

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

NOKIA (PHILIPPINES), INC.,
Petitioner,

**CTA EB NO. 2238
(CTA CASE NO. 8405)**

Present:

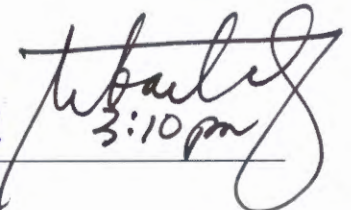
-versus-

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

COMMISSIONER **OF**
INTERNAL REVENUE,
Respondent.

Promulgated:

MAR 24 2022


3:10 pm

X-----X

RESOLUTION

CASTAÑEDA, JR., J.

For resolution is petitioner's Motion for Reconsideration filed on November 24, 2021¹ and respondent's Motion to Admit Comment/Opposition (Re: Petitioner's Motion for Reconsideration) filed on February 17, 2022.²

In its motion, petitioner disagrees with the findings of the Court and moves for a reconsideration of the October 28, 2021 decision which denied the petition for lack of merit and affirmed the decision of the court *a quo*.

In affirming the decision of the court *a quo*, which denied the refund claim of the taxpayer for failure to show that its sales of services for the fourth quarter of 2009 qualify for VAT zero-rating, the Court found that: *Re*

¹ *Rollo*, pp. 85-95.

² Records Verification Report dated September 23, 2020, *Rollo*, p. 333.

1. Petitioner's reliance on *Kepco Phils. Corporation v. Commissioner of Internal Revenue*,³ was improper;
2. A closer review of the Judicial Affidavit of petitioner's Shared Accounting Services Accountant, Ms. Bridgette C. Redolfin,⁴ did *not* yield any proof that the services sold to its parent company, Nokia Finland, were *actually* performed in the Philippines; and finally,
3. The principle of the *law of the case* prevents the parties from litigating anew the issue on whether petitioner's VAT zero-rated official receipts and sales invoices sufficiently established that its services were performed in the Philippines.

Petitioner's motion for reconsideration is *denied*.

Petitioner's arguments in its motion are a mere rehash of its petition, without any new matters or arguments to be considered. Specifically, petitioner still insists, as it did in its petition, that its services were performed entirely in the Philippines and cites *Kepco* once more to reinforce the relevance of the invoices and receipts it issued.⁵

First, petitioner failed to raise plausible matters that would justify a deviation from the Court's earlier findings. In *Shangri-la International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*,⁶ the Supreme Court stated that it is incumbent upon the movant to convince the Court and justify the reconsideration sought:

"xxx xxx xxx

The bulk of the aforementioned grounds is a mere rehash of movant's 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 course of action.

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.

xxx xxx xxx" 

³ G.R. No. 181858, November 24, 2010.

⁴ Exhibit V, Division Docket, pp. 246-249.

⁵ *Rollo*, pp. 86-89.

⁶ G.R. No. 159938, January 22, 2007.

Secondly, the doctrine of *stare decisis et non quieta movere* (to adhere to precedents and not to unsettle things which are established) is embodied in Article 8 of the Civil Code of the Philippines which provides that “[j]udicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.”

Petitioner should note that, under the doctrine of *stare decisis*, a conclusion reached in one case should be applied to subsequent cases if the facts are substantially the same, even though the parties and other details may be different. Thus:⁷

“The foregoing disquisition is binding and applicable to the present case following the salutary doctrine of *stare decisis et non quieta movere* which means ‘to adhere to precedents, and not to unsettle things which are established.’ Under the doctrine, when the Supreme Court has once laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle, and apply it to all future cases, where facts are substantially the same; regardless of whether the parties and property are the same. The doctrine of *stare decisis* is based upon the legal principle or rule involved and not upon the judgment which results therefrom. In this particular sense *stare decisis* differs from *res judicata* which is based upon the judgment.

The doctrine of *stare decisis* is one of policy grounded on the necessity for securing certainty and stability of judicial decisions, thus:

Time and again, the Court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. *Stare decisis et non quieta movere*. Stand by the decisions and disturb not what is settled. *Stare decisis* simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same.” (*Underscoring supplied; citations omitted*)

Accordingly, the principle applies where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court.⁸ *jc*

⁷ *Confederation of Sugar Producers Association, Inc., et al. v. Department of Agrarian Reform, et al.*, G.R. No. 169514, March 30, 2007, Supreme Court *En Banc*.

⁸ *Id.*

In other words, the application of legal precedent does not demand exactness of facts in all cases. It only requires that the facts be substantially the same. To require otherwise would result in the absurd situation where case law cannot develop to govern matters and issues that are fundamentally alike. “The doctrine of precedents is fundamental to our legal system. It provides certainty while permitting the orderly development of the law in incremental steps.”⁹

Finally, it is worthy to emphasize that adherence to judicial precedents is the general rule and abandonment thereof is the exception. As such, abandonment must be based only on strong and compelling reasons, otherwise, the becoming virtue of predictability which is expected from this Court would be immeasurably affected and the public’s confidence in the stability of the solemn pronouncements diminished. Verily, only upon a showing that circumstances attendant in a particular case override the great benefits derived by our judicial system from the doctrine of *stare decisis*, can the courts be justified in setting aside the same.¹⁰

WHEREFORE, premises considered, petitioner’s motion is **DENIED** for lack of merit. The assailed decision dated October 28, 2021 is **AFFIRMED**.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

(Inhibited)
ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
ERLINDA P. UY
Associate Justice

⁹ *Light Rail Transit Authority v. Quezon City, represented by the City Treasurer and the City Assessor*, G.R. No. 221626, October 9, 2019.

¹⁰ *Carmelo F. Lazatin, et al. v. Hon. Aniano A. Desierto as Ombudsman, et al.*, G.R. No. 147097, June 5, 2009.

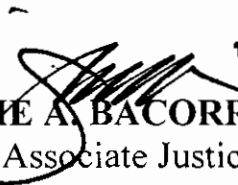


MA. BELEN M. RINGPIS-LIBAN
Associate Justice

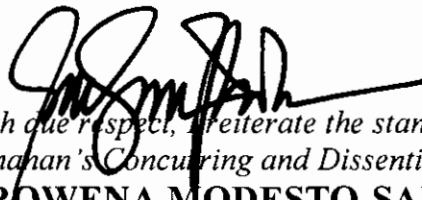


*With due respect, I reiterate my
Concurring and Dissenting Opinion dated October 28, 2021.*

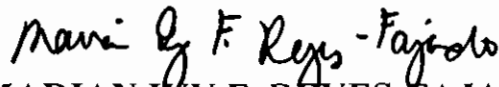
CATHERINE T. MANAHAN
Associate Justice



JEAN MARIE A. BACORRO-VILLENA
Associate Justice



*With due respect, I reiterate the stand in
J. C.T. Manahan's Concurring and Dissenting Opinion.*
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice



MARIAN IVY F. REYES-FAJARDO
Associate Justice



LANEE S. CUI-DAVID
Associate Justice