REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

BW SHIPPING PHILIPPINES, INC.,
Respondent.

CTA EB No. 2481
(CTA Case No. 9660)

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BW SHIPPING PHILIPPINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2482
(CTA Case No. 9660)

Present:

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

Promulgated:

AUG 1 6 2023 4:18pm

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RESOLUTION

REYES-FAJARDO, *J.*:

For the Court's resolution are the following:

1. BW Shipping Philippines, Inc. (BW Shipping)'s *Motion for Reconsideration (Re: Decision Promulgated on December 22, 2022),*[1] filed on January 12, 2023, with Commissioner of Internal Revenue (CIR)'s *Comment/Opposition (Re: Motion for Reconsideration dated 12 January 2023)*[2] filed by registered mail on March 15, 2023; and,

2. CIR's *Motion for Reconsideration (Re: Decision dated 22 December 2022)* filed by registered mail on January 18, 2023,[3] with BW Shipping's *Comment/Opposition [To Petitioner's Motion for Reconsideration*[4] *(Re: Decision dated December 22, 2022)]* filed on January 25, 2023.

The aforementioned *Motions* seek reconsideration of the Court's Decision[5] ("assailed Decision"), promulgated on December 22, 2022, the dispositive portion of which reads:

> **WHEREFORE,** the Petitions for Review are **DENIED** for lack of merit. The Decision dated October 7, 2020 and Resolution dated May 27, 2021, in CTA Case No. 9660, whereby the Court in Division partially granted BW Shipping's claim for refund or issuance of a TCC of unutilized excess input VAT attributable to its zero-rated sales/receipts amounting to ₱3,181,354.01, covering the four (4) quarters of TY 2015 are **AFFIRMED.**
>
> **SO ORDERED.**

The assailed Decision sustained the finding of the Court in Division that BW Shipping's sale of manning or crewing services to foreign shipping companies doing business outside the Philippines for taxable year (TY) 2015 qualifies as Value-Added Tax (VAT) zero-rated sales under Section 108 (B) (2) of the National Internal Revenue Code of 1997 (NIRC), as amended. To address the arguments of CIR, the Court explained that BW Shipping was able to establish that: *first,* its foreign clients are non-resident foreign corporations doing business outside the Philippines by presenting the (1) Certificates of

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1 *Rollo,* (CTA EB No. 2481), pp. 124 to 137.
2 *Id.,* pp. 168 to 176.
3 *Id.,* pp. 151 to 162.
4 *Id.,* pp. 139 to 150.
5 *Id.,* pp. 102 to 123.

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Non-Registration of Company issued by the Securities and Exchange Commission (SEC), (2) Certificates of Registration, (3) Articles of Association, and (4) Memorandum of Association; and *second,* its recruitment services were performed in the Philippines by presenting the (1) SEC Certificate of Registration and Articles of Incorporation, and (2) Certificate of Renewal No. POEA-382-SB-121713-R-MLC issued by the Philippine Overseas Employment Administration.

Further, the Court sustained the Court in Division's finding that out of BW Shipping's claimed input VAT of ₱4,953,983.07 for the TY 2015, only the amount of ₱4,735,288.35 represents substantiated input VAT. Consequently, only the excess valid input VAT of ₱4,735,288.35 can be attributed to the total zero-rated sales declared by BW Shipping in the amount of ₱162,198,495.10, and only the input VAT of ₱3,181,354.01 is attributable to the valid zero-rated sales of ₱108,971,364.44.

Finally, the Court held that BW Shipping failed to prove that it is entitled to the entire amount sought to be refunded in the amount of ₱4,953,983.07 because its compliance with the mandatory invoicing requirements for input VAT under Sections 113 (A) and (B), and 237 of the NIRC, as amended, in relation to Section 4.113-1 (A) and (B) of Revenue Regulations No. 16-2005 was not established.

In its Motion, BW Shipping argues that the inaccurate entries and omissions in its VAT official receipts (ORs) were merely due to the mistake and excusable negligence of its cashier who prepared it. By way of comment, CIR argues that the corrections and insertions made by BW Shipping on its official receipts after the promulgation of the Decision by the Court in Division should not be considered as compliance with the invoicing requirements under the law.

On the other hand, in his Motion for Reconsideration, the CIR reiterates that the evidence presented by BW Shipping are not sufficient to prove that it is engaged in zero-rated sales of service under Section 108(b)(2) of the NIRC, as amended; and that there is no evidence presented showing that the subject sale of services was rendered in the Philippines. On the other hand, BW Shipping echoes the Court in Division's findings.

After a careful evaluation of the arguments presented by both parties in their respective *Motion*, it is clear that the grounds raised therein are mere reiterations of matters which have already been exhaustively considered and passed upon by the Court in the assailed Decision. As such, the Court finds no compelling reason to reconsider, modify or even reverse the assailed Decision. The pronouncement in *Social Justice Society (SJS) Officers, et al. v. Lim,*[6] is instructive:

> The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the ponencia in accordance with the outline of the instant motion.
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> As succinctly put by then Chief Justice Andres R. Narvasa in Ortigas and Co. Ltd. Partnership v. Judge Velasco on the effect and disposition of a motion for reconsideration:
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>> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

WHEREFORE, BW Shipping Philippines, Inc.'s *Motion for Reconsideration (Re: Decision Promulgated on December 22, 2022),* filed

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6 G.R Nos. 187836 & 187916, March 10, 2015 (Resolution).

on January 12, 2023, and CIR's *Motion for Reconsideration (Re: Decision dated 22 December 2022)* filed by registered mail on January 18, 2023, are both **DENIED** for lack of merit.

SO ORDERED.

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

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ON OFFICIAL BUSINESS
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice