REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

SEMIRARA MINING AND POWER CORPORATION,
Respondent.

CTA EB NO. 2005
(CTA CASE NO. 9133)

Present:

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ.*

Promulgated:

MAR 0 2 2021 2:59 p.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

For resolution is the petitioner's "Motion for Reconsideration Re: Decision dated 30 June 2020"[1] filed on July 23, 2020.

In the instant motion, petitioner avers that the Court erred when it affirmed the Decision dated July 27, 2018 and Resolution dated January 15, 2019, granting respondent's application for refund. According to petitioner, Section 16 of Presidential Decree No. 972 (PD 972) has already been repealed, hence, respondent is now liable for excise tax and value added tax; and that Revenue Regulation No. 2-2012 (RR 2-12) is non-violative of the non-impairment clause of the Constitution.

[1] Docket, CTA EB NO. 2005, pp. 87-94.

After consideration of the motion submitted, the Court *En Banc* resolves to deny the "Motion for Reconsideration Re: Decision dated 30 June 2020." The Court *En Banc* observes that the said motion was filed without the required notice of hearing.

> "Sections 4 and 5, Rule 15 of the Rules of Court read as follows:
>
> Section 4. Hearing of motion. - Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.
>
> Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.
>
> Section 5. Notice of hearing. - The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.
>
> These requirements are mandatory. Except for motions which the court may act on without prejudice to the adverse party, all motions must set a hearing. This includes motions for reconsideration.
>
> The notice of hearing on the motion must be directed to the adverse party and must inform him or her of the time and date of the hearing. Failure to comply with these mandates renders the motion fatally defective, equivalent to a useless scrap of paper."[2]

Hence, the "Motion for Reconsideration Re: Decision dated 30 June 2020" is a worthless piece of paper.

At any rate, assuming *arguendo* that the instant Motion was properly filed and admitted by the Court, the same would still fail on the merits for the reasons stated in the assailed Decision.

The Court *En Banc* notes that the petitioner's motion merely reiterates or amplifies the arguments previously raised in the Petition for Review which were

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[2] Bernice Joan TI vs. Manuel S. Diño, G.R. No. 219260, November 6, 2017.

already considered and extensively discussed upon by the Court *En Banc* in the assailed Decision.

It must be stressed that among the ends to which a motion for reconsideration is addressed, one is precisely to convince the Court that its ruling is erroneous and improper, contrary to law or the evidence.[3] If the movant failed to do so, the motion for reconsideration must necessarily fail.

WHEREFORE, premises considered, the petitioner's "Motion for Reconsideration Re: Decision dated 30 June 2020" is **DENIED for lack of merit**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate 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

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[3] *Teodulo M. Coquilla vs. The Hon. Commission on Elections and Mr. Neil M. Alvarez,* G.R. No. 151914, July 31, 2002.