REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PREMIUMLEISURE AND AMUSEMENT, INC. (PLAI), Petitioner,	**CTA EB NO. 2712** (CTA Case No. 10060)
- versus -	Members: **DEL ROSARIO,** *P.J.* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondents.	Promulgated: NOV 19 2024 4:23 p

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RESOLUTION

FERRER-FLORES, J.:

For resolution is respondent's **Motion for Reconsideration (of the Decision dated April 22, 2024)** filed on May 10, 2024, with petitioner's **Comment (Re: Motion for Reconsideration dated May 9, 2024)** filed on June 10, 2024 through registered mail and received by the Court on June 21, 2024.

Respondent seeks the reversal of this Court's *Decision* dated April 22, 2024 (assailed Decision), which reversed the Decision dated May 26, 2022 and Resolution dated October 18, 2022 rendered by the Court Tax Appeals (CTA) First Division in CTA Case No. 10060, and granted the *Petition for Review* filed before the Court *En Banc*.

In his motion, respondent again insists that petitioner's administrative and judicial claims for refund were filed out of time and that petitioner is not entitled to the refund in the amount of ₱115,384,991.00 because it has not proven its entitlement thereto.

On the other hand, in its comment, petitioner avers that respondent's motion is a *pro forma* motion because it is a mere reiteration of the arguments raised and passed upon by the Court. Petitioner posits that its administrative and judicial claims for refund were filed within the prescriptive period fixed by law and avows that it sufficiently proved its entitlement to the refund in the amount of ₱115,384,991.00.

The arguments of the respondent deserve scant consideration.

Respondent believes that the general rule that the two-year prescriptive period to file the administrative and judicial claims for refund of corporate income tax, which is reckoned from the date of filing of the Annual Income Tax Return (AITR), does not apply to the instant case. He posits that such rule will apply when the error is due to adjustments, error in computation, and in estimation of payments but not when the taxpayer claims to be wholly exempt from its payment.

Respondent avers that petitioner's claim for refund is not grounded on excessive payment of corporate income tax but on the claim that it is not liable to pay corporate income tax on its gaming revenues. Thus, the reckoning of the two-year prescriptive period to file the administrative and judicial claim should be from the erroneous payment of the subject tax. Since the payments were made on May 26, 2016 and August 25, 2016, both the administrative and judicial claims should have been filed not later than May 26, 2018 and August 25, 2018, respectively. When the administrative claim was filed on April 4, 2019 and the judicial claim on April 5 2019, both actions were filed beyond the period allowed by law.

This Court is not convinced.

Settled is the rule that the reckoning of the two (2)-year prescriptive period for the filing of a claim for refund/tax credit of excess income tax paid/withheld, both in the administrative and judicial levels, commences from the date of filing of the Final Adjustment Return.[1] It is only when the Final

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[1] *ACCRA Investments Corporation vs. The Honorable Court of Appeals, et al.*, G.R. No. 96322, December 20, 1991; *Commissioner of Internal Revenue vs. TMX Sales, Inc. and the Court of Tax Appeals*, G.R. No. 83736, January 15, 1992; *Commissioner of Internal Revenue vs. The Philippine American Life Insurance Co., et al.*, G.R. No. 105208, May 29, 1995.

Adjustment Return covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures. The payment of quarterly income tax should only be considered as mere installments of the annual tax due. These quarterly tax payments, which are computed based on the cumulative figures of gross receipts and deductions in order to arrive at a net taxable income, should be treated as advances or portions of the annual income tax due, to be adjusted at the end of the calendar or fiscal year.[2]

Anent the contention of respondent that petitioner is not entitled to the refund in the amount of ₱115,384,991.00 because it has not proven its entitlement thereto, suffice it to state that this Court has exhaustively evaluated the evidence presented by petitioner and found the same sufficient. Petitioner has sufficiently established its entitlement to the refund sought. Accordingly, the Court finds it unnecessary to re-discuss our pronouncement. As held by the Supreme Court in the case of *Social Justice Society (SJS) Officers, et al. vs. Alfredo S. Lim, in his capacity as Mayor of the City of Manila*,[3] to quote:

> The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motion.
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> As succinctly put by then Chief Justice Andres R. Narvasa in *Ortigas and Co. Ltd. Partnership v. Judge Velasco* on the effect and disposition of a motion for reconsideration:
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>> 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 the 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

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2 *Commissioner of Internal Revenue vs. TMX Sales, Inc., et al.*, G.R. No. 83736, January 15, 1992.

3 G.R. Nos. 187836 and 187916, March 10, 2015.

> or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

In sum, there being no new issues or substantial arguments raised in the instant motion, this Court finds no compelling reason to disturb or overturn the assailed *Decision.*

WHEREFORE, premises considered, respondent's **Motion for Reconsideration (of the Decision dated April 22, 2024)** is hereby **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
I reiterate my Dissenting Opinion in the assailed Decision.
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice