REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

FILMINERA RESOURCES CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1394
(CTA Case No. 8666)

Present:
Del Rosario, *P.J.,*
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban, ***and***
Manahan, *JJ.*

Promulgated:

JUL 19 2017 3:56 p.m.

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RESOLUTION

RINGPIS-LIBAN, ***J.*:**

For resolution is petitioner's "Motion for Reconsideration (Re: Decision dated March 24, 2017)" dated April 19, 2017, with respondent's Comment dated June 7, 2017.

Petitioner seeks reconsideration of this Court's Decision, the dispositive portion of which reads as follows:

"**WHEREFORE**, premises considered, the Petition for Review is hereby **DENIED for lack of merit**. Accordingly, the Decision dated August 3, 2015 and Resolution dated November 11, 2015 are hereby affirmed.

SO ORDERED."

Petitioner avers that it is entitled to the refund of excess input taxes for the 3rd quarter of fiscal year ending June 30, 2011 amounting to Php51,966,544.20; that there exists good grounds for the Court to admit Annex "P-1" as proof that the excess input VAT being refunded was never applied against any output tax; and that it was mistake or inadvertence on the part of petitioner when it offered the original BIR Form 2550Q for the 1st Quarter of FY 2012 as Exhibit "P-19" instead of Amended BIR Form for the same period.

On the other hand, respondent counter-argues that the document attached as Annex "P-1" to petitioner's motion for reconsideration had already been considered by the Court when it rendered the decision and that Annex "P-1" should not be given credence by the Court since the same was not formally offered in evidence.

After consideration, this Court finds no merit in the instant Motion for Reconsideration.

A perusal of petitioner's motion shows that the arguments raised by petitioner are substantially the same as its previous arguments which have been fully addressed and discussed by the Court in the assailed Decision.

Petitioner must prove that the claimed input taxes were not applied against any output liability during and in the succeeding period of claim. Contrary to petitioner's contentions, the Court finds no evidence that the subject claim was indeed deducted from the total allowable input VAT, since no amount was indicated in that portion "VAT refund/TCC claimed" of the said BIR Form 2550Q for the first quarter of 2012. This creates an impression that petitioner still had the input VAT in its books of accounts and is available as a credit against its future output VAT liability. Moreover, Annex "P-1" cannot be given credence by the Court because the same was not formally offered as evidence.

In fine, this Court finds no cogent reason to deviate from the previous ruling that petitioner was not able to satisfy the legal requirements for its entitlement to refund or issuance of tax credit certificate.

In *Ferdinand Marcos et al. vs. Hon. Raul Manglapus et al.*[1], the Supreme Court emphasized that in all motions for reconsideration, the burden is upon the movant, petitioner herein, to show that there are compelling reasons to reconsider the decision of the Court. In this case, petitioner did not satisfy this burden.

WHEREFORE, premises considered, the "Motion for Reconsideration (Re: Decision dated March 24, 2017)" is hereby **DENIED for lack of merit**.

SO ORDERED.

Ma. Belen J.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

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

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

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

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[1] *Marcos vs. Manglapuz,* G.R. No. 88211, October 27, 1989.