*, pp. 104-106.
[3] *Id.*, pp. 56-70.

In its *Motion for Reconsideration*, petitioner posits that *Commissioner of Internal Revenue v. San Roque Power Corporation*[4] and the prior cases it sought to clarify primarily involved the two-year prescriptive period and not whether the 30-day period to appeal is extendible or not. According to petitioner, neither San Roque nor all the subsequent cases citing the same involved a taxpayer who timely filed a motion for extension of time to file a petition for review with the CTA within the mandatory 30-day period. Petitioner postulates that the filing of its motion for extension to file Petition for Review constitutes a timely invocation of this Court's jurisdiction and that this Court already acquired jurisdiction over this case upon the filing of its motion for extension of time to file Petition for Review.

Citing the case of *SM Land, Inc. v. City of Manila*,[5] petitioner asserts that the power of the CTA Division to grant an extension is available not because of the CTA Law but because of Rule 42 of the Rules of Court which the CTA Law merely adopted as the governing mode of appeal. Petitioner also advances the theory that even if Section 112(C) of the National Internal Revenue Code of 1997, as amended (1997 NIRC), is deemed mandatory and jurisdictional, it does not diminish the timeliness of the Petition for Review because the timely filing of the motion for extension of time to file the Petition for Review was the document that invoked this Court's jurisdiction within such 30-day period.

Petitioner also postulates that Section 112(C) of the 1997 NIRC did not vest this Court with jurisdiction over appeals of adverse decisions of the respondent on claims for input VAT refund and that this Court's jurisdiction over such appeals was already given by virtue of Section 7 of RA 1125, as amended.

On the other hand, respondent, in his *Comment* submits that the arguments raised by petitioner in its *Motion for Reconsideration* have already been passed upon by the Court in Division.

After careful evaluation of the arguments raised by petitioner vis-à-vis the records of the case, the Court *En Banc* resolves to deny petitioner's *Motion for Reconsideration* for lack of merit.

Petitioner merely recycled the arguments it raised in its *Motion for Reconsideration* as these matters had already been thoroughly discussed and resolved by the Court *En Banc* in the Assailed Decision. To put it bluntly, there is nothing in the *Motion for Reconsideration* that was not sufficiently passed upon by the Court *En Banc*.

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[4] G.R. Nos. 187485, 196113 & 197156, February 12, 2013 [Per J. Carpio, *En Banc*].
[5] G.R. No. 197151, October 22, 2012 [Per J. Peralta, *Third Division*].

At any rate, the Court *En Banc* maintains its position that the denial of petitioner's Motion for Extension of Time to File Petition for Review before the Court in Division is justified due to the mandatory and jurisdictional nature of the 30-day period under Section 112(C) of the 1997 NIRC, as applied to the present case. This Court cannot grant the additional period prayed for as the same already falls outside the 30-day period mandated by Section 112(C) of the 1997 NIRC.

This Court's position as regards the collateral matters raised by petitioner in its *Motion for Reconsideration* were already discussed in the Assailed Decision and the same need not be repeated here.

In sum, petitioner failed to raise any compelling reason to warrant the modification much less reversal of this Court's findings in the Assailed Decision.

WHEREFORE, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(On Leave)
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

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice