REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

KEPCO ILIJAN CORPORATION,
Respondent.

CTA EB No. 2475
(CTA Case No. 6966)

x- x

KEPCO ILIJAN CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2477
(CTA Case No. 6966)

Present:

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

Promulgated:
JUL 27 2023
2:39 p.m.

x- x

RESOLUTION

REYES-FAJARDO, *J.*:

For the Court's resolution is the Commissioner of Internal Revenue's (CIR) *Motion for Reconsideration (on the Decision dated*

January 9, 2023)[1] ("Motion"), filed on January 27, 2023, with Kepco Ilijan Corporation's (KEILCO)'s *Comment (on the Petitioner's Motion for Reconsideration dated January 9, 2023)*[2] filed on March 20, 2023.

In the *Motion,* the CIR prays that the Court reverse the Decision[3] ("assailed Decision"), promulgated on January 9, 2023. The dispositive portion of the assailed Decision states:

> **WHEREFORE,** the Petitions for Review filed by the CIR and KEILCO are DENIED for lack of merit. Accordingly, the Amended Decision dated September 22, 2020 and Resolution dated March 12, 2021, in CTA Case No. 6966, whereby the Court's Special Second Division maintained and reiterated the ruling of the Second Division's Decision dated April 14, 2009, partially granting KEILCO' s claim for refund or issuance of a TCC in the reduced amount of ₱23,389,050.05, representing unutilized and excess input VAT attributable to its zero-rated sales of electricity to NPC for the 2nd, 3rd, and 4th quarters of TY 2002 are **AFFIRMED**.
>
> **SO ORDERED.**

The assailed Decision sustained the finding of the Court in Division that KEILCO has sufficiently proven that it is entitled to a refund or issuance of tax credit certificate corresponding to its unutilized input VAT for the second, third and fourth quarters of taxable year 2002 in the reduced amount of ₱23,389,050.05.

In ruling so, the Court followed the Supreme Court's Decision in *Kepco Ilijan Corporation v. Commissioner of Internal Revenue,*[4] which provides that KEILCO need not observe the 120-day plus 30-day mandatory period before it could seek judicial relief with the CTA by way of a Petition for Review because the judicial claim was filed within the period December 10, 2003 up to October 6, 2010.

In the Motion, the CIR argues that KEILCO's judicial claim was prematurely filed. KEILCO had only given the CIR 9 days to evaluate its administrative claim and it did not observe the 120-day plus 30-day mandatory period as provided under Section 112(D) of the National Internal Revenue Code of 1997, as amended. The CIR

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1 *Rollo,* (CTA EB No. 2475), pp. 104 to 113.
2 *Id.*, pp. 121-130.
3 *Id.*, pp. 75 to 90.
4 G.R. No. 205185, September 26, 2018.

further points out that KEILCO failed to comply with the invoicing requirements for it to be entitled to a tax refund or issuance of TCC.

On the other hand, KEILCO, counters that the CIR's motion for reconsideration merely reiterated the arguments stated in his Petition for Review and that the CIR failed to cite any ground that may serve as basis for the reversal of the assailed Decision.

The Motion is denied.

After a careful evaluation of the arguments presented by the CIR in his Motion, it is clear that the grounds raised therein are mere reiterations of matters which have already been exhaustively considered, weighed and resolved in the assailed Decision. As such, the Court finds no compelling reason to reconsider, modify or even reverse the assailed Decision. The pronouncement in *Social Justice Society (SJS) Officers, et al. v. Lim*,[5] 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.
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> 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:
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>> 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, 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

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

> 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, petitioner's *Motion for Reconsideration (on the Decision dated January 9, 2023)* is **DENIED** for lack of merit.

SO ORDERED.

MARIAN IVY F. REYES-FAJARDO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA A. MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice