

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

**COSMOS BOTTLING
CORPORATION,**

Petitioner,

**CTA EB NO. 2081
(CTA Case No. 9405)**

Present:

Del Rosario, P.J.,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, JJ.

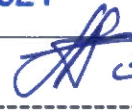
- versus -

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

Promulgated:

JUN 08 2021

 3:56 p.m.

X-----X

RESOLUTION

CASTAÑEDA, JR., J.:

For resolution of the Court *En Banc* is petitioner Cosmos Bottling Corporation's *Motion for Reconsideration (Re: Decision dated 10 November 2020)*¹ filed on December 16, 2020. Petitioner's *Motion* seeks reconsideration of the Decision of the Court *En Banc* promulgated on November 10, 2020,² (the "Assailed Decision") denying both petitioner's Petition for Review and Supplemental Petition for Review for lack of merit.

In praying for the reconsideration of the Assailed Decision, petitioner avers that: (1) there is no violation of the rules against forum shopping; (2) 

¹ Court *En Banc*'s Docket, Vol. II, pp. 732-746.

² *Id.*, pp. 700-715.

even if the Court finds that there may be a violation of the rules against forum shopping, the magnitude and merits of the petition compel the relaxation of the rules on forum shopping; and (3) the outright dismissal of petitioner's Petition for Review and Supplemental Petition for Review defeats the cause of substantial justice under the guise of a rule intended to ensure justice.³

On the other hand, respondent Commissioner of Internal Revenue in his *Comment on Petitioner's Motion for Reconsideration*⁴ filed via registered mail on February 22, 2021, points out that: (1) the Petitions filed before this Court are covered by the rules on forum shopping; (2) petitioner's "Letters" are actually an appeal to the CIR praying for the suspension or revocation of the previously issued FDDA; (3) simultaneously maintaining two actions, *first*, its administrative appeal of the FDDA with the new CIR, and *second*, a petition for review before the CTA, both seeking to nullify the same FDDA is clearly forum shopping; (4) no special circumstances exist that warrant relaxation of the rules; and (5) the LOA issue, or lack thereof, cannot be utilized as a tool to exculpate petitioner's guilt or relax the rules.

The Court *En Banc* resolves to deny petitioner's *Motion for Reconsideration* for lack of merit.

A closer evaluation of the case records and the arguments raised by petitioner in its *Motion for Reconsideration* reveals that the arguments relied upon are, indeed, mere rehash of the matters which had been thoroughly discussed and passed upon by the Court *En Banc* in the Assailed Decision. Petitioner utterly failed to raise any new or substantial matter let alone any compelling reason to warrant the modification much less reversal of the Court *En Banc*'s findings.

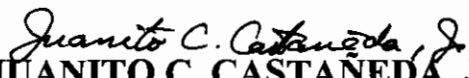
The Court *En Banc* stands by its ruling that petitioner's claim as expressed through the Letters should have been disclosed by petitioner when it elevated its appeal before this Court. Petitioner's failure to do so is violative of the rule against forum shopping warranting the dismissal of its Petition for Review and Supplemental Petition for Review before the Court in Division. The Court *En Banc* likewise finds no compelling reason that warrant the relaxation of the rules on forum shopping in the present case.

WHEREFORE, petitioner's *Motion for Reconsideration* (Re: *Decision dated 10 November 2020*) is **DENIED** for lack of merit. *de*

³ *Id.*, p. 733.

⁴ *Id.*, pp. 783-794.

SO ORDERED.


JUANITO C. CASTANEDA, JR.
Associate Justice

WE CONCUR:

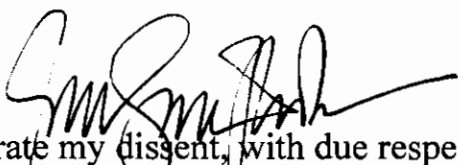

I reiterate my Concurring Opinion
ROMAN G. DEL ROSARIO
Presiding Justice


*With due respect, I join the Dissenting
Opinion of Justice San Pedro*
ERLINDA P. UY
Associate Justice


*With due respect, I join the Dissenting
Opinion of Justice San Pedro*
MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


I reiterate my dissent, with due respect.
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice