REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

TRUSTMARK HOLDINGS CORPORATION,
Respondent.

CTA EB NO. 1697
(CTA Case No. 9072)

Present:

DEL ROSARIO, *PJ*
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, *JJ.*

Promulgated:

JUL 11 2019
2:53 p.m.

x- x

RESOLUTION

Fabon-Victorino, J.:

In his *Motion for Reconsideration*[1] filed on February 22, 2019 before the Court *En Banc,* petitioner assails the Decision[2] promulgated on January 31, 2019, the dispositive portion of which reads:

> **WHEREFORE**, the *Petition for Review* filed by petitioner Commissioner of Internal Revenue on August 24, 2017 is hereby **DENIED**, for lack of merit. Accordingly, the assailed Decision and Resolution dated May 19, 2017 and July 21, 2017, respectively, are **AFFIRMED.**

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[1] *En Banc* docket, pp. 113-124.
[2] *En Banc* docket, pp. 90-102.

SO ORDERED.

The assailed Decision sustained the ruling of the Court in Division cancelling the Formal Letter of Demand dated October 28, 2014 and Assessment Notice No. ELTAD-II-DS-09-0019, assessing surcharge and interest arising from deficiency documentary stamp tax (DST) assessment issued against respondent for taxable year 2009 and prior years.

Petitioner claims as follows:

I. THE COURT ERRED IN AFFIRMING THE DECISION OF THE COURT *A QUO*, ORDERING THE CANCELLATION OF THE DEFICIENCY INTEREST AND SURCHARGE VIOLATED ESTABLISHED JURISPRUDENCE.

a) The interest and surcharge have factual and legal bases.

b) Reliance in good faith by respondent must be relatively applied.

II. THE COURT ERRED IN RULING THAT EVEN IF RESPONDENT COULD NOT RELY IN GOOD FAITH ON THE RULINGS ISSUED BY THE BIR, CA, AND OTHER COURT, STILL THE SUBJECT DEFICIENCY DST ASSESSMENT IS NULL AND VOID.

Petitioner insists that the "good faith reliance" defense must give way to the ruling in *Commissioner of Internal Revenue vs. Filinvest Development Corporation*[3] (*Filinvest case*) following the principle of *stare decisis*. However, in its Comment[4], respondent counters that the principle of *stare decisis* was actually applied in the instant case with respect to the sufficient justification for the deletion of surcharges and interest. Respondent points out that it is not disputing the application of the *Filinvest* case but only the imposition of the surcharges and interests. Further, the principle of *stare decisis* with respect to the *Filinvest* case applies only to cases subsequent to 2011, or the year the said case was promulgated, says respondent.

[3] G.R. No. 163653, July 19, 2011.
[4] En Banc docket, pp. 129-137.

Insofar as petitioner's assertion that the Court *En Banc* erred in decreeing that even if respondent could not rely in good faith on the rulings issued by the BIR, CA, and other court, still the subject deficiency DST assessment is null and void, respondent counters that although the Letter of Authority (LOA) issued in the instant case authorized the named Revenue Officers (ROs) to examine respondent's books of accounts and accounting records for **taxable year (TY) 2009 only,** the breakdown of the deficiency DST assessment indicates that they also included TYs 2000, 2006, 2007 and 2008 in their examination or audit. Otherwise stated, the ROs went beyond the scope of their authority.

A revisit of the record of the case indicates that the issues and arguments raised by petitioner in its bid for reconsideration had already been amply considered and passed upon not only by the Court in Division but also by the Court *En Banc*. To discuss them anew is superfluity.

WHEREFORE, the *Motion for Reconsideration Re: Decision dated 31 January 2019* filed by petitioner Commissioner of Internal Revenue is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

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

(On Leave)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

(On Leave)
MA. BELEN RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice