REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	CTA EB No. 1940 (CTA Case No. 9263)
-versus-	*Present*: DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO, *JJ.*
PHILIPPINE POWER MC DISTRIBUTION, INC., *Respondent.*	Promulgated: JAN 2 1 2020 3:52 p.m.

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RESOLUTION

MINDARO-GRULLA, J.:

Before the Court *En Banc* is a Motion for Reconsideration[1] filed by the Commissioner of Internal Revenue, seeking to set aside this Court's Decision promulgated on October 16, 2019,[2] the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the Petition for Review filed by the Commissioner of Internal Revenue is hereby **DENIED.** The assailed Decision and Resolution dated July 6, 2018 and

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[1] *En Banc* Docket, pp. 121-135.
[2] *Ibid.*, pp. 96-113.

September 3, 2018, respectively, in CTA Case No. 9263 are hereby **AFFIRMED.**

SO ORDERED."

In his motion, the CIR reiterates that he was able to prove undeclared purchases based on the VAT returns, which has a discrepancy *vis-à-vis* the purchases made by PPMDI from Yamaha Philippines, Inc., as stated in the Summary List of Sales and Purchases of its suppliers. Having made this finding, the undeclared purchases must constitute undeclared revenue. The CIR also repeats that the assessment is presumed valid and presumptions shall be made in favor of its correctness and PPMDI has the burden to prove otherwise.

On the other hand, Philippine Power MC Distribution, Inc. (PPMDI) filed its Comment[3] on November 28, 2019, stating therein that the assessment is a mere presumption that it generated revenue from the undeclared purchases.

The motion is bereft of merit.

After a careful consideration and evaluation of the parties' respective arguments, the Court finds that the arguments raised in the CIR's Motion for Reconsideration are mere rehash of his arguments in its Petition for Review, both before the Court in Division and before the *En Banc,* and have already been amply discussed, passed upon and considered. There is no provision of law raised by the CIR that is contrary to the findings or conclusions of the Court in the assailed Decision. It is apparent that the CIR merely reiterated and restated his arguments. Clearly, there is no new arguments raised, as well as cogent reason to disturb the assailed Decision.

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

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[3] *Ibid.*, pp. 139-144.

SO ORDERED.

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

WE CONCUR:

(I reiterate my Concurring Opinion.)
ROMAN G. DEL ROSARIO
Presiding Justice

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

ON LEAVE
ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice