

## **FIRST DIVISION**

**[ G.R. NO. 176290, September 21, 2007 ]**

**SYSTRA PHILIPPINES, INC., PETITIONER, VS. COMMISSIONER  
OF INTERNAL REVENUE, RESPONDENT.**

### **R E S O L U T I O N**

**CORONA, J.:**

This resolves petitioner Systra Philippines, Inc.'s (1) motion for leave to file a second motion for reconsideration and (2) second motion for reconsideration of the Court's March 28, 2007 resolution.

On March 9, 2007, petitioner filed a petition for review on certiorari assailing the January 18, 2007 decision<sup>[1]</sup> of the Court of Tax Appeals (CTA) in CTA EB Case No. 135. The Court denied the petition in its March 28, 2007 resolution on the following grounds:

(a) failure of petitioner's counsel to submit his IBP<sup>[2]</sup> O.R.<sup>[3]</sup> number showing proof of payment of IBP dues for the current year (the IBP O.R. No. was for 2006, *i.e.*, it was dated November 20, 2006);

(b) submitting a verification of the petition, certification of non-forum shopping and affidavit of service that failed to comply with the 2004 Rules on Notarial Practice with respect to competent evidence of affiants' identities and

(c) failure to give an explanation why service was not done personally as required by Section 11, Rule 13 in relation to Section 3, Rule 45 and Section 5(d), Rule 56 of the Rules of Court.

On July 5, 2007, petitioner's motion for reconsideration was denied with finality as there was no compelling reason to warrant a modification of the March 28, 2007 resolution. Thus, the present motions.

Petitioner claims that this Court has granted second and even third motions for reconsideration for "extraordinarily persuasive reasons." It avers that this Court should look into the importance of the issues involved in deciding whether leave to file a second motion for reconsideration should be granted or not. It prays that its petition should not be denied on the basis of procedural lapses alone and points out that the substantial amount involved in the petition justifies relaxation of technical rules. It asserts that there is an important legal issue involved in this case: whether the exercise of the option to carry over excess income tax credits under Section 76 of the National Internal Revenue Code of 1997, as amended (Tax Code) bars a taxpayer from claiming the excess tax credits for refund even if the amount remains unutilized in the succeeding taxable year. Finally, it contends that the assailed CTA

decision was contradictory to the decisions of the Court of Appeals (CA)<sup>[4]</sup> in *Bank of the Philippine Islands v. Commissioner of Internal Revenue*<sup>[5]</sup> and *Raytheon Ebasco Overseas Ltd. Philippine Branch v. Commissioner of Internal Revenue*<sup>[6]</sup> which involved the same issue as that in this case. According to petitioner, in view of those CA decisions, it is unjust to deprive it of the right to claim a refund.

We deny petitioner's motions.

### **A Second Motion For Reconsideration Is Prohibited**

The denial of a motion for reconsideration is final. It means that the Court will no longer entertain and consider further arguments or submissions from the parties respecting the correctness of its decision or resolution.<sup>[7]</sup> It signifies that, in the Court's considered view, nothing more is left to be discussed, clarified or done in the case since all issues raised have been passed upon and definitely resolved. Any other issue which could and should have been raised is deemed waived and is no longer available as ground for a second motion. A denial with finality underscores that the case is considered closed.<sup>[8]</sup> Thus, as a rule, a second motion for reconsideration is a prohibited pleading.<sup>[9]</sup> The Court stressed in *Ortigas and Company Limited Partnership v. Velasco*:<sup>[10]</sup>

**A second motion for reconsideration is forbidden** except for extraordinarily persuasive reasons, and only upon express leave first obtained.<sup>[11]</sup> (emphasis supplied)

It is true that procedural rules may be relaxed in the interest of substantial justice. They are not, however, to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party.<sup>[12]</sup> They are intended to ensure the orderly administration of justice and the protection of substantive rights in judicial proceedings.<sup>[13]</sup> Thus, procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudicing a party's substantive rights.<sup>[14]</sup> Like all rules, they are required to be followed except only when, for the most persuasive of reasons, they may be relaxed to relieve a litigant of negative consequences commensurate with the degree of thoughtlessness in not complying with the prescribed procedure.<sup>[15]</sup>

In this case, contrary to petitioner's claim, there was no compelling reason to excuse non-compliance with the rules. Nor were the grounds raised by it extraordinarily persuasive.<sup>[16]</sup>

Moreover, petitioner can neither properly nor successfully rely on the decisions of the CA in the *Bank of the Philippine Islands* and *Raytheon Ebasco Overseas Ltd. Philippine Branch* cases. First, the CA and the CTA are now of the same level pursuant to RA 9282.<sup>[17]</sup> Decisions of the CA are thus no longer superior to nor reversible of those of the CTA. Second, a decision of the CA in an action *in personam* binds only the parties in that case. A third party in an action *in personam* cannot claim any right arising from a decision therein. Finally and most importantly, while a ruling of the CA on any question of law is not conclusive on this Court, all rulings of

this Court on questions of law are conclusive and binding on all courts including the CA. All courts must take their bearings from the decisions of this Court.<sup>[18]</sup>

**ON THE SUBSTANTIVE ASPECT,  
THE PETITION HAS NO MERIT**

The antecedents of this case are as follows:

On April 16, 2001, petitioner filed with the [Bureau of Internal Revenue (BIR)] its Annual Income Tax Return ("ITR") for the taxable year ended December 31, 2000 declaring revenues in the amount of [P18,252,719] the bulk of which consists of income from management consultancy services rendered to the Philippine Branch of Group Systra SA, France. Subjecting said income from consultancy services of petitioner to 5% creditable withholding tax, a total amount of [P4,703,019] was declared by petitioner as creditable taxes withheld for the taxable year 2000.

For the same period, petitioner reflected a total gross income of [P3,752,129], a net loss of [P17,930] and a minimum corporate income tax (MCIT) of [P75,043]. Said MCIT of P75,043 was offset against its total tax credits for the year 2000 amounting to [P4,703,019] thereby leaving a total unutilized tax credits of [P4,627,976], computed as follows:

Gross Income	P3,752,129.00	
Less: Deductions		<u>P3,770,059.00</u>
Net loss		
		<u>P17,930.00</u>
Minimum Corporate		P75,043.00
Income Tax Due		
Less: Tax Credits		
Prior year's excess credits	P -	
Creditable taxes withheld	<u>P4,703,019.00</u>	<u>P4,703,019.00</u>
during the year		
Tax Overpayment		<u>P4,627,976.00</u>

Petitioner opted to carry over the said excess tax credit to the succeeding taxable year 2001.

For the taxable year ended December 31, 2001, petitioner filed with the BIR its Annual ITR on April 12, 2002, reflecting a total gross income of [P4,771,419] and a total creditable taxes withheld of [P1,111,587] for consultancy services. It likewise declared a taxable income of [P1,936,851] with corresponding normal income tax due in the amount of [P619,792]. After deducting the unexpired excess of the previous year MCIT [1999 and 2000] in the amount of [P222,475] from the normal income tax due for the period, petitioner's net tax due of [P397,317] was applied against the accumulated tax credits of [P5,739,563]. Said reported tax credits comprised of prior year's excess tax credits in the amount of [P4,627,976] and creditable taxes withheld during the year 2001 in the sum of [P1,111,587]. These excess tax credits were utilized

to pay off the income tax still due of [P397,317] resulting to an overpayment of [P5,342,246], computed as follows:

Gross Income	P4,771,419.00
Less: Deductions	<u>P2,834,568.00</u>
Taxable Income	<u>P1,936,851.00</u>
Income Tax Due at the Normal Rate of 32%	P 619,792.00
Less: Unexpired Excess of Prior Year's MCIT Over Normal Income Tax Rate	P <u>222,475.00</u>
P 397,317.00	
Income Tax Still Due	
Less: Tax Credits	
Prior year's excess credits	P4,627,976.00
Creditable taxes withheld during the year	<u>P5,739,563.00</u>
	<u>1,111,587.00</u>
Tax Overpayment	<u>P5,342,246.00</u>

Petitioner indicated in the 2001 ITR the option "To be issued a Tax Credit Certificate" relative to its tax overpayments.

On August 9, 2002, petitioner instituted a claim for refund or issuance of a tax credit certificate with the BIR of its unutilized creditable withholding taxes in the amount of P5,342,246.00 as of December 31, 2001."

Due to the inaction of the BIR on petitioner's claim for refund and to preserve its right to claim for the refund to its unutilized CWT for CYs 2000 and 2001 by judicial action, petitioner filed a petition for review with the Court in Division on April 14, 2003.<sup>[19]</sup>

In its August 3, 2005 decision, the First Division of the CTA partially granted the petition and ordered the issuance of a tax credit certificate to petitioner in the amount of P1,111,587 representing the excess or unutilized creditable withholding taxes for taxable year 2001. The CTA, however, denied petitioner's claim for refund of the excess tax credits for the year 2000 in the amount of P4,627,976. It ruled that petitioner was precluded from claiming a refund thereof or requesting a tax credit certificate therefor. Once it was made for a particular taxable period, the option to carry over became irrevocable.

Petitioner moved for reconsideration but it was denied. Petitioner elevated the case to the CTA *en banc* which rendered the assailed decision. Thus, this petition.

As already stated, petitioner formulated the issue in this petition as follows: whether the exercise of the option to carry-over excess income tax credits under Section 76 of the Tax Code bars a taxpayer from claiming the excess tax credits for refund even if the amount remains unutilized in the succeeding taxable year. Petitioner contends that it does not.