REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE
Petitioner,

-versus-

LEPANTO CONSOLIDATED MINING COMPANY,
Respondent.

CTA *EB* NO. 1817
(CTA Case No. 8928)

x---x

LEPANTO CONSOLIDATED MINING COMPANY,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE
Respondent.

CTA *EB* NO. 1821
(CTA Case No. 8928)

Present:

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

Promulgated:

OCT 2 1 2019 2:39 p.m.

x- -x

RESOLUTION

MANAHAN, J.:

To be resolved before this Court is petitioner Commissioner of Internal Revenue's (CIR's) **Motion for Partial Reconsideration [re: Decision dated June 14, 2019]**[1], under CTA EB No. 1817, filed on July 4, 2019, praying for the partial

[1] *Rollo*, CTA EB No. 1817, pp. 135-146.

reconsideration of this Court's *Decision* dated June 14, 2019 and the issuance of a new decision instead, with respondent Lepanto Consolidated Mining Company's (LCMC's) **Comment/Opposition (To the Motion for Partial Reconsideration dated 04 July 2019)**[2] filed through registered mail on August 9, 2015 and received by this Court on August 16, 2019, and petitioner LCMC's **Motion for Reconsideration (of the Decision dated 14 June 2019)**[3], under CTA EB No. 1821, filed through registered mail on July 3, 2019 and received by this Court on July 9, 2019, praying that this Court modifies the amount of tax credit certificates granted from Php5,987,505.40 to Php14,867,169.67, without[4] respondent CIR's comment despite due notice[5]. The dispositive portion of the abovementioned decision is quoted below:

> **WHEREFORE**, premises considered, the Petitions for Review are hereby **DENIED** for lack of merit. Accordingly, the assailed September 9, 2017 *Decision* and March 7, 2018 *Resolution* are hereby **AFFIRMED**.
>
> **SO ORDERED.**

Petitioner CIR, under CTA EB No. 1817, argues that factual findings of the Court in division may be reviewed by the Court *en banc* even in the absence of allegations of grave abuse of discretion considering that it is mandated to review the factual and legal findings of the Court in Division. Petitioner CIR also insists that the Court in Division erred in ruling that the amount of Php5,987,505.40 was directly attributable to respondent LCMC's alleged zero-rated sales.

On the other hand, respondent LCMC in its comment/opposition, argues that it has proven with convincing evidence that the input taxes paid on its imported purchases are directly attributable to its zero-rated export sales and it has complied with the requisites for the grant of tax refund or issuance of a tax credit certificate. Respondent LCMC further argues that petitioner's assertion that the honorable Court in Division merely assumed, without basis, the direct attributability of the input taxes to the finished products whose sales are zero-rated is patently misleading.

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[2] *Rollo*, CTA EB No. 1817, pp. 164-174.
[3] *Id.*, pp. 148-154.
[4] *Id.*, Records Verification dated August 29, 2019, p. 177.
[5] *Id.*, Resolution dated July 31, 2019, pp. 161-163.

In CTA EB No. 1821, petitioner LCMC argues that this Court erred in holding that factual findings must stay in the absence of any allegation of grave abuse of discretion, when what is being assailed is not the factual findings per se of the Court in Division, but rather, the further proportionate reduction of the VAT refund on the basis of the ratio of sales for the quarter to the sales for two quarters, which has absolutely no legal basis.

It further argues that the Court in Division committed grave abuse of discretion in making a second allocation of the 3rd and 4th quarter input VAT on the basis of the ratio of the zero-rated sales for the quarter to the total zero-rated sales for the two quarters. Such double allocation is not sanctioned by Section 112 of the National Internal Revenue Code of 1997, as amended, and has no basis whatsoever.

We deny both motions.

It is true that this Court may review the factual and legal findings of the Court in Division even in the absence of grave abuse of discretion. However, petitioner CIR, in CTA EB No. 1817, and petitioner LCMC, in CTA EB No. 1821, failed to provide any contrary evidence may sway this Court to look otherwise on the findings of the Court in Division.

In *Heirs of Teresita Villanueva et al. v. Heirs of Petronila Syquia Mendoza et al.*[6], the Supreme Court ruled that the appellate tribunal, such as this Court, should afford highest respect on the factual findings of the trial court in the absence of clear showing that such court disregarded the evidence before it, to wit:

> **Findings of fact made by a trial court are accorded the highest degree of respect by an appellate tribunal and, absent a clear disregard of the evidence before it that can otherwise affect the results of the case, those findings should not simply be ignored**. Absent any clear showing of abuse, arbitrariness, or capriciousness committed on the part of the lower court, its findings of facts are binding and conclusive upon the Court. The reason for this is because the trial court was in a much better position to determine which party was able to present evidence with greater weight. (*Emphasis supplied*)

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[6] G.R. No. 209132, June 05, 2017.

Such respect accorded by any appellate body is in accordance with the doctrine of hierarchy of courts. In *Crisanto M. Aala et al. v. Hon. Rey T. Uy et al.*[7], the Supreme Court explained the role of the trial court in such hierarchy, to wit:

> There is another reason why this Court enjoins strict adherence to the doctrine on hierarchy of courts. As explained in *Diocese of Bacolod v. Commission on Elections,* "[t]he doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner." Thus:
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> > Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. **Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them.** In many instances, the facts occur within their territorial jurisdiction, which properly present the 'actual case' that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.... (*Emphasis supplied*)

In the instant case, the parties merely alluded to the appreciation of the evidence made by the Court in Division or in the computation arrived at on such claim of refund without providing any evidence to contradict those findings. Thus, this Court cannot find any basis to disturb such findings.

As to petitioner LCMC's argument about its perceived "second allocation" made by the Court in Division, such issue was already exhaustively discussed in the decision of the latter and reiterated by the assailed decision, hence, such argument

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[7] G.R. No. 202781, January 10, 2017.

is merely a reiteration of its earlier disquisition on issues already passed upon by this Court.

In *Harry L. Roque, Jr. et al. v. Commission on Election et al.*[8], the Supreme Court held that rehashed arguments need no further discussion and the Court need not act on it, to wit:

> Petitioners' above contention, as well as the arguments, citations, and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again.

Thus, this Court will not anymore discuss such issue considering that it was extensively discussed in the disquisitions made by the Court in Division as reiterated in the assailed decision.

There being no new issues or matters raised by the parties in their respective motions, this Court finds no compelling reason to reverse the ruling in the assailed decision.

WHEREFORE, premises considered, petitioner CIR's Motion for Partial Reconsideration [re: Decision dated June 14, 2019], under CTA EB No. 1817, and petitioner LCMC's Motion for Reconsideration (of the Decision dated 14 June 2019), under CTA EB No. 1821, are hereby **DENIED** for lack of merit. Consequently, this Court's June 14, 2019 *Decision* is hereby **UPHELD** and **AFFIRMED**.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

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[8] G.R. No. 188456, February 10, 2010.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice