REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

LEPANTO CONSOLIDATED MINING CORPORATION, Petitioner,	CTA Case No. 8889
	Members:
- versus -	BAUTISTA, *Chairperson* FABON-VICTORINO, and RINGPIS-LIBAN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: SEP 11 2017 10:47 a.m.

x- x

RESOLUTION

***Fabon-Victorino, J.*:**

On May 29, 2017, petitioner filed a Motion for Reconsideration[1] of the Decision[2] promulgated by the Court on May 8, 2017. The Decision disposed as follows:

> **WHEREFORE**, the Petition for Review filed by Lepanto Consolidated Mining Company is **DENIED**, for lack of merit.
>
> **SO ORDERED**.

In its Motion, petitioner assails the foregoing Decision on the following grounds:

I. PETITIONER RESPECTFULLY SUBMITS THAT THE HONORABLE COURT ERRRED IN INTERPRETING SECTION 2.3.6 OF REVENUE REGULATIONS NO. 13-

2001. THE SAID PROVISION IS CLEAR AND UNAMBIGUOUS LEAVING NO ROOM FOR INTERPRETATION BUT ONLY APPLICATION.

II. PETITIONER RESPECTFULLY SUBMITS THAT THE HONORABLE COURT ERRED IN RULING THAT SECTION 2.3.6 OF RR 13-2001 CONFLICTS WITH SECTION 204(B)(1) OF THE NATIONAL INTERNAL REVENUE CODE ("NIRC"). THERE IS NO CONFLICT CONSIDERING THAT REQUIRING THE PAYMENT OF PENALTIES OR INTEREST DESPITE THE FACT THAT THE TAXPAYER INCURRED CONTINUOUS HEAVY LOSSES IS UNJUST AND UNFAIR. SECTION 204(B) OF THE TAX CODE SPECIFICALLY AUTHORIZED THE ABATEMENT OF TAXES THAT APPEARS TO BE UNJUSTLY ASSESSED.

III. PETITIONER IS ENTITLED TO THE ABATEMENT OF SURCHARGES AND COMPROMISE PENALTIES IN THE AGGREGATE AMOUNT OF ₱10,230,248.71. THE SUFFERING OF CONTINUOUS HEAVY LOSSES BY PETITIONER FROM 2007 TO 2011 IS A CLEAR AND RECOGNIZED GROUND FOR ABATEMENT OF SURCHARGES AND COMPROMISE PENALTIES UNDER REVENUE REGULATIONS NO. 13-2001 OF RESPONDENT.

On July 3, 2017, respondent filed his *Opposition (To Petitioner's Motion for Reconsideration dated 29 May 2017)* alleging that the Court correctly ruled that (1) there are only two grounds upon which the Commissioner of Internal Revenue may exercise his power of abatement; and (2) continuous heavy losses is not one of them.

After going over the allegations in petitioner's *Motion for Reconsideration* as well as the arguments proffered by respondent, the Court finds no cogent reason to warrant a reconsideration of the assailed Decision of May 8, 2017. The *motion* has not raised any new or substantial ground to justify a departure from the previous finding and conclusion of the Court. All the arguments raised by petitioner had already been passed upon, amply discussed, and considered by the Court in the assailed Decision.

WHEREFORE, petitioner's *Motion for Reconsideration [Of Decision dated 8 May 20137]* is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We concur:

LOVELL R. BAUTISTA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice