REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

TEN-FOUR READYMIX CONCRETE, INC., Petitioner,	**CTA EB NO. 2311** (CTA Case No. 10081)
	Present:
- versus -	**DEL ROSARIO**, *P.J.*, **UY**, **RINGPIS-LIBAN**, **MANAHAN**, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, *and* **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 04 2022 4:16pm

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner Ten-Four Readymix Concrete, Inc.'s (**petitioner**'s) "Motion for Reconsideration"[1] (**MR**) filed on 04 March 2022[2], with respondent Commissioner of Internal Revenue's (**CIR**'s) "Comment/Opposition (to Petitioner's Motion for Reconsideration)"[3] (**Comment/Opposition**) filed on 11 April 2022.[4] The MR seeks the reversal of this Court's Decision promulgated on

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1 *Rollo*, pp. 108-123.
2 Received by the Court on 15 March 2022.
3 *Rollo*, pp.129-141.
4 Received by the Court on 21 April 2022.

25 January 2022[5] (**assailed Decision**) in the above-captioned case. The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE**, the foregoing premises considered, the instant Petition for Review filed by petitioner Ten-Four Readymix Concrete, Inc. on 03 August 2020 is hereby **DENIED**. Accordingly, the assailed Resolutions dated 16 January 2020 and 15 June 2020, respectively, of the First Division in CTA Case No. 10081, entitled *Ten-Four Readymix Concrete, Inc. v. Commissioner of Internal Revenue* are hereby **AFFIRMED**.
>
> **SO ORDERED.**
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> ...

In denying petitioner's Petition for Review[6], the Court *En Banc* affirmed the First Division's finding that the Court of Tax Appeals (**CTA**) lacked jurisdiction over petitioner's appeal on the ground of prescription.

In sum, the Court *En Banc* concluded that petitioner had thirty (30) days from its receipt of the Preliminary Collection Letter[7] (**PCL**) on 21 December 2018[8] within which to file its appeal with the Court of Tax Appeals (**CTA**) or elevate its case to respondent's office given that a PCL can be considered a denial of a taxpayer's protest. Petitioner's failure to file its appeal with the CTA within such period made the assessment against it final and executory, and its present action to contest the assessment barred by prescription.

In so ruling, the Court *En Banc* found precedent in the Supreme Court's decisions in *Oceanic Wireless Network, Inc. v. Commissioner of Internal Revenue, et al.*[9] (**Oceanic**), *Commissioner of Internal Revenue v. Isabela Cultural Corporation*[10] (**Isabela**), the Supreme Court, drawing from its rulings in *Commissioner of Internal Revenue v. Ayala*

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5 *Rollo*, pp. 84-97.

6 Filed on 03 August 2020, id., pp. 1-34.

7 Exhibit "P-4", Division Docket, p. 32.

8 In the assailed Decision, the PCL's receipt date was erroneously stated to be 27 November 2018 which was the date of the PCL's issuance. Therefore, the Court held that petitioner had until 27 December 2018 to file its appeal before the Court. However, given that the date of the PCL's receipt was actually 21 December 2018, petitioner would have thirty (30) days therefrom or until 20 January 2019 within which to file its appeal. Nevertheless, since petitioner's appeal was only filed on 20 May 2019, the same would be still be filed out of time and thus, barred by prescription.

9 G.R. No. 148380, 09 December 2005.

10 G.R. No. 135210, 11 July 2001.

Securities Corporation, et al.[11] (**Ayala**), *Surigao Electric Co., Inc. v. Court of Tax Appeals, et al.*[12] (**Surigao**) and *Commissioner of Internal Revenue v. Union Shipping Corporation, et al.*[13] (**Union**).

In the instant MR, petitioner essentially raises the following issues, to wit: (1) this Court still has jurisdiction; (2) the FDDA was issued irregularly; and, (3) that the receipt of the PCL should not be considered as the reckoning point of its period to appeal.

It is clear that the Court *En Banc* has already exhaustively settled these issues in the assailed Decision. On this note, the Supreme Court in *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et. al.*[14] (**Ortigas**) ruled thusly:

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

A review of petitioner's arguments reveals that they are mere reiterations of those raised before the First Division and its Petition

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11 G.R. No. L-29485, 31 March 1976.
12 G.R. No. L-25289, 28 June 1974.
13 G.R. No. L-66160, 21 May 1990.
14 G.R. Nos. 109645 & 112564, 04 March 1996.

before the Court *En Banc*, all of which have been equally and repeatedly found to be without merit.

Following the doctrine in *Ortigas*, the Court would needlessly belabor itself to again indulge petitioner in another lengthy discussion on these matters more so, that the Court has found nothing significant in petitioner's arguments to warrant a reversal or modification of the assailed Decision.

WHEREFORE, the foregoing premises considered, petitioner Ten-Four Readymix Concrete, Inc.'s "Motion for Reconsideration" filed on 04 March 2022 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ON LEAVE
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

x - x

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice