REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

PHILEX MINING CORPORATION,
Respondent.

CTA EB NO. 1116
(CTA Case No. 8424)

Present:
DEL ROSARIO, *PJ*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS,
RINGPIS-LIBAN, *JJ.*

Promulgated:

MAY 11 2015 9:45 p.m.

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RESOLUTION

DEL ROSARIO, *P.J.*:

This resolves petitioner's Motion for Reconsideration (Decision dated 07 January 2015) filed on February 11, 2015, with respondent's Opposition/Comment filed on February 26, 2015.

In assailing the January 7, 2015 Decision of the Court *En Banc*, petitioner reiterates that respondent failed to prove that it submitted with the One Stop Shop (OSS) Center of the Department of Finance the complete documents in support of its administrative claim for refund as required under Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended; that without the submission of complete documents, respondent's judicial claim for refund was prematurely filed since the 120-day period within which she should have acted on the claim did not start to run; as a consequence, the running of the 30-day period within which to appeal to the Court in Division has yet to commence. She argues that counting the 120-day period from the filing of the administrative claim runs counter to the mandate of Section 112(C) of the NIRC of 1997, as amended.

Petitioner likewise maintains that the final invoices dated outside the period of claim should have been excluded in the computation of zero-rated sales citing the rule regarding strict construction of tax refund against the taxpayer and liberally in favor of the government.

Finally, petitioner asserts that the Court *En Banc* erred in sustaining respondent's entitlement for refund as respondent failed to submit its subsidiary sales journal and subsidiary purchase journal which are required under Section 113(C) of the NIRC of 1997 and Section 4.113.3 of Revenue Regulations No. 16-2005.

In its Opposition/Comment, respondent counter-argues that the issues/arguments raised in petitioner's motion are exactly the same as those she raised in her previous pleadings filed before the Court in Division and the Court *En Banc*, which have been passed upon and resolved by both Courts; and that since no new matters or issues are raised in the motion, the Court *En Banc* has no reason to reconsider and set aside the assailed Decision.

The Court *En Banc* finds that the contentions presented in the motion are mere reiteration or amplification of the arguments raised by petitioner in its Petition for Review filed on February 7, 2014, all of which were duly considered and passed upon in the assailed Decision. The Court *En Banc* therefore finds no justifiable reason to modify the assailed Decision.

WHEREFORE, premises considered, the Motion for Reconsideration (Decision dated 07 January 2015) filed by petitioner on February 11, 2015 is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

J. C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

(On Official Business)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice