REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

REITOH COLD STORAGE INC., WE LEAD GROUP HOLDINGS, INC., ELENCE MARINE AND INDUSTRIAL CORPORATION, MBPS CABLING CORPORATION, GARUDA CONSTRUCTION CORPORATION, BCP DERMATOLOGICAL CORPORATION, AUDIO VIDEO SOLUTIONS CORPORATION, DUNAMIS IMPORT-EXPORT PHILS. INC., ALEN V DRAGON CORPORATION, MEDEV MEDICAL DEVICES CORPORATION, CHRYSALIS CONSTRUCTION AND TRADING CORPORATION, PAPISSS INC., ICON REEFER CORPORATION, JRT CONSTRUCTION AND TRADING CORPORATION, DATALINK SOLUTIONS TECHNOLOGY AND CONSULTANCY INC., ABBE TECHNOLOGY SOLUTIONS INC., EXEQUIEL BALANLAY ADORA, KEN N RIE TRANSPORT INC., R2B2 REALTY & DEVELOPMENT CORPORATION, G2K CORPORATION, MAXX ENERGIE VENTURES CORP., and POWERSOURCE PHILIPPINES, INC.,	**CTA CASE NO. 10420** *Members*: **BACORRO-VILLENA**, *Acting Chairperson, and* **CUI-DAVID**, JJ.

Petitioners,

- versus -

BUREAU OF INTERNAL REVENUE, *Respondent.* Promulgated: JUL 0 3 2023 4:25 pm

x - x

RESOLUTION

CUI-DAVID, J.:

This resolves petitioners' *Motion for Reconsideration* filed on May 5, 2023, with respondent's *Comment/Opposition (Re: Petitioner's Motion for Reconsideration dated May 1, 2023)* filed on May 29, 2023, assailing the Decision dated April 19, 2023 (assailed Decision), the dispositive portion of which reads:

> **WHEREFORE**, finding the instant *Petition* to be without merit, aside from being time-barred and moot, the same is **DISMISSED**.
>
> **SO ORDERED**.

In its Motion, petitioners argue that the petition has not been rendered moot and academic by the expiration of the period of availment of the Tax Amnesty Act on Delinquencies (TAA); petitioners availed of the TAA based on their withholding tax liabilities as withholding agents arising from their failure to remit withheld taxes, whether delinquent account or not, with or without FAN/FDDA, the PAN, NIC, or equivalent document is sufficient; the TAA does not impose a cut-off date of April 24, 2019; that petitioners had no other plain, speedy and adequate remedies in the ordinary course of law.

Respondent contends that the petition was correctly dismissed for being filed out of time and is already moot and academic due to the lapse of the TAA; that Section 19 of the TAA provides that one who wishes to avail of tax amnesty on delinquencies shall within one year from the effectivity of the implementing rules and regulations (IRR), file the tax amnesty return accompanied by a certification of delinquency. Since the TAA was signed into law on February 14, 2019, and the IRR, *i.e.*, Revenue Regulations (RR) No. 4-2019, took effect on April 24, 2019, the same should be the reckoning date of the finality or delinquency of the tax liability sought to be applied for tax amnesty; that petitioners have no legal right for the issuance of Certificates of Tax Delinquency (CTDs) and endorsement of the Acceptance Payment Forms (APFs) because they have no "delinquent account"; the petition failed to allege that there is a compelling legal duty on the part of respondent to approve the application for tax amnesty without legal basis and that the CIR gravely abused its power when it denied the application for tax amnesty due to lack of legal basis.

The Motion is denied.

Petitioners admit that it was out of desperation that they filed this petition despite the lack of certainty as to when they (or some of them) have received their denial letters; as such, there would be no basis for the 60-day reglementary period.[1] This confirms the finding of the Court and, as discussed in the assailed Decision, that the petition is bereft of the proper allegations on its timeliness by stating the act or omission or the judgment, order, or resolution, which is the subject of the petition. Hence, this petition is already dismissible under Section 3, Rule 46 of the Rules of Court,[2] in relation to Rule 65.[3]

Even if the present petition was timely filed, the same still lacks merit, as extensively discussed in the assailed Decision.

Petitioners' prayer for the issuance of the CTD and APF, long after the lapse of the deadline for availment of the Tax Amnesty on Delinquencies on June 30, 2021, will have no practical use.[4]

Section 5[5] of RR No. 4-2019 lists the CTD and APF as among the required documents to be submitted by the taxpayer *before* availment of the Tax Amnesty on Delinquencies.

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[1] Par. 3.3, Motion for Reconsideration, Docket – Vol. II, unpaged.

[2] SEC. 3. *Contents and filing of petition; effect of noncompliance with requirements.* — …
In actions filed under Rule 65, the petition shall further indicate the <u>material dates</u> showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received. …
The failure of the petitioner to comply any of the requirements shall be sufficient ground for the dismissal of the petition. (*Emphasis supplied*)

[3] *Wenceslao, et al. v. Makati Development Corporation.* G.R. No. 230696, August 30, 2017.

[4] See *Express Telecommunications Co., Inc. (EXTELCOM) v. AZ Communications, Inc.*, G.R. No. 196902, July 13, 2020.

[5] SEC. 5. MANNER OF AVAILMENT OF TAX AMNESTY ON TAX DELINQUENCIES. Any person, whether natural or juridical, who wishes to avail of the Tax Amnesty on Delinquencies shall file, within one (1) year from the effectivity of these Regulations, an application therefor in accordance with the procedures set forth below.

The Court is aware that petitioners anchor their entitlement to apply for a tax amnesty under Section 17 (d)[6] of the TAA, *i.e.*, tax liabilities of withholding tax agents who withheld taxes but failed to remit the same to the BIR; however, to quote the assailed Decision:

> A judicious review and study of petitioners' evidence submitted together with the instant Petition reveal that petitioners' deficiency withholding taxes were due to failure to withhold taxes or *non-withholding of taxes.* Contrary to the averments in the Petition, none of the petitioners appear to be liable for failure to remit or *non-remittance* of withheld taxes.

Petitioners' failure to submit the original or certified true copies of the assailed denial letters, Secretary's Certificate, Board Resolution and Special Power of Attorney cannot be blamed on the proceedings that took place.[7] Petitioners had the duty to attach the original or certified true copies of said documents at the first instance when they filed this petition before the Court on December 14, 2020, under Rule 65 of the Rules of Court.

In fine, given that the arguments presented by petitioners in their *Motion for Reconsideration* are a mere rehash of the matters contained in their petition, which We exhaustively discussed and considered in the assailed *Decision,* We shall no longer belabor in this Resolution to repeat our lengthy discussion on the matter. This is consistent with the Supreme Court's ruling in the case of *Ortigas and Company Limited Partnership v. Judge Tirso Velasco et al. et seq.*,[8] to wit:

> It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, ART. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

A. DOCUMENTARY REQUIREMENTS: The taxpayer shall submit the following:
...
3. Certificate of Tax Delinquencies/Tax Liabilities issued by concerned BIR offices (Annex "C"); and ...

[6] Item 4, Statement of the Facts, Memorandum for Petitioners.
[7] Par. 6, Motion for Reconsideration, Docket – Vol. II, unpaged.
[8] G.R. Nos. 109645 & 112564, March 4, 1996.

WHEREFORE, premises considered, petitioners' "Motion for Reconsideration" is **DENIED** for lack of merit.

Respondent's *Manifestation* filed on June 16, 2023, is **NOTED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice