REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

PET PLANS, INC.
Respondent.

CTA EB No. 2857
(CTA Case No. 10002)

Present:

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

Promulgated:
APR 2 1 2026 11:48am

x- -x

RESOLUTION

REYES-FAJARDO, *J.*:

For resolution by the Court *En Banc* is petitioners' Motion for Reconsideration (Re: Decision dated 02 September 2025) (Motion)[1] in CTA EB No. 2857 filed on September 23, 2025, with respondent's Comment/Opposition (To Respondent's Motion for Reconsideration dated September 19, 2025) filed on December 1, 2025.[2]

In the assailed Decision dated September 2, 2025,[3] the Court *En Banc* affirmed the ruling of the Court in Division. It declared the Preliminary Assessment Notice (PAN), Formal Letter of Demand

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1 *Rollo,* pp. 115-137.
2 *Id.* at pp. 155-187.
3 *Id.* at pp. 102-114.

(FLD)/Final Assessment Notices (FAN), and Final Decision on Disputed Assessments (FDDA) for taxable year (TY) 2005, issued against petitioner, null and void. As a result, the deficiency assessments for Value-Added Tax (VAT), Expanded Withholding Tax (EWT), and Withholding Tax on Compensation (WTC) including the corresponding interest and penalties for TY 2005 in the total amount of ₱140,721,049.42 were cancelled and set aside. The dispositive portion of the Decision states:

> **WHEREFORE**, the Petition for Review, filed by the Commissioner of Internal Revenue on February 16, 2024 in CTA EB No. 2857, is **DENIED** for lack of merit. The Decision dated March 23, 2023 and the Resolution dated January 5, 2024 in CTA Case No. 10002 are **AFFIRMED.**
>
> **SO ORDERED.**

The Court *En Banc* ruled that the Bureau of Internal Revenue (BIR)'s right to assess deficiency VAT, EWT and WTC for TY 2005 is barred by the three (3)-year prescriptive period under Section 203 of the National Internal Revenue Code of 1997, as amended (NIRC). Petitioner's reliance on Section 222(a) for the ten-year period was rejected, as this provision applies only when fraudulent and false returns are proven. Although petitioner alleged a 121% under-declaration, the proper exclusion of trust fund contributions reduced the under-declaration to 19.75%, which is below the 30% threshold under Section 248(B) that would constitute *prima facie* evidence of fraud. Without proof of intentional falsity, the extraordinary ten (10)-year prescriptive period does not apply, and the ordinary three (3)-year period governs. The Court *En Banc* also affirmed that withholding taxes assessment, such as EWT and WTC, are subject to prescriptive periods under the NIRC, contrary to petitioner's claim of imprescriptibility.

In its Motion, petitioner merely cites statutory provisions and jurisprudence to assert that respondent filed a false and fraudulent return, yet fails to present any substantiating evidence. He insists that his right to assess has not prescribed, alleging that respondent under-declared taxable receipts, income payments, and compensation payments in its VAT returns by more than 30% of the amounts reported. On this basis, petitioner argues that Section 248(B) of the NIRC applies, thereby extending the prescriptive period to ten years under Section 222(a) of the same Code. He further maintains that assessments for withholding taxes are imprescriptible.

By way of comment, respondent asserts that, consistent with the Court *En Banc's* ruling, there is no evidence of intentional falsity or fraud to warrant the application of the ten (10)-year prescriptive period under Section 222(a) of the NIRC. It further maintains that withholding taxes are internal revenue taxes governed by Section 203 of the NIRC, and thus subject to the standard prescriptive period.

The Motion is denied.

The Court *En Banc* has already addressed and rejected petitioner's arguments in the assailed Decision, finding them to be mere allegations unsupported by evidence. In the absence of clear and convincing proof, the ordinary three (3)-year prescriptive period under the NIRC applies. The burden of demonstrating fraud or under-declaration rests with the BIR, and this cannot be met by mere assertions alone. Since no actual proof of intentional falsity or fraud was shown in the filing of respondent's 2005 VAT Returns, the ten (10)-year extraordinary prescriptive period for tax assessment under Section 222 (a) of the NIRC does not apply. Accordingly, the Court in Division correctly ruled that the BIR's right to assess deficiency VAT for TY 2005, is barred by prescription.

Finding no compelling reason to disturb the assailed Decision, the Court *En Banc* sees no need to reiterate pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motion.[4] In this regard, the pronouncement in *Social Justice Society (SJS) Officers, et al. v. Lim*[5] on the effect and disposition of a motion for reconsideration is instructive:

> 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

[4] See *Social Justice Society (SJS) Officers, et al. v. Lim*, G.R. Nos. 187836 & 187916, March 10, 2015.

[5] *Id.*

> 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.

WHEREFORE, petitioner's Motion for Reconsideration filed on September 23, 2025 is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice