REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

TEAM SUAL CORPORATION (formerly MIRANT SUAL CORPORATION and SOUTHERN ENERGY PANGASINAN, INC.),
Respondent.

CTA *EB* NO. 2353
(CTA Case No. 7620)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
JUN 16 2022 2:35pm

x- x

RESOLUTION

MANAHAN, J.:

To be resolved before this Court is petitioner's **Motion for Reconsideration (Re: Decision promulgated 10 February 2022)**[1] filed on March 3, 2022, praying for the reversal and setting aside of this Court's *Decision* dated February 10, 2022 (Assailed Decision).

Petitioner argues that a motion for reconsideration is not pro forma just because it reiterated the arguments already passed upon by the court but it may raise the same arguments to convince that the court's ruling was erroneous.

Petitioner insists that only creditable input taxes that are directly attributable to value-added tax (VAT) zero-rated sales

[1] *Rollo*, CTA EB No. 2353, pp. 108-117.

may be refunded and that since the case is a claim for refund, respondent must establish its claim by convincing evidence.

Respondent, on the other hand, in its **Comment/Opposition (Re: Petitioner's Motion for Reconsideration (Re: Decision promulgated 10 February 2022)**[2], argues that it had complied with the requisite that the input value-added taxes claimed are attributable to its VAT zero-rated or effectively zero-rated sales, as discussed by this Court in the Assailed Decision.

A closer look at the instant motion reveals that the arguments therein are substantially similar to those raised in the Petition for Review which were already exhaustively discussed in the Decision of the Court in Division and were amplified in the Assailed Decision, namely:

1. Petitioner's argument in the instant petition that only creditable input taxes that are directly attributable to value-added tax (VAT) zero-rated sales may be refunded; and

2. Petitioner's argument in the instant petition that since the case is a claim for refund, respondent must establish its claim by convincing evidence to substantiate respondent's claim for refund.

The Assailed Decision reiterated the factual findings of the Court in Division that respondent's sales came from both zero-rated and taxable transactions and that the input VAT related thereto cannot be directly identified or attributed to specific sales. Hence, the input VAT was subjected to proportional allocation.

Further, the Court in Division found that respondent was able to comply with the requisites for such claim for refund although entitled only to the amount of ₱97,846,457.61. The Court declared in the Assailed Decision that these are factual findings, which in the absence of any clear showing of abuse, arbitrariness, or capriciousness committed on the part of the Court in Division, are binding and conclusive upon this Court.

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[2] *Rollo*, CTA EB No. 2353, pp. 130-141. *om*

In *Social Justice Society (SJS) Officers, et al. v. Alfredo S. Lim, in his capacity as Mayor of the City of Manila,*[3] the Supreme Court ruled:

> 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.
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> 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; 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 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, premises considered, petitioner's *Motion for Reconsideration (Re: Decision promulgated 10 February 2022)* is hereby **DENIED** for lack of merit.

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[3] G.R. Nos. 187836 & 187916, March 10, 2015.

SO ORDERED.

CATHERINE T. MANAHAN
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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice