REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

PETRON CORPORATION,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NOS. 9751, 9813 and 9848

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN,[1]
MODESTO-SAN PEDRO,[2] and
REYES-FAJARDO,[3] *JJ.*

Promulgated:
MAR 3 1 2022 11:27 a.m.

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RESOLUTION

DEL ROSARIO, P.J.:

This resolves the following:

1. Respondent's **Motion for Reconsideration (Decision promulgated 21 June 2021)** filed on July 8, 2021, with petitioner's **Opposition (To: Respondent's Motion for Reconsideration dated 5 July 2021)** posted on October 4, 2021, which the Court received on October 22, 2021, and filed *via* electronic mail on October 15, 2021; and,

2. Petitioner's **Motion for Entry of Judgment** incorporated in petitioner's Opposition (To: Respondent's Motion for Reconsideration dated 5 July 2021), with respondent's **Opposition (Re: Motion for Entry of Judgment)** posted on January 10, 2022, which the Court received on February 23, 2022.

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[1] Inhibited.
[2] Appointed as Special Member per Memorandum dated August 20, 2020.
[3] No Part per Resolution dated March 4, 2022.

In respondent's Motion for Reconsideration, respondent seeks reconsideration of the Court's Decision dated June 21, 2021, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Petitions for Review filed by petitioner Petron Corporation on January 12, 2018, April 13, 2018, and June 4, 2018 are **GRANTED**. Accordingly, respondent is ordered to **REFUND** and/or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner Petron Corporation in the amounts of ₱20,956,877.00 in CTA Case No. 9751, ₱21,071,330.00 in CTA Case No. 9813 and ₱22,304,411.00 in CTA Case No. 9848, or a total of **₱64,332,618.00** representing its excise taxes paid in the year 2016 on the importation of alkalytes per SAD Import Entry Nos. C2-16, C44-16 and C82-16.
>
> **SO ORDERED.**"

Respondent faults the Court in ruling that petitioner is entitled to a refund of ₱64,332,618.00. Respondent argues that alkylate is a product of distillation, and falls within the category of naphtha, regular gasoline and other similar products of distillation, hence, subject to excise tax under Section 148(e) of National Internal Revenue Code (NIRC) of 1997, as amended. In addition, respondent cites an alleged dissenting opinion involving another case, *albeit* without any detailed reference.

In its Opposition, petitioner counter-argues that:

1. The Motion for Reconsideration is *pro forma* as the discussion therein is a mere verbatim reproduction of respondent's Memorandum with a solitary insertion of a supposed excerpt from a dissenting opinion in another case involving alkylate *sans* reference of the case number and the date of the same. As such, the Motion for Reconsideration did not toll the reglementary period to appeal, thus, the Court's June 21, 2021 Decision is now final and executory; and,

2. The Court correctly found that alkylate was not a product of distillation. Alkylate comes into existence through the process of alkylation.

In his Opposition (Re: Motion for Entry of Judgment), respondent contends the following:

1. The crux of the controversy in this case is the interpretation of Section 148(e) of the NIRC of 1997, as amended, which imposes an excise tax for every liter of volume capacity of naphtha, regular gasoline and other similar products of distillation;

2. Contrary to petitioner's claim that its Motion for Reconsideration made no reference to any specific findings or conclusion in the assailed Decision, respondent allegedly refuted the testimony of petitioner's witness, Mr. Simon Christopher Mulqueen, that alkylate can only be produced through a process called alkylation, with his reference to the Report of the OIC-Chief, BIR Laboratory Section, Excise Taxpayers Regulatory Division that in terms of boiling range, volatility and recovery process, alkylate qualifies as a product similar to naphtha used as gasoline blending component. Respondent further claims that he also cited the CTA *En Banc* case of *Pilipinas Shell Petroleum Corporation vs. Commissioner of Internal Revenue;*[4]

3. A motion for reconsideration is not *pro forma* just because it reiterated the arguments earlier passed upon and rejected by the court; and,

4. In *Marikina Valley Development vs. Flojo,*[5] it was declared that the doctrine relating to *pro forma* motions for reconsideration should be applied reasonably, rather than literally; and that public policy would be better served by according the appellate court an effective opportunity to review the decision of the trial court on the merits.

Respondent's Motion for Reconsideration

The Court resolves to deny respondent's Motion for Reconsideration.

Respondent's arguments in his Motion for Reconsideration had been sufficiently considered and addressed in the assailed Decision. There is no need to discuss the same argument again in resolving the present Motion for Reconsideration. To repeat the discussion in the assailed Decision would only be a superfluity. Truth to tell, no substantial argument or cogent reason was put forth by respondent that would merit the reconsideration sought.

The pronouncement in ***Social Justice Society (SJS) Officers, et al. vs. Lim,***[6] *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.**

[4] CTA EB No. 1007 and 1003, September 28, 2015.
[5] G.R. No. 110801, December 8, 1995.
[6] G.R. Nos. 187836 & 187916, March 10, 2015.

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; xxx. **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.**" *(Boldfacing supplied)*

Petitioner's Motion for Entry of Judgment

As aforesaid, this Court finds that the arguments presented in respondent's Motion for Reconsideration are mere rehash of respondent's Memorandum, which had been sufficiently considered and addressed in the assailed Decision.

This Court, however, does not find respondent's Motion for Reconsideration as *pro forma*.

In ***Security Bank and Trust Company, Inc. vs. Cuenca***,[7] it was declared that a motion for reconsideration is not *pro forma* just because it reiterated the arguments earlier passed upon and rejected by the appellate court. The Court explained that a movant may raise the same

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[7] G.R. No. 138544, October 3, 2000.

arguments, precisely to convince the court that its ruling was erroneous.

The Court judiciously re-studied the arguments of the respondent and found no compelling reason to modify or reverse the assailed Decision.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration (Decision promulgated 21 June 2021)** filed on July 8, 2021, and petitioner's **Motion for Entry of Judgment** incorporated in petitioner's Opposition (To: Respondent's Motion for Reconsideration dated 5 July 2021) posted on October 4, 2021, are both **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

I CONCUR:

(Inhibited)
CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice
Special Member

(No Part)
MARIAN IVY F. REYES-FAJARDO
Associate Justice