CTA Form No. 8

18-000059-0096

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NOS. 9768 and 9829

PROCTER & GAMBLE INTERNATIONAL OPERATIONS SA-ROHQ,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF RESOLUTION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village, Makati City

COMMISSIONER OF INTERNAL REVENUE
Thru: Litigation Division
Bureau of Internal Revenue
BIR National Office Building
BIR Road, Diliman, Quezon City

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. ROZEN OLIVIA G. CAYETANO
Bureau of Internal Revenue
Rm. 703, Litigation Division, BIR National Office Bldg.
BIR Road, Diliman, Quezon City

SALVADOR LLANILLO & BERNARDO
UnitS 815-816, 8/F, Tower One & Exchange Plaza
Ayala Triangle, Ayala Avenue
1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **February 21, 2023,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 23, 2023.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PROCTER & GAMBLE INTERNATIONAL OPERATIONS SA-ROHQ, *Petitioner,*	**CTA CASE Nos. 9768 & 9829**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 21 2023 ; 10:00 A.M.

x -x

RESOLUTION

REYES-FAJARDO, *J.*:

For the Court's resolution is petitioner's *Motion for Reconsideration (Re: Decision dated October 5, 2022)*[1] ("Motion"), filed on October 28, 2022, with respondent's *Comment (on Petitioner's Motion for Reconsideration filed on 28 October 2022)*[2] filed on December 5, 2022.

In the *Motion*, petitioner prays that the Court reconsider the Decision[3] ("assailed Decision"), promulgated on October 5, 2022. The dispositive portion of the assailed Decision states:

> **WHEREFORE, in light of the foregoing considerations, the *Petitions for Review* are DENIED, for insufficiency of evidence.**

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1 Docket, Volume VII, pp. 4578 to 4637.
2 *Id.*, pp. 4638 to .4646
3 *Id.*, pp. 4530 to 4575.

In the assailed Decision, the Court ruled that petitioner failed to establish that the services it rendered to its client-affiliates abroad were performed in the Philippines to qualify for VAT zero-rating under Section 108(B) of the National Internal Revenue Code of 1997, as amended. The Court found petitioner's evidence insufficient to prove the fourth requisite. Specifically, the Court found that the Service Agreements between petitioner and its client-affiliates do not categorically state that the contracted services shall be performed by the petitioner in the Philippines only. The Services Agreements uniformly contain a standard provision which provides that the services may be rendered outside petitioner's normal place of business. Following the intent of petitioner and its client-affiliates embodied in the Services Agreements, the services may be performed both in the Philippines and abroad. In view of petitioner's failure to prove that its alleged VAT zero-rated sales were performed in the Philippines, petitioner failed to show that it is entitled to the claim for refund or tax credit for its excess and unutilized input VAT for the period of claim.

Aggrieved, petitioner moves for reconsideration on the following grounds:

i. Petitioner presented sufficient evidence to establish that the recipient of the services are persons engaged in business conducted outside the Philippines or nonresident persons who are outside the Philippines when the services were performed;
ii. Petitioner sufficiently proved that the discrepancy found in the schedule of comparison of zero-rated official receipts against certificates of inward remittance pertained to withholding taxes, billing adjustments and reimbursements; and
iii. Petitioner sufficiently proved that the services it rendered to its client-affiliates were performed in the Philippines.

On the other hand, respondent, counters that petitioner was not able to prove its entitlement to the refund sought. Respondent echoes the Court's conclusion that petitioner failed to submit sufficient evidence to support its claim for refund.

The Motion is denied.

After a careful evaluation of the arguments presented by petitioner, it is clear that the grounds raised therein are mere reiterations of matters which have already been exhaustively considered, weighed and resolved in the assailed Decision. As such, the Court finds no compelling reason to reconsider, modify or even reverse the assailed Decision. The pronouncement in *Social Justice Society (SJS) Officers, et al. v. Lim*,[4] is instructive:

> The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the ponencia in accordance with the outline of the instant motion.
>
> As succinctly put by then Chief Justice Andres R. Narvasa in Ortigas and Co. Ltd. Partnership v. Judge Velasco on the effect and disposition of a motion for reconsideration:
>
>> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

WHEREFORE, petitioner's *Motion for Reconsideration (Re: Decision dated October 5, 2022)* is **DENIED** for lack of merit.

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4 G.R Nos. 187836 & 187916, March 10,2015.

SO ORDERED.

MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

(With due respect, I reiterate my Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice