REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

AYALA CORPORATION,
Petitioner,

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2417
(CTA Case No. 9556)

x - x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

AYALA CORPORATION,
Respondent.

CTA EB NO. 2418
(CTA Case No. 9556)

Present:
DEL ROSARIO, *P.J.*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
SEP 19 2022 3:00 pm

x- -x

RESOLUTION

RINGPIS-LIBAN, *J.*:

This resolves the following:

1) "Motion for Reconsideration"[1] filed by Ayala Corporation on June 06, 2022, with "Comment/Opposition (to Petitioner's Motion for Reconsideration)"[2] filed by the Commissioner of Internal Revenue ("CIR") on July 12, 2022, seeking that a judgment be rendered:

    a. Reversing the Decision[3] dated May 18, 2022 ("Assailed Decision") and give due course to its Petition for Review filed on February 11, 2021;

    b. Reversing a portion of the Court of Tax Appeals ("CTA") Second Division Decision dated January 11, 2021 disallowing Ayala Corporation's claim for tax credit certificate ("TCC") in the total amount of Php17,694,834.00; and

    c. Ordering the CIR to issue a TCC in the total amount of Php62,386,565.64 representing Ayala Corporation's unutilized and excess creditable withholding taxes for calendar year 2014; and

2) "Motion for Reconsideration [re: Decision dated 18 May 2022]"[4] filed by the CIR on June 08, 2022, with "Comment"[5] filed by Ayala Corporation on July 07, 2022, praying that the Assailed Decision be set aside and cancelled, and a judgment be rendered denying Ayala Corporation's "Petition for Review".

The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, premises considered, the instant Petitions for Review filed by Ayala Corporation and the CIR are **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**"[6]

In its "Motion for Reconsideration", Ayala Corporation mainly avers that this Court erred in dismissing its "Petition for Review" on the ground of lack of jurisdiction, due to the failure to file a motion for reconsideration on the Amended Decision rendered by the Second Division. According to Ayala

---

1 Rollo, pp. 138-163.
2 *Id.,* pp. 187-193.
3 *Id.,* pp. 109-127.
4 *Id.,* pp. 164-171.
5 *Id.,* pp. 183-186.
6 *Id.,* p. 126.

Corporation, this Court should give due course to the petition to promote just, speedy and inexpensive determination of the case. Ayala Corporation further posits that its "Petition for Review" was filed on February 11, 2021 before the Supreme Court issued its Decision in *Commissioner of Internal Revenue v. Commission on Elections*[7] ("*CIR v. Comelec*"). As such, Ayala Corporation cannot seek guidance on the pronouncement laid down in the said case. On top of that, Section 2[8] of Rule 1 of the Revised Rules of the Court of Tax Appeals (RRCTA), which provides for liberal construction on the procedural rules, should be applied.

On the other hand, the CIR submits in her "Motion for Reconsideration [re: Decision dated 18 May 2022]" that to require the filing of a motion for reconsideration of the Amended Decision would be exercise in futility since she will just be raising the same arguments already passed upon and denied by the Second Division when it rendered the Amended Decision. Moreover, the CIR maintains that *CIR v. Comelec* does not apply since the Amended Decision was not rendered based on new allegations or new and/or existing evidence that were not considered and/or previously rejected by the Court.

We resolve to deny both motions for lack of merit.

Ayala Corporation and the CIR are both mistaken in their belief that they may opt not to file the necessary motion for reconsideration with the Second Division and, instead, directly file their petitions for review with the Court *En Banc* on the Amended Decision. Such view is fatal to their case considering the rulings of the Supreme Court in the said matter.

In *Asiatrust Development Bank, Inc. v. Commissioner of Internal Revenue*[9] ("*Asiatrust v. CIR*"), it was categorically declared that the non-filing of a timely motion for reconsideration or new trial with the CTA Division is fatal to a party's cause, and that an amended decision is a different decision, and thus, is a proper subject of a motion for reconsideration.

The pronouncement in *Asiatrust v. CIR* was then echoed in the case of *Deutsche Knowledge Services Pte. Ltd. v. Commissioner of Internal Revenue*[10] ("*Deutsche v. CIR*") where the High Court affirmed the Court *En Banc*'s finding that the parties' failure to file their respective motions for reconsideration from the CTA Division's Amended Decision rendered their petitions for review dismissible on the ground of lack of jurisdiction.

---

[7] G.R. Nos. 244155 & 247508, May 11, 2021.

[8] **SEC. 2.** *Liberal construction.* - The Rules shall be liberally construed in order to promote their objective of securing a just, speedy, and inexpensive determination of every action and proceeding before the Court. (RCTA, Rule 1, sec. 2a)

[9] G.R. Nos. 201530 & 201680-81, April 19, 2017.

[10] G.R. Nos. 238931-32/G.R. No. 239379, June 03, 2019.

Finally, the Supreme Court pronounced in the recent case of *CIR v. Comelec* that the only reason why the CTA *En Banc* can take cognizance of the Comelec's petition for review even without a prior reconsideration of the CTA Division's Amended Decision is because the latter is not a "new" decision but a "reiteration" of the original Decision. All the same, the doctrine laid down in *Asiatrust v. CIR* still stands.

Here, the Amended Decision modified and increased the amount of Ayala Corporation's refund claim, representing excess and unutilized creditable withholding taxes for calendar year 2014, from Php44,691,731.64 to Php45,316,630.39 upon consideration of both Ayala Corporation's and the CIR's arguments in their respective motions for reconsideration (to the original Decision).

A perusal of the Amended Decision reveals that it arose out of re-evaluation of the parties' allegations and existing pieces of evidence thereby modifying, altering or reversing the original ruling, regardless of whether the relief granted is favorable or adverse to the movant. Therefore, following *Asiatrust v. CIR*, *Deutsche v. CIR* and *CIR v. Comelec*, the Amended Decision was a different decision, making it a proper subject of a motion for reconsideration by any aggrieved party who wished to appeal to the CTA *En Banc*.

As to Ayala Corporation's argument that this Court should apply its own rules liberally, it failed to recognize that what this Court applied is not only its own rules but the interpretation of the Supreme Court on such rules. The legal dogma from the jurisprudential authorities cited above came from the highest court of the land which forms part of the legal system.[11]

Petitioner should be aware that this Court is mandated to take cognizance of the rulings which are promulgated by the Supreme Court, as ruled in the case of *The Heirs of Felicidad Canque v. Court of Appeals*[12], to wit:

> "Clearly, the Court of Appeals committed a reversible error because it palpably failed to consider in its August 25, 1994 Decision the aforementioned ruling of the Supreme Court promulgated twenty months earlier on January 27, 1993. Unfortunately, this is not the first time for this Court to come upon such a slip. *Peltan Development vs. Court of Appeals* ruled that **every court must take cognizance of decisions this Court has rendered because they are** proper subjects of mandatory judicial notice...[and] **more importantly form part of the legal system.** <u>**We stress that members of the bench have a responsibility to**</u>

[11] Article 8 of the Civil Code of the Philippines.
[12] G.R. No. 119184, July 21, 1997.

> **<u>know and to apply the latest holdings of the Supreme Court.</u> The nature of their calling requires no less.**"[13]

In sum, the Court *En Banc* finds no cogent reason to warrant a reconsideration of the Assailed Decision.

WHEREFORE, premises considered, Ayala Corporation's "Motion for Reconsideration" and the Commissioner of Internal Revenue's "Motion for Reconsideration [re: Decision dated 18 May 2022]" are both **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

(I maintain my Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

---

13 *Emphasis and underscoring supplied.*

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice