REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

DOLE PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 10212**
	Members:
- versus -	**DEL ROSARIO,** *P.J.,* **BACORRO-VILLENA,** *Acting Chairperson, and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 11 2024 4:22 pm

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RESOLUTION

CUI-DAVID, J.:

Submitted before the Court is respondent's **Motion for Partial Reconsideration (Re: Amended Decision promulgated on February 7, 2024) [Motion]** filed on March 1, 2024, with petitioner's **Comment and Opposition (to the Motion for Partial Reconsideration dated 29 February 2024) [Comment]** filed on March 26, 2024.

On February 7, 2024, the Court promulgated an Amended Decision granting additional value-added tax (VAT) zero-rated sales to petitioner's claim for refund and effectively modifying the dispositive portion of the Court's Decision dated June 13, 2023, as follows:

> "**WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **PARTIALLY GRANTED**.
>
> Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the additional amount of One Hundred Thirty-Nine Million Four Hundred Forty-Seven Thousand Two Hundred Ninety-Seven Pesos and Forty Centavos **(₱139,447,297.40)**,

representing petitioner's excess and unutilized input VAT attributable to its zero-rated sales for the 1st to 4th quarters of FY ending March 2018.

SO ORDERED."

In his Motion, respondent primarily asserts that the Court erred in partially granting petitioner's claim for refund or tax credit based on the following arguments, *viz.*:

i. The Petition must be dismissed for failure of petitioner to substantiate its administrative claim for refund;

ii. The Court erred in reconsidering the export sales in the aggregate amount of ₱667,010.83 and the zero-rated sales issued beyond the period of claim in the aggregate amount of ₱496,093,214.44;

iii. Petitioner failed to comply with the mandatory requirements for claiming a refund or tax credit. Thus, the denial of petitioner's claim for refund in the amount of ₱325,271,541.33 was proper; and,

iv. In an action for tax refund, the burden of proof rests upon the taxpayer claimant to prove not only entitlement to the claim but also compliance with all the statutory and administrative requirements so that failure to comply therewith warrants the dismissal of the taxpayer's claim for refund.

Furthermore, respondent once again cites the ruling in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue* ("*Pilipinas Total Gas*" hereafter for brevity),[1] insisting that a judicial review of the findings of an administrative body such as the Bureau of Internal Revenue (BIR) is not a *de novo* trial. As such, respondent submits that the Court cannot rule on matters that were never substantiated at the said level and should confine itself to the documents submitted by petitioner.

Conversely, in its Comment, petitioner points out that respondent failed to establish the grounds for a proper Motion for Reconsideration under Section 1, Rule 37 of the Rules of Court. Petitioner asserts that the arguments raised in the present Motion were already considered by the Court in the

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[1] G.R. No. 207112, December 8, 2015.

Amended Decision dated February 7, 2024, and that there is no new matter or issue worthy of the attention of this Court.

Nonetheless, petitioner contends that the Court correctly reconsidered its export sales and zero-rated sales because the Court of Tax Appeals (CTA) is a court of record that has the power to conduct a trial *de novo,* which means that the Court is not limited to the evidence presented during the administrative claim. Petitioner likewise submits that the *Pilipinas Total Gas* case is inapplicable herein since respondent failed to show proof of petitioner's supposed failure to submit documents at the administrative level, especially considering that respondent partially granted its administrative claim amounting ₱893,529,266.59.

After due consideration, the Court finds respondent's Motion for Partial Reconsideration bereft of merit.

As correctly pointed out by petitioner, a cursory reading of the present Motion reveals that respondent already raised the same arguments in his Motion for Partial Reconsideration dated June 29, 2023. Save for a few minor additions, the grounds raised in the present Motion are mere reproductions of the previously filed Motion for Partial Reconsideration, which have already been exhaustively considered, weighed, and resolved in both the original Decision dated June 13, 2023 and the Amended Decision dated February 7, 2024.

In the case of *Shangri-la International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.,*[2] the Supreme Court made clear that it is incumbent upon the movant to raise substantially plausible matters to warrant the relief sought, to wit:

> "The bulk of the aforementioned grounds is a mere rehash of movants previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired cause of action.

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[2] G.R. No. 159938 (Resolution), January 22, 2007.

> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought."

This judicial pronouncement was similarly echoed in the case of *Harry L. Roque, Jr. et al. v. Commission on Elections, represented by Hon. Chairman Jose Melo et al.,*[3] where the Supreme Court *En Banc* ruled that whenever the Motion for Reconsideration fails to raise matters that are substantially plausible or compellingly persuasive enough to lead the Court to rule in favor of the desired course of action, then the same must be denied by the Court, thus:

> "Petitioner's above contention, as well as the arguments, citations and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again...
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> x x x
>
> While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered – and this should not be an obstacle for a reconsideration – the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action."

Moreover, it is also apparent that the Court committed no reversible error in allowing petitioner to present evidence which were not introduced at the administrative level, as this is consistent with the nature of the CTA as a "court of record" pursuant to Section 8[4] of Republic Act (RA) No. 1125,[5] as amended.

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[3] G.R. No. 188456 (Resolution), February 10, 2010.

[4] **Sec 8.** ***Court of record; seal; proceedings.*** **– The Court of Tax Appeals shall be a court or record** and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.

[5] "AN ACT CREATING THE COURT OF TAX APPEALS."

As a "court of record," the CTA is authorized to conduct trials *de novo*. Consistent with this principle, parties who come to court are required to prove every aspect of their case if they want the Court to consider such evidence. Accordingly, this Court properly considered the evidence presented and formally offered by petitioner.

Given that respondent's arguments have already been threshed out and judiciously resolved by this Court in both the Decision and the assailed Amended Decision, the Court finds no compelling reason to reverse or modify the findings and conclusions reached therein. Accordingly, nothing is left for this Court but to deny the present Motion for Partial Reconsideration.

WHEREFORE, respondent's Motion for Partial Reconsideration (Re: Amended Decision promulgated on February 7, 2024) is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

(I reiterate my Separate Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice