REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MELCO RESORTS LEISURE (PHP) CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2670
(CTA Case Nos. 10029 & 10052)

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

Promulgated:
APR 29 2024 4:10 pm

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RESOLUTION

RINGPIS-LIBAN, *J.:*

This resolves Petitioner's "Motion for Reconsideration [of Decision dated January 9, 2024]"[1] ("Motion for Reconsideration") filed on January 29, 2024, without Respondent's comment thereon.[2]

Petitioner's Motion for Reconsideration prays for the setting aside of the Decision promulgated on January 09, 2024 and rule that judgment be rendered:

1) Declaring Petitioner entitled to a refund or tax credit in the aggregate amount of Php92,760,416.49 representing erroneously and illegally paid value-added tax ("VAT") on

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1 Rollo, pp. 213-238.
2 Records Verification Report dated February 29, 2024 stating that Respondent failed to file his comment to Petitioner's Motion for Reconsideration.

its purchases of capital goods, domestic purchases of goods (other than capital goods) and services, importation of goods (other than capital goods) and purchases of services rendered by non-residents, which are passes on by its suppliers and are related to revenues from gaming operations for the 1st and 2nd quarters of taxable year 2017; and

2) Ordering Respondent to refund or issue a tax credit certificate in the aggregate amount of Php92,760,416.49.

The dispositive portion of the Decision promulgated by this Court on January 09, 2024 reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **DENIED** for lack of merit. The Decision dated September 07, 2021 and the Resolution dated July 19, 2022 of the Second Division in the case docketed as CTA Case Nos. 10029 and 10052 are **AFFIRMED**.
>
> **SO ORDERED.**"[3]

In his Motion for Reconsideration, Petitioner contends that in a claim for refund of erroneously paid or passed on taxes by a non-statutory taxpayer, as in the instant case, the "payment of taxes" under Section 229 of the National Internal Revenue Code ("NIRC") of 1997, as amended, should be construed as the time the passed-on taxes are determined to be erroneous, which is from the filing of Petitioner's Quarterly VAT Return and as evidenced by VAT-registered sales invoices and official receipts issued by its suppliers.

Moreover, Petitioner avers that under the principle of *solutio indebiti*, the government had to restore to Petitioner the sums representing erroneous payment of taxes.

Likewise, Petitioner maintains that it complied with the requirements in a claim for refund or credit of taxes erroneously paid or illegally collected under Sections 204 and 229 of the NIRC of 1997, as amended.

Lastly, Petitioner disputes that the additional proof of payment consisting of BIR Form No. 1600 in the amount of Php616,578.29 should be allowed as additional amount to be refunded to Petitioner.

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[3] *Id.,* Decision dated January 09, 2024, p. 185.

We resolve to deny Petitioner's Motion for Reconsideration for lack of merit.

The arguments raised by Petitioner in its motion are mere recapitulation of the arguments raised in its Petition for Review filed with this Court. In addition, these issues have been amply considered, weighed and resolved in the Decision promulgated on January 09, 2024. Thus, We shall not belabor, in this Resolution, to repeat the disquisitions made therein.

One final note. It must be emphasized that "the bare invocation of 'the interest of substantial justice' line is not some magic wand that will automatically compel this Court to suspend procedural rules."[4]

Petitioner was given the opportunity to submit necessary evidence to support its allegations in its original petition before the case was submitted for decision. Now that it obtained an unfavorable decision, Petitioner again prays that it be allowed to present additional evidence to justify its claim. This is too much. A liberal application of the rules of procedure to suit Petitioner's purpose would clearly pave the way for injustice as it would be rewarding an act of negligence with undeserved tolerance.[5]

In sum, the Court *En Banc* finds no cogent reason to overturn the September 07, 2021 Decision and July 19, 2022 Resolution of the Second Division.

WHEREFORE, premises considered, Petitioner's "Motion for Reconsideration [of Decision dated January 9, 2024]" is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

I reiterate my Separate Concurring Opinion
ROMAN G. DEL ROSARIO
Presiding Justice

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[4] G.D.L. Marketing v. Hercules Agro Industrial Corporation, G.R. No. 183239, June 02, 2014.
[5] Commissioner of Internal Revenue v. A. Soriano Corporation, Court of Tax Appeals and Court of Appeals, G.R. No. 113703, January 31, 1997.

I join Presiding Justice's Separate Concurring Opinion
CATHERINE T. MANAHAN
Associate Justice

I reiterate my Concurring and Dissenting Opinion
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

I join Presiding Justice's Separate Concurring Opinion
CORAZON G. FERRER-FLORES
Associate Justice

I join Presiding Justice's Separate Concurring Opinion
HENRY S. ANGELES
Associate Justice