REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

EHS LENS PHILIPPINES, INC. (formerly HOYA LENS MANUFACTURING PHILIPPINES, INC.), *Petitioner,*	**CTA *EB* NO. 1712** (CTA Case No. 9014)
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** *and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: OCT 11 2018 4:15 p.m.

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RESOLUTION

MANAHAN, J.:

This resolves petitioner's ***Motion for Reconsideration***[1] filed on July 11, 2018, with respondent's ***Opposition (To Petitioner's Motion for Reconsideration dated 09 July 2018)***[2] filed on August 28, 2018, which prays for the reconsideration of this Court's *Decision* dated May 29, 2018 and to render a new one ruling on its favor. The dispositive portion of the assailed *Decision*[3] dated May 29, 2018 reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DISMISSED** and the August 31, 2017 Amended Decision is thus **AFFIRMED**.
>
> **SO ORDERED**."

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[1] *Rollo*, CTA EB No. 1712, pp. 112-119.
[2] *Id.* at pp. 127-130.
[3] *Supra*, Note 3.

Petitioner argues that its non-filing of the motion for reconsideration (MR) on the Court in Division's Amended Decision is not fatal considering the use of the word "may" under Section 11 of Republic Act (RA) No. 1125, as amended by RA No. 9282,[4] connotes that it is merely directory and not mandatory and that the filing of a second MR is violative of this Court's own rules.

Petitioner also argues that this Court should apply a liberal interpretation of its rules because its substantive rights will be unjustly violated by such strict interpretation and application.

On the other hand, respondent argues that this Court had rightfully decided the dismissal of the instant case for the failure of the petitioner in filing an MR on the amended decision of this Court's Third Division.

Although this Court had exhaustively explained already the effect of petitioner's failure to file the necessary MR prior to the filing of the instant petition for review (PFR) to the Court *en banc*, we hereby reiterate our disquisitions in the assailed decision for petitioner's refresher, to wit:

> Sections 1 and 4(b), Rule 8 of the RRCTA requires that a petition for review must be based on the decision rendered from the motion for reconsideration filed by a party aggrieved by such decision before it can be elevated to the Court *en banc*, to wit:
>
> > 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.
> >
> > xxx xxx xxx
> >
> > SEC. 4. *Where to appeal; mode of appeal.* - (a) xxx xxx
> >
> > (b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of

[4] Otherwise known as "An Act Expanding the Jurisdiction of the Court of Tax appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as amended, Otherwise known as the Law Creating the Court of Tax Appeals, and for Other Purposes"

> Court. The Court *en banc* shall act on the appeal. (*Emphasis supplied*)

It is true that petitioner filed a motion for reconsideration from a decision which resulted into the assailed amended decision. However, the question that needs to be answered is: what is the nature of an amended decision.

In the case of *CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue*, the Supreme Court ruled that the amended decision is a new and different decision, to wit:

> Under Section 3, Rule 14 of the Revised Rules of the Court of Tax Appeals, an amended decision is issued when there is any action **modifying or reversing a decision** of the CTA *En Banc* or in Division. Pursuant to these parameters, it is clear that the CIR's motions for partial reconsideration - *i.e., (a)* motion for partial reconsideration of the June 24, 2009 Decision; and (b) motion for partial reconsideration of the January 19, 2010 Amended Decision - assailed separate and distinct decisions that were rendered by the CTA Division. Notably, its amended decision **modified and increased** CE Luzon's entitlement to a refund or tax credit certificate in the amount of P17,277,938.47. <u>Essentially, it was therefore a different decision</u> and, hence, the proper subject of a motion for reconsideration anew on the part of the CIR. Thus, CE Luzon's procedural objection must fail. (*Underscoring ours*)

Thus, in the subsequent case of *Asiatrust Development Bank, Inc. v. Commissioner of Internal Revenue,* [5] the Supreme Court ruled that a motion for reconsideration or new trial is required before an appeal can be elevated to the CTA *en banc* and the failure to do so is fatal to the petition for review filed before it, to wit:

> Thus, in order for the CTA *En Banc* to take cognizance of an appeal *via* a petition for review, a timely motion for reconsideration or new trial must first be filed with the CTA Division that issued the assailed decision or resolution. Failure to do so is a ground for the dismissal of the appeal as the word "must" indicates that the filing of a prior motion is mandatory, and not merely directory.
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> xxx xxx xxx
>
> In this case, the CIR's failure to move for a reconsideration of the Amended Decision of the CTA

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[5] G.R. Nos. 201530 and 201680-81 dated April 19, 2017.

> 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.
>
> Petitioner failed on this aspect. As the records would show, the first decision denied the petition on the ground that petitioner is not the proper entity to file the claim for refund. A Motion for Reconsideration (MR) was filed by petitioner which resulted in the assailed amended decision which recognized the petitioner as the proper party to file the claim for refund. However, the Court in Division denied anew the petition because the alleged erroneous input VAT payments were not sufficient to cover its output VAT liabilities arising from the said Purchase Agreement and Deed of Sale and Assignment between petitioner and the said two entities, i.e. PEOI-PEOCI and EPPI, respectively.
>
> The denial in the original decision is based on legal ground while the denial in the assailed amended decision is based on factual grounds which call for evidentiary rebuttal. Thus, it constitutes a different decision which is the proper subject of an MR or a motion for new trial. Petitioner's failure to file the same is fatal and is a ground for the dismissal of the instant petition for review as ruled in the abovementioned *Asiatrust* case.

The ruling in the cited cases of *CE Luzon* and *Asiatrust* is very clear that an amended decision is a new decision which requires the filing of an MR prior to the filing of a PFR in the Court *en banc*.

It is true that the word "may" in Section 11 of RA No. 1125, as amended, is not mandatory but merely directory, which means that a party litigant may file an MR if it chooses to elevate further its case. However, petitioner is mistaken in its belief that it may opt not to file an MR to the Court in Division and, instead, directly file a PFR to the Court *en banc* on the subject amended decision. Such view is fatal to its case considering the ruling of the high court in the abovementioned cases of *CE Luzon* and *Asiatrust*.

Further, petitioner's contention that an MR filed on the amended decision is the same as the MR filed on the original decision is erroneous. In *League of Cities of the Philippines et al. v. Commission on Elections et al.*,[6] the Supreme Court, in its resolution, ruled that an indication of a second MR is when

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[6] G.R. Nos. 176951, 177499, and 178056, June 28, 2011.

the issues raised in the first MR are entirely identical to the second MR, to wit:

> "Another indicium of its being a second motion for reconsideration is the fact that the *Motion for Reconsideration* **raises issues entirely identical to those the petitioners already raised** in their *Ad Cautelam Motion for Reconsideration (of the Decision dated 15 February 2011) ...*" (*Emphasis supplied*)

In the instant case, there will be no identical issues that may be raised by the petitioner. As ruled in the assailed decision "**The denial in the original decision is based on legal ground while the denial in the assailed amended decision is based on factual grounds which call for evidentiary rebuttal**." Thus, the issues that may be discussed in the required MR on the amended decision will be different from the MR on the original decision.

As to the petitioner's argument that this Court should apply its own rules liberally, it failed to recognize that what this Court applied is not only its own rules but the interpretation of the Supreme Court on such rules. The judicial decision in the abovementioned cases of *CE Luzon* and *Asiatrust* are from the highest court of the land which form part of the legal system.[7]

Petitioner should be aware that this Court is mandated to take cognizance of the rulings which are promulgated by the Supreme Court as ruled in the case of *The Heirs of Felicidad Canque v. Court of Appeals et al.*,[8] to wit:

> Clearly, the Court of Appeals committed a reversible error because it palpably failed to consider in its August 25, 1994 Decision the aforementioned ruling of the Supreme Court promulgated twenty months earlier on January 27, 1993. Unfortunately, this is not the first time for this Court to come upon such a slip. *Peltan Development vs. Court of Appeals* ruled that **every court must take cognizance of decisions this Court has rendered because they are proper subjects of mandatory judicial notice** xxx [and] **more importantly form part of the legal system**. We stress that **members of the bench have a responsibility to know and to apply the latest holdings of the Supreme Court**. The nature of their calling requires no less. (*Emphasis supplied*)

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[7] Article 8, Republic Act No. 386, otherwise known as the "Civil Code of the Philippines."
[8] G.R. No. 119184, July 21, 1997.

Such duty to follow the legal doctrine enunciated by the Supreme Court is not only pursuant to the doctrine of judicial notice but because it is the only institution which the courts should follow as pronounced in the case of *Manila Electric Company v. Philippine Consumers Foundation, Inc. et al.*,[9] to wit:

> A lower court cannot reverse or set aside decisions or orders of a superior court, especially of this Court, for to do so will negate the principle of hierarchy of courts and nullify the essence of review. A final judgment, albeit erroneous, is binding on the whole world. Thus, it is the duty of the lower courts to obey the Decisions of this Court and render obeisance to its status as the apex of the hierarchy of courts. "A becoming modesty of inferior courts demands conscious realization of the position that they occupy in the interrelation and operation of the integrated judicial system of the nation." "**There is only one Supreme Court from whose decisions all other courts should take their bearings**," as eloquently declared by Justice J. B. L. Reyes. (*Emphasis supplied*)

Further, it is well-settled that courts must be cognizant of the decisions of the Supreme Court because of the doctrine of *stare decisis* as amply explained in the case of *Amelia D. De Mesa et al. v. Pepsi Cola Products, Inc. et al.*,[10] to wit:

> The principle of *stare decisis et non quieta movere* is entrenched in Article 8 of the Civil Code, to wit:
>
> > ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.
>
> It enjoins adherence to judicial precedents. It requires our courts to follow a rule already established in a final decision of the Supreme Court. That decision becomes a judicial precedent to be followed in subsequent cases by all courts in the land. **The doctrine of stare decisis is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument**. (emphasis supplied)

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[9] G.R. No. 101783, January 23, 2002.
[10] G.R. Nos. 153063-70, August 19, 2005.

There being no new issues or matters raised by petitioner in the instant motion, this Court finds no compelling reason to reverse the ruling in the assailed decision.

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito 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 M. R. L.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice