REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2162** *(CTA Case No. 9766)*
-versus-	Present: **DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO,** *and* **REYES-FAJARDO,** *JJ.*
DEL MONTE PHILIPPINES, INC., *Respondents.*	Promulgated: OCT 26 2021 2:37 p.m.

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RESOLUTION

MODESTO-SAN PEDRO, J.:

Before this Court *En Banc* is petitioner's Motion for Reconsideration Re: Decision dated 19 February 2021 ("Motion for Reconsideration"), filed through registered mail on 15 March 2021,[1] with respondent's Comment/Opposition (On Petitioner's Motion for Reconsideration dated 15 March 2021) ("Comment"), filed on 21 June 2020.[2]

In the Motion for Reconsideration, petitioner alleges that:

1. The Honorable Court *En Banc* has no jurisdiction over the Petition;

2. To exercise the power of abatement is to enter into a contract, hence, consent is essential. The mutuality of contracts hinders the courts from contracting for the parties;

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[1] Records, pp. 101-116.
[2] *Id.*, pp. 121-138.

3. The exercise of the power of abatement is a waiver on the part of the government of its right to receive the contribution from its inhabitants, hence, the waiver must be voluntary;

4. The Honorable Court erred in granting a relief that was not prayed for by respondent. Petitioner's basic right to fair play and due process was violated; and

5. Assuming that the Honorable Court may rule on an issue that was not raised by petitioner during trial nor was derived from the pleadings, the collection of surcharge and penalties accompanying the tax liabilities is justified and in accordance with law and the rules despite the absence of a Letter of Authority ("LOA") and Preliminary Assessment Notice ("PAN").

In its Comment, respondent counter-argued the following:

1. The Motion for Reconsideration is a mere rehash of the arguments raised by petitioner in its Petition which were already extensively passed upon. Petitioner failed to raise new grounds to establish that this Honorable Court committed errors of fact or law that would warrant a reversal or modification of the assailed Decision;

2. The Court *En Banc* correctly ruled that it has undeniable jurisdiction over the instant case;

3. The Court *En Banc* correctly pronounced that it may rule upon issues not raised by the parties but are necessary to an orderly disposition of cases;

4. The Court *En Banc* correctly ruled that respondent cannot be held liable for surcharge, interest and compromise penalty in the absence of a LOA and/or a PAN;

5. In any case, respondent is entitled to an abatement under ***Section 204 (B) (1) of the National Internal Revenue Code, as amended,*** and under ***Revenue Regulation No. 13-01, as amended by Revenue Regulation No. 04-12***.

We deny the Motion for Reconsideration.

In ***Ortigas and Company Limited Partnership vs. Judge Tirso Velasco and Dolores V. Molina, and Dolores V. Molina vs. Hon. Presiding Judge, RTC, Quezon City, Br. 105, and Manila Banking Corporation,***[3] the Supreme Court had an occasion to rule in this wise:

> "*Effect, and Disposition of*
> *Motion for Reconsideration*
>
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards be issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, ART. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc."

Moreover, in ***H. Harry L. Roque, Jr., et al. v. Commission on Election, represented by Hon. Chairman Jose Melo, et al.,***[4] the Supreme Court *En Banc* ruled that whenever the issues raised in the Motion for Reconsideration have already been addressed and passed upon in the Decision, and the Motion for Reconsideration fails to raise matters which are substantially plausible or compellingly persuasive that would lead the Court to rule in favor of the desired course of action, then the Motion for Reconsideration will be denied by the Court, to wit:

> "Petitioners' above contention, as well as the arguments, citations, and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again...
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> xxx xxx xxx

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[3] G.R. Nos. 109645 and 112564, Resolution, 4 March 1996.
[4] G.R. No. 188456, Resolution, 10 February 2010

> While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered—and this should not be an obstacle for a reconsideration—the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
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> xxx xxx xxx
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> WHEREFORE, the instant separate motions for reconsideration of the main and intervening petitioners are DENIED."

This was reiterated in ***Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.***,[5] as follows:

> "The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought."

A perusal of the Motion for Reconsideration would show that the arguments raised therein are exact replicas of those raised by petitioner in his Petition filed before this Court *En Banc*. As such, these have already been sufficiently passed upon, discussed, threshed out, and judiciously resolved in the Decision, dated 19 February 2021. The Motion for Reconsideration discloses no cogent reason to disturb the findings and conclusions which this Court made in said Decision.

Applying the judicial pronouncements above, nothing is left for this Court to do but to deny the same.

WHEREFORE, the Motion for Reconsideration is hereby **DENIED** for lack of merit.

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[5] G.R. No. 159938, Resolution, 22 January 2007.

SO ORDERED.

Smm Pedro

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice