

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

AC ENERGY, INC.,
Petitioner,

CTA CASE NO. 10009

Members:

- versus -

CASTAÑEDA, JR., *Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

**COMMISSIONER OF
INTERNAL REVENUE,**
Respondent.

Promulgated:

FEB 08 2022

2:21 pm 

x ----- x

RESOLUTION

For resolution is petitioner's **Motion for Execution (Re: Decision dated January 25, 2021)**, filed through registered mail on April 19, 2021, and received by this Court on May 24, 2021, without respondent's comment as per Records Verification dated October 27, 2021.

In the instant motion, petitioner alleges that it received the Court's Decision dated January 25, 2021 on January 26, 2021, granting its Petition for Review dated January 18, 2019, and ordering respondent to refund or issue a tax credit certificate, in favor of petitioner, in the amount of ₱19,857,466.67, the dispositive portion of which states as follows:

"**WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED**. Accordingly, respondent is **ORDERED TO REFUND, OR ISSUE A TAX CREDIT CERTIFICATE** in favor of, petitioner in the amount of **₱19,857,466.67**, representing excess CGT for taxable year 2016.

SO ORDERED."

Petitioner points out that based on this Court's official database, respondent received notice of the above-stated Decision on January 26, 2021. Thus, following Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA), respondent had a period of fifteen (15) days from January 26, 2021, or until February 10, 2021, within which to file his motion for reconsideration. But to this date, respondent has not sought reconsideration from the said Decision. Thus, citing Sections 6 and 7, Rule 14 of the RRCTA, petitioner prays that this Court: (1) direct the Clerk of Court to enter the Decision in the book of judgment and to issue the supporting certification that the Decision has become final and executory; and (b) issue a writ of execution with respect to the Decision.

Lastly, petitioner avers that since this motion is a non-litigious motion, the same will not be set for hearing, pursuant to Section 4, Rule 15 of the Rules of Court,⁵ in relation to Section 3, Rule 1 of the RRCTA.

It must be noted that Section 1, Rule 15 of RRCTA particularly states:

"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 within fifteen days from the date of receipt of the notice of the decision, resolution or order of the Court in question."

A perusal of the records shows that respondent CIR and the Office of the Solicitor General received the Notice of the January 25, 2021 Decision of this Court on January 26, 2021 and January 28, 2021, respectively. From the date of receipt, respondent only had until February 10, 2021 and February 12, 2021, respectively, to file the said motion for reconsideration. To date, this Court has not received any motion for reconsideration from respondent. Also, records show that no appeal to the CTA *En Banc*/Supreme Court has been taken by any of the parties in this case within the prescribed period per Resolution dated December 17, 2021. Thus, the January 25, 2021 Decision had already attained finality.

It appearing that the Decision of this Court dated January 25, 2021 has already become final and executory and Entry of Judgment was already issued by this Court on December 17, 2021, herein petitioner is entitled as a matter of right to a writ of execution, pursuant to Section 7, Rule 14 of the RRCTA. It, therefore, becomes the ministerial duty of this Court to issue a writ of execution.

WHEREFORE, petitioner's **Motion for Execution (Re: Decision dated January 25, 2021)** is **GRANTED**. Accordingly, let the corresponding Writ of Execution be issued.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


LANEE S. CUI-DAVID
Associate Justice