REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

AMADEUS MARKETING PHILIPPINES, INC., *Petitioner,*	**CTA EB No. 2685** (CTA Case No. 9664)
- versus -	Present: **DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN, MANAHAN, BOCORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: AUG 20 2024 1:25 p.m.

x---x

RESOLUTION

REYES-FAJARDO, *J.*:

For resolution of the Court *En Banc* is petitioner's Motion for Reconsideration[1] in CTA EB No. 2685 filed on February 29, 2024, with respondent's Comment/Opposition *(To Motion for Reconsideration)* filed via registered mail on April 30, 2024 and received by the Court on May 6, 2024.[2]

---

1 *Rollo,* pp. 116-124.

2 *Id.* at pp. 127-133.

The present case is petitioner's claim for refund of unutilized input Value-Added Tax (VAT) attributable to zero-rated sales of services for the 1st to 4th quarters of taxable year 2015 in the amount of ₱16,846,916.29 under Section 108(B)(2) of the 1997 National Internal Revenue Code (NIRC), as amended.

For VAT zero-rating under Section 108(B)(2) of the NIRC, as amended, to apply, the service-recipient must be a non-resident foreign corporation doing business outside the Philippines. Conversely, if a non-resident foreign corporation is "doing business" in the Philippines under Section 3(d) of Republic Act No. 7042 or the Foreign Investments Act of 1991, VAT zero-rating under Section 108(B)(2) of the NIRC, as amended, shall not apply.

The Third Division found that petitioner is not entitled to the refund since the transactions entered by petitioner and the recipient of its sales of services, Amadeus IT Group, S.A. (Amadeus SA), as revealed in the Amadeus Commercial Organization (ACO) Agreement fall under the category of "doing business" in the Philippines under Section 3(d) of the Foreign Investments Act of 1991.

In the Decision dated January 24, 2024 (Assailed Decision),[3] the Court *En Banc* sustained the finding of the Third Division. The dispositive portion thereof reads:

> **WHEREFORE**, the Petition for Review filed on September 29, 2022 by Amadeus Marketing Philippines, Inc. is **DENIED**, for lack of merit. The Decision dated February 22, 2021 and the Resolution dated August 17, 2022, both rendered by the Court in Division are **AFFIRMED**.
>
> **SO ORDERED.**

In the present Motion for Reconsideration, petitioner argues that the recipient of its sales of services, Amadeus SA is a non-resident foreign corporation doing business <u>outside</u> the Philippines for the following reasons: *first*, the provisions in the ACO Agreement show petitioner's independence in performing its contractual obligations;

---

[3] *Id*. at pp. 88 to 101.

ᵍᴿ

and *second,* there is no evidence to show that petitioner acted as its agent.

By way of Comment, respondent echoes the Court's finding that petitioner's sales of services to Amadeus SA are ineligible for VAT zero-rating under Section 108(B)(2) of the NIRC, as amended because Amadeus SA is doing business in the Philippines.

The Motion is denied.

Indeed, the arguments raised by petitioner, were already passed upon by the Court *En Banc,* and found wanting in the assailed Decision. We reiterate that it is evident from the ACO Agreement that Amadeus SA actively participated in the marketing and distribution process of the Amadeus System in the Philippines through the services of petitioner. Amadeus SA's also appointed petitioner as its local agent.

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] The pronouncement in *Social Justice Society (SJS) Officers, et al. v. Lim*[5] on the effect and disposition of a motion for reconsideration is instructive:

> 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

[4] See *Social Justice Society (SJS) Officers, et al. v. Lim,* G.R. Nos. 187836 & 187916, March 10, 2015.

[5] *Id.*

> 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, filed on February 29, 2024 is **DENIED,** for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY A. ANGELES
Associate Justice