REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

CASAS + ARCHITECTS,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9705

Members:

UY, *Chairperson,*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

MAR 14 2022 11:16am

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RESOLUTION

MODESTO-SAN PEDRO, J.

For the Court's resolution is respondent's **Motion for Partial Reconsideration**[1] ("Motion"), filed through registered mail on 24 May 2021 and received by this Court on 2 June 2021, with petitioner's Comment (Re: Respondent's Motion for Partial Reconsideration dated May 24, 2021)[2] ("Comment"), filed through registered mail on 22 October 2021 and received by this Court on 5 November 2021.

Respondent's Motion seeks partial reconsideration and setting aside of this Court's Decision ("Assailed Decision"), promulgated on 9 March 2021, the dispositive part of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review filed by Casas + Architects is **PARTIALLY GRANTED**. The assessment issued by respondent against petitioner for taxable year 2011 covering deficiency VAT is **AFFIRMED** but with modifications, Accordingly, petitioner is **ORDERED TO PAY** the aggregate amount of **P1,454,825.03** for taxable year 2011, inclusive of the 25% surcharge imposed under ***Section 248 (A) (3) of the Tax Code, as amended***, and deficiency and delinquency interests imposed under ***Section 249 (B) and (C) of the Tax Code, as amended***, until 31 December 2017, computed as follows:

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1 Division Records Vol. 4, pp. 1784-1792.

2 *Id.*

	VAT
Basic Tax Due	P576,010.86
Add: Surcharge (25%)	144,002.71
20% Deficiency Interest from 26 Jan. 2012 to 23 Oct. 2017 [576,010.86 x 20% x 2066/365 days]	661,860.14
Total Amount Due, 23 October 2017	1,381,873.71
Subtotal	
Add: 20% Deficiency Interest from 24 Oct. 2017 to 31 Dec. 2017 [576,010.86 x 20% * 69/365 days]	21,462.32
20% Delinquency Interest from 24 Oct. 2017 to 31 Dec. 2017 [1,381,873.71 x 20% x 69/365]	51,488.99
TOTAL	**P1,454,825.03**

In addition, petitioner is liable to pay delinquency interest at the rate of 12% on the unpaid VAT of **P1,381,873.71**, representing basic deficiency tax and surcharge, as determined above, computed from 1 January 2018 until full payment, ***pursuant to Section 249 (C) of the Tax Code, as amended by Republic Act No. 10963, also known as the Tax Reform for Acceleration and Inclusion ("TRAIN").***

However, the partial payment made by petitioner resulting to the overpayment of **Ninety-Two Thousand Nine Hundred Ninety-Eight Pesos and 46/100 (P92,998.46)**, shall have to be deducted in the final settlement of the above deficiency taxes including surcharge, deficiency interest, and delinquency interest.

SO ORDERED."

In his Motion, respondent restates the arguments raised in his Answer that assessments are presumed correct and made in good faith unless the taxpayer proves otherwise. He states that taxes are the lifeblood of the government and, hence, should be collected without unnecessary hindrance. He insists on the validity of the assessment insofar as petitioner's failure to comply with the requisites of a valid deduction of bad debts and petitioner's failure to withhold/ remit the correct withholding tax on salaries and wages.

Meanwhile, in its Comment, petitioner counter-argues that: (1) the reduction of its accounts receivable were due to the proper writing off of uncollected accounts; and (2) there is no factual and legal basis in respondent's insistence to use the "average withholding tax rate of 16.29873905%.

Respondent's Motion lacks merit.

A perusal of the foregoing arguments shows that these are mere reiterations and amplifications of the arguments on issues that have already been considered, passed upon, and resolved by this Court in the Assailed Decision.

It is well-settled that a motion for reconsideration containing a mere reiteration or rehash of grounds and arguments that have already been considered, weighed, passed upon, and resolved by the court before the Decision sought to be reconsidered is rendered does not need a new judicial determination.[3] There is no further need for the Court to "cut and paste" pertinent portions of the decision or to re-write the *ponencia* in accordance with the outline of the motion for reconsideration.[4] Therefore, there is no necessity to discuss and rule again on these grounds since this would be a useless formality of ritual invariably involving merely a reiteration of the reasons for rejecting the arguments advanced by the movant already set forth in the judgment.[5]

In ***Shangri-la International Hotel Management v. Developers Group of Companies, Inc.***,[6] the Supreme Court enunciated that it is incumbent upon the movant to convince the Court that certain findings or conclusions are contrary to law, 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."[7]

Meanwhile, petitioner prayed in its Comment to respondent's Motion that the Assailed Decision should be reconsidered and the remaining assessment be cancelled on the ground that:

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3 People v. Agacer, G.R. No. 177751, 7 January 2013 *citing* People v. Larrañaga, G.R. Nos. 138874-75, 21 July 2005; Madeleine Mendoza-Ong v. Hon. Sandiganbayan, et al., G.R. Nos. 146368-69, 18 October 2004.

4 Land Bank of the Philippines v. Gallego, Jr., G.R. No. 173226, 31 January 2018 *citing* Social Justice Society (SJS) Officers v. Lim, G.R. No. 187836, 10 March 2015 *and* Ortigas Land Co. Ltd. Partnership v. Judge Velasco, G.R. No. 109645, 4 March 1996.

5 *Ibid;* People v. Agacer, G.R. No. 177751, 7 January 2013 *citing* People v. Larrañaga, G.R. Nos. 138874-75, 21 July 2005 *and* Ortigas Land Co. Ltd. Partnership v. Judge Velasco, G.R. No. 109645, 4 March 1996.

6 G.R. No. 159938, 22 January 2007.

7 Emphasis supplied.

(i) The allowances given to its apprentices are not subject to withholding tax; and
(ii) Respondent erroneously assessed petitioner for deficiency withholding tax on petitioner's payment of tax-exempt 13th month pay to its employees.

These arguments that seek to reconsider and set aside the Assailed Decision should have been raised in a timely motion for reconsideration,[8] stating the grounds relied upon,[9] after giving the adverse party an opportunity to file an opposition thereto,[10] and not merely as additional arguments in a comment to a motion for reconsideration. A motion for reconsideration that does not comply with ***Rule 15 of the Revised Rules of the Court of Tax Appeals*** shall be deemed pro forma which shall not toll the reglementary period for appeal.[11]

The above notwithstanding, records show that these arguments and issues are also reiterations of those raised in the Petition for Review and in the Memorandum which have been thoroughly considered and passed upon by the Court in the Assailed Decision.

WHEREFORE, premises considered, respondent's **Motion for Partial Reconsideration**, is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[8] Sec. 1, Rule 15, A.M. No. 05-11-07-CTA, Revised Rules of the Court of Tax Appeals ("RRCTA").
[9] Sec. 1, Rule 37, Rules of Civil Procedure, as amended.
[10] Sec. 2, Rule 15, RRCTA.
[11] Sec. 6, Rule 15, *id.*