CTA Form No. 8 (For DCC)

19-000220-0051

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10083

BANGKO SENTRAL NG PILIPINAS,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village, Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam Defensor-Santiago Ave.
Diliman, Quezon City

ATTY. DIANE D. DOLOT
ATTY. LEYMARK K. CAÑETE
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LITIGATION AND ADMINISTRATIVE CASES GROUP
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Bangko Sentral ng Pilipinas
Room 313, 3rd Floor, Five-Storey Building
Bangko Sentral ng Pilipinas Complex
Corner A. Mabini and P. Ocampo, Sr. Streets
Malate, Manila

GREETINGS:

You are hereby notified by these presents that on **July 10, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 11, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

BANGKO SENTRAL NG PILIPINAS, *Petitioner,*	**CTA CASE NO. 10083**
	Members:
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 10 2025; 8:35AM

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RESOLUTION

MANAHAN, J.:

For this Court's resolution is respondent's *Motion for Reconsideration Re: Amended Decision dated 19 February 2025* personally filed on March 12, 2025 and electronically filed on March 13, 2025, with petitioner's *Opposition (Re: Motion for Reconsideration of the Commissioner of Internal Revenue dated 12 March 2025)* personally and electronically filed on April 3, 2025.

Respondent seeks the reconsideration of the Amended Decision of the Court promulgated on February 19, 2025 (Assailed Amended Decision), the dispositive portion of which reads:

> **WHEREFORE,** in light of the foregoing considerations, the present Petition for Review is **GRANTED**.
>
> Accordingly, respondent is **ORDERED TO REFUND** to petitioner the amount of **₱5,677,373.22**, representing petitioner's erroneously or illegally paid CGT, surcharge, and interest, paid for the sale of its parcel of land to RD Realty Development Corporation located in Barangay Calumpang, General Santos City.

Petitioner is **DIRECTED** to pay the additional filing fee of Php18,092.13 pursuant to the afore-quoted Section 2, Rule 141 of the Rules of Court.

SO ORDERED.

Respondent presents the following grounds for his Motion for Reconsideration and the corresponding arguments as follows:

A. Petitioner miserably failed to exhaust administrative remedies before elevating the case to the Honorable Court

Respondent avers that petitioner's claim for refund is subject to administrative investigation and examination by respondent and the filing of an appeal with the Court of Tax Appeals (Court) is initiated only upon denial of said claim. Without any decision on the claim for refund by the tax authorities, the filing of the instant Petition for Review is premature and deprives respondent of its role and duty to evaluate administrative claims for refund.

B. Respondent's assessment of the deficiency capital gains tax (CGT) is correct

Respondent affirms that there is no erroneous payment in the instant case as petitioner is legally required to pay the CGT assessment on the sale of land based on the fair market value (FMV) or zonal value whichever is higher. Respondent disagrees with the conclusion that the computation of the CGT should be based on the zonal value because the land is an industrial-interior lot. He maintains that it should be based on the FMV because the tax declaration clearly indicated that the subject property is located "along the road" and not in an interior lot.

C. The surcharge and interest has basis both in fact and law

Respondent's legal basis for the computation of interest and surcharge is Section 248 of the 1997 National Internal Revenue Code (NIRC), as amended, and since petitioner failed to pay the correct amount of tax in a timely manner, the imposition of the interest and surcharge is proper and correct. an

In its *Opposition*, petitioner dismisses the foregoing arguments of respondent as *pro forma* and must be dismissed for lack of merit because these are mere reiterations of what have already been raised and resolved by the Court in the assailed Amended Decision. Should the Court not find the arguments of respondent as *pro forma,* petitioner offers the alternative theory that the *Motion* should still be dismissed because the Court properly concluded that respondent incorrectly computed the amount of CGT to be paid to the government, hence, affirming the merits of its claim for refund.

RULING OF THE COURT

We shall first resolve the timeliness of the filing of respondent's *Motion for Reconsideration* with the Court.

On February 19, 2025, the Court issued an Amended Decision in the above-captioned case and a copy of the Decision was received by respondent on February 25, 2025.[1]

Counted from respondent's receipt of the assailed Decision on February 25, 2025, petitioner had until March 12, 2025 to file his motion for reconsideration pursuant to Section 1 of Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) where a party dissatisfied with a Decision of the Court must file a motion for reconsideration or new trial within fifteen (15) days from receipt thereof, and we quote:

> **Rule 15**
> **Motion for Reconsideration or New Trial**
>
> **Section 1.** *Who may and when to file motion.* – Any aggrieved party may seek a reconsideration or new trial of any decision , resolution or order of the Court by filing a motion for reconsideration or new trial for fifteen days from the date of receipt of notice of the decision, resolution or order of the Court in question.

Records show that respondent personally filed the instant Motion for Reconsideration on March 12, 2025 followed by its electronic filing on March 13, 2025, hence timely filed.

[1] Division Docket, page 3564.

We now proceed to rule on the substantive merits of respondent's arguments.

Respondent believes that petitioner violated the rule on exhaustion of administrative remedies as it did not wait for a decision on its claim for refund before it elevated an appeal with the Court.

We find this argument without merit as it is well-settled that a taxpayer need not wait for a decision on its administrative claim for refund before it can elevate a judicial appeal.

Records show that petitioner filed the instant administrative claim for refund of alleged erroneously paid CGT on November 7, 2018. The applicable provisions of the NIRC prevailing in 2018, specifically Sections 204 and 229 of the 2018 NIRC, read as follows:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –
>
> xxx xxx xxx
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: *Provided, however*, That a return filed showing an overpayment shall be considered as a written claim for credit or refund. *(Emphasis supplied)*
>
> SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* – **No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected**, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment**: *Provided, however,* That the Commissioner may, even without written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid. *(Emphases supplied)*

The above-quoted provisions clearly provide that both the administrative and judicial claims for refund must be filed within the two (2)-year prescriptive period *"regardless of any supervening cause that may arise after payment."* The possible conflict between a taxpayer's need to comply with the two-year prescriptive period for filing claims for refund and the period of time it might take for the Bureau of Internal Revenue (BIR) to take action on said claim is deemed reconciled by jurisprudence holding that a taxpayer need not wait for a decision on its administrative claim for refund before elevating an appeal with the Court. In the case of *Commissioner of Internal Revenue vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc)*,[2] the Supreme Court ruled in this wise, and we quote:

> The law only requires that an administrative claim be priorly filed. That is, to give the BIR at the administrative level an opportunity to act on said claim. In other words, for as long as the administrative claim and the judicial claim were filed within the two-year prescriptive period, then there was exhaustion of the administrative remedies.
>
> xxx xxx xxx
>
> This means that while the Commissioner has the right to hear a refund claim first, if he or she fails to act on it, it will be treated as a denial of the refund, and the CTA is the only entity that may review this ruling. Respondent need not wait for the Commissioner to act on its administrative claim for refund. xxx xxx xxx

In the fairly recent case of *Commissioner of Internal Revenue vs. Estate of Mr. Charles Marvin Romig, represented by its sole heir Mrs. Maricel Narciso Romig,*[3] the Supreme Court elaborated on this particular matter, when it ruled, thus:

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[2] G.R. No. 231581, April 10, 2019.
[3] G.R. No. 262092, October 9, 2024.

> Moreover, the Court agrees with the finding of the CTA Second Division and the CTA *En Banc* that the Estate's immediate resort to court action was justified, considering that the prescriptive period was about to expire. Under the circumstances, if the Estate had waited for the CIR to act on its administrative claim knowing fully well that the two-year period was about to lapse, it would have resultantly forfeited its right to seek judicial recourse, thereby suffering irreparable damage. Hence, respondent cannot be faulted for acting in such a manner to protect its interest and right to recover the taxes it erroneously paid to the government.

As regards respondent's insistence that the BIR correctly computed the CGT on the sale of the subject property, the Court reiterates its ruling that the evidence offered by petitioner, specifically Exhibit "P-4" and admitted by the Court, clearly indicates that the applicable zonal value for industrial lots in Calumpang in General Santos City is Php4,725.00 per square meter (sq. m) instead of the zonal value of Php10,650.00 per sq. m used by the BIR in computing the CGT. Using the applicable zonal value of Php4,725.00 per sq. m. with a lot area of 9,000 sq. m, the assailed Amended Decision correctly computed the six percent (6%) CGT to be Php2,551,500.00 (Php42,525,000.00 x 6%), hence, the Court's finding that petitioner overpaid the CGT on the sale of the subject property.

On the issue of the correct imposition of surcharge and penalties, the Court finds that respondent failed to present any viable argument in his Motion for Reconsideration to convince this Court to modify the computation in the assailed Amended Decision.

WHEREFORE, premises considered, the Court finds no cogent reason to modify or reverse the assailed Amended Decision.

Accordingly, respondent's *Motion for Reconsideration Re: Amended Decision dated 19 February 2025* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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