REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MONTALBAN METHANE POWER CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2611
(CTA Case No. 10678)

Present:
Del Rosario, *P.J.,*
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, *and*
Angeles, *JJ.*

Promulgated:
JAN 10 2024 3:10pm

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RESOLUTION

RINGPIS-LIBAN, J.:

For resolution is petitioner's "Motion for Reconsideration (Re: Decision dated 6 July 2023)"[1] filed on July 27, 2023.

In the instant motion, petitioner avers that a motion for extension to file a petition for review questioning a disputed assessment of the Commissioner of Internal Revenue is permissible under relevant laws and jurisprudence; that there is no conflict between the provisions of Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended and Section 11 of Republic Act (R.A.) No. 1125, as amended; that Section 228 of the NIRC should be read in conjunction with Section 11 of R.A. No. 1125, as amended, including Rule 42 of the Rules of Court; that the filing of petitioner's "Motion for Additional Time to file Petition for Review and to Assign Docket Number dated 16 November

[1] Docket, CTA EB NO. 2611, pp. 438-446.

2021" within the original reglementary period and thereafter the filing of the present petition within the extended reglementary period prevented the CIR's Final Decision of Disputed Assessment dated 30 June 2021 from becoming final and executory as it was sanctioned by the rules; and that the circumstances and the amount of the disputed assessment warrant the liberal construction of the rules and the application of equity jurisdiction. Hence, petitioner prays that the Court *En Banc* reconsider its Decision dated July 6, 2023.

On October 9, 2023, the Court *En Banc* received respondent's "Comment/Opposition (To Motion for Reconsideration dated 26 July 2023)"[2] filed by registered mail on October 3, 2023.

In the said Comment, respondent states that the Court in Division and the Court *En Banc* are correct in ruling that the filing of the Petition for Review before the Court in Division is jurisdictional; that the Supreme Court had long decided in numerous cases that the only accepted procedure in appealing decision/inaction of respondent for assessment cases is the filing of a petition for review before the Court of Tax Appeals; and that assessments against taxpayers, if not filed within the prescribed periods, will make the assessments final, executory and demandable. Hence, respondent prays that petitioner's Motion for Reconsideration be denied for lack of merit.

After consideration of the motion submitted, the Court *En Banc* resolves to deny the petitioner's "Motion for Reconsideration (Re: Decision dated 6 July 2023)."

The Court *En Banc* notes that petitioner's motion merely reiterates or amplifies the arguments previously raised in the Petition for Review which were already considered and extensively discussed upon by the Court *En Banc* in the assailed Decision.

In the case of *Shangri-La International Hotel Management Ltd., et al. vs. Developers Group of Companies, Inc.,*[3] the Supreme Court denied respondent's Motion for Reconsideration for being a mere reiteration of their previous arguments, and for failure to raise matters substantially plausible or compellingly persuasive to warrant the reversal of the assailed Decision, thus:

> "The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. 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

[2] Ibid., pp. 453-464.
[3] G.R. No. 159938, January 22, 2007.

matters substantially plausible or compellingly persuasive to warrant the desired course of action.

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."

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.[4] If the movant failed to do so, the motion for reconsideration must necessarily fail.

In view of the foregoing, the Court *En Banc* will no longer belabor to repeat its discussions in the assailed Decision since it would only result to mere superfluity.

WHEREFORE, premises considered, the petitioner's "Motion for Reconsideration (Re: Decision dated 6 July 2023)" is **DENIED for lack of merit.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice