REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 1495** (CTA Case No. 8665)
	Present:
-*versus*-	**DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** *and* **MANAHAN,** *JJ.*
DOLE PHILIPPINES, INCORPORATED, *Respondent.*	Promulgated:
	JUL 07 2017 4:23 p.m.

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R E S O L U T I O N

MANAHAN, J.:

Before this Court is petitioner's **Motion for Reconsideration**[1] filed on May 18, 2017, through registered mail and received by this Court on June 2, 2017 seeking for the reconsideration and setting aside of the April 25, 2017 *En Banc's* Decision[2] which denied its Petition for Review, the dispositive portion of which states:

> **WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. The March 18, 2016 *Decision* and July 18, 2016 *Resolution*, of the CTA Third Division in CTA Case No. 8665, are hereby **AFFIRMED**.

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[1] *Rollo*, CTA EB No. 1495, Motion for Reconsideration, pp. 176-185.
[2] *Id.*, Decision, pp. 149-162.

Petitioner avers that it disagreed with the ratiocination of the Court *En Banc* particularly on the ruling that respondent was able to sufficiently prove its entitlement to a refund and to give its testimonial and documentary evidence bearing probative value.

Petitioner argues that respondent did not properly comply with the substantiation requirements under Sections 110(A), 113(A)(B), and 237 of the 1997 Tax Code in relation to Sections 4.110-1, 4.110-8, and 4.113-1 of Revenue Regulations No. 16-05. Further, the testimony of the witnesses and the documentary exhibits duly identified by said witnesses were hearsay evidence as they have no personal knowledge as to the fact of issuance and preparation of said documents.

On the other hand, respondent avers in its Comment[3] that it was able to sufficiently prove its entitlement to a refund or issuance of tax credit certificate for its unutilized excess input taxes attributable to its zero-rated sales for the taxable year 2011 albeit in the reduced amount of Php625,279,175.14 as it was exhaustively discussed and judiciously passed upon by the Court in Division.

Respondent also avers that this Court was correct in giving probative value to the documentary evidence submitted before it because they were identified and scrutinized during the trial, hence, not hearsay evidence contrary to petitioner's allegation. Thus, it concluded that the motion should be considered "pro-forma" because its only intention is to delay the implementation of such refund.

The Court *En Banc* finds no compelling reason to reverse or modify the assailed decision.

A closer look at the instant motion will reveal that the issues and arguments posited by the petitioner are mere rehash or substantial repetitions of the disquisition made in its Petition for Review which was already amply discussed and extensively disposed of by the assailed decision.

However, we would like to reiterate that the substantiation requirements for claim of refund under the 1997 Tax Code as well as its related rules and regulations

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[3] *Rollo*, Comment/Opposition, pp. 172-175.

were complied with by the respondent as thoroughly discussed by the Court in Division.

Further, the exhibits (purchase invoices, official receipts, airway bills, bills of lading, bank credit advice, and certificate of bank remittances) being assailed by the petitioner were even used by its Revenue Officer Cherryl Anne M. Adapon & Group Supervisor Frances E. Leonida in their findings that the respondent was entitled to refund to a reduced amount of Php747,577,710.82 because said amount was substantiated by those documents as shown in their Joint Judicial Affidavit.

Petitioner counsel even manifested and stipulated such fact in the Manifestation with Supplemental to Joint Stipulation of Facts and Issues. Thus, such acknowledgement in a pleading submitted before this Court is considered an admission as to the authenticity of the assailed documents.

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DISMISSED** for lack of merit. Consequently, the April 25, 2017 *En Banc's* Decision is hereby **UPHELD** and **AFFIRMED**.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

(On Leave)
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
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice