REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

SUMISETSU PHILIPPINES, INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8374

Members:
Bautista, *Chairperson*
Fabon-Victorino, *and*
Ringpis-Liban, JJ.

Promulgated:
JAN 15 2016
9:00 a.m.

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RESOLUTION

BAUTISTA, J:

For resolution is respondent's "Motion for Partial Reconsideration (Re: Amended Decision promulgated 6 October 2015)" (hereinafter referred to as "Motion for Partial Reconsideration") filed on October 26, 2015; with petitioner's "Comment (On Motion for Partial Reconsideration dated 26 October 2015)" (hereinafter referred to as "Comment") filed on November 23, 2015.

Respondent seeks reconsideration of the Court's Amended Decision promulgated on October 6, 2015, the dispositive portion of which states:

> **WHEREFORE,** in view of the foregoing, petitioner's "Omnibus Motion (1. For Partial Reconsideration of the Decision dated 22 September 2014; and [2.] To admit into Evidence and Consider for Purposes of Resolving this Motion the Attached Documents)" is hereby **PARTIALLY GRANTED.** Accordingly, the Decision of the Court promulgated on September 22, 2014 is hereby **AMENDED** and **MODIFIED to the extent that respondent is ORDERED TO REFUND or ISSUE A TAX CREDIT CERTIFICATE in**

> **favor of petitioner the total** amount of [Php]6,349,500.15, representing its unutilized excess input VAT for four quarters of taxable year 2009.
>
> **SO ORDERED.**

In the assailed Amended Decision, the Court ruled that petitioner's duly substantiated excess input taxes for the year 2009 shall be Php6,349,500.15, instead of Php6,155,193.95, higher by Php194,306.20.

In her Motion for Partial Reconsideration, respondent alleges that petitioner failed to comply with the invoicing and accounting requirements laid down in Sections 113, 114 and 236 of the *1997 National Internal Revenue Code ("NIRC"), as amended,* and its implementing regulations under *Revenue Regulations ("RR") No. 16-2005;* that it failed to prove strict compliance with the submission of all supporting and relevant documents provided under *Revenue Memorandum Order ("RMO") No. 53-98,* dated June 1, 1998; that it merely alleged in its Petition for Review that it attached to its administrative claim for refund the relevant documents required by laws and pertinent regulations; that it failed to prove that no other claim for refund has been filed with the Board of Investment ("BOI"), Department of Finance ("DOF"), Bureau of Customs ("BOC"), and Special Economic/Freeport Zones ("SEZ"); that the Court has no jurisdiction to entertain the Petition for Review because no valid administrative claim was filed for having failed to submit documents in its administrative claim for refund; and that a claim for refund is subject to investigation as it involves removal of accrued revenue from the coffers of the Government and pending closure of the investigation, no grant of refund or issuance of TCC may be given.

In its Comment, petitioner counter-argues that respondent merely rehashed her arguments in her Answer dated December 6, 2011 and in her Motion for Partial Reconsideration dated October 14, 2014, which were already addressed by the Court; that on June 17, 2011, it submitted all the required documents in support of its claim for refund pursuant to Letter of Authority ("LOA") dated June 13, 2011 in order to properly support its administrative claim for VAT refund; that *RMO No. 53-98* is merely illustrative of the documents to be submitted by a taxpayer seeking an input VAT refund or issuance of TCC; that the determination of what documents need to be submitted in support of an application for refund/TCC lies with the taxpayer; that if respondent required particular documents from petitioner, she should have requested the same; that there is no reason for petitioner to file claims before the BOI, DOF, BOC and SEZ since the authority to decide its claim for refund lies with respondent; and that the Court has jurisdiction over the Petition for Review based on *Section 112 of the 1997 NIRC.*

The Court finds no compelling reason to reverse or to modify the assailed Amended Decision.

A perusal of the Motion for Partial Reconsideration shows that the grounds raised therein are mere reiterations of respondent's Answer[1] filed on December 6, 2011, and her Motion for Partial Reconsideration (Re: Decision promulgated 22 September 2014)[2] filed on October 14, 2014, which were comprehensively discussed and passed upon in the Decision[3] and Resolution[4] dated September 22, 2014 and December 19, 2014, respectively. Such being the case, the Court finds that the Motion for Partial Reconsideration is *pro forma.*

A motion for reconsideration is *pro forma* where:[5]

1. it was a second motion for reconsideration;
2. it did not comply with the rule that the motion must specify the findings and conclusions alleged to be contrary to law or not supported by the evidence;
3. it failed to substantiate the alleged errors;
4. it merely alleged that the decision in question was contrary to law; and
5. the adverse party was not given notice thereof.

In the instant case, the allegations stated in the Motion for Partial Reconsideration did not point out to the specific findings or conclusions in the Amended Decision which are not supported by evidence or which are contrary to law, neither did respondent provide evidence that would convince the Court that it made an error. Instead, she merely reiterated her arguments in her previous pleadings filed before the Court. As discussed by the Court in its Resolution dated December 19, 2014, to wit:

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[1] *Records, CTA Case No. 8374,* pp. 49-65.
[2] *Id.,* pp. 1120-1125.
[3] *Id.,* pp. 1084-1117.
[4] *Id.,* pp. 1175-1178.
[5] *Coquilla v. Commission on Elections,* G.R. No. 151914, July 31, 2002, 434 Phil. 861.

> In the case of Commissioner of Internal Revenue vs. Manila Mining Corporation, the Supreme Court has held that 'the Court of Tax Appeals is a court of record and as such it is required to conduct a formal trial (*trial de novo)* where the parties must present their evidence if they desire the Court to take such evidence into consideration.
>
> In the present case, respondent did not present any evidence on her allegation that petitioner did not submit complete documents in the administrative level. As a matter of fact during trial, <u>respondent elected to submit this case for decision without presenting any evidence to prove its allegations or to refute petitioner's right to a refund or tax credit</u>. [underscoring ours]
>
> Thus, for lack of evidence, the Court cannot take respondent's claim into consideration.

Among the ends, to which a motion for reconsideration is addressed, is to convince the court that its ruling is erroneous and improper, contrary to the law or the evidence.[6] Thus, having failed to convince the court, the motion must necessarily fail.

WHEREFORE, premises considered, the instant "Motion for Partial Reconsideration (Re: Amended Decision promulgated 6 October 2015)" is hereby **DENIED** for lack of merit. Consequently, the Amended Decision dated October 6, 2015 is hereby **UPHELD** and **AFFIRMED.**

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[6] *Guerra Enterprises Company, Inc. v. Court of First Instance of Lanao del Sur,* G.R. No. L-28310, April 17, 1970, 32 SCRA 314.