REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

SUTHERLAND GLOBAL SERVICES PHILIPPINES, INC.,
Respondent.

CTA EB NO. 1596
(CTA Case No. 8558)

Present:

Del Rosario, *PJ*,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban, and
Manahan, *JJ.*

Promulgated:

AUG 14 2018 8:50 a.m.

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For resolution of the Court *En Banc* is petitioner's Motion for Reconsideration filed through registered mail on March 27, 2018, with respondent's Comment/Opposition (To the Commissioner of Internal Revenue's Motion for Reconsideration dated 27 March 2018) filed on June 8, 2018.

For easy reference, the dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, the instant Petition for Review is **DENIED**, for lack of merit. Accordingly, the assailed Decision

promulgated on July 21, 2016 and Resolution promulgated on January 24, 2017, respectively, are **AFFIRMED**.

SO ORDERED."[1]

In the instant motion, petitioner raised the following arguments: (1) The Honorable Court of Tax Appeals (First Division) has no jurisdiction over the instant case; (2) Assuming that Sutherland Global Services Philippines was entitled to ITH, its claim for refund must still be denied for failure to establish that its income subject of the instant claim for refund was actually derived from its PEZA-registered business activities within the CSEZ; (3) Assuming that Sutherland Global Services Philippines was entitled to ITH, it was exempt from paying income tax only but not other National Internal Revenue Taxes, such as the Value-Added Tax (VAT). The VAT/Percentage Tax Returns for the Fiscal Year Ending on June 30, 2010 must be presented; and (4) Exhibits of Sutherland Global Services Philippines should not be given any probative value for being hearsay evidence.

On the other hand, respondent asserts that petitioner merely rehashed his arguments in the Petition for Review dated February 17, 2017.

Upon careful review of the pleadings submitted by the parties, the Court *En Banc* agrees with the observation of respondent.

Indeed, a perusal of the instant motion shows that petitioner failed to present new matters that would warrant a modification or reversal of the assailed Decision.

With respect to the issue of jurisdiction, the Court *En Banc* categorically ruled that the two (2)-year period for filing claims for refund is counted from the date of payment of the tax or penalty, as provided for under Section 229 of the National Internal Revenue Code of 1997, as amended. With respect to respondent's income from PEZA-registered business activities, the Court *En Banc* has thoroughly scrutinized the pieces of evidence submitted by the parties, and *We* see no reason to reverse the conclusion reached by the CTA First Division. Further, it is palpably erroneous for petitioner to insist upon this Court to make a determination whether respondent paid or correctly paid its taxes due, if any, because such determination is tantamount to an assessment at the first instance which is prohibited under the *SMI-ED* doctrine. Finally, petitioner's assertion that respondent's pieces of evidence are hearsay is unmeritorious, because the Independent CPA who examined the voluminous documents involved in this

[1] Court *En Banc* Docket, p. 125.

case issued a certification as to the correctness of his report, in relation to the said documents.

Considering petitioner's failure to raise new matters or meritorious arguments, the denial of the instant motion is in order.

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

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(took no part)
LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR. A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice