**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

*EN BANC*

**IBEX PHILIPPINES, INC.,**
Petitioner,

-versus-

**THE COMMISSIONER OF INTERNAL REVENUE,**
Respondent.

**CTA EB NO. 1834**
**(CTA Case No. 9002)**

**Present:**

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ.*

**Promulgated:**

MAR 0 2 2020 3:39 p.m.

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## RESOLUTION

*CASTAÑEDA, JR., J.:*

Submitted for resolution is petitioner's Motion for Reconsideration (Of Decision dated 5 August 2019), posted on August 29, 2019,[1] without a comment from respondent despite notice.[2]

Without raising any new matter, petitioner seeks the reconsideration of the August 5, 2019 Decision, which affirmed the decision of the Court *a quo* *partially* granting the refund claim of unutilized input VAT attributable to its zero-rated export sales.

Specifically, the motion asks the Court *En Banc* to *again* consider Exhibit "P-1-16", Securities and Exchange Commissioner (SEC) Certificate

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[1] *Rollo*, pp. 131-141.
[2] Minute Resolution dated December 5, 2019, *Rollo*, p. 154.

of Non-Registration of "BPO Solutions, Inc.", as evidence for "TRG BPO Solutions".[3]

We resolve to deny the motion.

The points raised in the motion are *not* new. The very same arguments centered on Exhibit "P-1-16" were already laid out in petitioner's Motion for Partial Reconsideration (of Decision promulgated on January 5, 2018) filed in the trial court below[4] and passed upon in the March 20, 2018 Resolution denying the motion for lack of merit.[5]

More significantly, it will be recalled that the Court *a quo* disallowed petitioner's zero-rated export sales to "TRG BPO Solutions", thus:

> "*For Services to TRG BPO Solutions*:
>
> As regards the first requisite, records show that Ibex is engaged in the business of providing contact center services and other facilities to its foreign client, TRG BPO Solutions, a non-resident foreign corporation doing business in the U.S. These services clearly fall within the scope of services "other than processing, manufacturing or repacking of goods" contemplated under Section 108(B)(2) of the 1997 NIRC.
>
> To comply with the second requisite, records show that Ibex's services were paid for in U.S. Dollars and were inwardly remitted through its Unionbank dollar account, as evidenced by Ibex's bank certification.
>
> Ibex submitted the Certificate of Incorporation and a Certification of Non-Registration of Company, duly issued by the Philippine Securities and Exchange Commission ("SEC") to prove compliance with the third requisite.
>
> It must be stressed that to be considered a non-resident foreign corporation, each foreign corporation must be able to produce, at the very least, both (1) a SEC certificate of non-registration of corporation/partnership, and (2) its certificate/articles of foreign incorporation/association/registration.
>
> However, the Certificate of Incorporation presented reveals that the name of the corporation being certified is "BPO Solutions, Inc." while the name indicated on the SEC Certificate of Non-Registration is "TRG BPO Solutions, Inc." Given this inconsistency, the Court deems it proper to disallow the zero-rated sales to TRG BPI Solutions, Inc."[6] (*Citations omitted and underscoring supplied*)

As mentioned, Exhibit "P-1-16" pertains to the Philippine SEC Certificate of Non-Registration of "BPO Solutions, Inc.", a corporation separate and distinct from "TRG BPO Solutions".[7] *Jr*

[3] Underscoring supplied for emphasis.
[4] *Rollo*, pp. 62-67.
[5] *Rollo*, pp. 58-60.
[6] January 5, 2018 Decision, *Rollo*, pp. 48-49.
[7] Underscoring supplied for emphasis.

In other words, even if the Court were to consider Exhibit "P-1-16", that document still does not address the issue at hand. It is, in fact, irrelevant to the same.

As evidence that "TRG BPO Solutions" is a foreign corporation not engaged in trade or business in the Philippines, petitioner produced only Exhibit "P-4-8", Philippine SEC Certificate of Non-Registration of "TRG BPO Solutions". It, however, failed to provide another document pertaining to "TRG BPO Solutions": its certificate/articles of foreign incorporation/registration. Exhibit "P-4-7" is, likewise, irrelevant since it is the US State of Delaware Certification of the *copy* of the Certificate of Incorporation of "BPO Solutions, Inc.", *not* "TRG BPO Solutions".

Accordingly, the Court *En Banc* finds no reversible error when the trial court disallowed petitioner's export sales to "TRG BPO Solutions".

**WHEREFORE**, premises considered, petitioner's motion is **DENIED** for lack of merit.

**SO ORDERED.**

Juanito C. Castañeda, Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**WE CONCUR:**

**ROMAN G. DEL ROSARIO**
Presiding Justice

**ERLINDA P. UY**
Associate Justice

**NO PART**

**ESPERANZA R. FABON-VICTORINO**
Associate Justice

**CIELITO N. MINDARO-GRULLA**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

**CATHERINE T. MANAHAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice