REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1281** (CTA Case No. 8492)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA,** and **RINGPIS-LIBAN,** *JJ.*
PILIPINAS SHELL PETROLEUM CORPORATION, Respondent.	***Promulgated:*** DEC 06 2016 3:30 p.m.

x - x

RESOLUTION

UY, *J.*:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (Re: Decision dated 25 July 2016)"** filed on August 18, 2016, with respondent's **"COMMENT/OPPOSITION (On CIR's Motion for Reconsideration)"** filed on October 7, 2016, praying for the reconsideration of this Court's Decision dated July 25, 2016, the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the Petition for Review is **DENIED** for lack of merit.
>
> **SO ORDERED.**"

In support of his Motion, petitioner raises the following arguments, to wit:

1. Tax refunds partake of the nature of tax exemptions which are a derogation of the power of taxation of the State. Consequently, they are construed strictly against a taxpayer and liberally in favor of the State, such that he who claims a refund or exemption must justify it by words too plain to be mistaken and too categorical to be misinterpreted.

2. It is incumbent upon respondent to establish its right to refund and that it is indubitably entitled thereto, and failure to sustain such burden is fatal for this claim of refund.

3. The exemption from excise tax payment on petroleum products under Section 135(a) of the National Internal Revenue Code (NIRC) of 1997 is conferred upon international carriers who purchased the same for their use or consumption outside the Philippines.

4. Respondent's claim for tax refund cannot be predicated on Section 229 of the NIRC of 1997, as amended, because respondent filed its Petition for Review with the Court of Tax Appeals within eleven (11) days from the filing of its administrative claim with the petitioner. Respondent did not give petitioner sufficient time to act upon the claim for refund.

In its Comment, respondent counters that:

1. The CIR's motion for reconsideration should be denied outright for failure to present any meritorious argument against the grant of refund or tax credit to respondent on its payment of excise tax on Jet A-1 fuel sold to international carriers.

2. Petitioner mainly argued based on sweeping statements about the nature of taxation and of tax refunds, without citing any specific action or evidence to show that respondent failed to observe any of those principles.

3. Petitioner's arguments have already been settled by the Supreme Court in the case of *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation,* G.R. No. 180402, February 10, 2016.

4. There is no reversible error in the Decision of the Court and the motion for reconsideration failed to present new arguments other than those already passed upon by the Court.

THE COURT *EN BANC'S* RULING

Petitioner's Motion lacks merit.

A careful perusal of the said Motion for Reconsideration shows that 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, finding no compelling reason to reconsider, modify or reverse the said Decision, We shall no longer belabour, in this Resolution, to repeat the disquisitions made therein.

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

(On Leave)
LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(On Leave)
CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice