REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CEBU III ELECTRIC COOPERATIVE, INC., Petitioner,	**CTA EB NO. 2318** (CTA Case No. 9987)
	Present:
- versus -	**DEL ROSARIO, *P.J.*, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES, *JJ.***
SECRETARY, DEPARTMENT OF FINANCE, COMMISSIONER OF INTERNAL REVENUE and CTA – SECOND DIVISION, Respondents.	Promulgated: JAN 06 2025 3:12pm

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RESOLUTION

FERRER-FLORES, J.:

For this Court's resolution is the **Motion for Reconsideration** filed by petitioner **Cebu III Electric Cooperative, Inc. (CEBECO/petitioner)** on May 17, 2024, with **Comment/Opposition (Re: Motion for Reconsideration dated 17 May 2024** filed by **Commissioner of Internal Revenue (CIR)** on June 21, 2024 and **Comment (On the Motion for Reconsideration)** filed by the **Secretary of the Department of Finance (DOF Secretary)** on July 16, 2024.

In the instant *Motion for Reconsideration*, CEBECO prays for the Court *En Banc* to reverse and set aside its *Decision* dated April 22, 2024 (**assailed Decision**),[1] wherein the Court denied CEBECO's *Petition for Review* for lack

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[1] *Rollo*, pp. 167 to 187.

of merit and affirmed the Order dated July 29, 2019 (assailed Order of Dismissal) and Resolution dated July 21, 2020 (assailed Resolution) of the Second Division of the Court (Court in Division), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the *Petition for Review* is **DENIED** for lack of merit. The assailed *Order* dated July 29, 2019 and assailed *Resolution* dated July 21, 2020 rendered by the Second Division of this Court in CTA Case No. 9987 are **AFFIRMED**.
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> **SO ORDERED.**

To recall, in the assailed Decision, this Court held that the Order of the Court in Division dismissing the case has become final and unappealable for failure of the petitioner to file its *Motion for Reconsideration* within the 15-day reglementary period. The Court considered the withdrawal of Atty. Marie Joy T. Abangan not yet effective at the time the assailed Order of Dismissal was issued and served upon the parties; thus, the Court reckoned the 15-day reglementary period from the date of Atty. Abangan's receipt of the assailed Order of Dismissal, rather than from the receipt of Atty. Carlos V. Jaurigue, CEBECO's subsequently engaged counsel, of the same. The Court also explained that, even assuming that the *Motion for Reconsideration* was timely filed, the Court will still uphold the assailed Order of Dismissal in view of the non-appearance of CEBECO during the pre-trial conference and non-filing of its Pre-Trial Brief without just cause.

In the present *Motion for Reconsideration*, petitioner insists that Atty. Jaurigue became counsel of record of CEBECO when he filed his Entry of Appearance; hence, the *Motion for Reconsideration,* in relation to assailed Order of Dismissal, was timely filed on March 6, 2020 which was within 15 days from Atty. Jaurigue's receipt of the assailed Order of Dismissal on February 27, 2020.

CEBECO also avers that the withdrawal of Atty. Abangan as its counsel of record was effective; thus, service of the assailed Order of Dismissal should have been made upon Atty. Jaurigue and not upon Atty. Abangan. In view thereof, CEBECO maintains that the 15-day period to file a Motion for Reconsideration did not commence from the service of the assailed Order of Dismissal upon Atty. Abangan on September 25, 2019.

Finally, petitioner argues that its *Urgent Motion to Reset the Pre-Trial Hearing* was for valid reasons – that Atty. Jaurigue was only able to enter his appearance three days before the scheduled pre-trial and that his attendance to the July 29, 2019 Pre-Trial Hearing would also be in issue in view of the unavailability of the Special Power of Attorney on the hearing date. As to the Pre-Trial Brief, petitioner reasons that Atty. Abangan was not able to prepare the same due to her serious illness.

On the other hand, the CIR counters that the Court correctly affirmed the assailed Order of Dismissal and the assailed Resolution and that, even assuming *arguendo* that the *Motion for Reconsideration* was timely filed, the same was correctly denied for lack of merit.

On the part of the DOF Secretary, he argues that petitioner presented no new arguments to refute the findings and discussion by the Court. As such, the *Motion for Reconsideration* should be denied.

After an evaluation of the respective arguments raised by the parties, this Court finds petitioner's *Motion for Reconsideration* bereft of merit.

A cursory reading of the present *Motion for Reconsideration* would reveal that the arguments of the petitioner are mere repetitions of the matters already considered and exhaustively discussed by the Court *En Banc* in the assailed Decision.

In *Department of Energy vs. Commissioner of Internal Revenue*,[2] the Supreme Court, citing *Shangri-la International Hotel Management, Ltd. vs. Developers Group of Companies, Inc.*,[3] held that, while a motion for reconsideration, by its nature, may tend to dwell on issues already resolved in the decision or resolution sought to be reconsidered, a circumstance which should not be an obstacle for a reconsideration, petitioners must still raise matters substantially plausible or compellingly persuasive to warrant a reversal of the Court's previous ruling.

Clearly, there are no new matters which warrant the Court's attention.

At any rate, even if we set aside the issues on the withdrawal of appearance of Atty. Abangan and the finality of the assailed Order of Dismissal, the Court still finds the dismissal of the case by the Court in Division proper. As exhaustively discussed in the assailed Decision, petitioner failed to justify and substantiate its absence during the scheduled Pre-Trial Hearing most especially when its *Urgent Motion to Postpone Pre-Trial Conference* filed just three calendar days before said hearing was not yet granted by the Court at that time. The Court also finds no merit in petitioner's

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[2] G.R. No. 260912 (Resolution), August 30, 2023.
[3] G.R. No. 159938 (Resolution), January 22, 2007.

insistence that its failure to submit its Pre-Trial Brief was justified on account of its former counsel's illness as the same remained unsubstantiated.

All told, the Court *En Banc* finds no compelling reason to reverse or modify the assailed Decision.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ON LEAVE
MARIAN IVY F. REYES-FAJARDO
Associate Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice