REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, Plaintiff,	CTA Crim. Case No. O-733
- versus -	Members:
JUANCHITO D. BERNARDO, PRAXEDES P. BERNARDO and JDBEC Incorporated, Room 511 DFS Building, Remedios Street, corner Taft Avenue, Malate, Manila and 8F PARC House II, No. 21 EDSA Guadalupe Nuevo, Makati City (At Large) Accused.	DEL ROSARIO, *PJ, Chairperson* FABON-VICTORINO, *and* MANAHAN, *JJ.*
	Promulgated: FEB 14 2020 ; 11:03

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RESOLUTION

In view of the Resolution dated January 16, 2020 denying the prosecution's Motion for Reconsideration dated December 12, 2019 on the dismissal of the instant case, accused's Comment thereto filed on January 15, 2020 is **NOTED** without further action.

On the other hand, the prosecution's Motion for Reconsideration (to the Resolution dated January 16, 2020) warrants outright rejection as a second motion for reconsideration is a prohibited pleading explicitly proscribed under Section 7, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA). It reads as follows:

> **RULE 15**
> **MOTION FOR RECONSIDERATION OR NEW TRIAL**
>
> SEC. 7. *No second motion for reconsideration or new trial.* – No party shall be allowed to file a second motion for reconsideration or for new trial of a decision, final resolution or order.

Jurisprudence teaches us that the procedural impediment referred to in the above rule contemplates a situation wherein the same party assails the same judgment, or final resolution or order of the Court.[1] Being a prohibited pleading, a second motion for reconsideration does not have any legal effect and does not toll the running of the period to appeal.[2] The reason for this is not that difficult to perceive – for the Court to rule on a second motion for reconsideration would in effect permit a party to forestall the running of the period for finality of judgments by virtue of filing a prohibited pleading; such a situation is not only illogical but also unjust to the winning party.[3]

Note that in the Resolution dated November 12, 2019, the Court dismissed the instant case on ground of prescription under Section 281 of the National Internal Revenue Code (NIRC), as amended.

Unconvinced, the prosecution filed, albeit belatedly, its first Motion for Reconsideration on December 12, 2019 which the Court denied in its Resolution dated January 16, 2020, thereby affirming the dismissal of the case against the accused.

Adamant, the prosecution filed another Motion for Reconsideration on January 28, 2020, praying to reverse and set aside the Resolution of January 16, 2020. By so doing, the prosecution, for the second time assails the order of dismissal contained in the Resolution dated January 16, 2020, which as earlier stated is procedurally infirm.

WHEREFORE, the prosecution's Motion for Reconsideration dated January 28, 2020 is **DENIED**.

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1 *Barba vs. Licea De Cagayan University*, G.R. No. 193857, November 28, 2012.

2 *Land Bank of the Philippines vs. Ascot Holdings and Equities, Inc.*, G.R. No. 175163, October 19, 2007.

3 *Reyes vs. People of the Philippines*, G.R. No. 193034, July 20, 2015; *Securities and Exchange Commission v. PICOP Resources, Inc.*, G.R. No. 164314, September 26, 2008.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice