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

## *EN BANC*

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| **SOLID-ONE MILLS, PHILS., INC.,** Petitioner, | **CTA EB NO. 1562** (CTA Case No. 8559) |
| - versus - | Present: Del Rosario, *PJ*, Castañeda, Jr., Uy, Fabon-Victorino, Mindaro-Grulla, Ringpis-Liban, and Manahan, *JJ.* |
| **COMMISSIONER OF INTERNAL REVENUE,** Respondent. | Promulgated: SEP 27 2018 3:53 p.m. |

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## RESOLUTION

**CASTAÑEDA, JR., *J.*:**

For resolution of the Court *En Banc* is petitioner's Motion for Reconsideration filed on June 28, 2018, with respondent's Comment/Opposition Re: Petitioner's Motion for Reconsideration filed on July 30, 2018.

For easy reference, the dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, the instant Petition for Review is **DISMISSED** for lack of jurisdiction. Accordingly, the Decision dated June 21, 2016 and the Resolution dated November 7, 2016, respectively, of the CTA Third Division are

**SO ORDERED.**"[1]

Petitioner asserts in its motion that the Court of Tax Appeals (CTA) has jurisdiction in this case considering that respondent's finality of assessment should be reckoned from its receipt of the September 17, 2012 letter and not from the earlier January 11, 2012 letter.

On the other hand, respondent asserts that the CTA has no jurisdiction in this case considering petitioner's failure to timely file its Petition before the Court in Division.

After careful consideration, the Court *En Banc* resolves to deny the instant motion.

Records reveal that petitioner received the January 11, 2012 letter on March 16, 2012. As discussed in the assailed Decision, said letter informed petitioner that its case has become final and executory and it shall be forwarded to the Collection Division. Subsequently, respondent issued a Warrant of Distraint and/or Levy which was received by petitioner on May 31, 2012. Thus, the tenor of the letter, coupled with respondent's act of actually pursuing the collection of petitioner's deficiency taxes, lead to no other conclusion that the January 11, 2012 letter is the final decision of respondent which is appealable to the CTA.

On the other hand, further review of the September 17, 2012 letter reveals that the increase in amount sought to be collected from petitioner was the result of a mere adjustment in the computation of interest. Meanwhile, the basic deficiency taxes in the September 17, 2012 letter are the same with the basic deficiency taxes contained in the January 11, 2012 letter. Therefore, the Court *En Banc* holds that the September 17, 2012 letter is a mere follow-up letter and not a final decision on petitioner's protest.

Hence, considering that the instant motion failed to raise meritorious assertions, the denial of the same is in order.

**WHEREFORE**, the instant Motion for Reconsideration is **DENIED**, for lack of merit. *[initials]*

**SO ORDERED.**

Juanito C. Castañeda, Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**WE CONCUR:**

**ROMAN G. DEL ROSARIO**
Presiding Justice

(On Leave)
**ERLINDA P. UY**
Associate Justice

**ESPERANZA R. FABON-VICTORINO**
Associate Justice

(On Leave)
**CIELITO N. MINDARO-GRULLA**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

(With due respect, I reiterate my D.O. dated June 1, 2018)
**CATHERINE T. MANAHAN**
Associate Justice