REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
Quezon City

***EN BANC***

**DENNIS M. YAP,**
Petitioner,

**CTA EB NO. 2272**
(CTA Case No. 10020)

*Present*:

**DEL ROSARIO,** *P.J.*,
**CASTAÑEDA, JR.,**
**UY,**
**RINGPIS-LIBAN,**
**MANAHAN,**
**BACORRO-VILLENA,**
**MODESTO-SAN PEDRO,**
**REYES-FAJARDO,** *and*
**CUI-DAVID,** *JJ.*

- versus -

**BUREAU OF INTERNAL REVENUE,**
Respondent.

Promulgated:
MAR 21 2022 3:35pm

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# RESOLUTION

***BACORRO-VILLENA, J.:***

For the Court's resolution is petitioner Dennis M. Yap's (**petitioner**'s) Motion for Reconsideration[1] (**MR**), filed on 14 July 2021[2], with respondent Bureau of Internal Revenue's (**respondent**'s) "Comment (On Petitioner's Motion for Reconsideration [dated] 14 July 2021)"[3] (**Comment**), filed on 15 November 2021. Petitioner seeks the reversal of the Court *En Banc*'s Decision in the above-captioned case

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1 *Rollo*, pp. 177-180.
2 Received by the Court on 02 September 2021.
3 *Rollo*, id., pp. 185-193.

dated 15 June 2021[4] (**assailed Decision**). The dispositive portion thereof reads:

> ...
>
> **WHEREFORE**, premises considered, the instant Petition for Review filed on 30 June 2020 by petitioner Dennis M. Yap is hereby **DENIED** for lack of merit. Accordingly, the assailed Resolutions dated 14 October 2019 and 20 February 2020, respectively, of the Court's First Division in CTA Case No. 10020, *Dennis M. Yap v. Bureau of Internal Revenue*, are hereby **AFFIRMED**.
>
> **SO ORDERED.**
>
> ...

In the assailed Decision, the Court *En Banc* affirmed the dismissal of petitioner's prior Petition for Review for being filed out of time. The Court *En Banc* found that the subject Preliminary Collection Letter (**PCL**) qualifies as respondent's final decision which is the decision appealable to the Court in Division. Consequently, the 30-day appeal period was reckoned from the PCL's receipt on <u>10 July 2018</u>, and not from receipt of the Warrant of Distraint and/or Levy (**WDL**) on 31 January 2019. Since petitioner's prior Petition for Review was filed only on <u>01 February 2019</u>, or <u>after the lapse of the 30-day period to file an appeal reckoned from receipt of the PCL</u>, respondent's assessments became final, executory, and demandable and thus, beyond the jurisdiction of the First Division.

In his present MR, petitioner once again questions the dismissal of his prior Petition for Review and insists on the Court *En Banc*'s previous rulings in *Jowelles Autoparts, Inc. v. Bureau of Internal Revenue, represented by the Regional Director, Revenue District 15*[5] (**Jowelles**) and *Commissioner of Internal Revenue v. Mannasoft Technology Corporation*[6] (**Mannasoft**), where it was ruled that the 30-day period to appeal before the Court is reckoned from petitioner's receipt of the WDL.

On the other hand, respondent, in his Comment, submits that petitioner's arguments in his present MR are a mere rehash of those raised in his MR before the First Division and in his Petition for Review

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4 Id., pp. 159-176.
5 CTA EB NO. 1594 (CTA Case No. 9333), 02 April 2018.
6 CTA EB NO. 1637 (CTA Case No. 8745), 19 June 2018.

before the Court *En Banc*. Respondent maintains that petitioner filed his petition out of time and, as such, the Court has no jurisdiction to continue hearing the same.

**We resolve.**

A careful perusal of petitioner's MR readily reveals that the arguments raised herein are mere reiterations or rehash of the arguments raised in his Petition for Review before Us that have already been passed upon and resolved in the assailed Decision.

In the case of *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[7], the Supreme Court denied an MR for failing to raise any substantial legitimate ground or reason to justify the consideration sought, *viz*:

> ...
>
> 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 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.[8]
>
> ...

As explained in the assailed Decision, having established that the subject PCL is respondent's final decision on petitioner's protest against the three (3) Formal Letters of Demand (**FLDs**) with attached Assessment Notices, petitioner effectively waived his remedy of appeal before the Court in Division when he opted to file a Legal Petition Notice before respondent (instead of an appeal before the Court in Division within the 30-day reglementary period). Unfortunately for

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7 G.R. No. 159938, 22 January 2007.

8 Citation omitted and emphasis supplied.

petitioner, the subsequent Legal Petition Notice, which he filed on 16 July 2018 to inform respondent of his pending request for reinvestigation, did not toll the 30-day period to appeal.

In asserting that the 30-day appeal period should commence from his receipt of the WDL, petitioner cannot rely on the Court *En Banc*'s rulings in *Jowelles* and *Mannasoft* given that the said cases and the present case have different factual circumstances. In particular, the cited cases assailed the validity of the WDL allegedly issued before the lapse of the 30-day period to move or request for reconsideration with respondent. Furthermore, the decisions of this Court are not binding precedents as was held by the Supreme Court in the case of *Commissioner of Internal Revenue v. San Roque Power Corporation*[9], to wit:

> ...
>
> ... Suffice it to state that CTA decisions do not constitute precedents, and do not bind this Court or the public. That is why CTA decisions are appealable to this Court, which may affirm, reverse or modify the CTA decisions as the facts and the law may warrant. Only decisions of this Court (Supreme Court) constitute binding precedents, forming part of the Philippine legal system...
>
> ...

In view of the foregoing, We find no compelling reason to reconsider or modify the assailed Decision.

**WHEREFORE**, premises considered, petitioner's Motion for Reconsideration filed on 14 July 2021, is hereby **DENIED** for lack of merit.

**SO ORDERED.**

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

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9 G.R. No. 187485, 12 February 2013; Citation omitted.

**WE CONCUR:**

**ROMAN G. DEL ROSARIO**
Presiding Justice

**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**ERLINDA P. UY**
Associate 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**
Associate Justice

**LANEE S. CUI-DAVID**
Associate Justice