REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

TULLETT PREBON (PHILIPPINES) INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2143
(CTA Case No. 9320)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, and
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

MAR 2 2 2021 3:30 pm

x - x

RESOLUTION

UY, *J*.:

For this Court's resolution is petitioner's ***MOTION FOR RECONSIDERATION (RE: DECISION DATED NOVEMBER 18, 2020)*** filed on December 10, 2020,[1] with respondent's ***OPPOSITION (Re: Motion for Reconsideration)*** filed on January 18, 2021.[2]

In the said *Motion*, respondent prays for the reversal and setting aside of the Court *En Banc*'s Decision promulgated on November 18, 2020, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* is **DENIED** for lack

[1] EB Docket, pp. 87 to 100.
[2] EB Docket, pp. 113 to 117.

of merit. Accordingly, the assailed Decision dated April 12, 2019 and Resolution dated September 4, 2019, both rendered by the Court in Division in CTA Case No. 9320 are **AFFIRMED *in toto***.

SO ORDERED."

Petitioner's arguments:

In its *Motion for Reconsideration*, petitioner maintains that the evidence submitted by petitioner (specifically Annex 3 of the Amended ICPA Report, Exhibit "P-2499") clearly shows that the income payments related to the claimed creditable withholding taxes (CWT) were traced to petitioner's general ledger. Petitioner was allegedly able to prove that the income from which the CWTs being claimed for refund were withheld was reported as part of petitioner's gross income.

Further, petitioner argues that while it agrees with the Court *En Banc*'s pronouncement that it is not bound by the findings of the independent certified public accountant (ICPA) and that the findings of the fact by the Court in Division are not be disturbed without any showing of grave abuse of discretion, petitioner submits that the foregoing principles do not apply in this case where the ICPA's factual findings are duly supported by evidence.

Respondent's counter-arguments:

According to respondent, petitioner's argument, that it was able to prove that the income, from which the CWTs being claimed for refund were withheld, was reported as part of its gross income is without merit.

Respondent argues that claims for refund, partaking of the nature of exemptions, are strictly construed against the claimant and cannot be allowed unless granted in the most explicit and categorical language; that being in the nature of tax exemptions. Allegedly, these claims are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the claimant and liberally in favor of the taxing authority.

THE COURT *EN BANC'S* RULING

Petitioner's *Motion for Reconsideration* lacks merit.

At the onset, the Court *En Banc* points out that the arguments raised by petitioner in the instant *Motion* are mere rehash of the same arguments and issues which have already been discussed, weighed, and resolved by the Court in Division and affirmed in the assailed Decision.

To reiterate, the Court is not bound by the findings of the ICPA. The Court is free to either completely or partially adopt or disregard, the findings of the ICPA, after making its own verification and evaluation of the evidence on record. In the assailed Decision, the Court *En Banc* found that there were discrepancies in trailing the evidence proffered by petitioner, specifically Annex 3 of the Amended ICPA report relied upon by petitioner. The discrepancies were that the invoice numbers listed under the "*Per Schedule of CWT*" do not match the invoice numbers or some were not even indicated in the *Per General Ledger Account 6005 "Gross Brokerage Name Give Up".*

Based on the Court's own evaluation of the evidence submitted by petitioner, and as revealed in the records of the case, petitioner was not able to satisfactorily substantiate its refund claim of excess and unutilized CWT amounting to ₱15,226,718.45.

Finding therefore no valid or cogent reason to overturn our findings and conclusions, the Court *En Banc* maintains its ruling in the Decision dated November 18, 2020.

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

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ON LEAVE

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice