REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

SOUTH PREMIERE POWER CORP.,
Respondent.

CTA EB NO. 1898
(CTA CASE NO. 9337)

x---x

SOUTH PREMIERE POWER CORP.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1899
(CTA CASE NO. 9337)

Present:

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

Promulgated:

MAR 11 2020 3:43 p.m.

x--x

RESOLUTION

RINGPIS-LIBAN, J.:

For resolution is the Commissioner of Internal Revenue (CIR)'s "Motion for Partial Reconsideration [re: Decision dated October 14, 2019]"[1] filed on November 4, 2019, with South Premiere Power Corp. (SPPC)'s Comment, filed on December 16, 2019.

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

In the instant motion, the CIR avers that the Court *En Banc* erred in ruling that SPPC is not liable to pay interest, surcharge, and compromise penalty, hence, entitled to its claim for refund or issuance of tax credit certificate; that the Court En Banc erred in granting the claim based on the ground that SPPC relied in good faith on previous issuances issued by the Bureau of Internal revenue (BIR); that that the imposition of compromise penalty is proper.

On the other hand, SPPC argues that the CIR is precluded from challenging the portion of the Decision of the Court in Division, which was affirmed by the Court *En Banc* ordering the CIR to refund to SPPC the amount representing surcharge, interest and compromise penalty paid by SPPC; that a taxpayer will not be held liable to pay surcharge, interest and penalty if he acted in good faith.

After consideration, the Court *En Banc* resolves to deny the "Motion for Reconsideration." The Court *En Banc* reviewed the grounds relied upon by the CIR in support of his "Motion for Partial Reconsideration [re: Decision dated October 14, 2019]" but finds no cogent reason to grant the same. The Court notes that the CIR's motion merely reiterates or amplifies the arguments previously raised in its Petition for Review which were already considered and extensively discussed upon by the Court *En Banc* in the assailed Decision dated October 14, 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.

In view of the foregoing, the Court finds it needless to reiterate the discussions made in the assailed Decision.

WHEREFORE, premises considered, the "Motion for Partial Reconsideration [re: Decision dated October 14, 2019]" is **DENIED for lack of merit**. The **assailed Decision** dated October 14, 2019 is **AFFIRMED**.

SO ORDERED.

Ma. Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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

WE CONCUR:

(I reiterate my Concurring and Dissenting Opinion)
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
CIELITO N. MINDARO-GRULLA
Associate Justice

(I reiterate my CDO dated Feb. 27, 2018)
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA G. MODESTO-SAN PEDRO
Associate Justice