REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

RITEGROUP INCORPORATED,
Respondent.

CTA *EB* NO. 2729
(CTA Case No. 9708)

Present:

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

Promulgated:
SEP 16 2024
2:03 p.m.

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RESOLUTION

CUI-DAVID, J.:

For the Court *En Banc's* resolution is petitioner's ***Motion for Reconsideration (Decision dated 12 March 2024)*** posted on April 3, 2024,[1] with respondent's *Comment (to the Motion for Reconsideration dated 3 April 2024)* posted on May 13, 2024.[2]

Petitioner's *Motion for Reconsideration (Motion)* assails the Court *En Banc's Decision* promulgated on March 12, 2024, with the following dispositive portion:

> **WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **DISMISSED** for lack of jurisdiction.

[1] Docket, pp. 100-104.
[2] *Id.*, pp. 107-111.

> Accordingly, the assailed *Decision* dated September 22, 2022, and the Resolution dated January 9, 2023, in CTA Case No. 9708 are **AFFIRMED**.
>
> **SO ORDERED.**

In his *Motion*, petitioner alleges that the Court in Division erred in denying his motion for reconsideration filed via LBC on October 17, 2022. He invokes cases where the Supreme Court relaxed procedural rules when a rigid application of the rules "hinders substantial justice."

Similar to his *Petition for Review,* petitioner alleges that the Court in Division erred in ruling that the amount stated in the FLD remains indefinite. According to petitioner, the case of *CIR v. Fitness by Design* (*Fitness by Design* case) [3] is inapplicable considering that the phraseology employed in the Final Assessment Notices ("**FANs**")/Formal Letter of Demand ("**FLD**") issued therein includes the word "if prior," which is absent in the FANs/FLD in this case. He posits that assuming no due date is stated in the FANs, such a date is readily determinable by counting 30 days from the date of receipt of the FANs/FLD. He further posits that the fact that the interest and the total amount due would have to be adjusted if paid after the due date does not amount to a lack of a fixed and determinate amount of tax liability.

In its *Comment,* respondent states that petitioner's *Motion* is pro forma for failure to "specifically cite the grounds relied upon" and for being "a reiteration of the tired arguments in his *Petition.*" Respondent states that the invocation of substantial justice has no merit, considering that petitioner has not offered a justifiable reason for his procedural mistake and that the utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction.

Respondent also states that the failure to indicate a due date and a definite amount on the assessment notice negates petitioner's demand for payment, quoting the assailed *Decision.*

RULING OF THE COURT *EN BANC*

The Court *En Banc* finds the instant *Motion for Reconsideration* without merit.

[3] G.R. No. 215957, November 9, 2016.

A judicious examination of petitioner's *Motion* shows that the arguments raised are mere reiterations of the arguments in his *Petition for Review* that have been thoroughly considered, resolved, and passed upon by the Court *En Banc* in the assailed *Decision*.

It is well-settled that a motion for reconsideration containing a mere reiteration or rehash of grounds and arguments that have already been considered, weighed, passed upon, and resolved by the court before the decision sought to be reconsidered is rendered does not need a new judicial determination.[4] There is no necessity to discuss and rule again on these grounds since this would be a useless formality of ritual invariably involving merely a reiteration of the reasons for rejecting the arguments advanced by the movant already set forth in the judgment.[5]

In *Shangri-La International Hotel Management v. Developers Group of Companies, Inc.*,[6] the Supreme Court made clear that it is incumbent upon the movant to raise substantially plausible matters to warrant the relief sought, to wit:

> "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."

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[4] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005; *Madeleine Mendoza-Ong v. Hon. Sandiganbayan, et al.*, G.R. Nos. 146368-69 (Resolution), October 18, 2004.

[5] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005 and *Ortigas Land Co. Ltd. Partnership v. Judge Velasco*, G.R. No. 109645 (Resolution), March 4, 1996.

[6] *Shangri-la International Hotel Management, Ltd. v. Developers Group of Companies, Inc.*, G.R. No. 159938 (Resolution), January 22, 2007.

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This judicial pronouncement was similarly echoed in the case of *Harry L. Roque, Jr. et al. v. Commission on Elections, represented by Hon. Chairman Jose Melo et al.,*[7] where the Supreme Court *En Banc* ruled that whenever the motion for reconsideration fails to raise matters that are substantially plausible or compellingly persuasive enough to lead the court to rule in favor of the desired course of action, then the same must be denied by the court, thus:

> "Petitioner's above contention, as well as the arguments, citations and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again. . .
>
> xxx xxx xxx
>
> While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered — and this should not be an obstacle for a reconsideration — the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action."

Given the foregoing, the Court *En Banc* finds no compelling reason to reverse or modify the findings and conclusions in the assailed *Decision.*

Accordingly, the Court *En Banc* maintains its ruling in the assailed *Decision* that (1) the Motion for Reconsideration before the Court in Division was filed out of time; consequently, the Court *En Banc* did not acquire jurisdiction over the instant case, (2) petitioner failed to convince the Court *En Banc* that the relaxation of procedural rules is merited in the instant case, and, (3) even if the Court *En Banc* relaxes its procedural rules, the assessment is still invalid for failure to indicate a due date and a definite amount of deficiency tax due.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (Decision dated 12 March 2024)* is **DENIED** for lack of merit.

[7] G.R. No. 188456 (Resolution), February 10, 2010.

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SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice