REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

BAC-MAN GEOTHERMAL, INC.,
Respondent.

CTA EB NO. 2621
(CTA Case No. 9728)

Present:

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

Promulgated:
FEB 0 8 2024 3:35 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 promulgated 11 October 2023)"[1] (**MR**) filed on 23 October 2023, with respondent Bac-Man Geothermal, Inc.'s (**respondent**'s/**Bac-Man's**) "Comment (Re: Petitioner's Motion for Reconsideration filed on October 23, 2023)"[2] (**Comment**) filed on 13 November 2023.

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1 *Rollo*, pp. 106-118.
2 Id., pp. 121-131.

The MR seeks the reversal of this Court *En Banc*'s Decision dated 11 October 2023[3] (**assailed Decision**), denying petitioner's Petition for Review[4] filed on 20 May 2022. The dispositive portion of the assailed Decision reads, thus:

> ...
>
> **WHEREFORE**, the foregoing premises considered, the instant Petition for Review filed by petitioner Commissioner of Internal Revenue on 20 May 2022 is **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated 18 November 2021 and 29 April 2022, respectively, of the First Division in CTA Case No. 9728, entitled *Bac-Man Geothermal, Inc. v. Commissioner of Internal Revenue* are hereby **AFFIRMED**.
>
> **SO ORDERED.**
>
> ...

In the MR, petitioner argues that: (1) he or she was not obligated to give credence to petitioner's arguments in the latter's reply (protest) to the Preliminary Assessment Notice[5] (**PAN**) considering that respondent did not allegedly present new arguments nor new evidence to support its claim; (2) this Court, though empowered by law to suspend the collection of taxes, does not have the power to permanently enjoin its collection; and, (3) the Bureau of Internal Revenue's (**BIR**'s) computations and procedures should be presumed.

In its Comment, respondent maintains that petitioner violated its due process rights when it did not consider its arguments and documents, and instead reiterated the contents of the PAN in the Final Letter of Demand[6] (**FLD**), and Final Decision on Disputed Assessment[7] (**FDDA**).

We resolve.

At the onset, the Court *En Banc* must stress that petitioner's arguments are a mere 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 himself or herself has even admitted in the present MR

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[3] Id., pp. 89-100.
[4] Id., pp. 1-14.
[5] Exhibit "P-5", Division Docket, Volume III, pp. 1561-1563.
[6] Exhibit "P-8", id., pp. 1570-1572.
[7] Exhibit "P-11", id., pp. 1590-1592.

that his or her previous arguments are reiterated and already resolved. Nonetheless, petitioner insists that the MR is not merely *pro forma*.

In *Ortigas and Company Limited Partnership v. Judge Tirso Velasco*[8], the Supreme Court explained, to wit:

> ...
>
> 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, 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, 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.
>
> ...

Furthermore, the Supreme Court in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[9] ruled:

> ...
>
> 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

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[8] G.R. No. 109645 & 1112564, 04 March 1996.

[9] G.R. No. 159938, 22 January 2007; Citation omitted and emphasis supplied.

> 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.**
>
> ...

It is clear from the above principles that 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 the case. Unfortunately, petitioner failed to subscribe to these principles.

WHEREFORE, the foregoing premises considered, petitioner's "Motion for Reconsideration (Re: Decision promulgated 11 October 2023)" filed on 23 October 2023 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice