REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

-versus-

JUANCHITO D. BERNARDO, PRAXEDES P. BERNARDO and JDBEC, INCORPORATED,
Respondents.

CTA EB CRIM NO. 078
(CTA Crim. Case No. O-731)

Present:

Del Rosario, *P.J.,*
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo, *and*
Cui-David, *JJ.*

Promulgated:

AUG 2 2 2022 9:31 a.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

For resolution is petitioner's "Motion for Reconsideration"[1] filed on October 27, 2021.

In the instant motion, petitioner states that the Court in Division's Resolutions dated November 12, 2019, January 16, 2020 and February 14, 2020 are legally erroneous and not surrounded either by facts or the law; that the said Resolutions caused unwarranted and irremediable injury and damage to the interests of the People considering that the respondents have unpaid taxes in the amount of P29,432,003.84 for this case inclusive of interests, penalties and surcharges; that the Joint-Complaint Affidavit was filed with the Department of Justice (DOJ) before the 5-year prescriptive period set forth under Section 281 of the National Internal Revenue Code (NIRC) has lapsed, that is from 2007

[1] Docket, CTA EB CRIM. NO. 078, pp. 121-144.

onwards; that petitioner caused the successful tolling of the prescription of the offense upon the timely filing of the Complaint with the public prosecutor on September 23, 2010; and that the Petition for Review before the Court *En Banc* was filed on time.

On January 4, 2022, the Court *En Banc* issued a Resolution ordering respondents to file a Comment on petitioner's Motion for Reconsideration of the Decision dated September 29, 2021, within five (5) days from notice.

On June 8, 2022, respondents filed a "Manifestation with Motion to Admit Comment," stating that on January 7, 2022 respondents filed through a special courier (LBC Express) a Comment to the Motion for Reconsideration; that the LBC attempted to deliver the said mail but due to lockdown enforced at that time, the mail was not delivered. As regards to the Comment to the Motion for Reconsideration, respondents state that the Court in Division did not commit an error when it ruled that the Information was filed beyond the 5-year prescriptive period; that the second motion for reconsideration did not toll the running of the prescriptive period to appeal; said motion is not allowed under A.M. No. 05-11-07-CTA or the Revised Rules of the Court of Tax Appeals; and that an order dismissing the case is a final order, hence, the remedy of the petitioner should have been to appeal the case.

On June 22, 2022, the Court *En Banc* issued a Resolution granting respondents' Motion to Admit Comment. Accordingly, respondents' Comment to the Motion for Reconsideration is deemed filed.

After consideration of the motion submitted, the Court *En Banc* resolves to deny the petitioner's "Motion for Reconsideration."

A careful and closer look at the arguments raised by petitioner in the present motion reveals that the grounds relied upon and the matters raised therein are mere restatements of the previous arguments. All these matters 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.,*[2] 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

[2] G.R. No. 159938, January 22, 2007.

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 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."

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" is **DENIED for lack of merit**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice