REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

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THUNDERBIRD PILIPINAS HOTELS AND RESORTS, INC., Petitioner,	**CTA CASE NO. 8612**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **CASANOVA,** *and* **MANAHAN,** ***JJ.***
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** OCT 0 6 2017 2:40 pm

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RESOLUTION

CASANOVA, *J.*:

Submitted before this Court are the following:

1. respondent's **Motion for Partial Reconsideration Re: Decision dated February 3, 2017** filed on February 21, 2017, with petitioner's **Comment/Opposition (Re: Respondent's Motion for Partial Reconsideration dated 21 February 2017)** filed, through registered mail, on March 13, 2017;

2. petitioner's **Motion for Reconsideration (Re: Decision dated 03 February 2017)** filed, *via* private courier, on February 23, 2017, without respondent's comment as per Records Verification dated March 23, 2017; and

3. petitioner's **Urgent Motion to Set Petitioner's Motion for Reconsideration dated 23 February 2017 For Oral Argument and/or Presentation of Additional Evidence (Re: Decision dated 03 February 2017)** filed on June 2, 2017, without respondent's comment as per Records Verification dated July 21, 2017.

On February 3, 2017, this Court promulgated its Decision[1] in the instant case, the *fallo* of which reads as follows:

> "**WHEREFORE,** premises considered, the Petition for Review filed on February 19, 2013, is **PARTIALLY GRANTED.** The deficiency FWT assessment issued by respondent against petitioner for taxable year 2008 is **CANCELLED** and **SET ASIDE.** However, the deficiency SPRT, FT, EWT and DST assessments issued by respondent against petitioner for taxable year 2008 is **AFFIRMED with MODIFICATION.** Accordingly, petitioner is **ORDERED TO PAY** the amount of **₱76,930,413.43**, inclusive of the 25% surcharge amounting to **₱15,386,082.69** imposed under Section 248(3) of the NIRC of 1997, as amended, computed as follows:

	Basic	Surcharge	Total
I. Special Preferential Rate Tax (SPRT)	₱ 4,421,576.66	₱ 1,105,394.17	₱ 5,526,970.83
II. Franchise Tax (FT)	43,353,088.40	10,838,272.10	54,191,360.50
III. Expanded Withholding Tax (EWT)	13,625,694.96	3,406,423.74	17,032,118.70
IV. Documentary Stamp Tax (DST)	143,970.75	35,992.69	179,963.44
TOTAL	**₱61,544,330.77**	**₱15,386,082.70**	**₱76,930,413.47**

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

a) Deficiency interest at the rate of 20% per annum on the basic deficiency SPRT, FT, EWT, and DST computed from dates until full payment thereof pursuant to Section 249(B) of the NIRC, 1997, as amended:

Tax Type	Basic Tax	20% deficiency interest computed from
SPRT	₱ 4,421,576.66	April 15, 2009
FT	43,353,088.40	January 20, 2009
EWT	13,625,694.96	January 15, 2009
DST	143,970.75	January 10, 2009

b) Delinquency interest at the rate of 20% per annum on the total amount of ₱76,960,413.43 and on the 20% deficiency interest which have accrued as aforestated in

[1] Docket (Vol. V), pp. 1978-2064

(a), computed from September 14, 2012 until full payment thereof pursuant to Section 249(C) of the 1997 NIRC, as amended.

SO ORDERED."

Aggrieved, the parties filed their respective Motions seeking partial reconsideration of the above Decision.

Meanwhile, however, on June 2, 2017, petitioner filed an Urgent Motion asking this Court to allow it to orally argue its Motion for Reconsideration and/or allow it to present additional evidence to support the arguments presented in its Motion for Reconsideration.

Verily, a case, upon a timely filing of motion, may be reopened even after a judgment has been promulgated, provided, it has not yet attained finality, and that the only controlling guideline to grant such motion is the paramount interest of justice. The Supreme Court, in the case of *Rene Cabarles vs. Hon. Judge Bonifacio Sanz Maceda, et al.*[2], held that:

> "A motion to reopen a case to receive further proofs was not in the old rules but it was nonetheless a recognized procedural recourse, deriving validity and acceptance from long, established usage. This lack of a specific provision covering motions to reopen was remedied by the Revised Rules of Criminal Procedure which took effect on December 1, 2000.
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> *x x x*
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> Generally, after the parties have produced their respective direct proofs, they are allowed to offer rebutting evidence only. However, the court, for good reasons, in the furtherance of justice, may allow new evidence upon their original case, and its ruling will not be disturbed in the appellate court where no abuse of discretion appears. <u>A motion to reopen may thus properly be presented only after either or both parties had formally offered and closed their evidence, but before judgment is rendered, and even after promulgation but before finality of judgment</u> <u>**and the only controlling guideline governing a motion to reopen is the paramount interest of justice.**</u> This remedy of reopening a case was meant to prevent a miscarriage of justice." *(Emphasis and Underscoring Ours)*

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[2] G.R. No. 161330, February 20, 2007

Considering that Section 8[3] of R.A. 1125,[4] as amended, provides that "the proceedings before this Honorable Court shall not be governed strictly by technical rules of evidence",[5] this Court finds no cogent reason to deny petitioner's plea. Technicalities and legalisms, however exalted, should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of its law-abiding citizens. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess payments of such taxes. Indeed, the State must lead by its own example of honor, dignity and uprightness.[6]

In view of the foregoing, the resolution of the parties' respective Motions for Partial Reconsideration shall be HELD IN ABEYANCE until the presentation of petitioner's additional evidence to prove why respondent's remaining deficiency tax assessments should be cancelled and set aside.

WHEREFORE, premises considered, let the case be set for hearing on November 13, 2017 at 8:30 a.m. for the presentation of petitioner's additional evidence in support of it Motion for Reconsideration. Accordingly, the resolution of parties' respective Motions for Reconsideration are **HELD IN ABEYANCE.**

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

We Concur:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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[3] "**SECTION 8.** ***Court of record; seal; proceedings.*** **-** The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence."
[4] Otherwise known as "An Act Creating the Court of Tax Appeals"
[5] BPI-Family Savings Bank, Inc. vs. Court of Appeals, et al., G.R. No. 122480, April 12, 2000
[6] *Ibid.*