REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,

CTA EB NO. 2733
(CTA Case No. 9514)

\- versus -

TRICOM SYSTEMS (PHILIPPINES), INC.,

x-----------------------------------x

TRICOM SYSTEMS (PHILIPPINES), INC.,

CTA EB NO. 2745
(CTA Case No. 9514)

Present:

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

\- versus -

COMMISSIONER OF INTERNAL REVENUE,

Promulgated:
AUG 18 2025 3:42 p.m.

x---x

RESOLUTION

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

For the Court *En Banc*'s resolution are:

1. Commissioner of Internal Revenue's (**CIR**'s) "Motion for Reconsideration"[1] (**MR**) filed on 03 October 2024, with Tricom Systems (Philippines), Inc.'s (**Tricom**'s) "Comment/Opposition [On/To Petitioner CIR's Motion for Reconsideration Of the Honorable Court's 19 September 2024 Decision]"[2] (**Comment/Opposition**) filed on 14 October 2024;[3] and,

2. Tricom's "Motion for Partial Reconsideration [Of This Honorable Court's 19 September 2024 Decision]"[4] (**MPR**) filed on 11 October 2024, without comment from the CIR.[5]

The MR assails the Court *En Banc*'s Decision[6] promulgated on 19 September 2024 (**assailed Decision**). The dispositive portion of the said Decision reads:

> ...
>
> **WHEREFORE**, with the foregoing considered, the consolidated Petitions for Review filed by Commissioner of Internal Revenue on 28 February 2023 and Tricom Systems (Philippines), Inc. on 14 April 2023, respectively, are **DENIED** for lack of merit.
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> Accordingly, the assailed Decision dated 07 July 2022 and the assailed Resolution dated 23 January 2023, respectively, of the Court's Special Third Division in CTA Case No. 9514, entitled *Tricom Systems (Philippines), Inc. v. Commissioner of Internal Revenue,* are hereby **AFFIRMED**.
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> **SO ORDERED.**
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> ...

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1 *Rollo* (CTA EB Case No. 2733), p. 150-163.
2 Id., pp. 174-196.
3 Received by the Court on 15 October 2024.
4 *Rollo* (CTA EB Case No. 2733), pp. 166-170.
5 Records Verification dated 25 February 2025.
6 Id., pp. 102-138.

In the MR, the CIR reiterates all the arguments he or she has previously raised in the Petition for Review[7] filed on 28 February 2023 before the Court *En Banc*.

To recapitulate, the CIR asserts that the Court *En Banc* erred in ruling that (1) the lack of authority on the part of the examining Bureau of Internal Revenue (BIR) officers is duly supported by evidence; (2) the Special Third Division had the authority to rule upon the validity of the Letter of Authority (**LOA**), despite the fact that this was not raised as an issue in the administrative level; (3) Revenue Memorandum Order (**RMO**) No. 43-90[8] is not a mere statement of policy; and (4) the cases of *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*[9] (**Medicard**) and *Commissioner of Internal Revenue v. Sony Philippines, Inc.*[10] (**Sony**) are applicable or on all fours with the instant case and should thus be applied.

The CIR adds that an LOA was originally and validly issued to authorize the examiner named therein to examine the books of accounts and other accounting records of Tricom. When the Revenue Officer (**RO**) named in the LOA was transferred, the original LOA was still subsisting and valid in all other respects. The LOA does not become invalid just because the ROs named therein happened to be reassigned or transferred.

Tricom, on the other hand, counters that the CIR's MR should outrightly be denied for being a *pro forma* motion as he or she merely recycled the arguments raised in his or her Petition for Review that have already been passed upon both by the Special Third Division and the Court *En Banc*.

In addition, Tricom argued that: (1) the ROs and Group Supervisors (**GSs**) who conducted its audit and examination were not duly authorized to do so, based on evidence on the record; (2) RMO No. 43-90 is not a mere statement of policy, the requirements laid down in the said RMO has already been codified in National Internal Revenue

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7 *Rollo* (CTA EB Case No. 2733), pp. 6-22.
8 Amendment of Revenue Memorandum Order No. 37-90 Prescribing Revised Policy Guidelines for Examination of Returns and Issuance of Letters of Authority to Audit dated 20 September 1990.
9 G.R. No. 222743, 05 April 2017.
10 G.R. No. 178697, 17 November 2010.

Code (**NIRC**) of 1997, as amended; and (3) the doctrine laid down in both the *Medicard* and *Sony* cases is applicable to the case at bar.

In Tricom's MPR, it reiterated all the arguments it has previously raised in the Petition for Review[11] filed on 14 April 2023 before the Court *En Banc*. Though, it concurs with the assailed Decision, it still submits that the CIR's Petition for Review should have been denied on the following additional grounds and arguments: (1) the CIR's tax assessment is invalid for failure to clearly state the facts and the law upon which the deficiency assessment are based; (2) the right of the government to assess the alleged tax deficiency of Tricom for taxable year (**TY**) 2006 had already prescribed; and (3) there is no factual and/or legal basis for the alleged deficiency Income Tax (**IT**), Value-Added Tax (**VAT**), expanded withholding tax (**EWT**) and withholding tax on compensation (**WTC**) for TY 2006, including the imposition of 20% interest *per* year.

We resolve.

At the onset, the Court *En Banc* must stress that both the CIR's arguments in his or her MR and Tricom's discussion in its MPR are a mere rehash of those already raised and considered by the Court *En Banc* in deciding the case at bar. A review of the records reveals that the CIR's MR and Tricom's MPR are almost an exact replica of their respective Petitions filed before the Court *En Banc*.

The only new discussion in the CIR's MR is his or her citation of Presiding Justice Roman G. Del Rosario's (**PJ Del Rosario**'s) Concurring Opinion where it was discussed that the ROs and GS named in the LOA, and the two (2) Reassignment Notices[12] were clothed with ample authority since these were signed by the Regional Director and OIC-Regional Director. However, this does not change that RO Robertson Gazzingan (**RO Gazzingan**) and GS Raul Gorospe (**GS Gorospe**), who also participated in Tricom's audit, were not clothed with proper authority as the Memorandum of Assignment (**MOA**) was signed by Revenue District Officer Teodoro Galicia. We also quote the relevant portion of PJ Del Rosario's Concurring Opinion:

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[11] *Rollo* (CTA EB Case No. 2745), pp. 6-32.

[12] Dated 07 September 2007 and 28 October 2008, respectively.

> ...
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> On the other hand, the MOA authorizing RO Gazzingan and GS Gorospe to continue the audit of Tricom for TY January 1, 2006 to December 31, 2006 was signed by **Revenue District Officer Galicia.** He is neither the CIR nor the Regional Director of Revenue Region No. 8. The MOA did not validly authorize RO Gazzingan and GS Gorospe to continue the audit and examination of Tricom for TY January 1, 2006 to December 31, 2006. **The audit and examination of Tricom was legally flawed, and as a consequence thereof, the assessments issued against it are inescapably void. Needless to say, a void assessment bears no fruit and must be slain at sight**.[13]
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> ...

Since the CIR's assessment against Tricom had already been declared void, this Court finds that Tricom's MPR, aside from being a mere repetition of its Petition presented before the Court *En Banc*, failed to present any justiciable controversy that is appropriate for judicial determination. In *Universal Robina Corporation v. Department of Trade and Industry ("DTI"), et al.*,[14] the Supreme Court held:

> ...
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> In its traditional sense, actual controversy is understood as one which involves "a **contrariety of legal rights**" (*i.e.*, "conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution"). Separate but closely linked to the actual controversy requirement is the requirement of ripeness. "A justiciable controversy refers to an existing controversy that is appropriate or ripe for judicial determination." A question is considered ripe for adjudication when the act being challenged has had a **"direct adverse effect on the individual or entity challenging it."** It must be stressed that the conflict should be "ripe for judicial determination, not conjectural or anticipatory; otherwise, this Court's decision will amount to an advisory opinion concerning legislative or executive action."[15]
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> ...

In *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[16], the Supreme Court explained, to wit:

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[13] Citation omitted, underscoring supplied and emphasis in the original text and supplied.
[14] G.R. No. 203353, 14 February 2023.
[15] Citations omitted, underscoring supplied and emphasis in the original text and supplied.
[16] G.R. No. 109645 (Resolution), 04 March 1996.

> ...
>
> 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.
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> ...

Furthermore, the Supreme Court in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[17] ruled:

> ...
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> 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.
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> 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.**
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> ...

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

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, in the instant case, both parties had failed to do so.

WHEREFORE, in view of the foregoing, the Commissioner of Internal Revenue's "Motion for Reconsideration" filed on 03 October 2024 and Tricom's "Motion for Partial Reconsideration [Of this Honorable Court's 19 September 2024 Decision]" filed on 11 October 2024 are **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

I reiterate my Concurring Opinion
ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

x - x

I reiterate my concurrence with Presiding Justice's Concurring Opinion
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

I reiterate my concurrence with Presiding Justice's Concurring Opinion
LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice