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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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AGM PACKAGING SYSTEM LTD. CORP., Petitioner, - versus – **COMMISSIONER OF INTERNAL REVENUE,** Respondent.	**CTA EB NO. 1734** (CTA Case No. 8947)
COMMISSIONER OF INTERNAL REVENUE, Petitioner, - versus - **AGM PACKAGING SYSTEM LTD. CORP.,** Respondent.	**CTA EB NO. 1739** (CTA Case No. 8947) Present: **DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR.,** **UY,** **FABON-VICTORINO,** **MINDARO-GRULLA,** **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.* Promulgated: OCT 11 2019 3:25 p.m.

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RESOLUTION

RINGPIS-LIBAN, *J.:*

This resolves the "Motion for Reconsideration (Re: Decision promulgated 29 March 2019)"[1] ("Motion for Reconsideration") filed by the Commissioner of Internal Revenue ("CIR") on April 15, 2019 *via* registered mail, without comment from AGM Packaging System Ltd. Corp.,[2] seeking for the partial reconsideration of the Decision[3] promulgated on March 29, 2019 ("assailed Decision").

The dispositive portion of the Assailed Decision reads:

> "**WHEREFORE**, premises considered, the Court **DENIES** the instant Petitions for lack of merit. The Decision dated June 09, 2017 and the Resolution dated October 20, 2017 of the Second Division in CTA Case No. 8947 are **AFFIRMED with MODIFICATION** in the computation of the deficiency interest and delinquency interests in view of the effectivity of Republic Act No. 10963 ("TRAIN Law")[4] on January 01, 2018 and the issuance of RR No. 21-2018[5] dated September 14, 2018.
>
> The assessment issued by CIR against AGM for taxable year 2009 covering deficiency income tax, VAT, EWT, IAET and DST is **UPHELD**. Accordingly, AGM Packaging System Ltd. Corp. is **ORDERED TO PAY NINE MILLION FOUR HUNDRED NINETY-FIVE THOUSAND THREE HUNDRED NINETY TWO AND 14/100 PESOS (Php9,495,392.14)** representing deficiency taxes for taxable year 2009, inclusive of twenty-five percent (25%) surcharge imposed under Section 248(A)(3) of the Tax Code, as amended, and twenty percent (20%) deficiency interest and 20% delinquency interest imposed under Section 249(A) and (B), respectively, of the same Code, computed until December 31, 2017, which is prior to its amendment under the TRAIN Law, thus:

	IT	VAT	EWT	IAET	DST	TOTAL
Basic Tax Due	Php424,026.41	Php128,838.72	Php17,802.03	Php1,822,470.28	Php778.50	Php2,393,915.94
Add: 25% Surcharge	106,006.60	32,209.68	4,450.51	455,617.57	194.63	598,478.99
20% Deficiency Interest from April 16, 2010 to November 17, 2014						

[1] Rollo, pp. 245-254.

[2] *Id.*, Records Verification Report dated September 13, 2019, p. 275.

[3] *Id.*, pp. 217-240.

[4] An Act Amending Sections 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, and 288; Creating New Sections 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, and 265-A; and Repealing Sections 35, 62, And 89; All Under Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code of 1997, as Amended, and for Other Purposes.

[5] Regulations Implementing Section 249 (Interest) of the National Internal Revenue Code (NIRC) of 1997, as amended under Section 75 of the Republic Act (RA) No. I 0963 or the "Tax Reform for Acceleration and Inclusion (TRAIN Law)"

[Php424,026.41 x 20% x 1677/365 days]	389,639.61					389,639.61
20% Deficiency Interest from January 26, 2010 to November 17, 2014						
[Php128,838.72 x 20% x 1757/365 days]		124,038.15				124,038.15
20% Deficiency Interest from January 16, 2010 to November 17, 2014						
[Php17,802.03 x 20% x 1767/365 days]			17,236.27			17,236.27
20% Deficiency Interest from January 16, 2011 to November 17, 2014						
[Php1,822,470.28 x 20% x 1402/365 days]				1,400,056.62		1,400,056.62
20% Deficiency Interest from January 06, 2010 to November 17, 2014						
[Php778.50 x 20% x 1777/365 days]					758.02	758.02
Total Amount Due, November 17, 2014[6]	**Php919,672.62**	**Php285,086.55**	**Php39,488.80**	**Php3,678,144.47**	**Php1,731.15**	**Php4,924,123.60**
Add: 20% Deficiency Interest from November 18, 2014 to December 31, 2017						
[Php424,026.41 x 20% x 1140/365 days]	264,871.29					264,871.29
[Php128,838.72 x 20% x 1140/365 days]		80,480.08				80,480.08
[Php17,802.03 x 20% x 1140/365 days]			11,120.17			11,120.17
[Php1.822,470.28 x 20% x 1140/365 days]				1,138,419.79		1,138,419.79
[Php778.50 x 20% x 1140/365 days]					486.30	486.30
20% Delinquency Interest from November 18, 2014 to December 31, 2017						
[Php919,672.62 x 20% x 1140/365 days]	574,480.43					574,480.43
[Php285,086.55 x 20% x 1140/365 days]		178,081.46				178,081.46
[Php39,488.80 x 20% x 1140/365 days]			24,666.98			24,666.98
[Php3,678,144.47 x 20% x 1140/365 days]				2,297,580.66		2,297,580.66
[Php1,731.15 x 20% x 1140/365 days]					1,081.38	1,081.38
Total Amount Due, December 31, 2017	**Php1,759,024.35**	**Php543,648.10**	**Php75,275.96**	**Php7,114,144.92**	**Php3,298.82**	**Php9,495,392.14**

In addition, AGM Packaging System Ltd. Corp. is **ORDERED TO PAY** delinquency interest at the rate of twelve percent (12%), which is double the legal interest rate for loans or forbearance of any money, on the total amount due as of November 17, 2014 in the

6 The FDDA stated that the tax liabilities should be paid immediately upon receipt. Docket, Exhibit "P-15", pp. 685-688.

> amount of **Php4,924,123.60**, as determined above, computed from January 01, 2018 until full payment thereof pursuant to Section 249(C) of the Tax Code, as amended by TRAIN Law and implemented by RR No. 21-2018.
>
> **SO ORDERED.**"[7]

As basis for his prayer for partial reconsideration of the Assailed Decision, the CIR listed down the following reasons:

1) the disallowance of the interest income and foreign exchange loss is proper for failure by AGM Packaging System Ltd. Corp. to substantiate the same;

2) the imposition of deficiency income tax on the Net Operating Loss Carry-over (NOLCO) in the amount of Php620,420.63 was correct; and

3) the cancellation of the compromise penalty is improper.

We resolve to deny the motion for lack of merit.

After a careful consideration of the grounds raised in the motion, the Court finds that the issues and arguments raised therein had already been amply discussed, passed upon and considered by this Court in the Decision sought to be reconsidered.

In fact, the CIR's motion for reconsideration is a mere replica of its Petition for Review with the Court *En Banc*. In the assailed Decision, we already pointed out that the issues raised by the CIR is rehashed from his arguments before the Court in Division, and have been sufficiently passed upon and resolved in the Decision and Resolution of the Court in Division.[8]

Considering the fact that the CIR did not raise any new argument that would merit a reconsideration of the assailed Decision, the Court finds his motion for reconsideration bereft of merit. Finding no compelling reason to reconsider, modify or reverse the assailed Decision, We shall no longer belabor in this Resolution, to repeat the disquisitions and rulings made therein.

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[7] *Id.*, pp. 231-233.
[8] *Id.*, p. 224.

WHEREFORE, finding no cogent reason to reverse the Assailed Decision, the Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision promulgated 29 March 2019)" is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

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

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(With due respect, I join PJ's Concurring and Dissenting Opinion)
CIELITO N. MINDARO-GRULLA
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice