REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

UNITED INTERNATIONAL PICTURES AKTIEBOLAG,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2650
(CTA Case No. 9699)

x -x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

UNITED INTERNATIONAL PICTURES AKTIEBOLAG,
Respondent.

CTA EB NO. 2716
(CTA Case No. 9699)

Present:

RINGPIS-LIBAN, P.J.,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, JJ.

Promulgated:
JAN 22 2026 10:45 am

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RESOLUTION

FERRER-FLORES, J.:

For the resolution of the Court *En Banc* are the following:

1. **Motion for Reconsideration of the Decision dated April 14, 2025** filed by **United International Pictures Aktiebolag** (UIP) on May 9, 2025,[1] with *Comment/Opposition (Re: Motion for Reconsideration of the Decision dated April 14, 2025)* filed via registered mail by the **Commissioner of Internal Revenue** (CIR) on August 11, 2025;[2] and,

2. **Motion for Partial Reconsideration (Re: Decision dated April 14, 2025)** filed via registered mail by the CIR on May 6, 2025,[3] with *Comment/Opposition (To the Motion for Partial Reconsideration dated May 6, 2025)* filed by UIP on August 12, 2025.[4]

UIP's Motion for Reconsideration

In UIP's *Motion for Reconsideration*, UIP argues that it was neither required nor allowed to file a motion for reconsideration of the Amended Decision, as doing so would have constituted a prohibited second motion for reconsideration. According to UIP, where the amended decision merely reiterates or affirms the original findings and introduces no substantial modification, the filing of a second motion for reconsideration is not only unnecessary but also prohibited. UIP maintains that its case is distinct from *Asiatrust Development Bank, Inc. vs. Commissioner of Internal Revenue*[5] (Asiatrust); thus, the latter is inapplicable. In *Asiatrust*, the amended decision was substantially different from the original decision. By contrast, in the present case, UIP cannot be faulted for not filing a second motion for reconsideration, precisely because the Amended Decision dated June 16, 2022 (assailed Amended Decision) did not materially differ from the Decision dated October 14, 2021 (original Decision). Purportedly, *Asiatrust* finds no application herein and cannot serve as valid basis for dismissing UIP's *Petition*.

To bolster its position, UIP invokes *Commissioner of Internal Revenue vs. Commission on Elections*[6] (COMELEC), specifically, the Supreme Court's ruling that a second motion for reconsideration is not necessary where the amended decision merely clarifies or adjusts a prior ruling. In said case, the Court of Tax Appeals (CTA) Division amended its decision only to correct the final amount of tax liability, without revisiting the underlying findings. As such, the Supreme Court held that no motion for reconsideration was required and to insist otherwise would violate the prohibition against second

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[1] *Rollo* (EB No. 2650), pp. 266 to 292.
[2] *Id.* at pp. 312 to 325.
[3] Received by the Court on May 13, 2025; *Id.* at pp. 295 to 309.
[4] *Id.* at pp. 312 to 325.
[5] G.R. Nos. 201530 & 201680-81, April 19, 2017.
[6] G.R. Nos. 244155 & 247508, May 11, 2021.

motions for reconsideration. UIP then further cites the discussion of the CTA *En Banc* in *Chua Co Ho vs. People*[7] stating that an amended decision that merely adjusts the outcome, without materially altering the Court's findings, does not constitute a "new" decision that would trigger the requirement to file a motion for reconsideration.

In any event, UIP maintains its position on the expanded withholding tax (EWT) assessment— (1) that it is not liable to EWT under Section 2.57.2(D) of Revenue Regulations (RR) No. 2-98; (2) that it had no control over the payment of the distribution fee to be constituted as the proper withholding agent; (3) that imposition of EWT amounts to double taxation; and, (4) that the BIR rulings are proper subjects of judicial notice.

On the other hand, the CIR posits that the Court *En Banc* did not commit a reversible error in finding that the assailed Amended Decision is a different decision from the original Decision. Allegedly, *COMELEC* is factually and legally not applicable as the assailed Amended Decision herein substantially modified the original Decision, even decreasing the tax liability of UIP and tackling essential issues discussed for the first time, which necessitates the filing of a motion for reconsideration to the Amended Decision.

According to the CIR, the more applicable case here is *Asiatrust*, where the Supreme Court held that an appeal to the CTA *En Banc* must be preceded by the filing of a timely motion for reconsideration or new trial with the CTA Division. The CIR avers that the assailed Amended Decision made several modifications to the originally promulgated decision and as such rendered the same as a "new" decision, which requires a motion for reconsideration as a form of procedural remedy. Hence, the ruling in *Asiatrust* (not *COMELEC*) is the proper guide for appropriate remedy.

This Court finds no reversible error in its ruling.

To reiterate, in addition to expounding on issues taken up in the original Decision, the Court in Division also ruled on new arguments raised by UIP in the assailed Amended Decision, specifically, (1) whether the local film distributor (Solar), who allegedly had control over the distribution fees, (and not UIP) was the proper withholding agent of the EWT due thereon; and, (2) whether there was excessive imposition of deficiency taxes, surcharges, and interests. To address these arguments, the Court re-evaluated the parties' allegations and documentary exhibits to arrive at a modified decision.

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[7] C.T.A. EB Crim. Case No. 072 (C.T.A. Crim. Case Nos. O-287, O-288, O-289, O-290 and O-291), May 27, 2021.

Clearly, the assailed Amended Decision is not merely clarificatory but a new decision, which is a proper subject of a motion for reconsideration.

To be sure, a motion for reconsideration against an amended decision is not the "second motion for reconsideration" proscribed under Section 7, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA), quoted below:

> SEC. 7. *No second motion for reconsideration or for new trial.—* No party shall be allowed to file a second motion for reconsideration of a decision, final resolution or order; or for new trial.

Note that the prohibition is against a second motion for reconsideration of a decision. Prescinding from *Asiatrust,* inasmuch as an amended decision is a new decision, then a motion for reconsideration assailing the ruling in such amended decision is not tantamount to a prohibited second motion for reconsideration of the original decision. Taking this together with the rule that an appeal before the Court *En Banc* must be preceded by a timely filed motion for reconsideration, UIP should have first sought reconsideration of the Amended Decision before proceeding to the Court *En Banc*.

In view of the foregoing, the Court finds it unnecessary to delve into UIP's remaining arguments.

In fine, the Court finds no cogent reason to reverse or modify the assailed Decision as to UIP's *Petition for Review*.

CIR's Motion for Reconsideration

In his *Motion for Reconsideration*, the CIR maintains that the case of *Deutsche Bank AG Manila Branch vs. Commissioner of Internal Revenue*[8] (Deutsche) should be applied prospectively. According to the CIR, the Supreme Court had yet to decide *Deutsche* when UIP made payments (i.e., royalty payments and branch profit remittance); thus, the doctrine in *Deutsche* cannot be retroactively applied here. In other words, *Deutsche* had not yet been issued, and cannot be used in favor of UIP, in relation to the taxable year 2010, which is the subject of the CIR's assessment.

Furthermore, the CIR points out that, prior to *Deutsche*, the prevailing doctrine was laid down in *Mirant (Philippines) Operations Corp. vs.*

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[8] G.R. No. 188550, August 19, 2013.

Commissioner of Internal Revenue[9] (Mirant) which recognized that the one who avails of the benefit of the tax treaty must prove that it is entitled to it. Considering the different view adopted in *Deutsche,* this new doctrine should have been applied prospectively in favor of the CIR who relied on the old doctrine in *Mirant* and have acted in good faith by issuing several guidelines for processing Tax Treaty Relief Applications (TTRAs).

On the other hand, UIP counters that *Deutsche* applies retroactively.

The Court finds for UIP.

Noteworthy, the Supreme Court, in *Deutsche,* discussed that the minute resolution issued in *Mirant,* affirming the CTA's decision, is not a binding precedent, to wit:

> ***A minute resolution is not a binding precedent***
>
> At the outset, this Court's minute resolution on *Mirant* is not a binding precedent. The Court has clarified this matter in *Philippine Health Care Providers, Inc. v. Commissioner of Internal Revenue* as follows:
>
>> It is true that, although contained in a minute resolution, our dismissal of the petition was a disposition of the merits of the case. When we dismissed the petition, we effectively affirmed the CA ruling being questioned. As a result, our ruling in that case has already become final. When a minute resolution denies or dismisses a petition for failure to comply with formal and substantive requirements, the challenged decision, together with its findings of fact and legal conclusions, are deemed sustained. But what is its effect on other cases?
>>
>> With respect to the same subject matter and the same issues concerning the same parties, it constitutes *res judicata.* However, if other parties or another subject matter (even with the same parties and issues) is involved, the minute resolution is not binding precedent. Thus, in *CIR v. Baier-Nickel,* the Court noted that a previous case, *CIR v. Baier-Nickel* involving the same parties and the same issues, was previously disposed of by the Court thru a minute resolution dated February 17, 2003 sustaining the ruling of the CA. Nonetheless, the Court ruled that the previous case "ha(d) no bearing" on the latter case because the two cases involved different subject matters as they were concerned with the taxable income of different taxable years.

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[9] Minute Resolutions dated November 12, 2007 and February 18, 2008 issued by the Supreme Court in G.R. No. 168531, which affirmed the CTA's decision in C.T.A. EB Case No. 40 dated June 7, 2005.

> Besides, there are substantial, not simply formal, distinctions between a minute resolution and a decision. The constitutional requirement under the first paragraph of Section 14, Article VIII of the Constitution that the facts and the law on which the judgment is based must be expressed clearly and distinctly applies only to decisions, not to minute resolutions. A minute resolution is signed only by the clerk of court by authority of the justices, unlike a decision. It does not require the certification of the Chief Justice. Moreover, unlike decisions, minute resolutions are not published in the Philippine Reports. Finally, the *proviso* of Section 4(3) of Article VIII speaks of a decision. Indeed, as a rule, this Court lays down doctrines or principles of law which constitute binding precedent in a decision duly signed by the members of the Court and certified by the Chief Justice. (Emphasis supplied)
>
> Even if we had affirmed the CTA in *Mirant*, the doctrine laid down in that Decision cannot bind this Court in cases of a similar nature. There are differences in parties, taxes, taxable periods, and treaties involved; more importantly, the disposition of that case was made only through a minute resolution.

Inasmuch as *Mirant* is not a binding precedent, there is effectively no prior Supreme Court doctrine reversed or abandoned by the pronouncement in *Deutsche*. In this regard, the CIR's invocation of the rule on prospective application has no merit.

Notwithstanding the issue on the prospective application of *Deutsche*, the CIR still submits that the Court erred in applying the preferential tax relief provided in the Republic of the Philippines (RP)–Netherlands[10] and RP-Sweden[11] Tax Treaties as UIP purportedly failed to comply with the conditions of the preferential tax rate under the aforesaid tax treaties.

As to the **branch profit remittances**, the CIR still invokes UIP's non-compliance with the requirement of a prior TTRA to be entitled to a preferential rate under Article 10 of the RP-Sweden Tax Treaty.

Again, considering the earlier discussion regarding *Deutsche,* that a prior TTRA is not required for the availment a preferential rate under a tax treaty, the Court affirms its ruling on UIP's branch profit remittances.

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[10] Convention Between the Kingdom of the Netherlands and the Republic of the Philippines for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, September 20, 1991.

[11] The Convention between the Republic of the Philippines and the Kingdom of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, November 1, 2003.

With regard to the **royalties**, under the RP-Netherlands Tax Treaty, it is required, among others, that the recipient of royalties must be the beneficial owner thereof. The Court found that UIP sufficiently proved such requirement by presenting the Licensing Agreement in evidence. The CIR, however, now claims that the Court erred in relying on the Licensing Agreement, which was allegedly not properly authenticated by either of the signatories of said document.

On the other hand, UIP claims that it has fully complied with the requirements for availment of preferential rates under the RP-Netherlands and RP-Sweden Tax Treaties for its 2010 royalty payments and branch profit remittances, respectively. UIP points out that the CIR, at this late stage, cannot raise that the Licensing Agreement was not authenticated and that said document does not show that United International Pictures B.V. (UIP B.V.) is the beneficial owner of the royalty payments.

We agree with UIP.

It is basic in the rule of evidence that objection to evidence must be made after the evidence is formally offered.[12]

Section 35 of Rule 132 of the Rules of Court provides when to make an offer of evidence, to wit:

> SEC. 35. *When to make offer.* — As regards the testimony of a witness, the offer must be made at the time the witness is called to testify.
>
> Documentary and object evidence shall be offered after the presentation of a party's testimonial evidence. Such offer shall be done orally unless allowed by the court to be done in writing.

On the other hand, Section 36 of the same Rule, provides for when objection to the evidence offered shall be made:

> SEC. 36. *Objection.* — Objection to evidence offered orally must be made immediately after the offer is made.
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> Objection to a question propounded in the course of the oral examination of a witness shall be made as soon as the grounds therefor shall become reasonably apparent.

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[12] *Westmont Investment Corp. vs. Francia, Jr.*, G.R. No. 194128, December 7, 2011.

> An offer of evidence in writing shall be objected to within three (3) days after notice of the offer unless a different period is allowed by the court.

Based on the foregoing, in case of documentary evidence, offer is made after all the witnesses of the party making the offer have testified, specifying the purpose for which the evidence is being offered. It is only at this time, and not at any other, that objection to the documentary evidence may be made.[13]

In the present case, the CIR did not file his objection to the admission of subject Licensing Agreement when UIP filed its *Formal Offer of Evidence* in CTA Case No. 9699. He also did not file any motion for reconsideration in relation to the admission of said evidence. As such, the CIR has effectively waived his right to do so and can no longer question the admissibility of the subject evidence on appeal.

As to the CIR's claim that the Licensing Agreement did not show that UIP B.V. was the beneficial owner of the royalties, the Court has already settled such issue as follows:

> Clearly, there is nothing in the Licensing Agreement which indicates that UIP B.V. is receiving the gross rentals or the royalties in a different capacity other than as owner thereof. There is likewise no showing that UIP B.V. is under any legal or contractual obligation to pass on the royalties it received to another person. Finally, as aptly pointed out by the Court in Division, the royalties paid to UIP B.V. are sourced from the rental payments made to UIP for the exhibition and distribution in the Philippines of motion pictures owned by UIP B.V. As such, it can be said that UIP B.V. has beneficial ownership of the royalties paid by UIP since the royalty payments are compensation for the use by UIP of the films owned by UIP B.V.

Given the uncontroverted proof, the CIR now bears the burden to prove otherwise. Glaringly, the CIR failed to discharge such burden with mere allegations.

Based on the foregoing disquisitions, the Court finds no reversible error in the assailed Decision as to the CIR's *Petition for Review*.

WHEREFORE, the **Motion for Reconsideration of the Decision dated April 14, 2025** filed by United International Pictures Aktiebolag and the **Motion for Partial Reconsideration (Re: Decision dated April 14,**

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[13] *Magsino vs. Magsino*, G.R. No. 205333, February 18, 2019.

2025) filed by the Commissioner of Internal Revenue are both **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

(On Official Business)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice