REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION
****

TRIDHARMA MARKETING CORPORATION, INC., Petitioner,	**CTA CASE NO. 8833**
	Members:
- **versus** -	**CASTAÑEDA, JR.,** *Chairperson,* **CASANOVA,** *and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** AUG 31 2018 9:59 AM

x---x

RESOLUTION

CASANOVA, *J.*:

Submitted before this Court is respondent's **Motion for Reconsideration (Re: Amended Decision dated 06 July 2018)**, filed on July 24, 2018, with petitioner's **Comment/Opposition To the Commissioner of Internal Revenue's Motion for Reconsideration (Re: Amended Decision dated 6 July 2018) dated 23 July 2018**, filed on August 10, 2018.

On July 6, 2018, this Court promulgated an Amended Decision which denied respondent's Motion for Partial Reconsideration while partially granting petitioner's Motion for Partial Reconsideration. The Amended Decision further reduced petitioner's tax liability by adjusting the interests therein in view of Republic Act (RA) No. 10963[1] or the *TAX*

[1] "AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES", approved on December 19, 2017.

REFORM FOR ACCELARATION AND INCLUSION (TRAIN) law, which amended certain provisions of the National Internal Revenue Code (NIRC) of 1997, the interest rate of twenty percent (20%) per annum under Sec. 249 of the NIRC was amended to "double the legal interest rate for loans or forbearance of any money in the absence of an express stipulation as set by the Bangko Sentral ng Pilipinas."[2] The dispositive portion of the said Amended Decision reads as follows, *viz.*:

> "**WHEREFORE,** premises considered, respondent's Motion Partial Reconsideration (Re: Decision promulgated on 15 February 2018) is **DENIED** for lack of merit. On the other hand, petitioner's Motion for Partial Reconsideration (of the Decision dated 15 February 2018) is **PARTIALLY GRANTED**, and that the Decision dated February 15, 2018 is hereby **AMENDED** to read as follows, viz.:
>
> '**WHEREFORE**, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent's assessment as to the deficiency VAT assessment for taxable year 2010 in the amount of ₱1,298,134,526.24 is hereby **CANCELLED AND WITHDRAWN**. On the other hand, respondent's deficiency income tax assessment for taxable year 2010 is hereby **UPHELD IN PART**. Consequently, petitioner is **ORDERED TO PAY** respondent the amount of **THIRTY-TWO MILLION FIFTY-EIGHT THOUSAND FOUR HUNDRED TWENTY-SIX PESOS AND SEVENTY-TWO CENTAVOS (₱32,058,426.72)** representing the amount still due after petitioner's partial payment of its income tax liability on May 29, 2014, including surcharges and interests imposed under Section 248(A)(3) and Section 249(B), respectively, of the NIRC of 1997, as amended, to be computed as follows:

Basic deficiency income tax	₱ 43,772,489.23
Add:	
25% Surcharge	10,943,122.31
20% p.a. Deficiency interest from April 15, 2011 to May 29, 2014	
(P43,772,489.23 x 20% x 1,140/365 days)	27,342,815.19
Total amount due	**₱82,058,426.73**
Less: Partial payment on May 29, 2014	50,000,000.00

[2] *See* Section 75, *Ibid.*

Amount still due after the payment made on May 29, 2014	**₱32,058,426.73**

In addition, petitioner is further **ORDERED TO PAY**:

a) Delinquency interest on the unpaid amount of ₱32,058,426.73 at the rate of 20% per annum from June 2, 2014 ***until December 31, 2017***, pursuant to Section 249(C) of the NIRC of 1997; and

b) Delinquency interest at the rate of 12% per annum on the unpaid amount of ₱32,058,426.73 ***from January 1, 2018 until the amount is fully paid pursuant to Sec. 249(C) of the NIRC of 1997, in relation to Sec. 249(A) of the same Code, as amended by the TRAIN law***.

SO ORDERED.'

SO ORDERED."

Thereafter, respondent filed the instant Motion for Reconsideration reiterating the following grounds, *to wit:* that this Court has no jurisdiction over the present case since the disputed assessment had long become final, executory and demandable; that this Court erred in ruling that his right to assess petitioner's deficiency value-added tax (VAT) for the 1st and 2nd quarters of 2010 has already prescribed; that this Court erred in ruling that petitioner is not liable to pay the entire assessed amount of ₱4,467,391,881.76 representing deficiency income tax and value-added tax for taxable year 2010; that this Court erred in ruling that petitioner is not liable for 50% surcharge and in not ordering petitioner to post bond on his tax liabilities; that this Court erred in ruling that ₱50,000,000.00 payment should be deducted from the balance of the 2010 deficiency income tax assessment as of May 29, 2014; and, that this Court erred in retroactively applying the provisions of the TRAIN Law in the present case.

While, on the other hand, in its Comment, petitioner primarily assails respondent's Motion for Reconsideration as mere reiterations of its previous Motion for Partial Reconsideration dated March 6, 2018. Thus, petitioner claims that the instant Motion for Reconsideration is a second Motion for Reconsideration which is prohibited by law as *pro forma*.

Accordingly, after due consideration, this Court finds no merit in respondent's Motion for Reconsideration.

While it is true that majority of the arguments proffered by respondent are rehash, this Court, nonetheless, cannot dismiss it as pro forma. To begin with, this Court is not unaware that under Section 7[3], Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA)[4], the filing of a second motion for reconsideration of a decision is prohibited. This prohibition is justified by public policy which demands that, at the risk of occasional errors, judgments of courts must become final at some definitive date fixed by law.[5]

However, Section 3 of the same Rule also defines what an amended decision is, *viz.*:

> "**SEC. 3.** *Amended decision.* - Any action **modifying** or reversing a decision of the Court en banc or in Division shall be denominated as Amended Decision. (2002 Internal Rules of the Court of Appeals, Rule VI, sec. 12a)" *(Emphasis Ours)*

Apparently, an amended decision does not necessarily entail that the previous or original Decision has been reversed in its entirety, for it may only be modified, as in the present case. When this Court amended its original Decision and further reduced the amount to be paid by petitioner, such reduction amounted to a material alteration of the first judgment. The alteration being of such substance and proportion as to give rise to an entirely new decision, and to all intents and purposes promulgated a new decision, from which the parties may file a reconsideration.

Anent the issue of applying the TRAIN Law retroactively, this Court is not convinced.

The rule is that a statute should be so construed not only to be consistent with itself but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system.

---

[3] **SEC. 7.** *No second motion for reconsideration or for new trial.* - No party shall be allowed to file a second motion for reconsideration or for new trial of a decision, final resolution or order.
[4] A.M. No. 05-11-07-CTA, November 22, 2005.
[5] Government Service and Insurance System vs. Court of Appeals, et al., G.R. No. 101632, January 13, 1997.

The rule is expressed in the maxim, *interpretare et concordare legibus est optimus interpretandi*, or every statute must be construed and harmonized with other statutes as to form a uniform system of jurisprudence. A construction of a statute which creates an inconsistency should be avoided when a reasonable interpretation can be adopted which will not do violence to the plain words of the act and will carry out the intention of Congress.[6]

Verily, on January 1, 2018, the TRAIN Law has come into effect.[7] Thus, Section 249 (A) and (B) of the NIRC of 1997, as amended by the TRAIN Law, now reads as follows, *viz.*:

> "**Section 249. Interest. —**
>
> *(A) In General.* — There shall be assessed and collected on any unpaid amount of legal interest at the rate of double the legal interest rate for loans or forbearance of any money in the absence of any express stipulation as set by the Bangko Sentral ng Pilipinas, **from the date prescribed for payment until the amount is fully paid**: *Provided,* That in no case shall the deficiency and delinquency interest prescribed under Subsections (B) and (C) hereof, be imposed simultaneously.
>
> *(B) Deficiency Interest.* — Any deficiency in the tax due as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof, which interest shall be assessed and collected **from the date prescribed for its payment until the full payment thereof, or upon issuance of a notice and demand by the commissioner of internal revenue, whichever comes earlier**." *(Emphasis Ours)*

Clearly, based from the foregoing, payment of interest shall be *until the amount is fully paid.* Considering that the date of payment coincides with the effectivity of the TRAIN Law, a harmonious solution as to form a complete, coherent and intelligible system is achieved by applying the provisions of Section 249 under the NIRC of 1997 on the interest charged from the date of payment up to the time prior to the effectivity of the TRAIN law, *i.e.*, December 31, 2017, and thereafter apply the provisions of the TRAIN law on the interest charged from its

---

[6] Michigan Holdings, Inc. vs. The City Treasurer of Makati City, Nelia A. Barlis, CTA EB Case No. 1093 (CTA AC No. 99), April 13, 2016.
[7] Section 87, *Supra* No. 1.

effectivity on January 1, 2018 up to the full or complete payment of the unpaid amount.

WHEREFORE, premises considered, respondent's Motion for Reconsideration (Re: Amended Decision dated 06 July 2018) is **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

We Concur:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CATHERINE T. MANAHAN
Associate Justice