REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

TOLEDO POWER COMPANY, Petitioner,	**CTA CASE NOS. 8450, 8512, 8547 & 8596**
- versus -	Members: **CASTAÑEDA, JR.,** *Chairperson, and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 24 2019 3:24 pm

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For this Court's resolution is respondent's **Motion for Reconsideration Re: Resolution dated 15 March 2019**, filed through registered mail on April 8, 2019, and received by the Court on April 16, 2019, with petitioner's **Comment/Opposition (To Respondent's Motion for Reconsideration dated April 8, 2019)**, filed on May 29, 2019.

Respondent moves for the reconsideration of the Resolution promulgated on March 15, 2019, in so far as the Court partially granted petitioner's Motion for Reconsideration and amended the Decision dated June 9, 2017, thereby partially granting petitioner's claim for refund in the amount of ₱46,872,156.51. The dispositive portion of the assailed Resolution reads:

> "**WHEREFORE**, premises considered, petitioner's **Motion for Reconsideration**, is **PARTIALLY GRANTED**, while respondent's **Motion for Partial**

Reconsideration Re: Decision dated 9 June 2017, is **DENIED** for lack of merit. Accordingly, the dispositive portion of this Court's Decision dated June 9, 2017, is hereby amended to read as follows:

> '**WHEREFORE**, premises considered, the instant Petitions for Review are **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND** to petitioner the amount of **₱46,872,156.51**, representing the latter's excess input VAT for the first to fourth quarters of CY 2010 attributable to its zero-rated sales/receipts.
>
> **SO ORDERED**.'

SO ORDERED."

In support of his motion, respondent alleges (i) that the Court erred in ruling that petitioner is entitled to refund in the amount of ₱46,872,156.51; and (ii) that the Court erred in ruling that petitioner's sales of power to CEBU III Electric Cooperative (CEBECO III) are subject to value-added tax (VAT) zero rating.

As to the first alleged error committed by the Court, respondent insists that petitioner's claim for refund for taxable year 2010 should have been denied for failure to substantiate its claims pursuant to the provisions of Sections 110 and 113 of the National Internal Revenue Code (NIRC) of 1997, as amended, and Sections 4.110-1, 4.110-2, 4.110-8 and 4.113-1 of Revenue Regulations No. 16-2005; that petitioner failed to submit sufficient evidence showing its entitlement to the refund; that petitioner failed to submit the documents required under Revenue Memorandum Circular No. 54-2014; that it was too late for petitioner to request for another re-opening to prove its allegation considering that the case has already been decided upon by the Court; and that the additional evidence presented by petitioner should not have been considered by the Court as these were forgotten evidence.

As regards to the second alleged error committed by the Court, respondent claims that petitioner's sales to CEBECO III are not subject to zero-rating since the latter is a non-Philippine Economic Zone Authority registered enterprise nor a Board of Investment registered enterprise. Also, respondent argues that petitioner's sales of power to CEBECO III do not fall under the transactions subject to zero percent VAT rate under Section 108(B) of the NIRC of 1997, as amended.

On the other hand, petitioner argues that the subject Motion for Reconsideration is just a reiteration of the allegations which the Court had already passed upon in its June 9, 2017 Decision and March 15, 2019 Resolution. Thus, there is no cogent reason for the Court to reverse the assailed Decision and Resolution.

Also, petitioner claims that its energy fee billings to CEBECO III are pass through charges and directly attributable to Balamban Enerzone Corporation and Carmen Copper Corporation. Thus, the subject sales/receipts of electricity should qualify for VAT zero rating.

Lastly, petitioner agrees with the ruling of the Court that it is entitled to the grant of refund in the amount of ₱46,872,156.51, representing its excess input VAT related to zero-rated sales/receipts for the 1^{st}, 2^{nd}, 3^{rd} and 4^{th} quarters of calendar year 2010.

The Court finds respondent's motion bereft of merit.

The issues and arguments raised in the subject motion are essentially mere rehash of what have been said and reiterated in previous pleadings filed by respondent, which have been considered, weighed and resolved by the Court in the assailed Decision and Resolution. Thus, respondent failed to convince this Court that certain findings or conclusions in the assailed Decision and Resolution are contrary to law.

Since respondent failed to raise matters substantially plausible which could merit a reversal of the ruling in the assailed Decision and Resolution, the Court shall no longer belabor in this Resolution, to repeat the disquisitions made therein.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration Re: Resolution dated 15 March 2019** is **DENIED** for lack of merit.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

I CONCUR:

CATHERINE T. MANAHAN
Associate Justice