REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
QUEZON CITY

**EN BANC**

SOLID-ONE MILLS, PHILS., INC.,
Petitioner,

CTA EB NO. 1234
(CTA Case No. 8507)

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

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COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB NO. 1235
(CTA Case No. 8507)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA, and
RINGPIS-LIBAN, *JJ.*

- versus -

SOLID-ONE MILLS, PHILS., INC.,
Respondent.

Promulgated:

DEC 09 2016 1:32 p.m.

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## RESOLUTION

***Fabon-Victorino, J.:***

Before the Court *En Banc* is the *Motion for Reconsideration (Re: Decision dated 10 August 2016)*[1] filed

[1] *En Banc* docket, pp. 123-133.

by Commissioner of Internal Revenue (CIR) on September 13, 2016, assailing the Decision[2] promulgated on August 10, 2016, the dispositive portion of which reads:

> **WHEREFORE**, the *Petitions for Review* filed on October 31, 2014 and November 3, 2014 by Solid-One Mills, Phils., Inc. and the Commissioner of Internal Revenue, respectively, are hereby **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated May 29, 2014 and September 23, 2014, respectively, are **AFFIRMED**.
>
> **SO ORDERED**.

The assailed Decision sustained the ruling of the Court in Division ordering the cancellation of the Formal Letter of Demand (FLD) and Final Assessment Notices (FAN) No. 59/2003 dated May 31, 2007, assessing Solid-One Mills, Phils., Inc. (SMPI) for alleged deficiency value-added tax (VAT), expanded withholding tax (EWT) and compromise penalties for taxable year 2003, in the total amount of ₱12,800,114.98, as well as the Notice of Tax Lien, the Warrant of Distraint and/or Levy (WDL), and the Warrants of Garnishment, all dated June 7, 2012.

As grounds for his *motion*, the CIR asserts that:

I. The Honorable Court erred in ruling that the right of petitioner (CIR) to enforce collection had prescribed.

II. The running of the prescriptive period for collection was suspended when respondent (SMPI) requested for reinvestigation and filed a protest with the petitioner.

III. Withholding tax assessments, being penalties and not taxes, are not covered by the period of limitation prescribed in Section 203 of the NIRC.

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[2] *En Banc* docket, pp. 98-119.

On the ground that: (1) the *motion* is *pro forma* being a mere reiteration of CIR's arguments in his previous pleadings filed with the Court; and (2) that no new or substantial arguments were raised in the CIR's *motion*, petitioner SMPI prays for the denial of the motion.

It is so patent that all issues raised in the *motion* have already been determined and passed upon, first by the Court in Division and subsequently on appeal by the Court *En Banc*. There are no substantial arguments raised to warrant the reversal of the assailed Decision.

**WHEREFORE**, the *Motion for Reconsideration* filed by the Commissioner of Internal Revenue is hereby **DENIED**, for lack of merit.

**SO ORDERED**.

ESPERANZA R. FABON-VICTORINO
Associate Justice

*We Concur:*

ROMAN G. DEL ROSARIO
Presiding Justice

(On Leave)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On Leave)
LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen S. ~
MA. BELEN RINGPIS-LIBAN
Associate Justice