REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

1MAPLE SALES, INC.,

Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

CTA EB NO. 1662
(CTA Case No. 8925)

Present:
DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
AUG 09 2019
2:21 p.m.

x- x

RESOLUTION

RINGPIS-LIBAN, *J.*:

This resolves Petitioner's "Motion for Reconsideration (of the Decision promulgated on February 21, 2019)"[1] filed on March 14, 2019 seeking to set aside the Decision[2] promulgated on February 21, 2019 (Assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Petition for Review filed with the Court *En Banc* on June 08, 2017 is **DENIED** for lack of merit. The Assailed Decision dated December 16, 2016 and Assailed Resolution dated May 15, 2017 are **AFFIRMED with MODIFICATION** in the computation of the deficiency interest and delinquency interests in view of the effectivity of Republic Act

[1] Rollo, pp. 145-159.
[2] *Id.* at pp. 87-98.

No. 10963 ("TRAIN Law") on January 01, 2018 and the issuance of RR No. 21-2018 dated September 14, 2018.

The assessment issued by CIR against Petitioner for taxable year 2009 covering deficiency IAET is **UPHELD** Accordingly, Petitioner is **ORDERED TO PAY TWENTY-EIGHT MILLION FOUR HUNDRED SEVENTY-SIX THOUSAND FIVE HUNDRED SEVENTY-FIVE AND 49/100 PESOS (Php28,476,575.49)** representing deficiency taxes for taxable year 2009, inclusive of twenty-five percent (25%) surcharge imposed under Section 248(A)(3) of the Tax Code, as amended, and twenty percent (20%) deficiency interest and 20% delinquency interest imposed under Section 249(A) and (B), respectively, of the same Code, computed until December 31, 2017, which is prior to its amendment under the TRAIN Law, thus:

Basic Tax Due	7,007,131.80
Add: 25% Surcharge	1,751,782.95
20% Deficiency Interest from January 16, 2011 to March 31, 2014	
[Php7,007,131.80 x 20% x 1171/365 days]	4,496,082.92
Total Amount Due, March 31, 2014	**13,254,997.67**
Add: 20% Deficiency Interest from April 01, 2014 to December 31, 2017	
[Php7,007,131.80 x 20% x 1371/365 days]	5,263,987.78
20% Delinquency Interest from April 01, 2014 to December 31, 2017	
[Php13,254,997.67 x 20% x 1371/365 days]	9,957,590.03
Total Amount Due, December 31, 2017	**28,476,575.49**

In addition, Petitioner is **ORDERED TO PAY** delinquency interest at the rate of twelve percent (12%), which is double the legal interest rate for loans or forbearance of any money, on the total amount due as of March 31, 2014 in the amount of **Php13,254,997.67**, as determined above, computed from January 01, 2018 until full payment thereof pursuant to Section 249(C) of the Tax Code, as amended by TRAIN Law and implemented by RR No. 21-2018..

SO ORDERED."[3]

[3] *Id.,* at pp. 136-138.

In its "Motion for Reconsideration (of the Decision promulgated on February 21, 2019)", Petitioner raises the following arguments:

1) The present deficiency improperly accumulated earnings tax ("IAET") assessed against Petitioner is only due at the end of taxable year 2010, and it is beyond the scope of the LOA which covers only the taxable year 2009;

2) Petitioner was able to justify the increase in appropriation;

3) Petitioner passed the "Immediacy Test"; and

4) The computation of the deficiency Improperly Accumulated Earnings Tax should not include the retained earnings from prior years.

On the other hand, on May 27, 2019, Respondent filed an ""Opposition Re: Petitioner's Motion for Reconsideration".

Respondent contends that the assessment is well supported by facts and laws. Petitioner failed to establish that its accumulation of retained earnings or profits was done without the intention to avoid payment of taxes. As the said amount was utilized to pay for Petitioner's trade and other payables account, it was improper to accumulate these profits for the same does not fall under the purview of reasonable needs of the business relating to the accumulation of retained earnings. As such, the motion for reconsideration must be denied.

We rule for Respondent.

After a careful consideration of the grounds raised in Petitioner's motion for reconsideration, the Court finds that the issues and arguments raised therein had already been amply discussed, passed upon and considered by this Court in the Decision sought to be reconsidered.

Indeed, we already pointed out in the Assailed Decision that the issues raised by Petitioner in its Petition for Review are mere rehash of its arguments before the Court in Division, and have been sufficiently discussed in the Decision and Resolution of the Court in Division.[4]

Considering the fact that the Petitioner did not raise any new argument that would merit a reconsideration of the Assailed Decision, the Court finds its motion for reconsideration bereft of merit. Finding no compelling reason to

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[4] *Id.*, p. 131.

reconsider, modify or reverse the Assailed Decision, We shall no longer belabor in this Resolution, to repeat the disquisitions and rulings made therein.

We reiterate our findings –

> "Earnings or profits of a corporation are permitted to accumulate beyond the reasonable needs of the business[5] and the law does not impose tax on retained earnings as standby capital. However, for it to be exempted from IAET, such appropriation must be for the immediate needs of the business and the definiteness of plans coupled with actions taken towards its consummation are essential. The fact that it was only in 2013 when the retained earnings were reverted and declared as dividends would already negate the immediacy test and what was required by law for the retained earnings to be exempt from IAET.
>
> xxx xxx xxx
>
> Finally and most importantly, Section 3 of RR No. 02-01 spells out clearly that the computation of the ten percent (10%) IAET includes undistributed profits from prior years."

WHEREFORE, finding no cogent reason to reverse the Assailed Decision, Petitioner's "Motion for Reconsideration (of the Decision promulgated on February 21, 2019)" is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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5 NIRC of 1997, as amended, Section 29(C)(2).

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

ERLINDA P. UY
Associate Justice

(On Leave)
ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
(I maintain my Concurring and Dissenting Opinion)
CIELITO N. MINDARO-GRULLA
Associate Justice

Catherine T. Manahan
(With due respect, I join J. Cielito N. Mindaro-Grulla's Concurring and Dissenting Opinion)
CATHERINE T. MANAHAN
Associate Justice

(took no part)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(took no part)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice