REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1971** **(CTA Case No. 9105)**
-versus-	**Present:** Del Rosario, *PJ*, Castañeda, Jr., Uy, Ringpis-Liban, Manahan, Bacorro-Villena, and Modesto-San Pedro, *JJ.*
FORTUNE TOBACCO CORPORATION, Respondent.	Promulgated: FEB 18 2021 3:30 pm

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RESOLUTION

CASTAÑEDA, JR., *J.:*

This resolves petitioner's "Motion for Reconsideration Re: Decision dated 22 September 2020" filed on October 14, 2020.

The dispositive portion of the September 22, 2020 Decision states:

> "**WHEREFORE,** premises considered, the present Petition for Review filed by the Commissioner of Internal Revenue is **DENIED.** Accordingly, the August 15, 2018 Decision and the November 14, 2018 Resolution of the then

CTA First Division/Special First Division in CTA Case No. 9105 are **AFFIRMED**.

SO ORDERED."

On October 29, 2020, this Court ordered respondent to comment on petitioner's motion. On November 18, 2020, respondent filed its "Comment on/Opposition to Respondent's 'Motion For Reconsideration….' Dated October 13, 2020." On November 20, 2020, petitioner's motion was submitted for resolution.

The following are the grounds for the motion:

I. THE HONORABLE COURT ERRED IN AFFIRMING THE DECISION OF THE FIRST DIVISION WHICH RULED ON AN ALLEGATION THAT WAS ONLY RAISED BY RESPONDENT FOR THE FIRST TIME IN THE ORIGINAL PETITION

II. THE HONORABLE COURT ERRED IN AFFIRMING THE DECISION OF THE FIRST DIVISION WHICH RULED THAT RESPONDENT IS NOT LIABLE FOR IMPROPERLY ACCUMULATED EARNINGS TAX FOR CALENDAR YEAR 2009.

After a careful review of the grounds for the motion and its discussions, this Court finds that these are mere reiteration, and that no valid or cogent reason to deviate from our findings and conclusions reached in our Decision dated September 22, 2020, thus, the motion is denied.

We reiterate that "CTA is a court of record and conducts *trial de novo*"[1] and that "the syndicated loan agreement was presented and formally offered by [respondent], and was admitted by the Court."[2]

Section 3(d) of Revenue Regulations (RR) No. 02-01 is explicit that "Earnings reserved for compliance with any loan covenant or pre-existing obligation established under a legitimate business agreement" constitutes an accumulation of earnings for the reasonable needs of the business. We reiterate that respondent could not possibly distribute all its earnings as it will need all funds as required by the loan agreement's covenants.[3]

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[1] *Rollo*, p. 139.
[2] *Id.*
[3] *Rollo*, pp. 144-147.

WHEREFORE, premises considered, petitioner's "Motion for Reconsideration Re: Decision dated 22 September 2020" is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice