REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

- versus -

COURT OF TAX APPEALS SECOND DIVISION, R-JELL MARKETING & CONSTRUCTION COMPANY, LILY PEDROSO, ERNESTO PEDROSO, and ELVIN PEDROSO,
Respondents.

CTA EB CRIM. No. 093
(CTA Crim. Case Nos. O-850, O-851, O-852, and O-853)

Present:

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

Promulgated:

FEB 15 2024

3:08 p.m.

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RESOLUTION

REYES-FAJARDO, J.:

For the Court's resolution is petitioner's Motion for Reconsideration with Compliance[1] of the Decision dated August 29, 2023 (Assailed Decision), where the Court affirmed the Resolutions dated June 30, 2021 and March 15, 2022 respectively, rendered by the Second Division of this Court (Court in Division) in CTA Case Nos. O-850, O-851, O-852, and O-853. Previously, the Court in Division dismissed the aforementioned cases on the ground of prescription applying the case of *Emilio E. Lim, Sr. and Antonia Sun Lim v. Court of*

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1 *Rollo*, p. 186-196.

Appeals and People of the Philippines (Lim)[2], as basis for the dismissal of the criminal charges against private respondents.

Petitioner filed the instant Motion on September 8, 2023 and alleged that the Supreme Court has rendered several rulings after the *Lim* case that clarify the reckoning period of prescription of special laws. These cases held that the discovery of the offense, if its commission was not known at the time, starts the period of prescription, while the filing of the Complaint Affidavit with the investigating prosecutor tolls it. These Supreme Court Rulings do not mention that its uniform and prevailing interpretation on the reckoning period of special laws should exclude those for tax cases.

In this case, petitioner alleged that from the time the Bureau of Internal Revenue (BIR) discovered the commission of the offense on May 20, 2013 until the filing of the Complaint Affidavits with the Investigating Prosecutor on July 3, 2014, only 409 days or 1 year, 1 month and 13 days had elapsed. Hence, the filing of the Complaint Affidavits for preliminary investigation suspends the running of the period for prescription in accordance with Section 281 of the National Internal Revenue Code (NIRC), as amended, and Rule 110, Section 1 of the 2000 Rules of Criminal Procedure and applicable jurisprudence.

Private respondent, in its Comment/Opposition[3] posted on October 3, 2023, agrees with the Court and further states that petitioner failed to establish any reversible error to merit reconsideration of the Assailed Decision. Petitioner filed its Reply[4] to said Comment/Opposition on October 17, 2023

The instant Motion for Reconsideration was submitted for resolution on November 15, 2023.

After a careful review of the records of the present case, the Court finds no compelling reason to reverse or modify the Assailed Decision. The Court already addressed petitioner's argument reiterating that the running of the five (5)-year prescriptive period is tolled only upon the filing of Information in court, to wit:

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[2] G.R. Nos. L-48134-37, October 18, 1990.
[3] *Rollo*, pp. 197 to 205.
[4] *Rollo*, pp. 207 to 233.

i. Section 281 of the NIRC, as amended, provides that criminal infractions under the Code shall prescribe after five (5) years, reckoned from the commission of tax offense, if known, and if not known, from discovery thereof *and* institution of judicial proceedings for investigation and punishment;[5] and

ii. Section 2, Rule 9 of the Revised Rules of the Court of Tax Appeals, too, buttresses *Lim.* Particularly, said provision declares that the running of prescriptive period is indeed tolled only upon the filing of information in court.[6]

It is already settled that if the issues raised in the motion for reconsideration are mere reiterations of those which have already been passed upon and, in fact, adjudged as unmeritorious by the Court, these cannot be regarded as substantial and no longer require another full-blown discussion. Any further discourse will only be unnecessary and repetitive.

The pronouncement in *Social Justice Society (SJS) Officers, et al. v. Lim,*[7] is instructive:

> The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the ponencia in accordance with the outline of the instant motion.
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> As succinctly put by then Chief Justice Andres R. Narvasa in Ortigas and Co. Ltd. Partnership v. Judge Velasco on the effect and disposition of a motion for reconsideration:
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>> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not

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[5] *Rollo*, pp. 179 to 205.
[6] *Rollo*, p. 181
[7] G.R Nos. 187836 & 187916, March 10,2015.

> asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

WHEREFORE, in light of the foregoing considerations, petitioner's Motion for Reconsideration of the Court's Decision promulgated on August 29, 2023 is **DENIED** for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice