REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 1525** (CTA Case No. 8808)
	Present:
- versus -	**DEL ROSARIO,** P.J., **CASTAÑEDA, JR.,** **BAUTISTA,** **UY,** **CASANOVA,** **FABON-VICTORINO,** **MINDARO-GRULLA,** **RINGPIS-LIBAN,** and **MANAHAN,** JJ.
PHILEX MINING CORPORATION, Respondent.	***Promulgated:*** JUN 13 2018 2:50 p.m.

x - x

RESOLUTION

UY, J.:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION"** filed on April 26, 2018, with respondent's **"COMMENT / OPPOSITION"** filed on April 26, 2018, praying for the setting aside of the Court *En Banc*'s Decision dated April 2, 2018, the dispositive portion of which reads as follows:

> "**WHEREFORE,** in light of the foregoing considerations, the *Petition for Review* is hereby **DENIED** for lack of merit. The assailed Decision dated May 19, 2016 and the assailed Resolution dated September 13, 2016 are **AFFIRMED**.
>
> **SO ORDERED.**"

In petitioner's *Motion*, petitioner argues that this Court erred in partially granting respondent's claim for refund/tax credit certificate in the amount of ₱25,811,450.88, considering that respondent failed to substantiate by documentary evidence its claim for refund on its alleged unutilized excess input tax attributable to its zero-rated sales for the first quarter of taxable year 2012.

In respondent's *Comment/Opposition*, respondent points out that the sole ground that petitioner has raised in the said Motion, i.e., respondent's alleged failure to fully substantiate its claim for refund, is one of the grounds/issues he already raised before the Court in Division and in the Petition for Review that he filed with this Court *En Banc*; and that the same Court in Division and Court *En Banc*, in their respective decision, have already passed upon and resolved this particular ground.

THE COURT *EN BANC*'S RULING

The instant *Motion for Reconsideration* lacks merit.

After a careful examination and consideration of the said *Motion for Reconsideration* and as correctly pointed out by respondent, it is noted that the arguments raised in the same *Motion* are a mere reiteration of matters which have already been considered, weighed and resolved in the assailed Decision.

To reiterate, the general averment of petitioner that the respondent failed to fully substantiate respondent's claim for refund cannot constitute a reversible error on the part of the Court in Division for being unsubstantiated, too vague, highly speculative, and uncertain. As between the findings of the Court in Division and the general averment of petitioner, the former must perforce prevail.

WHEREFORE, in light of the foregoing considerations, the instant *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
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

(On Official Business)
CATHERINE T. MANAHAN
Associate Justice