REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CALAMBA PREMIER REALTY CORPORATION, Petitioner,	CTA CASE NO. 9541
	Members:
-versus-	DEL ROSARIO, *P.J., Chairperson* FABON-VICTORINO, *and* MANAHAN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 05 2020 1:49 pm

x---x

RESOLUTION

***Fabon-Victorino, J.*:**

On October 7, 2019, the Court promulgated a Decision, the dispositive portion of which reads:

> **WHEREFORE**, the instant Petition for Review filed by Calamba Premier Realty Corporation is hereby **DENIED,** for lack of merit.
>
> **SO ORDERED**.

In denying the *Petition for Review*, the Court, citing the case of *Lapanday Foods Corporation vs. Commissioner of Internal Revenue,*[1] ruled that **interest income from loans extended to affiliates shall be subject to value added tax (VAT)**, whether the parent corporation realized profit or not is of no consequence as long as the parent corporation has provided financial assistance or services for a fee, remuneration or consideration, the same shall be subject to VAT. There is no denying that petitioner and Samsung

[1] CTA EB No. 367 (CTA Case No. 7097), January 29, 2009.

Electro-Mechanics Philippines Corporation (the company who extended the loan) are affiliated companies and both are under the group of Samsung Electro-Mechanics Company Limited.

The Court found petitioner unable to prove that its loan transaction with Samsung Electro-Mechanics Philippines Corporation (SEMPHIL) is zero-rated or effectively zero-rated sale transaction. The Court explained that while the Certificate of Registration presented by petitioner proved that SEMPHIL was registered with the Philippine Economic Zone Authority (PEZA) on October 16, 1997, there is no showing that SEMPHIL was still registered with the PEZA during the calendar year 2014, the period subject of the present claim.

Unconvinced, petitioner filed the instant *Motion for Reconsideration* on November 4, 2019, asserting that the single and isolated loan transaction it had with SEMPHIL is not subject to VAT. Citing Section 105 of the National Internal Revenue Code (NIRC) of 1997, as amended, petitioner contends that the interest-bearing loan extended to it by SEMPHIL could not be considered as a sale of service made in the regular course of trade or business being a single isolated transaction. Besides, the transaction could not be deemed incidental to the trade or business of SEMPHIL, an entity that is primarily into the manufacture wholly for export of micro chips used in cellular and other electronic devices.

In his Opposition, respondent sided with the Court quoting its ruling that the subject loan agreement between petitioner and SEMPHIL is subject to VAT.

In addition, respondent states that petitioner has the burden of proof to establish the factual basis of its claim for refund invoking the legal maxim that tax refunds, like tax exemptions, are construed strictly against the taxpayer.

After going over the parties' arguments in their respective pleadings, the Court finds no cogent reason to modify much more reverse its ruling in the assailed Decision of October 7 2019.

Petitioner failed to raise new or substantial ground to justify a departure from the previous finding and conclusion reached by the Court. To be sure, all the arguments raised by petitioners had already been passed upon, considered and amply discussed by the Court in the Decision sought to be reconsidered.

WHEREFORE, petitioner's *Motion for Reconsideration (To the Decision dated October 7, 2019)* is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We concur:

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice