CTA Form No. 8 (For DCC)

22-000045-0047

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10754

LKY PROPERTY HOLDINGS, INC., REPRESENTED BY MS. REBECCA MARIE ABIGAIL G. LEE,
Petitioner,

- versus -

NOTICE OF RESOLUTION

THE HONORABLE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. LARA NICOLE T. GONZALES
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Senator Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

ATTY. CHRISTIAN EDWARD F. ONG
ATTY. PATRICK JON B. ROMANO
3rd Flr., Norkis Bldg., 11 Calbayog coner D.M. Guevara Sts.
Brgy. Highway Hills, Mandaluyong City

GREETINGS:

You are hereby notified by these presents that on **August 15, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 15, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

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LKY PROPERTY HOLDINGS, INC., REPRESENTED BY MS. REBECCA MARIE ABIGAIL G. LEE,
Petitioner,

-versus-

THE HONORABLE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10754

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

AUG 1 5 2024 10:00 AM

x- x

RESOLUTION

CUI-DAVID, J.:

For resolution is petitioner's ***Motion for Reconsideration (of the Decision dated May 8, 2024)*** filed on June 3, 2024, with respondent's ***Opposition (Re: Petitioner's Motion for Reconsideration dated 03 June 2024)*** filed on July 1, 2024.

Petitioner prays that the Court set aside the *Decision* dated May 8, 2024 (assailed *Decision*), with the following dispositive portion:

> **WHEREFORE,** in light of the foregoing considerations, the present *Petition for Review* is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**

Petitioner argues that the nullification of extra-judicial foreclosure and the corresponding certificate of sale over its mortgaged properties negated any tax liablity or friction on the part of petitioner. Thus, the tax payment made by its mortgagee are devoid of any legal basis and created a pure *solutio indebiti* contract between petitioner and respondent; and, that the prescriptive period on petitioner's request for refund is *solutio indebiti* under the Civil Code and not the law on tax refunds under the Tax Code.

Respondent counters that the Court has no jurisdiction over the case, that *solutio indebiti* is not applicable in light of the prevailing special law, which is the Tax Code and that petitioner is not entitled to the claim for refund of documentary stamp tax (DST) and withholding tax considering that it was the mortgagee that paid for the taxes on account of petitioner.

We resolve.

The Court notes that the arguments raised in petitioner's *Motion for Reconsideration* have been thoroughly considered and passed upon in the assailed *Decision.*

In *Shangri-La International Hotel Management Ltd. v. Developers Group of Companies, Inc.,*[1] the Supreme Court made clear that it is incumbent upon the movant to raise substantially plausible matters to warrant the relief sought, to wit:

> 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 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.

This judicial pronouncement was echoed in *Roque, Jr., et al. v. Commission on Elections, et al.,*[2] where the Supreme Court *En Banc* ruled that whenever the motion for reconsideration fails to raise matters that are substantially plausible or

[1] G.R. No. 159938 (Resolution), January 22, 2007.
[2] G.R. No. 188456 (Resolution), February 10, 2010.

compellingly persuasive enough to lead the court to rule in favor of the desired course of action, then the same must be denied by the court, thus:

> Petitioner's above contention, as well as the arguments, citations and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again. . .
>
> ....
>
> While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered — and this should not be an obstacle for a reconsideration — the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.

Similarly, petitioner failed to persuade the Court to reverse its finding that Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, applies.

Given the foregoing, the Court finds no compelling reason to reverse or modify the assailed *Decision.*

WHEREFORE, petitioner's *Motion for Reconsideration (of the Decision dated May 8, 2024)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice