REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CHEVRON HOLDINGS, INC., Petitioner, - versus - **COMMISSIONER OF INTERNAL REVENUE,** Respondent.	**CTA EB NO. 1508** (CTA Case No. 8621)
COMMISSIONER OF INTERNAL REVENUE, Petitioner, - versus - **CHEVRON HOLDINGS, INC.,** Respondent.	**CTA EB NO. 1509** (CTA Case No. 8621) Present: **DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** *and* **MANAHAN,** *JJ.* Promulgated: SEP 04 2018 11:16 a.m.

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RESOLUTION

RINGPIS-LIBAN, ***J.:***

For resolution are the following:

1) The Commissioner of Internal Revenue ("CIR")'s "Motion for Reconsideration (Re: Decision promulgated on 22 March 2018)"

filed on April 16, 2018[1], with Chevron Holdings, Inc. ("Chevron")'s "Comment (Re: Motion for Reconsideration dated April 16, 2018)" filed on July 05, 2018; and

2) Chevron's "Motion for Partial Reconsideration (Re: Decision dated March 21, 2018)" filed on April 17, 2018 *via* registered mail[2], without comment from the CIR[3].

Both motions seek reconsideration of the Decision[4] promulgated on March 21, 2018 ("Assailed Decision"), the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the Court **DENIES** the instant Petitions for lack of merit. The Decision dated April 05, 2016 and the Resolution dated August 12, 2016 of the Second Division in CTA Case No. 8621 are **AFFIRMED.**
>
> **SO ORDERED.**"[5]

On May 21, 2018, this Court issued a Resolution[6] ordering (1) Chevron a period of ten (10) days from notice within which to comment on the CIR's "Motion for Reconsideration (Re: Decision promulgated on 22 March 2018)"; and (2) the CIR the same period within which to comment on Chevron's "Motion for Partial Reconsideration (Re: Decision dated March 21, 2018)".

On June 29, 2018, Chevron filed a "Motion for Extension of Time to File Comment" praying an additional period of ten (10) days from June 29, 2018 or until July 09, 2018 within which to file its Comment.[7]

Thereafter, on July 05, 2018, Chevron filed its "Comment (Re: Motion for Reconsideration dated April 16, 2018)".

On July 09, 2018, a Records Verification Report was issued by the Judicial Records Division stating that the CIR failed to file his comment on Chevron's "Motion for Partial Reconsideration (Re: Decision dated March 21, 2018)".

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1 Rollo, pp. 274-290.
2 *Id.,* at pp. 328-363.
3 Records Verification Report dated July 09, 2018 stating that the CIR failed to file his comment on Chevron's "Motion for Partial Reconsideration (Re: Decision dated March 21, 2018)".
4 Rollo, at pp. 243-260.
5 *Id.,* at pp. 259-260.
6 *Id.,* at pp. 365-366.
7 *Id.,* at pp. 367-369.

Consequently, on July 25, 2018, a Resolution was issued granting Chevron's "Motion for Extension of Time to File Comment" and submitting the respective motions for reconsiderations of the parties for resolution.

In his "Motion for Reconsideration (Re: Decision promulgated on 22 March 2018)", the CIR raises the following arguments:

1) Chevron failed to substantiate its claim for refund. Allegedly, Chevron failed to comply with the invoicing and accounting requirements laid down in Sections 113, 114 and 236 of the National Internal Revenue Code of 1997, as amended ("1997 NIRC") and its implementing regulation, Revenue Regulation No. 16-2005. In addition, Chevron allegedly failed to submit all supporting and relevant documentary requirements enumerated in Revenue Memorandum Order No. 53-98;

2) Chevron failed to prove that the subject input tax paid are attributable to its zero-rated sales or effectively zero-rated sales; and

3) Chevron failed to overcome the burden that the subject input value-added tax ("VAT") being claimed remained unutilized or have not been applied against any output tax for the current and the succeeding quarters of taxable years 2012 and 2013.

On the other hand, in its "Comment (Re: Motion for Reconsideration dated April 16, 2018)", Chevron contends that contrary to the CIR's claim, it complied with the invoicing requirements laid down in Sections 113, 114 and 236 of the 1997 NIRC and relevant rules and regulations. In fact, the Court-commissioned Independent Certified Public Accountant (ICPA), in duly examining Chevron's voluminous documents, found that the claimed input VAT was properly substantiated.

Chevron also alleges that it complied with the requirement of submission of complete supporting documents when it attached relevant documents in support of its administrative claim for refund.

Further, Chevron asserts that it sufficiently established that its claim for unutilized and excess input VAT is directly attributable to its zero-rated sales, and that the amount of Php9,188,216.85 representing its excess input VAT remained unutilized in the succeeding quarters.

Meanwhile, in its "Motion for Partial Reconsideration (Re: Decision dated March 21, 2018)", Chevron anchors its arguments on the following grounds:

1) It established sufficient grounds to merit the reopening of the case to present supplemental evidence;

2) It presented substantial and relevant evidence proving that the recipient of its services are non-resident foreign entities conducting business outside the Philippines;

3) Its sale of services to Chevron Corporation was properly subjected to VAT zero-rating. In particular, Chevron points out that there was an error in the entry in the Certificate of Inward Remittance which shows that the remittance in the amount of USD203,584.11 on July 25, 2011 with Bank Reference No. T37SWICO34488 was made by Shell Chemicals LP instead of Chevron Corporation;

4) It presented sufficient evidence to prove the existence of its reported input VAT carry-over from prior years; and

5) Claims for refund of erroneously paid taxes, like any other ordinary civil case, necessitate only preponderance of evidence and not evidence beyond reasonable doubt.

After a careful consideration of the grounds raised in both motions for reconsideration, the Court finds that the issues and arguments raised therein had already been amply discussed, passed upon and considered by this Court in the Decision sought to be reconsidered.

We note that the CIR's "Motion for Reconsideration (Re: Decision promulgated on 22 March 2018)" and Chevron's "Motion for Partial Reconsideration (Re: Decision dated March 21, 2018)" are very close copies of their Petitions for Review with the Court *En Banc*. In the assailed Decision, we already pointed out that the issues raised by the CIR and Chevron are rehashed from their arguments before the Court in Division, and have been sufficiently discussed in the Decision and Resolution of the Court in Division.[8]

Considering the fact that the CIR and Chevron did not raise any new argument that would merit a reconsideration of the Assailed Decision, the Court finds their respective motions for reconsideration bereft of merit. Finding no compelling reason to reconsider, modify or reverse the Assailed Decision, We

[8] *Id.*, p. 249.

shall no longer belabor in this Resolution, to repeat the disquisitions and rulings made therein.

We reiterate our findings –

> "All told, We are one with the Second Division that Chevron has sufficiently established that it is entitled to a refund or issuance of a TCC corresponding to its unutilized and excess input VAT for the four quarters of CY 2011 attributable to its zero-rated receipts, but in the reduced amount of Php9,188,216.85."

WHEREFORE, finding no cogent reason to reverse the Assailed Decision, the CIR's "Motion for Reconsideration (Re: Decision promulgated on 22 March 2018)" and Chevron's "Motion for Partial Reconsideration (Re: Decision dated March 21, 2018)" are both **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

(I maintain my Concurring and Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CATHERINE T. MANAHAN
Associate Justice