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

***EN BANC***

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| AMADEUS MARKETING PHILIPPINES, INC., Petitioner, | CTA EB No. 1838 (CTA Case No. 8869) |
| | Present: |
| -versus- | DEL ROSARIO, *PJ*, CASTAÑEDA, JR., UY, FABON-VICTORINO, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO, *JJ*. |
| COMMISSIONER OF INTERNAL REVENUE, Respondent. | Promulgated: JUL 20 2020 3:10pm |

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## RESOLUTION

***Fabon-Victorino, J.:***

In the Decision[1] dated November 26, 2019, the Court rejected entirely petitioner's claim for refund of input value-added tax (VAT) attributable to zero-rated sales for the four (4) quarters of calendar year (CY) 2012. The Court ruled that for zero-rating of services under Section 108(B)(2) of the National Internal Revenue Code (NIRC), as amended, to apply, the entity to whom the refund claimant rendered its services must be a foreign entity doing business *outside* the Philippines.

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[1] *Rollo*, pp. 126-138.

Evident from the Amadeus Commercial Organization (ACO) Agreement entered into by petitioner and Amadeus I.T. Group S.A. (AGSA) that the latter actively participated in the distribution of Amadeus products in the Philippines, and constituted petitioner as its local agent, hence, petitioner's client AGSA is a foreign entity undoubtedly doing business *within* the Philippines. There being no valid zero-rated sales from which its input taxes may be imputed, petitioner's refund claim anchored under Section 112 of the NIRC, as amended, was denied.

In petitioner's Motion for Reconsideration[2] dated December 17, 2019, it argues that multiple provisions in the ACO agreement executed between petitioner and AGSA reveal that it allegedly acts under its own name and for its own account, independent of AGSA. Further, nothing in the ACO Agreement suggests that AGSA vigorously engages in commerce *within* the Philippines. In addition, the lack of permanent establishment by AGSA in Philippine territory shows that the latter is not engaged in business in this country. And since its client AGSA is a foreign entity allegedly not doing business in the Philippines, the services it rendered to AGSA is subject to zero-rating under Section 108(B)(2) of the NIRC, as amended. Hence, the purported input taxes imputable thereto for the four (4) quarters of CY 2012 should be refunded to petitioner.

On the other hand, respondent failed to file comment/opposition to the instant Motion despite notice.[3]

A reading of the arguments set forth by petitioner in its Motion for Reconsideration dated December 17, 2019, reveals that petitioner merely mimic its contentions advanced in its Petition for Review dated May 4, 2018, all of which were squarely addressed and meticulously passed upon by the Court *En Banc*. There being no novel or significant matter raised justifying reversal, much less modification of the challenged Decision dated November 26, 2019, petitioner's Motion for Reconsideration dated December 17, 2019 is **DENIED**, for lack of merit.

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2 Ibid. at pp. 143-153.
3 Records Verification Report dated June 25, 2020.

**SO ORDERED.**

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice