REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

LIGHT RAIL TRANSIT AUTHORITY,
Petitioner,

- versus -

BUREAU OF INTERNAL REVENUE represented by the COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8893

Members:

DEL ROSARIO, *P.J.,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

APR 07 2017 : 2:34 pm

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RESOLUTION

MINDARO-GRULLA, *J*.:

For the Court's resolution is petitioner's **Motion for Reconsideration**, filed on October 25, 2016, without respondent's comment as per Records Verification dated December 27, 2016, pursuant to the Resolution dated January 11, 2017.

Petitioner moves for the reconsideration of the Decision promulgated on October 3, 2016, the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED**. The deficiency EWT assessment issued by respondent against petitioner for taxable year 2006 is hereby **AFFIRMED** but with modifications. Accordingly, petitioner is **ORDERED TO**

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PAY respondent the amount of **FIVE MILLION ONE HUNDRED SIXTY-SEVEN THOUSAND NINE HUNDRED EIGHTY-SEVEN PESOS AND 27/100 (₱5,167,987.27)**, computed as follows:

Basic EWT Due	₱ 4,927,609.18
Less: Payment on March 29, 2012	4,746,312.58
Basic EWT Still Due	₱ 181,296.60
Add: 25% Surcharge	45,324.15
Total	₱ 226,620.75
Add: 20% Deficiency interest for late payment of basic EWT of ₱4,746,312.58 computed from Jan. 15, 2007 to March 29, 2012 (₱4,746,312.58 x 20% x 1900/365 days)	4,941,366.52
Total Amount Due	**₱ 5,167,987.27**

In addition, petitioner is **ORDERED TO PAY** the following:

(a) deficiency interest at the rate of twenty percent (20%) per annum on basic deficiency EWT of ₱181,296.60 computed from January 15, 2007 until full payment thereof pursuant to Section 249(B) of the NIRC of 1997, as amended;

(b) delinquency interest at the rate of 20% per annum on the total amount of ₱226,620.75, representing the unpaid basic deficiency EWT of ₱181,296.60 and twenty-five percent (25%) surcharge of ₱45,324.15 computed from September 22, 2014 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended; and

(c) delinquency interest at the rate 20% per annum on the deficiency interest of ₱4,941,366.52 computed from September 22, 2014 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended.

SO ORDERED."

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Petitioner raised the following grounds:

1. The Court erred in holding petitioner liable to pay the Bureau of Internal Revenue (BIR) ₱5,167,987.27 [basic expanded withholding tax (EWT) still due, surcharge and deficiency interest for late payment of EWT] because it is entitled to abatement in accordance with Revenue Regulations (RR) No. 13-2001 and it was made to believe that its tax liability will be abated and/or cancelled by the BIR.

2. The Court erred in holding petitioner liable to pay deficiency interest at the rate of 20% per annum on basic deficiency EWT of ₱181,296.60 from January 15, 2007 until fully paid; in holding petitioner liable for payment of delinquency interest at the rate of 20% per annum on the total amount of ₱226,620.75; and delinquency interest at the rate of 20% per annum on the deficiency interest of ₱4,941,366.52 from September 22, 2014 until full payment because it is entitled to abatement in accordance with RR No. 13-2001 and it was made to believe that its tax liability will be abated and/or cancelled by the BIR.

It is worthy to note that these issues are mere reiteration of the issues and arguments previously set forth in petitioner's Memorandum[1] filed before the Court, and which the latter had already considered, weighed, and resolved before it rendered the assailed Decision.

It contends that petitioner and the BIR made a joint computation/reconciliation on the deficiency EWT as the correct taxes to be paid. They agreed that the BIR would recommend for the abatement of the interest after petitioner pays for the uncontested amount of ₱4,746,312.58. Petitioner argues that in paying this amount, it was made to believe that the respondent will abate or cancel the interest due therein. Petitioner was thus surprised when it received a demand for payment from the BIR. Worse is the fact that the interest is much higher than the amount due. Petitioner alleges that the tax deficiency due to it amounts only to ₱181,296.55 and the

[1] Docket, pp. 232-236.

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interest due amounts to ₱7,783,223.20 which is unjust, exhorbitant and excessive. Petitioner claims that it should not be faulted or made to pay for the wrong computation made by the revenue officers when reconciliation was made. As far as the petitioner is concerned, the entire amount has already been settled and nothing more is due the BIR.

Petitioner's motion has no merit.

Petitioner seeks the abatement or cancellation of its deficiency EWT assessment for taxable year 2006. It must be emphasized, however, that petitioner failed to present even an iota of proof to show that the assessment of its tax liability is excessive or erroneous and that the payment of its tax was due to an erroneous written official advice of the BIR. This was the findings of the Court in the assailed Decision, the pertinent portions of which read:

> "Petitioner anchors its claim for abatement on the ground that the assessment is excessive or erroneous. In this regard, petitioner contends that the payment of its tax is due to an erroneous written official advice of the BIR. On the other hand, respondent claims that petitioner failed to present the necessary document which will show that mistake in the payment of its tax was due to erroneous written official advice made by a revenue officer.
>
> Section 2 of Revenue Regulations No. 13-2001 laid down the instances when a tax liability imposed on the taxpayer may be abated or cancelled on the ground that the imposition is unjust or excessive, to wit:
>
>> 'SECTION 2. *Instances When the Penalties and/or Interest Imposed on the Taxpayer May be Abated or Cancelled on the Ground That the Imposition Thereof is Unjust or Excessive.*
>>
>> xxx xxx xxx

2.2. When taxpayer's mistake in the payment of his tax due to erroneous written official advice of a revenue officer;'

Black defines the term *erroneous or illegal tax* as one levied without statutory authority. As for excessive tax, excess is the 'state of going beyond limits.'

An examination of the records of the case reveals that petitioner did not present even an iota of proof to show that the assessment of its tax liability is excessive or erroneous. Petitioner failed to demonstrate that the assessment was levied without statutory authority or that it is beyond the limits of statutory authority.

Petitioner merely alleges that it entered a compromise agreement with the BIR stating that it will pay the basic tax and the BIR shall waive the interest due thereon. Thus, petitioner paid the amount of ₱4,746,312.58 on March 29, 2012. However, the records are bereft of any evidence of compromise agreement executed between petitioner and the BIR. It is also noteworthy that a compromise agreement is not a ground for abatement of tax liability.

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Petitioner further claims that the payment of its tax was due to an erroneous written official advice of the BIR pursuant to Section 2.2 of Revenue Regulations 13-2001. Petitioner argues that, in paying the amount of ₱4,746,312.58, it was made to believe that the respondent will abate or cancel the interest due from it. However, petitioner did not present the alleged official written advice of the revenue officer or any evidence for that matter to support its claim that it was in fact misled, through any official document by any revenue officer, resulting in the alleged erroneous payment of tax. These are pure allegations not supported by evidence to that effect.

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Petitioner miserably failed to support its contention that it is entitled to abatement or cancellation pursuant to Section 204(B) of the NIRC of 1997, as amended and Section 2.2 of Revenue Regulations No. 13-2001. Clearly, there is no basis for the abatement or cancellation of petitioner's tax liabilities.

It also bears stressing that petitioner's motion which merely reiterates its previous arguments does not warrant the reversal of the assailed Decision. In the case of *Shangri-La International Hotel Management, Ltd., et al. vs. Developers Group of Companies, Inc.*[2], the Supreme Court denied the Motion for Reconsideration for being mere reiteration of previous arguments and for failure to raise any new matters that will justify the reconsideration sought, as follows:

> "The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought."

Considering that petitioner does not raise any new or substantial grounds to justify the reconsideration, the Court, therefore, finds no cogent reason to reverse or modify the assailed Decision.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration** is **DENIED** for lack of merit.

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[2]G.R. No. 159938, January 22, 2007.

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SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
ERLINDA P. UY
Associate Justice