22-000317-0036

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10907

TRIDHARMA MARKETING CORP.,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. FELIX PAUL R. VELASCO
ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

SIGUION REYNA, MONTECILLO & ONGSIAKO
4th and 6th Floors, BDO Towers Paseo
8741 Paseo de Roxas, Makati City 1226

GREETINGS:

You are hereby notified by these presents that on **November 26, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **December 5, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

TRIDHARMA MARKETING CORP., Petitioner,	**CTA CASE NO. 10907**
	Members:
- versus -	DEL ROSARIO, *P.J.*, Chairperson, BACORRO-VILLENA, and CUI-DAVID, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: NOV 26 2024; 11:25AM

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RESOLUTION

DEL ROSARIO, P.J.:

This refers to the Motion for Reconsideration (Re: Decision dated 22 July 2024) filed by respondent Commissioner of Internal Revenue through registered mail on August 13, 2024, with petitioner Tridharma Marketing Corp.'s Opposition (To Respondent's Motion for Reconsideration dated 13 August 2024) filed on August 27, 2024.

Respondent seeks the reversal and setting aside of the Decision dated July 22, 2024 (Assailed Decision) granting petitioner's claim for refund amounting to ₱20 Million. The dispositive portion thereof reads:

> **WHEREFORE**, premises considered, the Petition for Review filed on July 1, 2022 is hereby **GRANTED**. As prayed for, respondent Commissioner of Internal Revenue is **ORDERED TO REFUND IN CASH** in favor of petitioner Tridharma Marketing Corp., the compromise offer it paid amounting to ₱20 Million.
>
> **SO ORDERED.**

In support of the present Motion, respondent reiterates that:

1. Petitioner does not have a cause of action since by operation of law, i.e., Section 6 of Revenue Regulations (RR) No. 30-2002, as amended by RR No. 9-2013,[1] the ₱20 Million compromise offer was already deducted from the 2010 assessment on October 24, 2014 when its application for compromise was denied;

2. The Court does not have jurisdiction over the instant case, as the doctrine of *res judicata* applies thereto and petitioner's administrative and judicial claims for refund were filed out of time; and,

3. Petitioner is not entitled to its claim for refund because all matters relating to the 2010 assessment have been settled by their Judicial Compromise Agreement (JCA).

Petitioner opposes the Motion asserting that:

1. The Motion is *pro-forma* as it is a mere repetition of the contents of respondent's Memorandum and should be denied outright;

2. The Court correctly upheld jurisdiction over the present case, ordering the refund of its compromise offer amounting to ₱20 Million;

3. The ₱20 Million compromise offer payment was not applied to any outstanding tax liability of petitioner before the resolution of CTA Case No. 8833 and CTA EB Nos. 1891 and 1931, and it was not disposed of by the parties in their JCA.

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[1] SEC. 6. Approval of Offer of Compromise. — Except for offers of compromise where the approval is delegated to the REB pursuant to the succeeding paragraph, all compromise settlements within the jurisdiction of the National Office (NO) shall be approved by a majority of all the members of the NEB composed of the Commissioner and the four (4) Deputy Commissioners. All decisions of the NEB, granting the request of the taxpayer or favorable to the taxpayer, shall have the concurrence of the Commissioner.

xxx xxx xxx

The compromise offer shall be paid by the taxpayer upon filing of the application for compromise settlement. No application for compromise settlement shall be processed without the full settlement of the offered amount. **In case of disapproval of the application for compromise settlement, the amount paid upon filing of the aforesaid application <u>shall</u> be deducted from the total outstanding tax liabilities**. (Boldfacing and underscoring added)

Respondent's Motion for Reconsideration is unmeritorious.

A judicious scrutiny of the Motion reveals that, except for respondent's claim that by operation of law, the ₱20 Million compromise offer paid was already deducted from the 2010 assessment, it is a mere reiteration of the previous arguments which have been considered and found unmeritorious in the Assailed Decision. Any further discourse thereon will only be unnecessary and repetitive.

Respondent's bare claim that by operation of law, the ₱20 Million compromise offer paid was already deducted from the 2010 assessment, deserves scant consideration.

A mere allegation is not evidence. It is well settled that a party alleging a critical fact must support its allegation with the requisite amount of evidence.

Moreso, considering that in the Amended Decision dated July 6, 2018[2] in CTA Case No. 8833, the Court in Division had to amend its original decision to deduct the ₱50 Million partial offer of compromise paid by petitioner from its income tax liability. This belies respondent's claim of deduction by operation of law.

To recall, the Notice of Denial dated October 24, 2014[3] pertains to petitioner's application for compromise settlement of its deficiency assessment for value-added tax and income tax for taxable year 2010, for which petitioner paid ₱20 Million and ₱50 Million, respectively, as partial offer of compromise.

While motions for reconsideration, by their very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration,[4] respondent has not presented any compelling or persuasive argument for the Court to grant the reconsideration sought.

WHEREFORE, respondent's Motion for Reconsideration is **DENIED** for lack of merit.

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[2] Exhibit "P-7", Docket, pp. 353-359.
[3] Exhibit "P-5", Docket, p. 295.
[4] Resolution, *Shangri-La International Hotel Management, Ltd. vs. Developers Group of Companies, Inc.*, G.R. No. 159938, January 22, 2007.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(Inhibited)
LANEE S. CUI-DAVID
Associate Justice