

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

COMMISSIONER INTERNAL REVENUE,	OF	CTA EB NO. 1681 (CTA Case No. 8938)
Petitioner,		

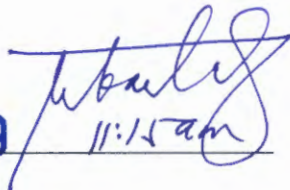
Present:

-versus-

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban, *and*
Manahan, *JJ.*

FILMINERA CORPORATION,	RESOURCES	Promulgated:
Respondent.		

MAY 21 2019


11:15 am

X-----X

RESOLUTION

CASTAÑEDA, JR., J.:

This resolves petitioner's Motion for Reconsideration (Re: Decision dated 28 January 2019) praying for the reversal of the Court's decision which affirmed the decision of the Court of Tax Appeals Third Division (CTA Third Division), the dispositive portion of which reads:

“Considering the foregoing discussion, petitioner CIR has failed to validly argue against the holding of the Court *a quo* decreeing the partial grant of the claim in favor of FRC.

WHEREFORE, premises considered, the Petition for Review is **DENIED** for lack of merit. The January 31, 2017 Decision and the June 20, 2017 Resolution are hereby **AFFIRMED**.

SO ORDERED.”

Petitioner raises the following arguments in support of its motion: *re*

- A BOI Certification is *not* sufficient to prove that there was actual shipment of goods from the Philippines to a foreign country; and,
- Petitioner should not be made to suffer the consequences of the negligence of his counsel.

To counter these arguments, respondent Filminera Resources Corporation (FRC) reiterates that the decision of the CTA Third Division had become final and executory due to petitioner's failure to file the Motion for Reconsideration within the reglementary period¹ and, furthermore, it had sufficiently proven that the goods supplied to a BOI-registered exporter were 100% exported² and that it was able to comply with the conditions set forth in Revenue Memorandum Order No. 9-2000.³

We agree with the respondent.

First, with respect to the issue on the BOI Certification, the Court finds petitioner's arguments as a repetition of those already raised in the petition which the Court had already amply considered, passed upon and discussed in its assailed decision.

Second, mere allegation is not proof.⁴ Merely reciting the disproportionate case load of the former counsel while he was still part of the Litigation Division and his reassignment to Revenue Region No. 9⁵ without more is simply not enough to convince the Court of the veracity of these contentions. To be given any weight or value, at the very least, petitioner's counsels should have filed a *verification* to attest to the truth of the facts stated in the motion, which may explain why the Motion for Reconsideration of the decision of the Court *a quo* was filed only on March 29, 2017, more than a month later than the last day set by the rules, *i.e.* February 18, 2017.

More importantly, these material facts allegedly constituting excusable negligence to warrant easing of the rules of procedure were not disclosed in the *verified* Petition for Review filed before the Court. This omission *contradicts* the petitioner's *unqualified* representation on the timeliness of the petition.⁶ Counsels for petitioner should be reminded that, because of the particular nature of an attorneys' function, it is essential that they should act with fairness, honesty and candor towards the courts and their clients. Under Rule 10.01 of the Code of Professional Responsibility: "A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice."⁷ *Je*

¹ Comment, Rollo, pp. 187-196.

² *Id.* at pp. 199-201.

³ *Id.* at pp. 201-203.

⁴ *Malayan Insurance Co., Inc. v. First Philippine Insurance Co., Inc., et al.*, G.R. No. 184300. July 11, 2012.

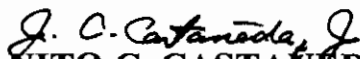
⁵ Motion for Reconsideration, Rollo, p. 166.

⁶ Petition for Review, Rollo, p. 8.

⁷ *Dr. Domiciano F. Villahermosa v. Atty. Isidro L. Caracol*, A.C. No. 7325, January 21, 2015.

WHEREFORE, finding no cogent reason to reverse the assailed decision, petitioner's motion is **DENIED** for lack of merit.

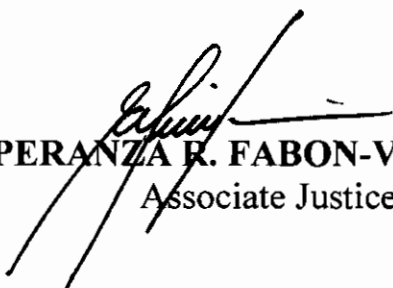
SO ORDERED.


JUANITO C. CASTANEDA, JR.
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


ERLINDA P. UY
Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice


CIELITO N. MINDARO-GRULLA
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Leave)
CATHERINE T. MANAHAN
Associate Justice