REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

THAI AIRWAYS INTERNATIONAL PUBLIC COMPANY LIMITED,
Respondent.

CTA *EB* NO. 1853
(CTA Case No. 8597)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
MAY 28 2021 3:55 p.m.

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RESOLUTION

MANAHAN, J.:

To be resolved before this Court is petitioner Commissioner of Internal Revenue (CIR)'s **Motion for Reconsideration (Re: Amended Decision promulgated 14 October 2020)**[1] filed on November 4, 2020 without[2] respondent's comment. Petitioner is seeking the reversal and setting aside of this Court's *Amended Decision* dated October 14, 2020 (assailed Amended Decision) and the issuance of a new one instead. The dispositive portion of the abovementioned assailed Amended Decision is quoted below:

> "**WHEREFORE**, premises considered, petitioner's *Motion for Reconsideration (Re: Decision promulgated 9 January 2020)* is **DENIED** for lack of merit, and respondent's *Motion for Partial Reconsideration* is hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED** to pay the Bureau of Internal Revenue the remaining amount of

[1] *Rollo*, CTA EB No. 1853, pp. 201-211.
[2] *Id.*, Resolution dated December 16, 2020.

> **P407,832.64** which represents the balance due for deficiency and delinquency interest charges."

Petitioner argues that that this Court cannot consider evidence that is not on record and such must be formally offered citing Section 34, Rule 132 of the Rules on Evidence.

Petitioner also raised the following arguments: (1) Storage fee amounting to Php14,309,779.86 is a revenue not forming part of the Gross Philippine Billings, thus subject to the regular rate of 35%; (2) Respondent is liable for deficiency fringe benefits tax, interest and penalty; (3) Respondent is liable to pay the assessed deficiency withholding tax on compensation, expanded withholding tax, and penalty; (4) Respondent under-declared its revenue in the amount of Php64,316,514.11 for taxable year 2008 for failure to support its claim of Non-Revenue Passengers; (5) The undeclared revenue on rebooking fee in the amount of Php137,796.00 must be included in the computation of gross income tax; (6) The undeclared commission paid to brokers in the amount of Php4,369,695.63 must be included in the computation of gross income; and (7) The undeclared commission paid to brokers amounting to Php9,796,614.39 must be included in the computation of gross income tax.

A close scrutiny of the arguments raised in the instant motion reveals a glaring similarity to those arguments already disposed of in the assailed Amended Decision, and we partially quote:

> "Petitioner argues that this Court cannot consider evidence that is not on record and must be formally offered citing Section 34, Rule 132 of the Rules on Evidence.
>
> Petitioner also argues that respondent is liable for the following:
>
> a. Storage fee amounting Php14,309,779.86 is a revenue not forming part of the Gross Philippine Billings, hence, subject to the regular rate of 35%;
>
> b. Deficiency fringe benefit tax, interest and penalty;
>
> c. Deficiency withholding tax on compensation, expanded withholding tax, and penalty;
>
> d. Under-declaration of respondent's revenue amounting to Php64,316,514.11 for taxable year

2008 for its failure to support its claim of non-revenue passengers;

e. Under-declaration of respondent's revenue amounting to Php137,796.00 on rebooking fee which must be included in the computation of gross income tax;

f. Under-declared commission paid to brokers amounting to Php4,369,695.63 which must be included in the computation of gross income; and

g. Under-declared commission paid to brokers amounting to Php9,796,614.39 which must be included in the computation of gross income tax.

Upon perusal of the records of the case, the abovementioned arguments cited in the instant motion are the same arguments he raised in the Petition for Review which were already disposed of in the assailed Decision, hence, the same are mere reiterations or rehash arguments.

In *Madeleine Mendoza-Ong v. Hon. Sandiganbayan and People of the Philippines*, the Supreme Court ruled that courts need not tackle those rehash or reiterated arguments because it will be useless to reiterate itself, to wit:

> "Concerning the first ground abovecited, the Court notes **that the motion contains merely a reiteration or rehash of arguments already submitted to the Court and found to be without merit**. Petitioner fails to raise any new and substantial arguments, and no cogent reason exists to warrant a reconsideration of the Court's Resolution. **It would be a useless ritual for the Court to reiterate itself**." (*Emphasis supplied*)

Thus, this Court will not anymore discuss those same arguments raised in the Petition for Review."

There being no other new issues or matters raised by the petitioner in the instant motion, this Court finds no compelling reason to reverse the ruling in the Assailed Amended Decision.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (Re: Amended Decision promulgated 14 October 2020)* is hereby **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice