REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

THE PROFESSIONAL SERVICES, INC.,	**CTA CASE NO. 9502**
Petitioner,	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **MINDARO-GRULLA,** *and* **BACORRO-VILLENA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE,	Promulgated:
Respondent.	NOV 2 1 2019 2:05 PM

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RESOLUTION

MINDARO-GRULLA, J.:

Before this Court is respondent's **Motion for Reconsideration (Re: Decision promulgated 13 August 2019)**, filed on August 27, 2019, with petitioner's **Opposition [Re: Respondent's Motion for Reconsideration dated 27 August 2019]**, filed through registered mail on September 23, 2019.

In its Motion, respondent seeks reconsideration of the Decision dated August 13, 2019, which cancelled his deficiency assessments due to prescription, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, the Final Assessment Notice dated March 17, 2016 assessing and demanding from petitioner the payment of deficiency income tax and VAT in the total amount of ₱1,472,331,240.45 for taxable year 2007 are hereby **CANCELLED** and **WITHDRAWN**, on ground of prescription.

SO ORDERED."

Respondent claims that this Court erred in ruling that petitioner should not have been assessed again for taxable year 2007. According to respondent, during the audit of petitioner for taxable year 2007, the subject property was classified by the latter as a capital asset. However, respondent found out that, within two (2) years prior to the sale of the subject property, the same was being leased or rented out by petitioner. As such, petitioner deliberately misclassified its sale of land as a capital asset instead of an ordinary asset pursuant to Section 39 of the National Internal Revenue Code (NIRC) of 1997, as regulated by Revenue Regulations (RR) No. 7-2003. Accordingly, the issuance of the second Letter of Authority (LOA) is valid as the same did not cover the income tax and value-added tax issues on the sale of the subject real property.

More so, respondent also argues that the deliberate misclassification of income constitutes a *prima facie* evidence of fraud of falsity in the returns filed. Thus, Section 222(A) should apply giving respondent a period of ten (10) years after the discovery of the falsity, fraud or omission, within which petitioner may be assessed or a proceeding in court for the collection of tax may be filed without assessment.

On the other hand, in its Opposition, petitioner argues that the arguments raised by respondent are mere rehashes of the arguments raised in his previous pleadings. Thus, the immediate denial of the subject motion is justified.

Nonetheless, petitioner claims that the second LOA is prohibited under the one tax audit for every taxable year rule under Section 235 of the NIRC of 1997, as amended. Petitioner, likewise, claims that the disputed assessment is already barred by prescription since there is no under declaration of taxable income, thereby, negating respondent's assertion of a prima facie presumption of fraud.

After careful scrutiny of the arguments raised by respondent in his Motion, this Court finds that the same are already raised and discussed extensively in the assailed Decision.

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In the case of *Shangri-La International Hotel Management, Ltd., et al. vs. Developers Group of Companies, Inc.,*[1] the Supreme denied a Motion for Reconsideration for being a mere reiteration of the previous arguments and for failing to raise matters that are substantially plausible or compellingly persuasive to warrant the reversal of the assailed Decision, thus:

> "x x x. While DGCI is correct in stating that a motion for reconsideration, by its 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, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
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> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought."

Accordingly, since no new or substantial issue/s was raised in respondent's Motion, this Court need no longer belabor in repeating its discussions in the assailed Decision.

WHEREFORE, in light of the foregoing premises, respondent's **Motion for Reconsideration (Re: Decision promulgated 13 August 2019)** is **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

We Concur:

(On Leave)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

[1] G.R. No. 159938, January 22, 2007.