REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MELCO RESORTS LEISURE (PHP) CORPORATION,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* NO. 2976
(CTA Case Nos. 10099 & 10176)

x - x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

MELCO RESORTS LEISURE (PHP) CORPORATION,
Respondent.

CTA *EB* NO. 2980
(CTA Case Nos. 10099 & 10176)

Present:

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

Promulgated:

MAY 22 2026 2:35 p.m.

x -- x

RESOLUTION

CUI-DAVID, J.:

This resolves:

1. The ***Motion for Reconsideration (Re: Decision promulgated 28 October 2025),***[1] filed by the Commissioner of Internal Revenue (**CIR**) on November 12, 2025, with Melco Resorts Leisure (PHP) Corporation's (**Melco**) *Comment/Opposition [To Respondent's Motion for Reconsideration dated November 6, 2025],*[2] filed on January 12, 2026; and

2. The ***Motion for Partial Reconsideration [of Decision dated October 28, 2025],***[3] filed by Melco on November 20, 2025, with CIR's *Opposition (Re: Motion for Reconsideration of the Decision promulgated 28 October 2025),*[4] filed on January 5, 2026.

Both parties seek reconsideration of the *Decision* promulgated on October 28, 2025, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the *Petition for Review* filed by Melco Resorts Leisure (PHP) Corporation in CTA *EB* No. 2976, and the *Petition for Review* filed by the Commissioner of Internal Revenue in CTA *EB* No. 2980, are hereby **DENIED** for lack of merit. Accordingly, the assailed *Amended Decision* dated February 21, 2024, and the *Resolution* dated August 5, 2024, are **AFFIRMED**.
>
> **SO ORDERED**.

The CIR's Motion for Reconsideration

The CIR anchors his *Motion for Reconsideration* solely on the following ground:

> THE HONORABLE COURT ERRED IN RULING THAT RESPONDENT IS ENTITLED TO REFUND/TAX CREDIT IN [THE] TOTAL AMOUNT OF FOUR HUNDRED NINETY-FIVE THOUSAND THREE HUNDRED FOURTEEN PESOS (₱495,314.00), REPRESENTING UNUTILIZED INPUT VALUE-ADDED TAX ON ITS IMPORTATION OF GOODS OTHER THAN CAPITAL GOODS ... FOR THE THIRD AND FOURTH QUARTERS OF TAXABLE YEAR 2017.

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1 *En Banc (EB)* Docket, pp. 208-216.
2 *Id.* at 267-278.
3 *Id.* at 222-248.
4 *Id.* at 252-260.

According to the CIR, the Court *En Banc* erred in holding that, as a Philippine Amusement and Gaming Corporation (**PAGCOR**) licensee, Melco enjoys both direct and indirect tax exemptions under a special law. For the CIR, the statutory tax exemption applies to PAGCOR and does not extend to its franchisees. He explains that the tax exemption granted under Section 13(2)(b) of President Decree (**PD**) No. 1869 inures only to entities that provide necessary services to PAGCOR in connection with its casino operations. Allegedly, this exemption does not inure to the benefit of entities that are mere licensees of PAGCOR's franchise.

The CIR also notes that PD No. 1869 does not specifically state that a PAGCOR licensee is exempt from tax. Although there is a mention of entities in Section 13(2)(b) of PD No. 1869, the said entities pertain only to those performing essential and technical services for PAGCOR in relation to its casino operations, and not to entities not actually operated by PAGCOR, such as Melco.

The CIR adds that even assuming Melco is exempt from the payment of Value-Added Tax (**VAT**), its recourse is not to claim a refund with the Bureau of Internal Revenue (**BIR**), but from its suppliers, citing the cases of *Hedcor, Inc. v. Commissioner of Internal Revenue,*[5] *Maibarara Geothermal Inc. v. Commissioner of Internal Revenue,*[6] and *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue.*[7]

In its *Comment/Opposition*, Melco submits that the CIR's *Motion for Reconsideration* should be denied for being a mere rehash of arguments previously raised in the CIR's *Petition for Review*, which have already been resolved in the *Decision* sought to be reconsidered.

Nonetheless, Melco contends that the Court *En Banc* has affirmed that PAGCOR's tax exemption privileges, covering both direct and indirect taxes pursuant to Section 13(2)(b), in relation to Section 13(2)(a), of PD No. 1869, as amended, inure to the benefit of Melco as PAGCOR licensee.

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[5] CTA Case No. 8875, July 11, 2017.
[6] CTA Case Nos. 8871 *et al.*, August 2, 2017.
[7] G.R. No. 190506, June 13, 2016 [Per J. Bersamin, First Division].

MELCO'S Motion for Reconsideration

In its *Motion for Partial Reconsideration,* Melco claims that the Court *En Banc* committed reversible error in ruling that Melco is not entitled to claim the input VAT passed on to it by its suppliers/sellers, as such privilege belongs only to those engaged in VAT zero-rated or effectively zero-rated sales. For the Court *En Banc,* since Melco's activities are not considered zero-rated or effectively zero-rated sales under the relevant provisions of the National Internal Revenue Code of 1997, as amended, it cannot be the source of the claimed input VAT.

Melco, however, notes that the Court *En Banc* adopted a different view on its claim for refund of input VAT paid on the importation of goods other than capital goods, and partially granted its claim in the aggregate amount of ₱495,314.00.

Hence, Melco asks the Court *En Banc* to reconsider its *Decision* and to re-examine the merits of its case based on the following arguments:

1. Melco is entitled to the tax exemption granted under PD No. 1869, as amended, from all kinds of taxes of whatever nature, including direct and indirect VAT, with respect to its revenues from gaming operations. Hence, the suppliers should not have passed to Melco the input VAT attributable to its gaming revenues.

2. The fact that the VAT was passed on by its suppliers where Melco has no choice but to pay as the same forms part of the billing from suppliers, the same clearly constitutes erroneous or illegal payment being a clear violation of the tax exemption granted under PD No. 1869. Hence, the passed-on VAT constitutes an erroneous or illegal payment that is subject to a refund under Section 229 of the NIRC of 1997, as amended.

3. Melco is allowed to claim a tax refund as PD No. 1869 clearly grants PAGCOR and its licensees, to which the economic burden of the tax is shifted, an exemption from both direct and indirect taxes, such as VAT, applying the case of *Philippine Airlines, Inc. v. Commissioner of Internal Revenue.*[8]

4. Clearly, jurisprudence supports the right of the taxpayer, who is not a statutory taxpayer (*i.e.* suppliers of Melco) but

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[8] G.R. No. 198759, July 1, 2013 [J. Perlas-Bernabe, Second Division].

the party to whom the economic burden of the tax is shifted (i.e. Melco to whom the erroneous input tax was passed on and forms part of the purchase price), to file the claim for refund, specifically where that party is unequivocally granted an indirect tax exemption by special law (*i.e.* PD No. 1869). Moreso should Melco be allowed to claim for refund or tax credit on input taxes erroneously passed on by its suppliers in violation of PD No. 1869, as amended, notwithstanding that it is not considered as the statutory taxpayer under the law.

5. Under the principle of *solutio indebiti*, the Government has to restore to Melco the sums representing erroneous payments of taxes.

6. Melco timely filed its claim for refund or issuance of tax credit certificate (TCC) of erroneously and illegally paid VAT on purchases that are attributable or allocable to its revenues from gaming operations for the 3rd and 4th quarters of taxable year 2017, pursuant to Section 204, in relation to Section 229, of the NIRC of 1997, as amended.

7. The allocation of common purchases to gaming and non-gaming revenues does not connote that the said expenses are no longer directly attributable to gaming revenues. The allocation simply means the separation of amounts, evidenced by a single invoice or receipt, to classify which amount is directly attributable to the gaming and non-gaming revenues should be considered as attributable to gaming revenues that should be refunded.

8. The disallowed amount of ₱89,906.00 is not barred by prescription.

In his *Opposition*, the CIR counters that Melco bears the burden of proving the factual basis of its claim for tax credit or refund. After all, tax refunds, like tax exemptions, are construed strictly against the taxpayer.

After a thorough review of the CIR's *Motion for Reconsideration* and Melco's *Motion for Partial Reconsideration*, the Court *En Banc* finds that the issues raised therein have already been determined and passed upon, first by the Court in Division and subsequently by the Court *En Banc* on appeal. There are no substantial arguments or compelling reasons raised to warrant a reversal or modification of the assailed *Decision* dated October 28, 2025. Both the CIR and Melco merely reiterated, if not rephrased, arguments previously raised in their earlier submissions.

On this point, the Supreme Court's pronouncement in *Social Justice Society (SJS) Officers v. Lim*,[9] is instructive:

> 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**." [Emphasis supplied; citations omitted]

Considering that the grounds relied upon merely reiterate issues that have already been fully passed upon and resolved by the Court *En Banc*, there is no reason or justification to set aside or modify the *Decision* dated October 28, 2025.

WHEREFORE, the *Motion for Reconsideration (Re: Decision promulgated 28 October 2025)* filed by the Commissioner of Internal Revenue and the *Motion for Partial Reconsideration [of Decision dated October 28, 2025]* filed by Melco Resorts Leisure (PHP) Corporation are hereby **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

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[9] G.R. Nos. 187836 & 187916, March 10, 2015 [Per J. Perez, *En Banc*].

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WE CONCUR:

MA. BELEN RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA G. MODESTO-SAN PEDRO
Associate Justice

(I reiterate vote in the Decision in CTA EB Nos. 2976 & 2980)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice