REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

QATAR AIRWAYS COMPANY WITH LIMITED LIABILITY,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1468
(CTA Case No. 8816)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, *JJ.*

Promulgated:

APR 12 2018 3:26 p.m.

x- x

RESOLUTION

Fabon-Victorino, J.:

This resolves petitioner's *Motion for Reconsideration (Of the Decision dated 5 September 2017)* posted on October 4, 2017, sans respondent Comment/Opposition thereto despite notice.

The dispositive portion of the assailed Decision of September 5, 2017 reads as follows:

> **WHEREFORE**, the Petition for Review filed by Qatar Airways Company With Limited Liability on June 10, 2016 is hereby **DENIED,** for lack of merit.
>
> **SO ORDERED.**

In questioning the Decision of September 5, 2017, petitioner states that while the Court *En Banc* agreed that its Petition for Review was filed within the prescribed 30-day period to appeal, it stood apart from petitioner's stance that the denial of its application for abatement was due to the erroneous retroactive application of RR No. 4-2012 which deleted the one-day late filing and remittance due to failure to beat bank cut-off time citing the Large Taxpayers Service – Sub Technical Working Committee's (LTS-STWC) Memorandum dated June 28, 2013.

Petitioner claims that the LTS-STWC Memorandum dated June 28, 2013 cited in the assailed Decision of September 5, 2017 was superseded by Memorandum dated December 12, 2013, wherein the LTS-STWC recommended the approval of its request for reconsideration for abatement of surcharge. However, it was whimsically disapproved by then BIR Commissioner Kim S. Jacinto-Henares, according to petitioner, as it was without any explanation or justification and completely disregarded the findings of facts and justification by the LTS-STWC.

Petitioner again blames the faulty internet connection which prevented it from *e*-filing and *e*-payment on November 29, 2011, which was a circumstance allegedly beyond its control, thus, could be treated as force majeure.

Petitioner also blames the new revenue issuance for its failure to timely file and pay its quarterly income tax which it claims to be difficult to interpret.

Lastly, petitioner heaves significance on the concurring and dissenting opinions of Justices Casanova and Ringpis-Liban which allegedly appreciated its documentary and testimonial evidence in support of its application for abatement but were not considered by the Court in Division.

Petitioner's *motion* must fail.

It is evident that except for petitioner's argument that the Memorandum dated June 28, 2013 was superseded by the Memorandum dated December 12, 2013, the rest of the arguments advanced by petitioner have been amply discussed and determined by the Court *En Banc* in the assailed Decision of September 5, 2017. To discuss them anew is not only futile but certainly a waste of time and resources of the Court.

Anent petitioner's argument that the Memorandum dated June 28, 2013 cited in the assailed Decision of September 5, 2017 has been superseded by Memorandum dated December 12, 2013, suffice it to say that the subsequent Memorandum dated December 12, 2013, recommending the approval of petitioner's request for reconsideration, was **disapproved** by then BIR Commissioner Kim S. Jacinto-Henares who had the sole authority and discretion to abate tax liability.

There is also no basis in petitioner's suspicion that the disapproval of its request for abatement of surcharges was whimsical as there was allegedly no explanation or justification that went with it. On the contrary, in her Letter dated April 3, 2014, Commissioner Kim S. Jacinto-Henares laid down the grounds for the denial of petitioner's request for abatement of surcharge.

WHEREFORE, petitioner's *Motion for Reconsideration (Of the Decision dated 5 September 2017)* is hereby **DENIED,** for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

ON LEAVE
(I maintain my Concurring & Dissenting Opinion)
CAESAR A. CASANOVA
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

I join the C+D of J. CAC
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(With all due respect, I concur with J.CAC's CDO)
CATHERINE T. MANAHAN
Associate Justice