REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 2127** *(CTA Case No. 8809)*
-*versus*-	Present: **DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
THE COURT OF TAX APPEALS-FIRST DIVISION and YI WINE CLUB, INC., *Respondents.*	Promulgated: DEC 02 2019 4:05p.m.

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RESOLUTION

For resolution is petitioner's "Motion for Reconsideration [Re: Resolution dated 07 October 2019]" (hereinafter referred to as "MR") filed on 24 October 2019.

On 7 October 2019, the Court *En Banc* dismissed petitioner's Petition for *Certiorari* on the ground that resort to *Certiorari* is improper since the Decision and Resolution of the Court *a quo* are proper subjects of appeal.

In petitioner's MR, he avers that the Resolutions it assail are orders denying his Petitions for Relief from Judgment, which are not subject to appeal under ***Section 1, Rule 41 of the Revised Rules of Court***; that, accordingly, resort to *Certiorari* is proper; and that respondent Court acted with grave abuse of discretion amounting to lack or excess of jurisdiction.

The Court *En Banc* finds no merit in petitioner's MR.

Despite petitioner's reliance on ***Section 1, Rule 41 of the Revised Rules of Court***, the full provision thereof (as amended by ***A.M. No. 07-7-12-SC***[1]) will show that it pertains to appeals from the Regional Trial Courts, to wit:

RULE 41
Appeal from the Regional Trial Courts

SECTION 1(11). Subject of appeal. — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

(a) An order denying a petition for relief or any similar motion seeking relief from judgment;

(b) An interlocutory order;

(c) An order disallowing or dismissing an appeal;

(d) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;

(e) An order of execution;

(f) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and

(g) An order dismissing an action without prejudice.

In any of the foregoing circumstances, the aggrieved party may file an appropriate special civil action as provided in Rule 65.[2]

Accordingly, the above provision is not applicable to appeals from the Divisions of the Court of Tax Appeals (CTA).

To reiterate, the existence and availability of the right to appeal from a decision of a Division of the CTA to the CTA *En Banc* prohibits the resort to a Petition for *Certiorari* under ***Rule 65 of the Rules of Court***.[3]

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[1] December 27, 2007.
[2] Emphases ours.
[3] *Nuque v. Aquino, et. al.*, G.R. No. 193058, 8 July 2015.

WHEREFORE, premises considered, petitioner's "Motion for Reconsideration [Re: Resolution dated 07 October 2019]" is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

J. C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

Ma. Belen
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