REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE AND REVENUE DISTRICT OFFICER OF REVENUE DISTRICT OFFICE NO. 57 – CITY OF BIÑAN, BUREAU OF INTERNAL REVENUE,
Petitioners,

- versus -

EAST WEST BANKING CORPORATION,
Respondent.

CTA EB NO. 2276
(CTA Case No. 9762)

Present:

DEL ROSARIO, *P.J.*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
JUL 12 2022 11:57am

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For resolution is petitioners Commissioner of Internal Revenue (**CIR**) and Revenue District Officer of Revenue District Office (**RDO**) No. 57 – City of Biñan, Bureau of Internal Revenue's (**petitioners**') "Motion for Reconsideration [re: Decision dated October 28, 2021]"[1]

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[1] *Rollo*, pp. 107-116.

(**MR**) filed on 23 November 2021, with respondent East West Banking Corporation's (**respondent**'s) "Comment (Re: Motion for Reconsideration)"[2] filed on 21 February 2022. In their MR, petitioners seek the reversal of this Court's Decision[3] promulgated on 28 October 2021 (**assailed Decision**) in the above-captioned case. The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE,** the foregoing considered, the Petition for Review filed by petitioners Commissioner of Internal Revenue and Revenue District Officer of Revenue District Office No. 57 – City of Biñan, Bureau of Internal Revenue on 01 July 2020 is hereby **DENIED**. Accordingly, the First Division's Decision and Resolution on 03 October 2019 and 02 March 2020, respectively, in CTA Case No. 9762, entitled *East West Banking Corporation v. Commissioner of Internal Revenue and the Revenue District Officer of Revenue District Office No. 57 – City of Biñan, Bureau of Internal Revenue*, are hereby **AFFIRMED**.
>
> Petitioners are further **ORDERED** to **REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** to respondent East West Banking Corporation in the amount of ₱998,682.41, representing erroneously paid Capital Gains Tax and Documentary Stamp Tax.
>
> **SO ORDERED.**
>
> ...

A perusal of the MR shows that petitioners raise the same issues and present a rehash of their arguments contained in their Petition for Review.[4] Again, petitioners challenge the Court's jurisdiction over the case at bar and the propriety of granting respondent the tax refund claimed.

We resolve.

As stated in the assailed Decision, this Court's authority to settle respondent's claim is provided by law, particularly Republic Act (**RA**) No. 1125[5], as amended by RA No. 9282[6], Section 7 of which reads:

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[2] Id., pp. 123-127.

[3] Id., pp. 85-102.

[4] Filed on 01 July 2020, id., pp. 1-24.

[5] AN ACT CREATING THE COURT OF TAX APPEALS.

[6] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE

...

Sec. 7. *Jurisdiction.* — The CTA shall exercise:

(a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:

(1) **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;

(2) **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial[.][7]

...

Furthermore, as regards petitioners' insistence that respondent's claim was not a clear-cut case of refund but a challenge to Revenue Memorandum Circular (**RMC**) No. 76-2007, the Court *En Banc* maintains thusly:

...

As regards petitioners' view that respondent's original Petition for Review sought the nullification of RMC No. 76-2007, a cursory reading thereof reveals otherwise. In its original Petition for Review before the First Division, respondent invoked the Court's jurisdiction by alleging "erroneously collected taxes" and equally prayed that the same be refunded.

The First Division even clarified in the assailed Decision that it was not ruling on RMC No. 76-2007's legality in the following wise:

...

...Henceforth, being mindful of Sec. 4 of the NIRC of 1997, as amended, this Court shall not pass upon the validity or constitutionality of RMC 76-2007, but will however determine whether RMC No. 105-2016 may indeed be applied considering that the former has been superseded by the latter.

...

CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

7 Emphasis supplied.

> Having established that the controversy involved is unquestionably a claim for refund, what is merely left to be determined is whether respondent was able to file its claim within the two-year prescriptive period pursuant to Section 229 of the NIRC of 1997, as amended, *and* whether it was able to exhaust all administrative remedies available prior to elevating its case before the Court.[8]
>
> ...

Lastly, on the propriety of granting respondent's claim for refund, the Court *En Banc* likewise finds no cogent reason to abandon its previous findings on the matter. Insofar as this particular issue is concerned, petitioners' MR presents no new argument hence, the Court *En Banc* shall no longer belabor itself with another extensive discussion on the same.

All told, the Court *En Banc* finds that petitioners have not presented their arguments in a manner that would cause this Court to stray from its past determinations. Although an MR may merely reiterate issues already passed upon by the court and that by itself does not make it *pro forma*[9], still, the Court *En Banc* finds that the same issues have already been tackled and discussed both by the Court in Division and by *En Banc*.

WHEREFORE, the foregoing considered, petitioners' "Motion for Reconsideration [re: Decision dated October 28, 2021]" filed on 23 November 2021 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[8] *Rollo*, pp. 93-94; Citations omitted and italics in the original text.
[9] *Marina Properties Corporation v. Court of Appeals, et al.*, G.R. No. 125447, 14 August 1998.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON LEAVE
CATHERINE T. MANAHAN
Associate Justice

(with due respect, I maintain my D.O. position)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice