REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

AIR LIQUIDE PHILIPPINES, INC.
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 1377
(CTA Case Nos. 8259 and 8296)

Present:

DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, JJ.

Promulgated:

SEP 22 2017 1:31 p.m.

x - x

RESOLUTION

UY, J.:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (Re Decision dated 04 April 2017)"** filed on May 4, 2017, with respondent's **"OPPOSITION (Re: Motion for Reconsideration)"** filed on July 21, 2017, praying for the reconsideration and setting aside of this Court's Decision dated April 4, 2017, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the Petition for Review is **DENIED** for lack of merit. Accordingly, the Decision dated May 27, 2015 and Resolution dated October 13, 2015 of the Court in Division in CTA Case Nos. 8259 & 8296, are hereby **AFFIRMED**.

SO ORDERED."

In the instant ***Motion for Reconsideration***, petitioner submits that it is a reversible error for the Court *En Banc* to cite as authority the case of *Commissioner of Internal Revenue vs. Manila Mining Corporation* ("*Manila Mining* case")[1]. According to petitioner, the said case does not involve the substantiation of input value added tax (VAT) carried over from the previous quarter; and in the same case, Manila Mining Corporation was claiming the refund of its input VAT payments in 1991. Furthermore, petitioner submits that what the 2005 *Manila Mining* case required is the presentation in evidence of invoices and receipts to prove input VAT paid to suppliers within the period of the claim; and that this decision cannot be extended or interpreted as already requiring the presentation of invoices and receipts to prove the input VAT carried over from the previous quarter, which is a new requirement introduced by the 2013 CTA Case Nos. 7898, 7980 and 8008 entitled *"Total Philippines Corporation vs. Commissioner of Internal Revenue"*.

Moreover, petitioner points out that except for the input VAT carried over from previous quarters, it has complied with all other requirements for a refund/tax credit of excess and unutilized input VAT; that petitioner relied in good faith on the expertise of the court-commissioned independent Certified Public Accountant; that it was only when the Court in Division promulgated its decision that petitioner became aware of the substantiation requirement of input VAT carried over from previous quarter; and that the Court is not bound by technical rules of evidence, and it can reopen the case on the ground of substantial interest of justice.

Lastly, petitioner stresses that no prejudice will be caused to the government by reopening the case; that petitioner has already paid the input VAT; that the money is already with the government to do with it as it wills; that petitioner only asks that it be given a chance to substantiate its case for refund; and that it has all the documents ready to substantiate the amount of input VAT carried over from 2007 to 2008.

Upon the other hand, in his ***Opposition,*** respondent avers that petitioner's contention that when the appealed decision was on trial, there was no court decision yet requiring input VAT carried over from previous quarter to be covered by the substantiation requirement on VAT refund, is misplaced and bereft of merit.

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[1] G.R. No. 153204, August 31, 2005.

In addition, respondent contends that petitioner's prayer to reopen the case should be denied outright; and that documents sought to be presented by petitioner are not newly discovered nor were omitted through inadvertence or mistake.

Finally, respondent argues that while it is true that rules of procedure are not cast in stone, it is equally true that strict compliance with the Rules is indispensable for the prevention of needless delays and for the orderly and expeditious dispatch of judicial business; and that it is incumbent upon petitioner to prove that it is entitled to the refund sought.

THE COURT *EN BANC*'S RULING

The instant ***Motion for Reconsideration*** lacks merit.

A careful perusal of the said ***Motion*** shows that, except for the issue on the applicability of the 2005 *Manila Mining* case to the instant case, the arguments raised therein are mere reiterations of matters which have already been considered, weighed, passed upon and exhaustively resolved by the Court *En Banc* in the assailed Decision. Hence, We shall no longer belabor, in this Resolution, to repeat the disquisitions made therein addressing the said arguments.

To reiterate, petitioner opines that it is a reversible error on the part of the Court *En Banc* for citing the 2005 *Manila Mining* case as authority in disposing of the case. According to petitioner, the said case does not involve the substantiation of input VAT carried over from the previous quarter and that the claim for refund therein pertains to the year 1991. Petitioner is, in effect, implying that the pronouncement in the said 2005 *Manila Mining* case is limited in scope.

We do not agree.

For easy reference, the pronouncement in question in the *Manila Mining* case are as follows:

> "xxx. **As cases filed before it** (*i.e.*, this Court) **are litigated *de novo*, party-litigants shall prove <u>every minute aspect</u> of their cases.** xxx." *(Emphasis and underscoring supplied)*

A careful reading of the pronouncement that *"party-litigants* *shall prove every minute aspect of their cases"* would reveal that it is applicable to every case filed with this Court. This is readily apparent in the usage of the word "cases" without condition, qualification or distinction. In other words, there is no limitation as to when the same pronouncement may be applied insofar as cases before this Court are concerned. Thus, said pronouncement is applicable to a case even where the issue involved is or includes substantiation of input VAT carried over from the previous quarter, and regardless of the year of the claim.

The applicability of the pronouncement that *"party-litigants shall prove every minute aspect of their cases"* to every case lodged before this Court is bolstered by the other cited cases in the assailed Decision, particularly, the cases of *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*,[2] in the year 2007; and *Dizon vs. Court of Tax Appeals, et al.*,[3] in the year 2008. In the former case, the issue involved a refund claim of input VAT in the year 1992, wherein the taxpayer-refund claimant failed to submit certain documents; while in the latter case, the subject matter is the failure of the Commissioner of Internal Revenue to present and offer certain evidence concerning an estate tax assessment for the year 1987. Correspondingly, if the said pronouncement has been limited to any particular case or any particular year, then the Supreme Court should not have applied the same in the said cases.

Furthermore, there are other Supreme Court cases that reiterate the pronouncement that *"party-litigants shall prove every minute aspect of their cases"*, and was applied without regard to the nature of the case, the issue involved and pertinent taxable period or year, to wit:

Title of the case	**Nature of case**	**Issue Involved**	**Period (Year)**
Kepco Philippines, Corporation vs. Commissioner of Internal Revenue, G.R. No. 179356, December 14, 2009	Claim for refund of Input VAT	Non-submission of general ledger and account vouchers.	1996
Commissioner of Internal Revenue vs. Philippine National Bank, G.R. No. 180290, September 29, 2014	Claim for refund of unutilized excess creditable withholding taxes	Non-submission of certificates of withholding taxes	2000
Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue, G.R. No. 207112, December 8, 2015	Claim for refund of Input VAT	Non-submission of supporting documents	2007

[2] G.R. No. 145526, March 16, 2007.
[3] G.R. No. 140944, April 30, 2008.

Thus, there can be no doubt that the pronouncement that *"party-litigants shall prove every minute aspect of their cases"* applies to the case of petitioner, in that it should have presented, in the cases *a quo*, evidence to substantiate its input VAT carried over to the period of the subject refund claim.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice