REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus* –

ANSI AGRICULTURAL PRODUCTS, INC.,
Respondent.

CTA *EB* NO. 1340
(CTA Case No. 8541)

Present:

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

Promulgated:

JUN 23 2017 2:10 p.m.

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RESOLUTION

BAUTISTA, J.:

This resolves petitioner's Motion for Reconsideration (Notice of Decision promulgated on January 30, 2017) filed on February 20, 2017, with respondent's Comment on and/or Opposition to (The Petitioner's Motion for Reconsideration) ("Comment") filed *via* private courier on April 11, 2017.

On January 30, 2017, the Court *En Banc* promulgated a Decision[1] (the "Assailed Decision"), the dispositive portion of which states:

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[1] *Rollo, CTA EB No. 1340 (CTA Case No. 8541),* pp. 104-117.

> **WHEREFORE,** premises considered, the Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Decision dated April 20, 2015 and the Resolution dated July 9, 2015 of the Court in Division, are hereby **AFFIRMED** and **UPHELD.**
>
> **SO ORDERED.**[2]

In his Motion for Reconsideration, petitioner avers that the Court *En Banc* erred in deciding that the offsetting of respondent's receivable account from Swift Foods, Inc., ("SFI") with its own payable account to the same debtor-creditor, as a consequence of the partial settlement of the latter's prior debt, will not produce any taxable income. Petitioner insists that income means all wealth which flows into the taxpayer other than mere return of capital; that *Revenue Audit Memorandum Order (RAMO) 1-2000* is a valid issuance, thus, the assessment made pursuant thereto is valid. Petitioner thus prays that the Court reconsider its decision by holding that the offsetting of respondent's receivable account with its own payable account to the same debtor-creditor, as a consequence of the partial settlement of the latter's prior debt produces taxable income.

In its Comment, respondent counter-argues that the grounds raised by petitioner in his Motion for Reconsideration are not based on valid grounds and that the ground relied upon is but a repetition, replication and reiteration of the previously raised unfounded and tenuous point in the previously filed Motion for Partial Reconsideration in CTA Case No. 8541, and the Petition for Review before the CTA *En Banc*. Respondent alleges that petitioner failed to raise new matters to warrant reconsideration to set aside and reverse the findings and conclusion of the CTA *En Banc*.

After a careful review of the grounds raised in the Motion for Reconsideration and the corresponding Comment thereon, the Court *En Banc* finds no new matters or arguments which were not considered in the Assailed Decision. However, the Court *En Banc* will proceed to discuss the issue raised in the Motion for Reconsideration if only to reinforce the Assailed Decision.

Petitioner insists that the proceeds from the sale of the dressed chickens received by respondent from SFI as payment for the latter's

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[2] Emphasis retained.

debt, is considered income of respondent, and therefore, it should be subject to income. The Court *En Banc* does not agree. Income connotes a flow of wealth during a definite period of time.[3] Thus, for it to be taxable, there must be gain realized or received by the taxpayer[4]. Under the pain of being repetitive, the Court *En Banc* reiterates its findings in the Assailed Decision, to wit:

> Under the accrual basis of accounting, revenue is recognized when it is earned (when products are delivered or services are provided), and realized (cash is received) or realizable (there is reasonable expectation that cash will be received in the future).
>
> In 2004, AAPI sold animal feed ingredients to Swift for a total value of Php6,768,357.50. This was recorded in the books as an increase in Accounts Receivable (due from Swift) and Sales. At this point, income was already recognized by AAPI and there was already a debt whereby AAPI is creditor and Swift is debtor.
>
> In early 2005, Swift made partial payments to AAPI totaling Php700,000.00, which was recorded as an increase in Cash and a decrease in Accounts Receivable (due from Swift). Afterwards, Swift had financial difficulties and entered into a swap agreement with AAPI, who received old-stock chickens from Swift worth Php2,310,495.50, this was recorded by AAPI as an increase in Purchases and Accounts Payable (due to Swift). Hence, a second debt arose wherein AAPI is debtor and Swift is creditor.
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> In 2009, offsetting was done in the books wherein the amount of Php2,310,495.50 was deducted from Accounts Receivable (due from Swift) and Accounts Payable (due to Swift). Swift likewise made several small payments totaling to Php891,000.00, hence, there was an increase in Cash and a decrease in Accounts Receivable (due from Swift). As for the balance of Php2,866,862.00 in the Accounts Receivable (due from Swift) account, this was written off after several demands, follow-ups and visits.
>
> In this case, <u>the revenue of AAPI from its sale of animal feed ingredients was already earned and realizable at the time the receivable was recognized in taxable year 2004, when</u>

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[3] *Chamber of Real Estate and Builders' Association, Inc. vs. The Hon. Executive Secretary Alberto Romulo, et al.*, G.R. No. 160756, March 9, 2010, 614 SCRA 605.

[4] *Bureau of Internal Revenue vs. Court of Appeals, et al.*, G.R. No. 197590, November 24, 2014, 741 SCRA 536.

income tax arising therefrom was due and presumably paid. To recognize income and to demand payment of income tax in taxable year 2009 from AAPI on the same revenue, upon offsetting, will effectively re-impose a tax which was already paid. The value of the dressed chickens was simply applied to the outstanding debt of Swift that was due to AAPI through legal compensation.

It was established during trial that respondent uses accrual basis of accounting. Again, accrual basis is the method of accounting for income in the period it is earned regardless of whether it has been received or not. In the instant case, the sale on credit to Swift Foods, Inc. was already reported, the supposed income derived therefrom was already declared and recognized, and the tax already paid. But since the sale on credit remains unpaid, it is recorded under the accounts receivables and when it was paid, there was no income recognized. This was aptly explained by the Court in Division in its April 20, 2015 Decision, thus, we quote:

To summarize in a *T-account* form the movement of the receivable and payable accounts pertaining to petitioner's transactions with Swift Foods, Inc., the same would disclosed the following:

Transactions:	Accounts Receivable - Trade		Accounts Payable - Trade	
	Debit	Credit	Debit	Credit
1.Sale on credit to Swift Foods, Inc. in 2004	6,768,357.50			
2.Partial payment in 2005		700,000.00		
3.Accepted Swift's offer to swap old stock chicken in 2005				2,310,495.50
4.Offsetting in 2009		2,310,495.50	2,310,495.50	
5.Partial payment from 2007 to 2009		891,000.00		
Total	6,768,357.50	3,901,495.50	2,310,495.50	2,310,495.50
Balance	2,866,862.00			

Apparently, offsetting of receivable account from Swift Foods, Inc., with that of petitioner's own payable accounts with the same debtor-creditor does not involve 'revenue accounts' but involved only the 'balance sheet' accounts, which are called 'permanent accounts'. There is no income realized during the time the receivable and payable accounts were offsetted in petitioner's books in 2009 as the related income of the offsetted receivable account of P2,310,495.50 was already recognized at the time of sale in 2004.

Among the ends to which a motion for reconsideration is addressed, is to convince the court that its ruling is erroneous and improper, contrary to the law or the evidence.[5] Thus, having failed to convince the court, the petitioner's Motion for Reconsideration must necessarily fail.

WHEREFORE, premises considered, the Motion for Reconsideration is hereby **DENIED** for lack of merit. Accordingly, the Assailed Decision dated January 30, 2017 is **AFFIRMED** and **UPHELD.**

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

[5] *Guerra Enterprises Company, Inc. vs. Court of First Instance of Lanao del Sur,* G.R. No. L-28310, April 17, 1970, 32 SCRA 314.

(On Leave)
CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(On Leave)
CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice