REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1204** (CTA Case No. 8376)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS,** and **RINGPIS-LIBAN,** *JJ.*
BANK OF THE PHILIPPINE ISLANDS, Respondent.	***Promulgated:*** SEP 01 2016 2:05 p.m.

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RESOLUTION

UY, J.:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (Re: DECISION dated 17 March 2016)"**[1] filed on April 12, 2016, with respondent's **"COMMENT/OPPOSITION (To Petitioner's Motion for Reconsideration dated 11 April 2016)"** filed on May 25, 2016, praying for the reconsideration and setting aside of this Court's Decision dated March 17, 2016, the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the Petition for Review is hereby **DENIED** for lack of merit. The Decision dated April 16, 2014 and the Resolution dated July 23, 2014, both of the Court in Division are hereby **AFFIRMED.**

[1] Docket, pp. 212 to 243.

SO ORDERED."

In support of his Motion, petitioner raises the following arguments, to wit:

1. This Court erred in assuming jurisdiction over the case. The assessment issued against respondent is already final, executory and unappealable.

2. The withholding tax assessment, being a penalty and not a tax, is not covered by the period of limitation upon assessment provided in Section 203 of the NIRC of 1997, as amended.

3. Petitioner's right to assess and collect from respondent its deficiency taxes has not prescribed. Respondent is estopped from questioning the validity of the waivers. The waivers were executed in accordance with law.

In its Comment, respondent counters that:

1. The issues raised by the petitioner in her Motion for Reconsideration are merely rehash of issues already presented, which have been duly resolved and passed upon by this Court.

2. This Court has jurisdiction over the case as the respondent filed its judicial claim within the period prescribed by law.

3. The right of petitioner to assess and collect from respondent its deficiency taxes has prescribed.

4. The assessments issued against the respondent are not valid, and are thus unlawful.

THE COURT *EN BANC'S* RULING

Petitioner's Motion lacks merit.

After a careful examination and consideration of the petitioner's Motion for Reconsideration, it is noted that, except for his argument that a withholding tax assessment is not covered by the period of limitation under Section 203 of the National Internal Revenue Code (NIRC) of 1997, the arguments raised in the said Motion are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision.

With regard to petitioner's contention that the withholding tax assessment, being a penalty and not a tax, is not covered by the period of limitation upon assessment provided in Section 203 of the NIRC of 1997, the Court *En Banc* finds the same to be untenable. This must be so because, in a number of cases,[2] the Supreme Court has uniformly applied the said provision involving withholding tax assessments, without qualification or distinction.

It is a general rule of statutory interpretation that provisions should not be given a restricted meaning where no restriction is indicated. Just as the express enumeration of persons, objects, situations, etc., is construed to exclude those not mentioned, according to a well-known maxim, so no distinction should be made when none appears to be intended. This is not an arbitrary rule, but one founded on logic.[3]

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

INHIBITED
ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
Associate Justice

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[2] *Philippine Journalist, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 162852, December 16, 2004; *Commissioner of Internal Revenue vs. FMF Development Corporation,* G.R. No. 167765, June 30, 2008; *Commissioner of Internal Revenue vs. Kudos Metal Corporation,* G.R. No. 178087, May 5, 2010.

[3] *Lo Cham vs. Ocampo, et al., et seq.,* G.R. Nos. L-831, L-876 and L-878, November 21, 1946.

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice