REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB NO. 1732
(CTA Case No. 9099)

-versus-

Present:
Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ.*

CONAL HOLDINGS CORPORATION,
Respondent.

Promulgated:
NOV 18 2019
3:13 p.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

For resolution is the petitioner's "Motion for Reconsideration"[1] filed on May 24, 2019, with respondent's Comment, filed on August 13, 2019.

In the instant motion, petitioner avers that the Court *En Banc* erred in affirming the ruling of the Court in Division that respondent is not liable for deficiency Expanded Withholding Tax (EWT) on its income payments made to the City Government of Iligan; that the National Internal Revenue Code (NIRC) of 1997, as amended imposes a duty upon respondent to withhold taxes from the income payments it made to the City of Iligan; and that respondent is not being assessed for deficiency EWT as a taxpayer, but being penalized as an agent of the government who failed to comply with its legally mandated duty to withhold taxes.

[1] Docket, CTA EB NO. 1732, pp. 139-149.

On the other hand, respondent states that petitioner's arguments are mere reiterations of the previous arguments in the Petition for Review and Memorandum which were already considered by the Court in Division; that respondent's payment to the City of Iligan for the purchase of the Iligan Diesel Power Plants is not subject to EWT; that respondent's income payments to the City of Iligan for the purchase of the Iligan Diesel Power Plants are specifically excluded from the coverage of withholding tax under Section 2.57.5 (A) of Revenue Regulations (RR) No. 2-98, as amended; that the City of Iligan performed an essential governmental function when it sold the foreclosed Iligan Diesel Power Plants to respondent; that the said transaction is exempt from tax, hence, respondent does not have obligation to withhold EWT on its payment to the City of Iligan.

After consideration, the Court *En Banc* resolves to deny the "Motion for Reconsideration." The Court *En Banc* reviewed the grounds relied upon by petitioner in support of his "Motion for Reconsideration" but finds no cogent reason to grant the same. The issues raised and the arguments presented in the instant "Motion for Reconsideration" are the same issues and arguments he presented before the Court in Division, and in the present Petition for Review which have already been passed upon, discussed and judiciously resolved in the assailed Decision dated May 3, 2019.

It must be stressed that among the ends to which a motion for reconsideration is addressed, one is precisely to convince the Court that its ruling is erroneous and improper, contrary to law or the evidence.[2] If the movant failed to do so, the motion for reconsideration must necessarily fail.

Considering that the issues and arguments presented in the instant motion are the very same arguments which petitioner stated in his Petition for Review, the Court finds it needless to reiterate the discussions made in the assailed Decision.

WHEREFORE, premises considered, the "Motion for Reconsideration" is **DENIED for lack of merit**. The **assailed Decision** dated May 3, 2019 is **AFFIRMED**.

SO ORDERED.

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[2] *Teodulo M. Coquilla vs. The Hon. Commission on Elections and Mr. Neil M. Alvarez,* G.R. No. 151914, July 31, 2002.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

NO PART
(on official time)
MARIA ROWENA G. MODESTO-SAN PEDRO
Associate Justice