REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PHILIP MORRIS PHILIPPINES MANUFACTURING INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1929
(CTA CASE NO. 8791)

Present:

Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ*

Promulgated:

OCT 20 2020
3:28 p.m.

x--x

RESOLUTION

RINGPIS-LIBAN, J.:

For resolution is the petitioner's "Motion for Reconsideration (of the Decision dated 9 March 2020)"[1] filed on June 29, 2020, with respondent's Comment, filed on August 27, 2020.[2]

In the instant motion, the petitioner avers that the two-year prescriptive period for filing administrative and judicial claims for refund as provided under Sections 204(C) and 229 of the Tax Code does not apply to petitioner's claim for refund; that the excise tax sought to be refunded was advanced or deposited by petitioner on its tobacco products manufactured for export pursuant to

[1] Docket, CTA EB NO. 1929, pp. 239 to 265.
[2] Ibid., pp. 270-279.

Revenue Regulation (RR) No. 03-08 and not Section 130(D) of the Tax Code; that RR No. 03-08 is void and unconstitutional because it requires the payment of excise tax on articles that are not subject to such tax; and that the amount of excise tax paid by petitioner on exported tobacco products pursuant to RR No. 03-08 should be returned to avoid unjust enrichment on the part of the government at the expense of the taxpayer.

On the other hand, respondent argues that the arguments raised by petitioner in the instant Motion were conclusively passed upon by the Court *En Banc* in the assailed Decision; that petitioner's right to claim for refund had already prescribed; that the principle of ***solutio indebiti*** is not applicable; that petitioner has a binding relation to pay the subject excise tax under RR No. 03-08 and that the advance payment or deposit was not made through mistake but was made by petitioner in compliance with the said revenue regulation; that as an administrative agency responsible for revenue collection and enforcement, the Bureau of Internal Revenue (BIR) is duty bound to raise revenues through proper collection of taxes, as such, it is given a special mandate to issue the necessary regulations in implementing the provisions of the Tax Code; that petitioner must not only prove its entitlement to a refund, but also strict compliance with periods provided by Section 112(C) of the Tax Code; and that petitioner must be aware that non-observance of the prescriptive periods within which to file the administrative and judicial claims would result in the denial of the claim.

After consideration, the Court *En Banc* resolves to deny the "Motion for Reconsideration (of the Decision dated 9 March 2020)." The Court *En Banc* reviewed the grounds relied upon by petitioner in support of its motion but finds no cogent reason to grant the same. The Court notes that the petitioner's motion merely reiterates or amplifies the arguments previously raised in its Petition for Review which were already considered and extensively discussed upon by the Court *En Banc* in the assailed Decision dated March 9, 2020.

It must be stressed that among the ends to which a motion for reconsideration is addressed, one is precisely to convince the Court that its ruling is erroneous and improper, contrary to law or the evidence.[3] If the movant failed to do so, the motion for reconsideration must necessarily fail.

In view of the foregoing, the Court finds it needless to reiterate the discussions made in the assailed Decision.

WHEREFORE, premises considered, the petitioner's "Motion for Reconsideration (of the Decision dated 9 March 2020)" is **DENIED for lack of merit**. The **assailed Decision** dated March 9, 2020 is **AFFIRMED**.

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[3] *Teodulo M. Coquilla vs. The Hon. Commission on Elections and Mr. Neil M. Alvarez,* G.R. No. 151914, July 31, 2002.

SO ORDERED.

Ma. Belen SL

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On Leave)
ERLINDA P. UY
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice