REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Second Division

DHL SUPPLY CHAIN PHILS., INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10722

Members:

RINGPIS-LIBAN, *P.J., Chairperson*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:
2:52 pm

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RESOLUTION

RINGPIS-LIBAN, P.J.:

Submitted before this Court is respondent's **Motion for Reconsideration (Re: Decision dated 02 December 2025)** filed on December 22, 2025, with petitioner's **Comment and Opposition (To: Respondent's Motion for Reconsideration)** posted on March 16, 2026.

On December 2, 2025, the Court promulgated a Decision setting aside respondent's deficiency Improperly Accumulated Earnings Tax (IAET) assessment, with interest and surcharges, and compromise penalty against petitioner for taxable year (TY) 2017, the dispositive portion of which reads as follows:

> "**ACCORDINGLY**, in light of the foregoing considerations, the present *Petition for Review* and *Supplemental Petition for Review* are **GRANTED**.
>
> Accordingly [*sic*], the FDDA dated December 27, 2021 finding the petitioner liable for alleged deficiency IAET in the aggregate amount of Php3,912,854.72, inclusive of twenty-five (25%) surcharge, twelve percent (12%) interest and compromise

> penalty amounting to Php40,000.00 is **CANCELLED** and **SET ASIDE**.
>
> Moreover, the WDL dated March 10, 2022 is **CANCELLED** and **WITHDRAWN**. However, petitioner's prayer that the WG dated March 23, 2022 be declared void, invalid and cancelled and withdrawn, is deemed **MOOT**, considering that the said WG was already lifted and considered without force and effect pursuant to the BIR's *Lifting of Warrant of Garnishment* dated June 10, 2022.
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> Finally, respondent is **ORDERED TO REFUND or ISSUE A TAX CREDIT CERTIFICATE** to petitioner the garnished amount of **Php3,912,854.72**, which was debited against petitioner's bank account with UnionBank, and paid to the BIR.
>
> **SO ORDERED**."

In his Motion, respondent argues that the Court erred in granting the present *Petition for Review* and *Supplemental Petition for Review*, contending that it has no jurisdiction over petitioner's motion to refund the amount collected as tax payment and that the subject assailed deficiency IAET assessment is valid.

Respondent asserts that in refund of taxes collected, the claimant must first file an administrative claim for refund before resorting to a judicial claim pursuant to Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended. This is to give the Bureau of Internal Revenue (BIR) the opportunity to investigate/examine the veracity of the claim and to encourage resort to administrative action whenever the latter is feasible, adequate, and available. Respondent continues that this is also consistent with the doctrine of exhaustion of administrative remedies as a condition precedent, and non-compliance therewith renders the petition for review dismissible. In this case, respondent stresses that petitioner did not file a refund claim with the BIR before it proceeded with its prayer for refund in its supplemental petition.

Moreover, respondent also contends that petitioner is liable for IAET for TY 2017 since the repeal on the imposition of IAET in Republic Act (RA) No. 11534,[1] otherwise known as the *Corporate Recovery and Tax Incentives for Enterprises Act* or "CREATE Act", commences only in 2021, which is the date of its effectivity. Stated differently, the repeal of the imposition of IAET under Section 8[2] of the CREATE Act does not apply retroactively, which means that

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1 "AN ACT REFORMING THE CORPORATE INCOME TAX AND INCENTIVES SYSTEM, AMENDING FOR THE PURPOSE SECTIONS 20, 22, 25, 27, 28, 29, 34, 40, 57, 109, 116, 204 AND 290 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND CREATING THEREIN NEW TITLE XIII, AND FOR OTHER PURPOSES", took effect on April 11, 2021.

2 "SECTION 8. Section 29 of the National Internal Revenue Code of 1997, as amended, on the imposition of improperly accumulated earnings tax, is hereby repealed."

respondent can no longer impose IAET only for the taxable years covered by the said Act and not prior years. Respondent further explains that although the Court stated that there is a Board Resolution for the retention of earnings, petitioner merely presented internal budgets to corroborate the same but however failed to confirm if the purposes for retention of earnings in relation to the budget prepared actually materialized. Respondent points out that petitioner's 2017 *Audited Financial Statements* (AFS) clearly did not reflect any appropriated retained earnings.

Similarly, respondent further insists that petitioner is not exempt from imposition of IAET considering that, by the nature of its business, it is not a publicly-held corporation. Respondent explains that petitioner cannot be considered a publicly-held corporation by simply claiming that its ultimate parent is a listed company in the country where it was incorporated. Respondent argues that nowhere in the tax code or BIR issuances does it provide that the status of public ownership in a foreign country is considered for IAET purposes. In any case, respondent reiterates that in the protest letter dated July 7, 2021,[3] the only defense raised by petitioner was its status as a publicly-held corporation, it did not refute the computation of the IEAT. As it failed to dispute the computation of the IAET assessment in the *Formal Letter of Demand/ Final Assessment Notice* dated June 8, 2021, respondent submits that the computation should not be an issue anymore and is beyond the review of the Court for already being deemed final and executory.

Lastly, respondent claims that petitioner is liable to pay the compromise penalties since there was a failure to pay the tax due; that assessments are presumed correct and made in good faith and that the burden of proof is on the taxpayer contesting the validity or correctness of an assessment to prove not only that respondent is wrong but that the taxpayer is right.

On the other hand, in its Comment, petitioner points out that a cursory reading of the respondent's *Motion for Reconsideration* clearly reveals that the arguments and discussions raised are nothing but mere rehash or reiteration of the averments previously stated in respondent's pleadings which were already exhaustively passed upon, duly considered, and resolved by this Court in the Decision promulgated on December 2, 2025. In this regard, petitioner claims that as held by the Supreme Court, when a party's arguments and issues raised are mere rehash and repetitions of the arguments raised before the Court, and already passed upon and decided by it, there is no longer any need to discuss the same arguments again, unless there are new and compelling reasons to disturb the Court's findings.[4] As such, petitioner asserts that the instant Motion miserably failed to raise new matters or compelling reasons that would warrant reconsideration of the assailed Decision, as respondent simply revisits and repeats the same arguments preciously advanced in his pleadings.

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[3] Docket, Exhibit "P-29", pp. 2463 to 2468.

[4] *Shangri-La International Hotel Management, Ltd. et al. v. Developers Group of Companies, Inc.,* G.R. No. 159938, January 22, 2007.

Nonetheless, petitioner emphasizes that cases filed before this Court are litigated *de novo*. Thus, respondent's argument that petitioner failed to question or refute the computation of the IAET at the administrative level, including the validity of the inclusion of retained earnings from prior years in the computation of the IAET, is of no moment since this Court is a *"court of record"*. Being such, it is required to conduct a formal litigation where the parties must present their evidence accordingly to prove every minute aspect of their cases.

Petitioner also maintains that this Court has jurisdiction over its motion for refund of the amount collected, as the present case falls as an exception to the rule on exhaustion of administrative remedies, citing the case of *Banco de Oro, et al. v. Republic of the Philippines, et al.*[5] According to petitioner, the following exceptions apply: (1) when the issue involved is purely a legal question; (2) when the administrative action is patently illegal amounting to lack or excess of jurisdiction; and (3) when to require exhaustion of administrative remedies would be unreasonable. Petitioner explains that the IAET assessment, which is the subject matter of the *Warrant of Distraint and Levy* (WDL) dated March 10, 2022 and *Warrant of Garnishment* (WG) dated March 23, 2022, is not final and executory–nor a delinquent tax or delinquent account–as petitioner timely protested the assessment, and timely appealed the *Final Decision on Disputed Assessment* (FDDA) dated December 27, 2021 before this Court. Thus, petitioner insists that respondent violated both the NIRC and its own regulations when the BIR enforced collection via WDL and WG despite the assessment not being final and executory.

Lastly, petitioner asseverates that the Supreme Court in the case of *San Miguel Corporation v. Commissioner of Internal Revenue*,[6] has clarified that a compromise penalty should not be imposed if the taxpayer does not agree to a compromise, considering that a compromise, by its very nature, must be mutual. Since compromise penalties are amounts suggested in the settlement of criminal tax liability, there must first be an imposition of criminal tax liabilities, otherwise, a compromise penalty should not be imposed and collected.

After due consideration, the Court finds respondent's Motion for Reconsideration bereft of merit.

As correctly pointed out by petitioner, the arguments proffered by respondent in his Motion are rehashes of those stated in his *Memorandum* dated November 13, 2024 and *Answer* dated May 2, 2022,[7] which had already been thoroughly considered and resolved by the Court. Perforce, by failing to allege new or substantial matters and by not specifying the findings or conclusions in the judgment that are not supported by the evidence or contrary to law,

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[5] G.R. No. 198756, January 13, 2015.
[6] G.R. Nos. 257697, 259446, April 12, 2023.
[7] Docket, pp. 3148 to 3170 and pp. 743 to 761, respectively.

respondent's Motion for Reconsideration should be deemed *pro-forma* as consistently held by jurisprudence.[8]

Furthermore, the Court also emphasizes that there is no issue on the prospective application of the CREATE Act and petitioner's status as not exempt from IAET. These were already settled in the Court's Decision and petitioner did not refute the conclusion pertaining to the aforementioned findings.

As to respondent's assertion that the Court does not have jurisdiction over petitioner's motion to refund the amount respondent collected in relation to the assailed assessment, suffice it to say that the Supreme Court has already categorically ruled that to avoid multiplicity of suits and unnecessary difficulties or expenses, it is logically necessary and legally appropriate that the issue of the deficiency tax assessment be resolved jointly with a claim for tax refund, to determine once and for all in a single proceeding the true and correct amount of the tax due or refundable.[9] In the same vein, it should also be accentuated that no one shall unjustly enrich oneself at the expense of another is a long-standing principle prevailing in our legal system. This applies not only to individuals but to the State as well. In the field of taxation where the State exacts strict compliance upon its citizens, the State must likewise deal with taxpayers with fairness and honesty. The harsh power of taxation must be tempered with evenhandedness. Hence, under the principle of *solutio indebiti*, the Government has to restore to petitioner the sums representing erroneous payments of taxes.[10]

With regard to respondent's contention that petitioner failed to refute the IAET computation at the administrative level, the power of the Court to exercise its appellate jurisdiction does not preclude it from considering evidence that was not presented in the administrative claim in the BIR.[11] The question of whether the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court. As cases filed before this Court are litigated *de novo*, the Court, is not governed strictly by technical rules of evidence, thus, is not precluded from considering evidence not presented at the administrative level for the paramount consideration remains the ascertainment of truth.[12]

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[8] *Shangri-la International Hotel Management, Ltd. v. Developers Group of Companies, Inc.*, G.R. No. 159938, January 22, 2007; *Philippine National Bank v. Hon. Jose G. Paneda, et al.*, G.R. No. 149236, February 14, 2007; *Teodulo M. Coquilla v. Commission on Elections*, G.R. No. 151914, July 31, 2002 (434 Phil. 861); *Marina Properties Corporation v. Court of Appeals, et al.*, G.R. No. 125447, August 14, 1998 (355 Phil. 705).

[9] *Commissioner of Internal Revenue v. Court of Appeals, et al.*, G.R. No. 106611, July 21, 1994.

[10] *Filinvest Development Corporation v. Commissioner of Internal Revenue, et al.*, G.R. No. 146941, August 9, 2007.

[11] *Philippine Airlines, Inc. v. Commissioner of Internal Revenue* and *Commissioner of Internal Revenue v. Philippine Airlines, Inc.*, G.R. Nos. 206079-80 and 206309, January 17, 2018.

[12] *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*, G.R. No. 231581, April 10, 2019.

Relatively, respondent also erred in calculating the alleged deficiency IAET. By using Revenue Memorandum Circular No. 35-2011[13] to integrate prior years' retained earnings, respondent's computation finds no support in the explicit provisions of Section 29 of the 1997 National Internal Revenue Code, as amended. To reiterate, administrative issuances must not override, supplant, or modify the law, they must remain consistent with the law intended to carry out.[14] Particularly, administrative issuances such as revenue memorandum circulars cannot amend nor modify the law.[15]

Lastly, as to the compromise penalty, petitioner correctly cited the case of *San Miguel Corporation v. Commissioner of Internal Revenue*,[16] wherein the Supreme Court ruled as follows:

> "However, the compromise penalty should not be imposed on SMC, as compromise is, by its nature, mutual in essence. The records do not show that SMC agreed to the compromise penalty. This is bolstered by the fact that SMC disputed the assessment made by the CIR. It must also be noted that compromise penalty are amounts suggested in the settlement of criminal tax liability. Since SMC's case does not involve criminal tax liabilities, the compromise penalty should not have been imposed and collected."

Herein, there is no showing that petitioner agreed to the compromise penalty. Petitioner has in fact actively disputed its imposition. Moreover, since this case does not involve criminal tax liabilities, it should not have been imposed.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by the respondent in his Motion for Reconsideration, the Court finds no compelling reason to reverse or modify the conclusions reached in the Decision promulgated on December 2, 2025.

WHEREFORE, premises considered, respondent's Motion for Reconsideration (Re: Decision dated 02 December 2025) is **DENIED** for lack of merit.

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[13] SUBJECT: Clarification of Issues Concerning the Imposition of Improperly Accumulated Earnings Tax Pursuant to Section 29 of the Tax Code of 1997, in Relation to Revenue Regulations No. 2-2001.

[14] *In the Matter of Declaratory Relief on the Validity of BIR Revenue Memorandum Circular No. 65-2012 "Clarifying the Taxability of Association Dues, Membership Fees and Other Assessments/Charges Collected by Condominium Corporations", Bureau of Internal Revenue (BIR), as herein represented by its Commissioner Kim S. Jacinto-Henares and Revenue District Officer (RDO) Ricardo B. Espiritu v. First E-Bank Tower Condominium Corp., et seq.,* G.R. Nos. 215801 and 218924, January 15, 2020.

[15] *ING Bank N.V., engaged in banking operations in the Philippines as ING Bank N.V. Manila Branch v. Commissioner of Internal Revenue,* G.R. No. 167679, April 20, 2016.

[16] G.R. Nos. 257697 & 259446, April 12, 2023.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

We Concur:

MARIA ROWENA MODESTO SAN-PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice