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

**EN BANC**

**COMMISSIONER OF INTERNAL REVENUE,**
*Petitioner,*

-versus-

**TETRA PAK PHILIPPINES, INC.,**
*Respondent.*

**CTA EB No. 2816**
(CTA Case No. 10237)

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**TETRA PAK PHILIPPINES, INC.,**
*Petitioner,*

-versus-

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

**CTA EB No. 2818**
(CTA Case No. 10237)

Present:

**RINGPIS-LIBAN,**
**MANAHAN,**
**BACORRO-VILLENA,**
**MODESTO-SAN PEDRO,**
**REYES-FAJARDO,**
**CUI-DAVID,**
**FERRER-FLORES,** and
**ANGELES,** *JJ.*

Promulgated:

NOV 25 2025 1:50 p.m.

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## RESOLUTION

*REYES-FAJARDO, J.:*

On February 4, 2025, the Court *En Banc* affirmed the Decision[1] and Resolution[2] of the Special Second Division of this Court (the "Court in Division") partially granting Tetra Pak Philippines, Inc. ("Tetra Pak")'s Petition for Review and ordering the Commissioner of Internal Revenue ("CIR") to refund or issue a tax credit certificate in favor of Tetra Pak in the aggregate amount of ₱10,326,777.19, representing its unutilized input value-added tax ("VAT") attributable to its zero-rated sales for the third quarter of calendar year 2017.

The dispositive portion of the Decision reads:[3]

> **WHEREFORE,** in light of the foregoing considerations, the Petitions for Review are **DENIED** for lack of merit. Accordingly, the Decision promulgated on May 19, 2023 and Resolution promulgated on October 9, 2023 rendered by the Special Second Division of this Court in CTA Case No. 10237 are **AFFIRMED**.
>
> **SO ORDERED.**

In so ruling, the Court *En Banc* found that Tetra Pak's sales to Axelum in the total amount of ₱110,969,568.96 do not qualify as VAT zero-rated sales since it cannot be ascertained whether the export sales of Axelum in 2016 indeed exceed 70% of Tetra Pak's total annual production to be considered an export-oriented enterprise for purposes of VAT zero-rating, considering that the Board of Investment ("BOI") Endorsement Letter for VAT zero-rating it presented determined the percentage of export sales to total sales of Axelum only from January to November 2016 without any information provided for December 2016.

The Court *En Banc* likewise affirmed the disallowance of the *"considered export sales"* amounting to a total of ₱33,036,237.77 because certain sales invoices supporting Tetra Pak's *"considered export sales"* to BOI-registered and Philippine Economic Zone Authority-registered entities are not fully compliant with the invoicing

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1 Promulgated on May 19, 2023. Decision, EB 2816, Docket, Volume 1 — pp. 39 to 94; EB 2818, Docket — pp. 30 to 84.

2 Promulgated on October 9, 2023. Resolution, EB 2516, Volume 1 — pp. 95 to 104; EB 2818, Docket — pp. 86 to 95.

3 Docket, Volume II, pp. 707 - 719.

requirements under Section 113 of the National Internal Revenue Code of 1997, as amended for: (1) failure to indicate the nature or description of goods sold and (2) failure to indicate the tax identification number of said entities in the sales invoices.

The Court *En Banc* also emphasized that it is not bound by Bureau of Internal Revenue ("BIR") Rulings which are mere administrative opinions interpreting a provision of a tax law.

Unconvinced, both parties moved for reconsideration.

**CTA EB No. 2816**

In his *Motion for Reconsideration (of the Decision dated February 4, 2025),*[4] the CIR maintains that: 1) the original Petition must be dismissed for failure of Tetra Pak to substantiate its administrative claim for refund, and 2) Tetra Pak is not entitled to the claim for refund or issuance of tax credit certificate in its entirety.

In its *Comment/Opposition (to the Motion for Reconsideration dated 18 February 2025),*[5] Tetra Pak counters that: 1) it duly substantiated its refund claim and that the Court is not bound by the findings of fact at the administrative stage; and 2) the Court correctly dismissed the CIR's Petition for raising issues already passed upon and extensively discussed by the Court in Division.

**CTA EB No. 2818**

In its *Motion for Partial Reconsideration (of the Decision dated 04 February 2025),*[6] Tetra Pak maintains that: 1) the Court's conclusion that is cannot ascertain whether the export sales of Axelum exceed 70% of its total annual production was rendered in a manner contrary to law and evidence; 2) its position is supported by law and BIR

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4 Docket, Volume II, pp. 734 - 746. Personally and electronically filed on May 18 and May 19, 2025, respectively.

5 Docket, Volume II, Unpaginated. Personally and electronically filed on March 3 and March 4, 2025, respectively.

6 Docket, Volume II, unpaginated. Electronically and personally filed on February 26 and February 27, 2025, respectively.

issuances; and 3) the Court erroneously disallowed its "considered export sales."

In his *Comment/Opposition (Re: Petitioner's Motion for Partial Reconsideration dated February 25, 2025),*[7] the CIR retorts that the Court in Division correctly denied Tetra Pak's refund claim. Hence, the *Motion for Partial Reconsideration* must be denied.

We resolve. The Court *En Banc* finds no compelling reason to reverse or modify the Decision.

The arguments forwarded by both parties have already been passed upon and discussed at length by both the Court *En Banc* and the Court in Division. Any further discussion will only be unnecessarily repetitive.

The pronouncement in *Social Justice Society (SJS) Officers, et al. v. Lim,*[8] is instructive:

> 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.
>
> 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,

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7 Docket, Volume II, unpaginated. Personally and electronically filed on April 10 and April 11, 2025, respectively.

8 G.R Nos. 187836 & 187916, March 10, 2015.

> 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**, in light of the foregoing considerations, the CIR's *Motion for Reconsideration (of the Decision dated February 4, 2025)* and Tetra Pak's *Motion for Partial Reconsideration (of the Decision dated 04 February 2025)* are **DENIED** for lack of merit.

**SO ORDERED.**

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

**WE CONCUR:**

**MA. BELEN M. RINGPIS-LIBAN**
Acting Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

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

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

**LANEE S. CUI-DAVID**
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

**HENRY S. ANGELES**
Associate Justice