REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

DEUTSCHE KNOWLEDGE SERVICES, PTE. LTD.,
Respondent.

CTA *EB* NO. 2247
(CTA Case No. 7940)

Present:

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

Promulgated:

APR 06 2022 10:56 a.m.

x- x

RESOLUTION

MANAHAN, J.:

To be resolved before this Court is petitioner's **Motion for Reconsideration**[1] posted on November 17, 2021 and received by this Court on November 25, 2021, praying for the reversal and setting aside of this Court's *Decision* dated November 2, 2021 (Assailed Decision).

Petitioner argues that reiteration of the same arguments in a motion for reconsideration or petition for review is allowed in order to give the court the opportunity to reconsider its position on a particular issue or matter.

Petitioner insists that the determination of respondent's output value-added tax (VAT) liability is merely for the purpose of ascertaining respondent's entitlement of its unutilized input

[1] *Rollo*, CTA EB No. 2247, pp. 97-104. am

VAT claim for refund and not for imposing any deficiency tax and that respondent is not entitled to its claim for refund as output VAT is higher than the substantiated input VAT.

Petitioner further insists that respondent's sales of services do not qualify for zero-rating and should be subjected to 12% output VAT.

On the other hand, respondent, in its **Comment Re: Motion for Reconsideration dated November 16, 2021**[2], counters that this Court has already thoroughly considered and denied petitioner's arguments.

Respondent avers that petitioner's arguments do not have any legal basis as they effectively seek to assess and collect from the former output VAT for the second quarter of Calendar Year (CY) 2007 without a valid formal assessment required for tax collection.

The discourse of petitioner in the instant motion that the determination of respondent's output VAT liability was merely for the purpose of ascertaining respondent's entitlement to its unutilized input VAT and establishing the alleged disqualification of respondent's sales of services for VAT zero-rating was already thoroughly and exhaustively discussed and explained by the Court in Division.

In *H. Harry L. Roque, Jr., et al. v. Commission on Elections, et al.*[3], a motion for reconsideration may dwell on the issue earlier resolved provided it must raise a compelling argument for this Court to reverse its earlier ruling, to wit:

> "While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered—and this should not be an obstacle for a reconsideration—the hard reality is that <u>petitioners have failed to raise matters substantially plausible or compellingly persuasive to</u> warrant the desired course of action." (*Underscoring supplied*)

In this case, the instant motion does not raise any new or substantially persuasive or legitimate ground or reason to justify the reconsideration sought in order for the Court to

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[2] *Rollo*, pp. 110-116.
[3] G.R. No. 188456, February 10, 2010.

reverse the ruling in the assailed Decision. As succinctly stated in the Resolution of the case of *Shangri-la International Hotel Management, Ltd., et.al. v. Developers Group of Companies, Inc.*[4] as we quote:

> "Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought."

Moreover, petitioner failed miserably in his attempt to assail the factual findings in the Assailed Decision for not submitting any contrary empirical evidence. Hence, this Court will not disturb such factual findings.

A second hard look at the overall arguments of petitioner fails to convince this Court to re-consider its earlier decision

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

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

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[4] G.R. No. 159938, January 22, 2007.

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice