REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COSMOS BOTTLING CORPORATION, *Petitioner,*	**CTA *EB* NO. 2081** *(CTA Case No. 9405)*
-versus-	Present: **DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, FABON-VICTORINO, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondents.*	Promulgated: JUL 02 2020 3:48p.m.

x---x

RESOLUTION

For resolution is petitioner's **MOTION FOR RECONSIDERATION (RE: RESOLUTION DATED DECEMBER 10, 2019)** ***("Motion for Reconsideration").***

In the Motion for Reconsideration, petitioner alleges that the records of the present case clearly show that respondent's collection efforts will jeopardize the interests of the petitioner for being patently in violation of the law (*i.e.,* lack of authority of the revenue officers, deficiency tax assessments issued beyond the prescriptive periods and a lack of a definite demand for payment).[1] Petitioner emphasized that in ***Spouses Pacquiao v. Court of Tax Appeals***[2] the Supreme Court ruled that when the collection of tax is patently in violation of the law, the CTA has authority to issue injunctive writs.[3] As additional proof that respondent's collection efforts will jeopardize its interests, petitioner attached a copy of its Statement of Changes in Equity showing that its net worth is only Php3,098,681,000.00, which is

---

1 Records, Vol. 2, pp. 671-674.
2 G.R. No. 213394, 6 April 2016.
3 Records, Vol. 2, pp. 674-676

Php600,000,000.00 below the alleged deficiency tax liability of Php3,709,815,592.49.[4]

We rule to **DENY** the ***Motion for Reconsideration.***

The matters raised in the ***Motion for Reconsideration*** (*i.e.,* that the collection of the alleged deficiency taxes is patently in violation of the law, hence, can be enjoined by this Court) have already been passed upon by this Court in the Resolution dated 10 December 2019.[5] The arguments raised by petitioner continue to fail to convince this Court that respondent's collection efforts will jeopardize its or the government's interests.

Moreover, a Motion for Suspension of Collection of Taxes is akin to injunction such that it is a strong arm of equity. He who applies for such must come to this Court "with equity or with clean hands. This is so because among the maxims of equity are (1) he who seeks equity must do equity, and (2) he who comes into equity must come with clean hands. The latter is a frequently stated maxim which is also expressed in the principle that he who has done inequity shall not have equity. It signifies that a litigant may be denied relief by a court of equity on the ground that his conduct has been inequitable, unfair and dishonest, or fraudulent, or deceitful as to the controversy in issue."[6]

Without pre-judging the case at hand, it appears that petitioner committed forum shopping by failing to disclose the pendency of its 11 July 2016 and 21 July 2016 Letters (to respondent requesting him to take a second look at the Final Decision on Disputed Assessment dated 1 September 2015) in its Certification Against Forum Shopping attached to the Petition for Review filed on 29 July 2016 before the ***Court of Tax Appeals ("CTA") - First Division.***[7] Petitioner cannot bear fruit from the summary remedies (which are not allowed under laws and rules) it instituted simultaneously with the Petition for Review filed before the ***CTA - First Division*** to obtain a favorable shopped decision.[8] More so, petitioner cannot be saved from the unfavorable consequences which resulted from availing such illegal remedies.

As petitioner appears to have been inequitable and unfair in the present case, it cannot be afforded equity by suspending the collection of the supposed deficiency taxes.

---

4 Records, Vol. 2, pp. 676-677; See Annex "D" of the Motion for Reconsideration, Records, Vol. 2, p. 694.

5 Records, Vol. 2, pp. 662-670.

6 Nelson Jenosa, et al. v. Rev. Fr. Jose Rene C. Delariarte, G.R. No. 172138, 8 September 2018.

7 See CTA-First Division Resolution dated 7 February 2019, CTA Case No. 9405, p. 5.

8 See CTA-First Division Resolution dated 24 August 2017, CTA Case No. 9405, pp. 5-6.

WHEREFORE, petitioner's **MOTION FOR RECONSIDERATION (RE: RESOLUTION DATED DECEMBER 10, 2019)** is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice