REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

DONATO C. CRUZ TRADING CORP.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2573
(CTA Case No. 9721)

Present:
DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
JAN 10 2024 3:33 pm

x- x

RESOLUTION

RINGPIS-LIBAN, ***J.:***

This resolves Petitioner's "Motion for Reconsideration"[1] filed through registered mail on August 16, 2023, with Respondent's "Comment/Opposition (To Motion for Reconsideration dated 16 August 2023)"[2] filed on October 31, 2023 *via* email.

Petitioner's Motion for Reconsideration prays for the reversal of the Decision promulgated on July 25, 2023 and the cancellation of the assessments issued by Respondent against it.

The dispositive portion of the Decision promulgated by this Court on July 25, 2023 reads:

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1 Rollo, pp. 120-127.
2 *Id.,* 133-139.

> "**WHEREFORE**, premises considered, the Petition for Review filed with the Court *En Banc* on March 04, 2022 is **DENIED** for lack of merit. Accordingly, the March 19, 2021 Decision and February 07, 2022 Resolution in CTA Case No. 9721 are **AFFIRMED**.
>
> **SO ORDERED.**"[3]

In its Motion for Reconsideration, Petitioner contends that while decisions of the Court of Tax Appeals do not constitute precedent, the case of *Kerry Food Ingredients Cebu, Inc. v. Commissioner of Internal Revenue*[4] should be considered persuasive especially considering that its *ratio decidendi* was cited in the subsequent case of *Pilipinas Shell Petroleum v. Commissioner of Customs*[5].

Likewise, Petitioner avers that Revenue Memorandum Circular (RMC) No. 44-2007 is a legislative rule, not merely interpretative. Thus, Respondent should inform Petitioner of the same. Otherwise, any assessment should be cancelled and set aside.

We resolve to deny Petitioner's Motion for Reconsideration for lack of merit.

The arguments raised by Petitioner in his motion are mere recapitulation of the arguments he has raised in his Petition for Review filed with this Court. In addition, these issues have been amply considered, weighed and resolved in the Decision promulgated on July 25, 2023. Thus, We shall not belabor, in this Resolution, to repeat the disquisitions made therein.

In sum, the Court *En Banc* finds no cogent reason to overturn the March 19, 2021 Decision and February 07, 2022 Resolution of the Second Division.

WHEREFORE, premises considered, Petitioner's "Motion for Reconsideration" is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[3] *Id.,* Decision dated July 25, 2023, p. 112.
[4] CTA Case No. 8593, February 09, 2016.
[5] CTA EB Cases No. 1003 and 1007 (CTA Case No. 8004), September 05, 2016.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
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

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice