REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

MITSUBA PHILIPPINES TECHNICAL CENTER CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10675

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:
NOV 22 2024
4:40 p.m.

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RESOLUTION

MANAHAN, *J.*:

For the Court's resolution is respondent Commissioner of Internal Revenue ("**CIR**")'s *Motion for Partial Reconsideration (Re: Decision promulgated on 25 June 2024)* filed on July 15, 2024 ("***Motion***"),[1] with petitioner Mitsuba Philippines Technical Center Corporation ("**Mitsuba**")'s *Comment and Opposition (to the Motion for Partial Reconsideration dated 15 July 2024)* filed on August 16, 2024.[2]

The CIR's *Motion* assails the Court's *Decision* dated June 25, 2024 ("**assailed *Decision***"),[3] which partially granted Mitsuba's tax refund claim in the amount of ₱3,348,276.59 representing its input value-added tax ("VAT") attributable to zero-rated sales for the period April 1, 2019 to March 31, 2020. The CIR argued as follows:

First, that the Court cannot consider evidence not presented at the administrative level and should confine itself to whether the CIR's findings are consistent with law. In an unsuccessful administrative claim for tax refund, the taxpayer

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[1] Docket – Vol. II, pp. 929-941.
[2] Docket – Vol. II, pp. 943-949.
[3] Docket – Vol. II, pp. 908-928.

has to convince the Court, not just that it is entitled to the refund, but also that the CIR has no reason to deny its claim.

Second, that the Court should take another look on whether the input VAT claimed by Mitsuba has not been applied against output taxes in the succeeding taxable periods. According to the CIR, Mitsuba failed to prove that it did not utilize the input VAT claimed during the taxable quarters for the period April 1, 2019 to March 31, 2020.

Third, that even assuming that the Court may receive in evidence documents not presented at the administrative level, Mitsuba still failed to substantiate its claim. The following disallowances are therefore proper:

Violation of invoicing requirements	₱ 1,210,847.66
Final withholding VAT on income payments to NRFCs	3,142,905.80
Output VAT on miscellaneous income	5,885.27
TOTAL	**₱ 4,359,638.73**

The CIR insists that taxes paid to and collected by the government are presumed to have been made in accordance with law, and the burden to prove otherwise is on the taxpayer.

We deny the *Motion* for lack of merit.

The Court notes that the *Motion* is a rehash of the CIR's previous arguments which are already sufficiently addressed in the assailed *Decision*. In the assailed *Decision*, the Court dismissed the CIR's first contention in this wise:

> Suffice it to say, however, that while petitioner alleged that it complied with the documentary requirements and formally offered its evidence in support thereof, respondent did not refute the same. Aside from its general averment that petitioner failed to substantiate its administrative claim, respondent did not specify which documents petitioner failed to submit and had been fatal to its claim.

> Thus, the Court shall proceed to determine whether petitioner's submissions satisfied the requirements under the law and regulations for the successful claim of refund of its input VAT attributable to zero-rated sales.

As to the CIR's contention that Mitsuba failed to prove that it did not utilize the input VAT claimed during the taxable quarters for the period April 1, 2019 to March 31, 2020, the Court already established in the assailed *Decision* that Mitsuba has no reported taxable or exempt sales during the said period, *viz*:

> Petitioner has no reported taxable or exempt sales during the relevant taxable year. As already established, the present claim covers the taxable period from April 1, 2019 to March 31, 2020, and in petitioner's Quarterly VAT Returns (BIR Form No. 2550Q) for the same period, it declared the total of ₱222,139,444.53 comprising entirely of zero-rated sales/ receipts. Consequently, petitioner's substantiated input taxes are entirely attributable thereto.

Lastly, the CIR's contention that Mitsuba failed to substantiate its input VAT refund claim was already exhaustively discussed in the assailed *Decision*. In fact, out of the amount of ₱1,210,847.66 disallowed by the CIR for violation of invoicing requirements, the Court found that the amount of ₱1,011,362.14 was properly disallowed.

The Court additionally notes, however, that the CIR's outright disallowance of the amounts of ₱3,142,905.80 and ₱5,885.27 representing "Final Withholding VAT on Income Payments to NRFCs" and "Output VAT assessed in Miscellaneous Income," respectively, constitutes an assessment for deficiency VAT. Such assessment cannot be made without observing the proper procedure and due process requirements under the Tax Code and pertinent rules and regulations. The CIR cannot use a claim for refund as subterfuge to assess a taxpayer for deficiency tax.

All told, a motion for reconsideration must not only state which parts of the decision is contrary to evidence or law; it should also point out why it is so. The purpose of a motion for reconsideration is precisely to convince the court that its main decision is erroneous, therefore, although the movant may dwell upon the points already raised and passed upon, there must be *bona fide* effort to explain why the court should be regarded as having erred.[4] This respondent failed to do.

ACCORDINGLY, respondent's *Motion for Partial Reconsideration (Re: Decision promulgated on 25 June 2024)* filed on July 15, 2024 is **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

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

HENRY S. ANGELES
Associate Justice

[4] *Luzon Stevedoring Co., Inc. v. Court of Industrial Relations*, G.R. No. L-16682, July 26, 1963 [Per J. Regala, En Banc].