REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

LEAR AUTOMOTIVE SERVICES (NETHERLANDS) B.V. – PHILIPPINE BRANCH,
Petitioner,

- versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case Nos. 8421 & 8561

Members:

Castañeda, Jr., *Chairperson*
Casanova, and
Cotangco-Manalastas, *JJ.*

Promulgated:

JUL 29 2015 9:45 am

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RESOLUTION

COTANGCO-MANALASTAS, *J.:*

For resolution is respondent's *Motion for Partial Reconsideration (Re: Decision Promulgated on 21 May 2015)* filed on June 8, 2015 through registered mail and received by the Court on June 11, 2015 with petitioner's *Comment (on Respondent's Motion for Partial Reconsideration dated June 5, 2015)* filed on July 13, 2015.

Respondent moves for the reconsideration of this Court's Decision[1], promulgated on May 21, 2015, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, the deficiency income tax assessment for taxable year 2008 in the amount of ₱21,138,104.97 is hereby **CANCELLED**, while the deficiency income tax assessment for taxable year 2007 is hereby **PARTIALLY UPHELD**. Petitioner is **ORDERED TO PAY** basic deficiency 5% gross income tax for the year 2007 in the amount of **THREE MILLION THREE HUNDRED SEVENTY-EIGHT**

[1] Docket, pp. 1550-1566.

THOUSAND SIX HUNDRED TWENTY-THREE AND 95/100 PESOS (₱3,378,623.95), inclusive of the twenty-five percent (25%) surcharge imposed under Section 248(A)(3) of the NIRC of 1997, as amended, computed as follows:

	Basic Tax	25% Surcharge	Total
Deficiency Income Tax (5%)	₱2,702,899.16	₱675,724.79	₱3,378,623.95

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

a. Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency income tax of ₱2,702,899.16 computed from April 15, 2008 until full payment thereof pursuant to Section 249(B) of the NIRC of 1997; and

b. Delinquency interest at the rate of 20% per annum on the amount of the ₱3,378,623.95, representing the basic deficiency income tax of ₱2,702,899.16 and 25% surcharge of ₱675,724.79, computed from January 4, 2012 until full payment thereof pursuant to Section 249(C)(3) of the NIRC of 1997, as amended.

SO ORDERED."

Respondent prays that the Court deny entirely the petition for review. Basically, respondent is questioning the Court's ruling that petitioner's royalty payments are considered allowable deductions for purposes of computing the 5% tax on gross income. Respondent argues that BIR Ruling DA-147-2005 has no binding effect. BIR Ruling DA-147-2005 is a less formal interpretation by the Commissioner or his authorized subordinates involving Tax Code provisions and regulations. The ruling function is limited to the determination of purely legal issues and it is not exercised where the law, rule or regulation is clear, thereby dispensing with the need for the interpretation thereof. The purpose or objective of an interpretative ruling is merely to construe the statute being administered. Hence, the ruling should limit itself to the provisions of the law.

However, respondent stresses that BIR Ruling DA-147-2005 cannot be enforced as it has not only expanded, but likewise misapplied the Philippine Economic Zone Authority (PEZA) Law and Revenue Regulations (RR) No. 11-2005 with respect to the deductibility of royalties. BIR Ruling DA-147-2005 cannot outweigh the clear provision of the PEZA Law.

Section 2, Rule XX of Republic Act No. 7916, as repeated in RR No. 11-2005, does not allow royalty fees as deductible. In case of conflict between a statute and an issuance, the former must prevail.

In its comment, petitioner counter-argues that BIR Ruling DA-147-2005, being the official interpretation of the Bureau of Internal Revenue with regard to the deductibility of petitioner's royalty payments for purposes of computing the 5% tax on gross income, is binding upon respondent, who is precluded from adopting a contrary position to the prejudice of petitioner who relied in good faith on BIR Ruling DA-147-2005. Moreover, BIR Ruling DA-147-2005 is a correct application of the PEZA law and its implementing regulations.

After weighing the parties' arguments, this Court finds no compelling reason to reverse or modify the assailed Decision.

A careful reading of the assailed Decision would reveal that the arguments relied upon by respondent in the instant motion have already been thoroughly discussed and passed upon in the aforesaid Decision.

To reiterate, the allowable deductions from gross income of PEZA-registered enterprises enumerated in the PEZA Implementing Rules and RR No. 11-2005 are not exclusive. If a particular cost or expense is directly related to the PEZA-registered activity, then it should be treated as a direct cost included in the allowable deductions from the gross income. Thus, BIR Ruling DA-147-2005 does not contravene the PEZA Implementing Rules and RR No. 11-2005.

WHEREFORE, premises considered, the instant Motion for Partial Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice