REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

ASIAN TRANSMISSION CORPORATION,
Respondent.

CTA EB NO. 1519
(CTA Case No. 8366)

Present:

Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban, ***and***
Manahan, *JJ.*

Promulgated:
MAY 20 2019 2:15pm

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RESOLUTION

RINGPIS-LIBAN, J.:

For resolution of the Court *En Banc* is the petitioner's "Motion for Partial Reconsideration Re: Amended Decision dated September 24, 2018," filed on October 25, 2018.

On December 12, 2018, the Court *En Banc* issued a Resolution ordering respondent Asian Transmission Corporation to file its Comment on petitioner's "Motion for Partial Reconsideration Re: Amended Decision dated September 24, 2018" within ten (10) days from notice.

On January 18, 2019, the respondent filed its "Comment/Opposition [to Petitioner's Motion for Partial Reconsideration dated 24 October 2018]."

The petitioner's motion is based on the following grounds:

1. The Court erred in ruling that only the unaccounted compensation in the amount of P16,096,409.13 be subjected to withholding tax compensation based on the graduated rates of 5% to 32%; and

2. The Court erred in cancelling the compromise penalty for deficiency withholding tax on compensation in the amount of P50,000.00.

Petitioner argues that respondent is liable to pay the deficiency withholding tax on compensation; that there was a discrepancy on salaries subjected to withholding tax as compared to respondent's financial statements; that upon audit and verification of the investigating examiners, the amount represents respondent's unaccounted salaries as a result of the reconciliation between the compensation per audited financial statements and alphalist; that respondent was given the opportunity to represent the list of its employees so that the correct tax rate can be computed, but respondent failed to do so; that since the employees to whom the compensation pertained to were not individually identified, the maximum tax rate of 32% must be used; that the obligation of respondent to withhold the correct tax and to remit the same to the BIR proceeds from its duty as an agent of the government; that it disagrees with the decision of the Court when the compromise penalty was cancelled; and that the imposition of compromise penalty is warranted under Section 250 of the NIRC.

On the other hand, respondent counter-argues that proper remedy to assail the Amended Decision is through a petition for review before the Supreme Court; that the arguments alleged in the Motion are complete replication of petitioner's arguments in its Motion for Partial Reconsideration of the Decision dated December 15, 2018, filed before the Court *En Banc*, Petition for Review dated September 29, 2016 filed with the Court *En Banc*, and Motion for Partial Reconsideration dated April 4, 2016 filed with the Court in Division; and that petitioner raises no new arguments that would merit a reversal of the Court's Amended Decision.

After consideration, the Court *En Banc* resolves to deny the petitioner's "Motion for Partial Reconsideration Re: Amended Decision dated September 24, 2018." The Court *En Banc* reviewed the grounds relied upon by petitioner in support of his motion but finds no cogent reason to grant the same. The issues raised and the arguments contended in the instant "Motion for Partial Reconsideration Re: Amended Decision dated September 24, 2018" are the same issues and arguments he presented before the Court in Division, and in the present Petition for Review which have already been passed upon, discussed and judiciously resolved in the assailed Decision and Amended Decision.

In view of the foregoing, the Court finds it needless to reiterate the discussions made in the assailed Amended Decision.

It must be stressed that among the ends to which a motion for reconsideration is addressed, one is precisely to convince the Court that its ruling is erroneous and improper, contrary to law or the evidence.[1] If the movant failed to do so, the motion for reconsideration must necessarily fail.

WHEREFORE, premises considered, the petitioner's "Motion for Partial Reconsideration Re: Amended Decision dated September 24, 2018" is **DENIED for lack of merit.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

ON LEAVE

CATHERINE T. MANAHAN
Associate Justice

[1] *Teodulo M. Coquilla vs. The Hon. Commission on Elections and Mr. Neil M. Alvarez,* G.R. No. 151914, July 31, 2002.