REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

BENCHMARK MARKETING CORP.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9296

Members:

CASTAÑEDA, JR., *Chairperson, and*
MANAHAN, *JJ.*

Promulgated:
JUN 04 2020 8:50 Am

x- x

RESOLUTION

MANAHAN, *J.:*

On September 4, 2019, the Court rendered a Decision, finding petitioner liable for Php109,827,085.82 deficiency income tax for taxable year 2011, inclusive of 25% surcharge, 20% deficiency interest, and 20% delinquency interest.[1] Petitioner was also found liable for delinquency interest at 12% on the total unpaid amount, computed from January 1, 2018 until full payment thereof.[2]

Upon reconsideration, the Court rendered an Amended Decision on January 2, 2020, which reduced petitioner's liability from Php109,827,085.82 to Php109,154,369.56, inclusive of surcharge and interests.[3]

On January 20, 2020, respondent filed his *Motion for Reconsideration Re: Decision dated 02 January 2020.* Respondent prays that the Court render a new decision denying the Petition for Review for lack of merit and to order petitioner to pay the deficiency income tax, value-added tax (VAT), expanded withholding tax (WE) for taxable year 2011 as well as the compromise penalty, surcharge and 20% deficiency and

[1] Docket, Vol. IV, Decision dated September 4, 2019, p. 2055.
[2] Docket, Vol. IV, Decision dated September 4, 2019, p. 2056.
[3] *Amended Decision* dated January 2, 2010, p. 18.

delinquency interest pursuant to Sections 248 and 249 of the National Internal Revenue Code of 1997(NIRC).[4]

Despite notice, petitioner failed to file its comment. However, on March 6, 2020, petitioner filed its *Motion to Admit (The attached Comment on the Respondent's Motion for Reconsideration).*

Petitioner's Motion to Admit (The attached Comment on Respondent's Motion for Reconsideration)

Petitioner alleges that it received a copy of respondent's *Motion* on January 24, 2020, and a copy of the Court's Resolution directing it to file a comment on January 28, 2020.

It is further alleged that a comment was prepared but that the same was shelved pending receipt of the Court's Resolution. However, when the Resolution was received, it skipped the attention of petitioner's counsel, and the inadvertence was discovered only during counsel's preparation of his Status of Cases.

Based on the foregoing, petitioner seeks the indulgence of the Court and apologizes for the oversight, and that the motion is not being filed to delay the proceedings of the case, but only for the better interest of justice.

Given the foregoing explanation, the Court finds no sufficient and compelling justification for the delay in filing said comment. Thus, petitioner's *Motion to Admit (The attached Comment on the Respondent's Motion for Reconsideration)* is **DENIED**.

Respondent's Motion for Reconsideration Re: Decision dated 02 January 2020

Respondent raised the following grounds in his *Motion*:

1. The Honorable Court erred in ruling that the assessments for deficiency VAT for the 1st

[4] *Respondent's Motion for Reconsideration Re: Decision Dated 02 January 2020*, p. 20.

quarter of TY 2011 to May 2011 have already prescribed.

2. The Honorable Court erred in ruling that the tax assessments for deficiency VAT and EWT are void for allegedly not containing a definite due date for payment.

3. The Honorable Court erred in ruling that part of the income tax lacks factual basis.

At the outset, the Court finds these are the same arguments raised by respondent in his *Motion for Reconsideration of the Decision Dated 04 September 2019* filed on September 23, 2019, and which were already resolved and considered in the assailed Amended Decision dated January 2, 2020. The Court will no longer repeat the discussions herein.

Furthermore, the Amended Decision dated January 2, 2020 arose from the Php676,088.02 Advertising and Promotions which were found to be validly supported upon reconsideration by the Court. Respondent did not raise any specific errors in the Court's appreciation of facts or evidence to counter this reconsideration.

To end, the Court finds no cogent reason to disturb the ruling in the assailed Amended Decision based on the grounds raised by respondent.

WHEREFORE, in view of the foregoing, petitioner's *Motion to Admit (The attached Comment on the Respondent's Motion for Reconsideration)* is **DENIED**.

The Motion for Reconsideration filed by the respondent is likewise **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice