REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL, REVENUE,
Petitioner,

-versus-

DOMINIUM REALTY & CONSTRUCTION CORPORATION,
Respondent.

CTA EB NO. 1713
(CTA Case No. 8887)

Present:

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban, and
Manahan, *JJ.*

Promulgated:
MAY 08 2019 3:00 pm

x---x

RESOLUTION

RINGPIS-LIBAN, *J.*:

For resolution is petitioner's "Motion for Reconsideration" received by the Court on December 17, 2018, with respondent's Comment filed on February 22, 2019.

Petitioner seeks reconsideration of this Court's Decision, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **DENIED** for lack of merit. The assailed Decision dated April 6, 2017 and the assailed Resolution dated August 17, 2017 are **AFFIRMED.**
>
> **SO ORDERED.**"

Petitioner moves that the Court review, re-evaluate and revisit the assailed Decision. To support its "Motion for Reconsideration," petitioner states that under paragraph 8 of its Petition for Review, the Commissioner of Internal Revenue (CIR) issued BIR Ruling DA-316-07 on May 29, 2007 to address the query of Belle Bay City Corporation (BBCC); that on December 5, 2011, the CIR issued BIR Ruling No. 479-2011 in response to Aguirre Pawnshop Inc.'s request for confirmatory ruling on the tax implications of distributing remaining assets of the corporation to its stockholders by way of liquidating dividends; and that BIR Ruling DA-316-07 secured by BBCC on May 29, 2007, having the same set of facts and issues interrelated to Aguirre Pawnshop Inc.'s request for confirmatory ruling, was deemed reversed and set aside through the issuance of BIR Ruling No. 479-2011 on December 5, 2011.

On the other hand, respondent states that it got confused as to the relevance of the arguments raised by petitioner in the assailed Decision; and that the Petition for Review shows that nothing was said about the alleged BIR Rulings.

After consideration, the Court *En Banc* resolves to deny the "Motion for Reconsideration." The Court *En Banc* reviewed the grounds relied upon by petitioner in support of his "Motion for Reconsideration" but finds no cogent reason to grant the same. The Court *En Banc* agrees with the contention of respondent that the BIR Rulings mentioned in the "Motion for Reconsideration" have no relevance to the present case. The assessments on deficiency Income Tax, Value-Added Tax (VAT) and Documentary Stamp Tax (DST) were cancelled because the present case involves a tax-free exchange transaction. Moreover, the above-mentioned BIR Rulings were never mentioned in the Petition for Review.

Considering the foregoing discussions, the Court *En Banc* finds that there is no reason to deviate from its previous ruling that Dominium Realty & Construction Corporation is exempt from paying deficiency Income Tax, VAT and DST.

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.[1] If the movant failed to do so, the motion for reconsideration must necessarily fail.

WHEREFORE, premises considered, the "Motion for Reconsideration" is **DENIED for lack of merit**. The **assailed Decision** dated November 13, 2018 is **AFFIRMED**.

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

SO ORDERED.

Ma. Belen S. L.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

J. C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On Leave)
ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

(On Leave)
CATHERINE T. MANAHAN
Associate Justice