REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

MT. BLANC MOTORS, INC.,
Respondent.

CTA EB No. 1667
(CTA Case No. 8588)

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

Promulgated:
JUN 11 2019 3:54 p.m.

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RESOLUTION

CASTAÑEDA, JR., *J.:*

This resolves petitioner's Motion for Reconsideration (of the Decision promulgated on January 7, 2019) filed on January 29, 2019. Respondent filed its "Comment (Re: Motion for Reconsideration Dated 29 January 2019)" by registered mail on March 18, 2019 and received by the Court on March 26, 2019. This motion was submitted for resolution on March 27, 2019.

The dispositive portion of the Decision dated January 7, 2019 states:

> **WHEREFORE,** premises considered, the present Petition for Review filed by the Commissioner of Internal Revenue is **DENIED** for lack of merit. Accordingly, the January 4, 2017 Decision and the May 24, 2017 Resolution of the CTA Special Third Division in CTA Case No. 8588 are **AFFIRMED** with **MODIFICATION** in the computation of the deficiency interest and delinquency interests in view of the effectivity of Republic Act No. 10963 (TRAIN Law) on

January 1, 2018 and the issuance of Revenue Regulations No. 21-2018 dated September 14, 2018.

The Petition for Review filed by Mt. Blanc Motors, Inc. in CTA Case No. 8588 is **PARTIALLY GRANTED**. The assessment covering the alleged deficiency income tax for taxable year 2008 in the amount of ₱165,472.01, inclusive of interest, is **CANCELLED AND WITHDRAWN.** However, the assessments for deficiency VAT and withholding tax on compensation for taxable year 2008 shall be **UPHELD** but in the adjusted amount of ₱1,142,716.02, inclusive of 25% surcharge imposed under Section 248(A)(3) of the NIRC of 1997, as amended, and deficiency and delinquency interest imposed under Section 249(B) and (C) of the NIRC of 1997, as amended, respectively computed until December 31, 2017, computed as follows:[1]

	VAT	WTC	Total
Basic Deficiency Tax	₱ 113,290.81	₱ 110,469.23	₱ 223,760.04
25% Surcharge	28,322.70	27,617.31	55,940.01
Deficiency Interest			
1/26/2009[2] to 11/16/2012[3] [1,391 days]			
(₱113,290.81 x 20% x 3.8110 yrs.)	86,349.32		
1/14/2009[4] to 11/16/2012 [1,403 days]			171,274.44
(₱110,469.23 x 20% x 3.8438 yrs.)		84,925.11	
Total Amount Due – Nov. 16, 2012	**₱ 227,962.84**	**₱ 223,011.65**	**₱ 450,974.49**
Deficiency Interest			
11/17/2012 to 12/31/2017 [1,871 days]			
(₱113,290.81 x 20% x 5.1260 yrs.)	116,146.36		229,400.02
(₱110,469.23 x 20% x 5.1260 yrs.)		113,253.66	
Delinquency Interest			
11/17/2012 to 12/31/2017 [1,871 days]			
(₱227,962.84 x 20% x 5.1260 yrs.)	233,708.75		462,341.51
(₱223,011.65 x 20% x 5.1260 yrs.)		228,632.77	
Total Amount Due - Dec. 31, 2017	**₱ 577,817.95**	**₱ 564,898.07**	**₱ 1,142,716.02**

In addition, Mt. Blanc Motors, Inc. is liable to pay delinquency interest at the rate of 12%[5] on the total unpaid basic deficiency tax, surcharge and deficiency interest as of November 16, 2012 amounting to ₱227,962.84 for VAT and ₱223,011.65 for WTC, or in the aggregate amount of ₱450,974.49, computed from January 1, 2018 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as

[1] Section 6 of Revenue Regulations No. 21-2018 dated September 14, 2018.
[2] Section 4.114-1(A) of Revenue Regulations No. 16-2005.
[3] Date of Receipt of FDDA, Exhibit "P-6", Docket, Vol. 1, p. 39.
[4] Section 7 of Revenue Regulations No. 9-2001, as amended by Revenue Regulations No. 26-2002.
[5] Section 2 of Revenue Regulations No. 21-2018 dated September 14, 2018.

amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN).

SO ORDERED.

Petitioner moves for reconsideration of the January 7, 2019 Decision based on the following grounds:

I. The Honorable Court erred in cancelling the deficiency income tax on the alleged additional taxable income of P282,515.26.

II. The Honorable Court erred in cancelling the deficiency income tax assessment arising from petitioner's alleged undeclared income from unaccounted source of cash of P23,123.55.

III. The Honorable Court erred in cancelling the deficiency income tax assessment arising from the disallowance of the excess tax credits of P292,551.60

IV. The Honorable Court erred in cancelling the deficiency VAT arising from the undeclared sales and unaccounted source of cash.

In its "Comment (Re: Motion for Reconsideration Dated 29 January 2019)," respondent argues that the petitioner's motion is a mere rehash of his arguments in the petition which were already considered by this Court in the January 7, 2019 Decision; and that the petitioner did not raise any new ground that would warrant reversal of the said Decision.

After a careful review of the grounds raised and arguments presented by petitioner, We find no valid or cogent reason to deviate from our findings and conclusions reached in our Decision dated January 7, 2019, thus, the motion is denied.

Tax assessments by tax examiners are presumed correct and made in good faith, and all presumptions are in favor of the correctness of a tax assessment unless proven otherwise.[6] The *prima facie* correctness of a tax assessment does not apply upon proof that an assessment is utterly without foundation.[7]

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[6] *Commissioner of Internal Revenue vs. Gonzalez, et al.*, G.R. No. 177279, October 13, 2010.
[7] *Commissioner of Internal Revenue v. Hantex Trading Co., Inc.*, G.R. No. 136975, March 31, 2005.

In this case, the CTA *En Banc* reiterated the findings of the CTA Division that there was no under-declared purchase that may result in additional taxable income in the amount of P282,515.26; that petitioner had no other basis to support his conclusion that respondent had an unaccounted source of cash or undeclared income in the amount of ₱23,123.55, thus, for lack of factual basis the deficiency income tax assessment was cancelled; that petitioner did not explain the basis for the disallowance of the excess tax credit of P292,551.60, thus, pursuant to Section 228 of the NIRC of 1997, as amended, this item of assessment shall be considered void; and that no basis to the deficiency VAT arising from the alleged undeclared sales and unaccounted source of cash.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration (of the Decision promulgated on January 7, 2019) 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

(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)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice