Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

GREENHILLS PROPERTIES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1604
(CTA Case No. 8295)

Present:
DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, *JJ.*

Promulgated:
AUG 16 2018
9:31 a.m.

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RESOLUTION

MINDARO-GRULLA, J.:

This resolves petitioner's "Motion for Reconsideration" of the Decision dated May 17, 2018 of this Court *En Banc*, the pertinent portion of which states:

> *"It has been ruled that perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. The right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.*
>
> ***WHEREFORE**, the Petition for Review is **DENIED,** for lack of jurisdiction.*
>
> ***SO ORDERED.**"*

In assailing this Court's Decision, petitioner insist that grave error was committed considering that (i) it was improper to apply the *Asiatrust Case*[1] retroactively to the instant petition and (ii) the deficiency tax assessments upheld by the Court a quo in its Amended Decision are without factual and legal basis. Petitioner argued that the ruling of the Supreme Court in the *Asiatrust Case* must be applied prospectively otherwise it impairs vested rights and results to grave injustice on petitioner. Petitioner pointed out several cases filed before this Court whereby similar petitions were given due course sans the filing of motion for reconsideration to the amended decision.

Likewise, petitioner argued that a new motion for reconsideration on the Amended Decision would have violated the rule against the filing of a second motion for reconsideration, thus, prolonging the proceedings. Additionally, petitioner reiterates that it is not liable for the deficiency withholding tax- expanded, income tax, improperly accumulated earnings tax, related deficiency interest and surcharge for taxable year ended December 31, 2008.

In the "Opposition (re: Petitioner's Motion for Reconsideration dated June 05, 2018)", respondent avers that the outright dismissal of the instant petition for review is warranted for the assailed Amended Decision has already become final and executory. Respondent also points out the adoption of the ruling in the *Asiatrust Case* with other cases filed before this Court.

We resolve.

The pertinent provisions under Section 1 of Rules 8 "Procedure in Civil Cases", Section 3 of Rule 14 "Judgment, Its Entry and Execution", and Section 7 of Rule 15 "Motion for Reconsideration or New Trial" of the Revised Rules of the Court of Tax Appeals (RRCTA)[2], are as follows:

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[1] Asiatrust Development Bank, Inc. vs. Commissioner of Internal Revenue, G.R. Nos. 201530 & 201680-81, April 19,2017.

[2] Rules of the Court of Tax Appeals- approved by the Supreme Court on November 22, 2005(A.M. No. 05-11-07-CTA); Amendments to the 2005 Rules of Court of the Court of Tax Appeals -approved by the Supreme Court on September 16, 2008 (A.M. No. 05-11-07-CTA); and Additional Amendments to the 2005 Revised Rules of the Court of Tax Appeals – approved by the Supreme Court on February 10, 2009 (A.M. No. 05-11-07-CTA).

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Section 1, Rule 8[3] of the RRCTA:

> *SECTION 1. Review of cases in the Court en banc. - In cases falling under the exclusive appellate jurisdiction of the Court en banc, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the division.*

Section 3, Rule 14[4] of the RRCTA:

> *Sec. 3. Amended decision. - Any action modifying or reversing a decision of the Court en banc or in Division shall be denominated as Amended.*

Section 7, Rule 15[5] of the RRCTA:

> *Sec. 7. No second motion for reconsideration or for new trial. – No party shall be allowed to file a second motion for reconsideration or for new trial of a decision, final resolution or order.*

From the foregoing, it is clear that a petition for review of a decision or resolution of the Court in Division must be preceded by a timely motion for reconsideration. Any action modifying or reversing a decision of the Court in Division shall be denominated as Amended Decision and a second motion for reconsideration of a decision is not allowed.

An amended decision which modifies or reverse a decision, is a new and different decision and is a proper subject of a motion for reconsideration.[6] Thus, the filing of a motion for reconsideration of an amended decision after filing a motion for reconsideration of the original decision is proper, required and not a prohibited second motion for reconsideration.

The pertinent facts surrounding the *Asiatrust Case* as stated in the Supreme Court's decision would reveal that Asiatrust filed a motion for reconsideration on the original decision, thereafter, Asiatrust filed another motion for

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[3] Procedure in Civil Cases
[4] Judgment, Its Entry and Execution.
[5] Motion for Reconsideration or New Trial.
[6] CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue, G.R Nos. 200841-42, August 26, 2015, 768 SCRA 269, 275.

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reconsideration on the amended decision. On the contrary, Commissioner of Internal Revenue (CIR) did not file a motion for reconsideration of the amended decision.

Consequently, Asiatrust's motion for reconsideration is not a prohibited second motion for reconsideration under Section 7, Rule 15 of the RRCTA and had Asiatrust did not file a motion for reconsideration on the Amended decision as CIR did in the CTA en banc, Asiatrust's petition before the CTA En Banc would likewise be procedurally infirmed, a ground for the dismissal of its Petition for Review.

The pronouncement of the Supreme Court in the *Asiatrust Case* that failure to move for reconsideration of the Amended Decision of the CTA Division is a ground for the dismissal of its Petition for Review before the CTA En Banc, is instructive, to wit:

> *"In this case, the CIR's failure to move for a reconsideration of the Amended Decision of the CTA Division is a ground for the dismissal of its Petition for Review before the CTA En Banc. Thus, the CTA En Banc did not err in denying the CIR's appeal on procedural grounds.*
>
> *Due to this procedural lapse, the Amended Decision has attained finality insofar as the CIR is concerned. The CIR, therefore, may no longer question the merits of the case before this Court. Accordingly, there is no reason for the Court to discuss the other issues raised by the CIR."*

As to the argument that the *Asiatrust Case* be applied prospectively as it would impair vested rights, and would result to grave injustice to petitioner, we are not persuaded.

Settled is the rule that judicial interpretation becomes part of the law as of the date that law was originally passed, such construction merely establishes the contemporaneous legislative intent that the law thus construed intends to effectuate.[7]

The Supreme Court's interpretation of Section 1 of Rules 8 and Section 3 of Rule 14 "Judgment, Its Entry and Execution", of the RRCTA does not amount to the passage of a new procedure, but consist merely of a construction or

[7] Roque Senarillos v. Epifanio Hermosisima, et. al., G.R. No. L-10662, December 14, 1956.

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interpretation of a pre-existing one, and that is precisely the situation obtaining in this case.

To reiterate, records reveal that petitioner received the Amended Decision of this Court's Division on February 15, 2017. Thus, petitioner has until March 2, 2017 within which to file its motion for reconsideration thereon. Petitioner did not file a motion for reconsideration but instead appealed to this Court by filing a Petition for Review on March 3, 2017.

Clearly, petitioner's failure to move for a reconsideration of the Amended Decision of the CTA Division is a ground for the dismissal of this case, as the Amended Decision has attained finality. Therefore, petitioner may no longer question the merits of the case before this Court.[8]

In sum, We found no substantial argument was raised to merit reconsideration of our Decision promulgated on May 17, 2018. The Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is; it is the final arbiter of any justifiable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings.[9]

WHEREFORE, premises considered, petitioner's "Motion for Reconsideration" is hereby **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

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

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[8] Supra. Note 1.
[9] Commissioner of Internal Revenue v. Michel J. Lhuillier Pawnshop, Inc., G.R. No. 150947, July 15, 2003.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(I join PJ's Concurring and Dissenting Opinion)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice