REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF CUSTOMS, Petitioner,

CTA EB NO. 2451
(CTA Case No. 9250)

Present:

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

\- versus -

TOYOTA MOTOR PHILIPPINES CORPORATION, Respondent.

Promulgated:
MAY 25 2023 4:30pm

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner Commissioner of Customs' (**petitioner**'s) "Motion for Reconsideration (Of the Decision dated 24 November 2022)"[1] (**MR**) filed on 20 December 2022[2], with respondent Toyota Motor Philippines Corporation's (**respondent**'s) "Comment/Opposition (to the Motion for Reconsideration dated 19 December 2022)"[3] filed on 16 January 2023.

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1 *Rollo*, pp. 546-556.
2 Received on 12 January 2023.
3 *Rollo*, pp. 560-573.

The MR seeks the reversal of the Court *En Banc*'s Decision promulgated on 24 November 2022[4] (**assailed Decision**) dismissing petitioner's Petition for Review.[5] The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE**, premises considered, the instant Petition for Review filed by petitioner Commissioner of Customs on 05 March 2021 is hereby **DISMISSED.**
>
> **SO ORDERED.**
>
> ...

In the said MR, petitioner contends that the circumstances of the case do not fall under any of the exceptions of the doctrine of exhaustion of administrative remedies; thus, the First Division had no jurisdiction to hear the case.

Petitioner submits that the Court's conclusion is unsupported by the provisions of Section 7[6] of Republic Act (**RA**) No. 1125[7], as amended by RA No. 9282[8] as well as Section 3[9], Rule 8 of the Revised Rules of the Court of Tax Appeals[10] (**RRCTA**). Specifically, apparent therefrom is that

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4 Id., pp. 521-539.

5 Id., pp. 6-29.

6 **SEC.** 7. *Jurisdiction.* - The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

...

4. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs[.]

...

7 AN ACT CREATING THE COURT OF TAX APPEALS.

8 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

9 **SEC. 3.** *Who may appeal; period to file petition.* — (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

...

10 A.M. No. 05-11-07-CTA.

there should have been a decision first (by petitioner) before recourse to this Court's exclusive appellate jurisdiction can be had. Petitioner adds that if the legislature intended that his or her inaction shall likewise fall under this Court's jurisdiction, it could have easily provided a separate provision for such.

Thus, considering that at the time of filing of the prior petition, the subject claim for refund is still pending with the Office of the District Collector for review and evaluation, there is evidently no decision yet from petitioner. Without petitioner's decision, respondent's resort to this Court is violative of the doctrine of exhaustion of administrative remedies.

Petitioner further claims that Executive Order (**EO**) No. 905[11], which was signed only on 29 June 2010, should be applied prospectively pursuant to Article 4[12] of the Civil Code. As nowhere in the said executive order provides that it is to be given retroactive application, the same should not be applied to respondent's importations beginning 01 January 2010.

On the other hand, respondent counters that petitioner's failure to file an MR on the First Division's Amended Decision dated 19 January 2021[13] rendered the same final and executory. As a result, the Court has failed to acquire jurisdiction over the subject Petition for Review.

Nonetheless, even if the Court *En Banc* has jurisdiction over the case, the instant MR should still be denied for being *pro forma* since it is a mere reiteration of respondent's arguments which he or she earlier raised and which the Court has already resolved or passed upon.

In addition, respondent maintains that the Court *En Banc* correctly ruled that it has jurisdiction over the instant claim for refund or issuance of tax credit certificate (**TCC**) and that it is the intent of EO No. 905 to implement 0% duty starting on 01 January 2010.

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11 MODIFYING THE RATES OF IMPORT DUTY ON CERTAIN IMPORTED ARTICLES AS PROVIDED FOR UNDER THE TARIFF AND CUSTOMS CODE OF 1978, AS AMENDED IN ORDER TO IMPLEMENT THE AMENDED TARIFF REDUCTION SCHEDULE ON MOTOR VEHICLES AND COMPONENTS, PARTS AND/OR ACCESSORIES UNDER EXECUTIVE ORDER 767 SERIES OF 2008 UNDER THE AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND JAPAN FOR AN ECONOMIC PARTNERSHIP.

12 **Art. 4**. Laws shall have no retroactive effect, unless the contrary is provided.

13 Division Docket, Volume IV, pp. 2250-2271.

We resolve.

After considering the arguments of both parties, the Court *En Banc* is constrained to deny petitioner's MR.

It must be emphasized that petitioner failed to raise any new argument or present novel matter which the Court, either in Division and *En Banc*, has not previously scrutinized, studied and discussed. A simple reading of the instant MR would reveal that the same contains the very identical arguments it earlier raised in his or her MR[14] (on the First Division's Decision dated 02 July 2020[15]) as well as in his or her Petition for Review[16] before the Court *En Banc*.

In *Licomcen Incorporated v. Foundation Specialists, Inc.*[17], the Supreme Court, citing *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[18], held that:

> ...
>
> 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, x x x 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.
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> ...

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14 Id., pp. 2183-2197.
15 Id., pp. 2027-2060.
16 Supra at note 5.
17 G.R. No. 167022, 31 August 2007.
18 G.R. No. 109645, 04 March 1996.

In sum, as petitioner merely recycled his or her previous submissions and arguments, the Court *En Banc* finds no cogent reason to disturb the assailed Decision.

WHEREFORE, in view of the foregoing, Commissioner of Customs' "Motion for Reconsideration (Of the Decision dated 24 November 2022)" filed on 20 December 2022 is **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON LEAVE
CATHERINE T. MANAHAN
Associate Justice

ON OFFICIAL BUSINESS

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice