Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

En Banc

COMMISSIONER OF INTERNAL REVENUE, Petitioner, -versus- **CBK POWER COMPANY LIMITED,** Respondent.	**CTA EB No. 639** (C.T.A. Case No. 7220) Present: DEL ROSARIO, P.J. CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, and RINGPIS-LIBAN, J.J. Promulgated: SEP 2 1 2015

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RESOLUTION

CASANOVA, J.:

This resolves petitioner's Motion for Reconsideration[1], filed on July 21, 2015, with respondent's Comment on / Opposition to Petitioner's Motion for Reconsideration (Re: Amended Decision Promulgated June 30, 2015)[2], filed on August 18, 2015, praying that the Amended Decision (Assailed Amended Decision), promulgated on June 30, 2015, be reversed and set aside and another one be rendered denying the entire claim for refund.

The dispositive portion of the Assailed Amended Decision reads:

> "**WHEREFORE,** premises considered, the Decision dated July 20, 2011 and the Resolution dated October 5, 2011, both of the Court of Tax Appeals *En Banc* are **REVERSED** and **SET ASIDE**. Thus, the instant Petition for

[1] *En Banc Rollo*, pp. 255-262.
[2] *Ibid.*, pp. 268-272.

Review, filed by petitioner Commissioner of Internal Revenue, on June 10, 2010, is hereby **DENIED.** Accordingly, the Assailed Amended Decision dated February 8, 2010 and Resolution dated May 20, 2010, both of the CTA *Former* Second Division are hereby **REINSTATED** and **AFFIRMED**.

SO ORDERED."

In the said Motion, petitioner raised this sole error allegedly committed by this Court:

"THE HONORABLE COURT ERRED IN REVERSING AND SETTING ASIDE THE DECISION DATED 20 JULY 2011 AND THE RESOLUTION DATED 05 OCTOBER 2011 BOTH OF THE HONORABLE COURT EN BANC AND DENYING PETITIONER'S PETITION FOR REVIEW THUS REINSTATING AND AFFIRMING THE ASSAILED AMENDED DECISION DATED 08 FEBRUARY 2010 AND RESOLUTION DATED 20 MAY 2010 OF THE HONORABLE COURT'S SECOND DIVISION ORDERING PETITIONER COMMISSIONER OF INTERNAL REVENUE TO ISSUE TO RESPONDENT CBK POWER COMPANY LIMITED A TAX CREDIT CERTIFICATE IN THE TOTAL AMOUNT OF TWO HUNDRED EIGHTY SIX MILLION SEVEN HUNDRED EIGHTY THREE THOUSAND EIGHT HUNDRED FORTY SEVEN PESOS AND THIRTY SEVEN CENTAVOS (P286,783,847.37), REPRESENTING UNUTILIZED INPUT VALUE ADDED TAX ATTRIBUTABLE TO ZERO RATED SALES FOR THE PERIOD COVERING JANUARY 1, 2003 TO DECEMBER 31, 2003, IN ACCORDANCE WITH THEN SECTIONS 112(A), 112(B) AND 112(D) OF THE TAX CODE OF 1997, AS AMENDED, IN RELATION TO SECTION 229 OF THE TAX CODE."

In support of her Motion, petitioner mainly argues that respondent failed to substantiate its claim that it is entitled to the refund prayed for. Respondent failed to comply with the invoicing and accounting requirements laid down in Sections 113, 114 and 236 of the Tax Code of 1997, as amended, and Revenue Regulations No. 16-2005; that respondent was not able to prove that it has strictly complied with the submission of all supporting and relevant documents provided under Revenue Memorandum Order No. 53-98 and other existing rules and regulations to warrant the grant of the application for refund; and, that respondent failed to prove that no other claim for refund has been filed with the Board of Investment, Department of Finance, and Special Economic Zones/Freeport Zones.

By way of comment/opposition, respondent insists that the instant Motion does not raise any new argument and cogent reason to justify a reversal of the just and fair decision of this Court. Accordingly, all the arguments raised therein are mere reiteration of the arguments which have been previously articulated and duly considered in the Assailed Amended Decision.

Petitioner's Motion is bereft of merit.

A perusal of the grounds raised by petitioner in her Motion for Reconsideration reveals that the same are practically mere rehash of the arguments contained in her Petition for Review[3] dated June 10, 2010, which have been extensively discussed, resolved and settled in the Assailed Amended Decision. To discuss them anew is superfluity.

In view of the foregoing, *We* find no cogent justification to disturb the findings and conclusions spelled out in the June 30, 2015 CTA *En Banc* Decision. What the instant Motion for Reconsideration seeks is for the Court to view and appreciate the evidence in their own perspective of things, which unfortunately had already been considered and passed upon.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[3] *Id.*, pp. 1-15.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice