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. 1064
(CTA Case No. 8314)

Present:

Del Rosario, *PJ,*
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas, and
Ringpis-Liban, *JJ.*

Promulgated:

DEC 16 2014
3:10 p.m.

x - x

RESOLUTION

COTANGCO-MANALASTAS, J.:

For resolution is petitioner's *Motion for Reconsideration* filed on September 17, 2014 with respondent's *Opposition/ Comment (Motion for Reconsideration)* filed on September 25, 2014.

Petitioner moves for the reconsideration of this Court's Decision dated August 13, 2014, which dismissed the instant petition for review, thereby affirming the Decision dated April 30, 2013 and the Resolution dated August 14, 2013 of the Special First Division partially granting respondent's claim for refund in the reduced amount of P21,897,953.41 representing excess and unutilized input taxes for the first quarter of 2009.

Petitioner insists that respondent failed to prove that it filed a written claim for refund that must categorically demand for reimbursement and a duly filled up BIR Form 1914 or the

Application for Tax Credits/Refunds. The Court cannot rely on the alleged admission under Paragraph 4 of the Joint Stipulation of Facts and Issues as the said stipulation refers only to a Claimant Information Sheet filed before the One-Stop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance. Considering that respondent did not file a written request for refund with petitioner on or before March 31, 2011, the right of respondent to claim for a tax refund or credit of its input value added taxes paid for the first quarter of 2009 had already prescribed.

As regards the non-submission of complete supporting documents, petitioner maintains that respondent failed to comply with the rules prescribing the presentation of evidence to support an administrative claim for refund. The documents required in Revenue Memorandum Order (RMO) No. 53-98, as amended by RMO No. 16-2007, are listed with definiteness and not subject to the discretion of the taxpayer. Accordingly, respondent failed to satisfy the statutory and administrative requirement provided by Section 112(C) of the National Internal Revenue Code. Thus, the hurried recourse of respondent to the Court in Division deprived petitioner of the opportunity to fully exercise her function to correct, modify or affirm the findings of her subordinates. Exhaustion of available administrative remedies is a condition precedent before taking judicial action.

On its part, respondent stresses that the arguments/ issues raised in petitioner's motion for reconsideration are exactly the same as the arguments/issues already raised before the Court in Division, which the latter had already passed upon and resolved in its Decision dated April 30, 2013 and Resolution dated August 14, 2013. Again, exactly the same arguments/issues were raised in the Petition for Review that petitioner filed with the Court *En Banc* which has been passed upon and resolved in its Decision dated August 13, 2014. Since no new matters or issues are raised in petitioner's motion for reconsideration, there exists no reason to reconsider and set aside the assailed decision.

We find no merit in the motion for reconsideration.

A perusal of petitioner's Motion for Reconsideration readily reveals that the grounds relied upon are but a mere rehash or reiteration of the arguments raised before the Special First Division and the Court *En Banc*. Since the matters raised in the instant motion had already been thoroughly discussed and passed upon in the assailed Decision and no new issues or matters have been raised therein, this Court will no longer address the same.

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito 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

MA. BELEN M. RINGPIS-LIBAN
Associate Justice