REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	C.T.A. EB No. 1041 (C.T.A. CASE NO. 8188)
- versus -	Present: DEL ROSARIO, *PJ* CASTAÑEDA, JR. BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, and RINGPIS-LIBAN, *JJ.*
GOODYEAR PHILIPPINES, INC., Respondent.	Promulgated: JAN 05 2015 3:39 p.m.

x- x

RESOLUTION

***Fabon-Victorino, J.*:**

In her Motion for Reconsideration dated September 12, 2014, petitioner Commissioner of Internal Revenue (CIR), prays to reverse and set aside the Decision dated August 14, 2014, which denied her Petition for Review dated July 26, 2013.

Petitioner insists that respondent failed to exhaust administrative remedies on account of its inability to submit complete documents to substantiate its administrative claim rendering its subsequent recourse to the Court premature thereby depriving it of jurisdiction over the instant petition. Also, the haste in filing the instant petition deprived her of the opportunity to ascertain the merits of respondent's administrative claim for refund.

Petitioner also maintains that the additional amount paid by respondent in excess of the original subscription price when it redeemed its own shares of stock subscribed to by Goodyear Tire and Rubber Company (GTRC) should not be treated as a mere premium and part of the subscription price, but as accumulated dividends in arrears of the redeemed preferred shares, hence, subject to 15% final withholding tax (FWT) on dividends.

In rejecting the motion, respondent points out that the arguments by petitioner in the subject Motion are not new. They are mere reiteration of her arguments in her Petition for Review, which have been thoroughly addressed by the Court in the assailed Decision rendering its Motion for Reconsideration *pro forma.*

Contrary to petitioner's claim, it was able to submit complete documents at the administrative level in support of its application for refund. Besides, it is for the taxpayer to determine and decide what documents to present to substantiate its application for refund, otherwise, respondent may require documents which the taxpayer cannot file or submit to the taxpayer's detriment.

Respondent also avers that the filing of its judicial claim shortly after the administrative claim was in accord with the requirements of Section 229 of the Tax Code that both the administrative and judicial claim for refund should be filed within two (2) years from the date of the payment of the tax.

Finally, respondent is entitled to refund of erroneously withheld and remitted FWT pursuant to Section 9 of Revenue Regulations (RR) No. 006-08 which provides that when a corporation buys back its own shares, the same become treasury shares. If the said shares are not listed and traded through the Local Stock Exchange, as in the subject shares, the transaction is subject to 5% and 10% net capital gains tax. Significantly, both the Court in Division and the *En Banc* exhaustively discussed in detail why the subject redemption of shares by respondent is not subject to FWT, contrary to the position of petitioner.

Clear as a day that the arguments of petitioner in the subject Motion for Reconsideration are mere reiteration of her arguments in her Petition for Review, which have already been exhaustively discussed in the assailed Decision of August 14, 2014. Petitioner needs only to re-read the Decision for enlightenment.

The disputation on the issue of lack of jurisdiction due to non-exhaustion of administrative remedies on account of respondent's alleged failure to submit complete documents at the administrative level is found in pages 8-10 of the Decision of August 14, 2014. On the other hand, the issue on the filing of the judicial claim merely 13 days after the filing of the administrative claim was addressed in pages 10-11 of the same assailed Decision.

Finally, the tax treatment of the price paid by respondent when it redeemed its own shares, as well as the rationale were sufficiently discussed in pages 11-27 of the same Decision of August 14, 2014.

WHEREFORE, the Motion for Reconsideration dated September 12, 2014 filed by petitioner Commissioner of Internal Revenue, is hereby **DENIED**, for utter lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

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