REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

BATINO REALTY CORPORATION,
Petitioner,

CTA Case No. 9542

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, and
MANAHAN, *JJ.*

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUN 11 2018 10:15 Am

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RESOLUTION

CASTAÑEDA, JR., *J.:*

For resolution of this Court is petitioner's *Motion for Reconsideration (To the Decision dated April 18, 2018)*[1] filed on May 4, 2018 with respondent's *Comment (Re: Petitioner's Motion for Reconsideration)*[2] filed on May 28, 2018.

Petitioner moves for reconsideration of the Decision dated April 18, 2018,[3] (the "Assailed Decision") of this Court denying its Petition for Review. The dispositive portion of the Assailed Decision reads:

[1] Division Docket, pp. 540-546.
[2] *Id.*, pp. 551-554.
[3] *Id*, pp. 531-539.

"**WHEREFORE**, the present Petition for Review is **DENIED** for lack of merit.

SO ORDERED."

In its Motion, petitioner moves for reconsideration of the Assailed Decision on the basis of the following: [4]

1. The requisites for a tax refund attributable to zero-rated sale under Section 112(A) are all present.

2. The Honorable Court's denial of the formally offered exhibits "P-1", "P-2", "P-3", "P-4", "P-5", "P-6", "P-7", "P-8", "P-9", "P-10", "P-11", "P-12", and "P-13" of petitioner despite the absence of any timely objection by respondent Commissioner of Internal Revenue is contrary to the provisions of the Revised Rules on Evidence, and existing jurisprudence.

3. A careful perusal of the judicial claim filed by petitioner would show that its claim for input VAT refund was sufficiently anchored on allegations of an erroneous paid VAT.

Respondent, on the other hand, in his *Comment* disagrees with petitioner and asserts that this Court correctly denied the claim for refund for petitioner's failure to prove that it has strictly complied with all the statutory and administrative requirements for the grant of refund as well as to establish the factual basis of the claim.[5] Moreover, respondent argues that the alleged unutilized input VAT for the 3rd and 4th quarters of calendar year 2014 arose from the payment of petitioner of its loan with interest on installment to SEMPHIL.[6] Accordingly, such loan cannot in any case be attributed to zero-rated sales or effectively zero-rated sales. Respondent thus contends that the claim for refund is without any legal basis.[7]

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[4] *Id.*, pp. 542-544.
[5] *Id.*, p. 551.
[6] *Id.*, p. 552.
[7] *Id.*

After careful review of the case records and the arguments raised by the parties, this Court resolves to deny petitioner's Motion for Reconsideration. This Court stands by its ruling that petitioner failed to sufficiently prove any of the requisites for the refund or tax credit of input tax due or paid attributable to zero-rated or effectively zero-rated sales. This Court likewise maintains its position that the present Petition for Review lacks legal basis given that it was based on Section 112 of the National Internal Revenue Code of 1997, as amended (which refers to refund of creditable input tax attributable to zero-rated or effectively zero-rated sales) while the particular transaction alleged by petitioner and upon which petitioner based its claim, is a transaction that is not subject to zero-rated VAT.

By and large, petitioner simply failed to establish the factual and legal bases for the grant of its claim for refund.

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:

CAESAR A. CASANOVA
Associate Justice

(On Official Busines)
CATHERINE T. MANAHAN
Associate Justice