REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

NOKIA (PHILIPPINES), INC.,
Respondent.

CTA EB NO. 1241
(CTA Case No. 8304)

x-------------------------------------x

NOKIA (PHILIPPINES), INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1243
(CTA Case No. 8304)

Present:

DEL ROSARIO, *PJ*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, and
RINGPIS-LIBAN, *JJ.*

Promulgated:

AUG 16 2016 3:01 p.m.

x- -x

RESOLUTION

Fabon-Victorino, J.:

On March 30, 2016, a Decision was promulgated, the dispositive portion of which reads:

> **WHEREFORE**, the *Petitions for Review* filed on October 29, 2014 and

November 3, 2014 by the Commissioner of Internal Revenue and Nokia (Philippines), Inc., respectively, are hereby **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated August 12, 2014 and October 14, 2014, respectively, are **AFFIRMED**.

SO ORDERED.

On April 27, 2016, the Commissioner of Internal Revenue (CIR) filed a *Motion for Reconsideration.*[1] Despite notice, Nokia (Philippines), Inc. (Nokia) did not file any *Comment/Opposition* to the motion.

On June 14, 2016, Nokia filed its own *Motion for Reconsideration (Re: Decision Promulgated on March 30, 2016)*[2], to which the CIR filed *Comment/Opposition*[3].

In assailing the Decision of March 30, 2016, the CIR insists that Nokia's failure to submit the documentary requirements enumerated in Revenue Memorandum Order (RMO) No. 53-98 results in its failure to exhaust administrative remedies before seeking judicial intervention. He claims that the party with an administrative remedy, such as petitioner, must not merely initiate the prescribed administrative procedure to obtain relief, but also pursue it to its appropriate conclusion before seeking judicial intervention to give the administrative agency the opportunity to decide correctly and prevent unnecessary and premature resort to court.

Nokia however maintains that it was able to substantially comply with the pertinent provisions of the Tax Code and issuances of the CIR and the Department of Finance. Giving much premium on the findings of the Independent Certified Public Accountant (ICPA), Nokia contends that the Court should not give much import on technicalities but rather on the fact that its claim for refund/credit of input tax on zero-rated sales is sufficiently

[1] *En Banc* docket, CTA EB No. 1241, pp. 130-138.
[2] *Id.*, pp. 140-145.
[3] *Id.*, pp. 152-157.

substantiated by the purchase invoices and official receipts relative to the amount of Php5,332,861.75.

In his *Comment/Opposition*, the CIR says the contrary emphasizing that Nokia, as the claimant, has the burden of proof to establish the factual basis of his claim since tax refunds, like tax exemptions, are construed strictly against the taxpayer. In this regard Nokia allegedly failed.

An assiduous review of the assailed Decision and the arguments of the parties as contained in their respective Motions for Reconsideration shows that the arguments they raise are mere reiteration of those raised in their previously filed pleadings which have been determined and passed upon, first by the Court in Division, and subsequently on appeal by the Court *En Banc*.

There being no new or substantial arguments to warrant the reversal of the assailed Decision of March 30, 2016, the *Motions for Reconsideration* separately filed by the Commissioner of Internal Revenue and Nokia (Philippines), Inc. are hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN RINGPIS-LIBAN
Associate Justice