REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

ALTIMAX BROADCASTING CO., INC.,
Petitioner,

CTA Case No. 8828

- versus-

Members:

Castañeda, Jr., *Chairperson*
Casanova, and
Cotangco-Manalastas, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

APR 1 3 2016

1:29 p.m.

x- x

R E S O L U T I O N

COTANGCO-MANALASTAS, *J.:*

For resolution is respondent's *Motion for Reconsideration (Notice of Decision promulgated on February 09, 2016)* filed on February 26, 2016 with petitioner's *Comment/Opposition (Re: Motion for Partial Reconsideration dated February 23, 2016)* filed on April 4, 2016.

Respondent seeks reconsideration of this Court's Decision, promulgated on February 9, 2016, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **GRANTED**. Accordingly, the FLD and the Assessment Notice dated August 31, 2013, holding petitioner liable for deficiency income tax for calendar year 2008 in the total amount of ₱19,453,340.54, is hereby **CANCELLED** and **WITHDRAWN**.
>
> **SO ORDERED.**"

Respondent argues that the Court erred in ruling that the deficiency income tax assessment arising from unsupported direct write-off of other assets in the amount of ₱19,453,340.54 has no factual and legal basis

Respondent stresses that the deficiency income tax assessment against petitioner for calendar year (CY) 2008 has legal and factual basis.

In his Judicial Affidavit, Revenue Officer (RO) Elmer O. Jimenez discussed the basis of the deficiency income tax. Likewise, the Preliminary Assessment Notice and Formal Letter of Demand informed the petitioner of the law and the facts on which the assessment was made. Furthermore, RO Jamilah L. Dianalan, in her Judicial Affidavit, discussed the factual and legal basis for the reiteration of the assessment.

Respondent further argues that under Section 34(D) of the National Internal Revenue Code (NIRC) of 1997, as amended, it is a requirement to submit a declaration of loss in order to support the allowance of a deduction. In this case, petitioner failed to submit its schedule of assets and present proof of write-off.

In its comment/opposition, petitioner avers that respondent's argument does not in any way show that the Court erred in holding that the provision cited in the Formal Letter of Demand/Final Assessment Notice, *i.e.*, Section 34(D)(2) of the NIRC of 1997, as amended, is inapplicable to petitioner. The "declaration of loss" referred to in Section 34(D) of the NIRC of 1997, as amended, only applies to casualty losses and not to write-off of other assets due to management decision.

Petitioner contends that even assuming for the sake of argument that it is required to submit a declaration of loss for the write-off of other assets under Section 34(D)(2) of the NIRC of 1997, as amended, there is still no basis for the assessment because it is not disputed that petitioner did not claim the write off in the amount of ₱29,555,733.00 as a deduction in its Annual Income Tax Return for CY 2008.

Hence, petitioner asserts that the Court correctly ruled that there is no legal or factual basis for the deficiency income tax assessment.

A perusal of respondent's motion shows that the arguments raised therein are mere reiteration of her previous arguments which had been fully addressed and discussed at length by the Court in the assailed Decision. There being no new matters or issues raised, the Court finds no compelling reason to reverse or modify the assailed Decision.

WHEREFORE, premises considered, the instant Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

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

CAESAR A. CASANOVA
Associate Justice