REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

SIEMENS AKTIENGESELLSCHAFT, Petitioner,	CTA CASE NO. **10797**
	Members:
- versus -	**BACORRO-VILLENA,** *Acting Chairperson, and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: NOV 12 2024 4:00 pm

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Motion for Reconsideration"[1] (**MR**), filed on 15 May 2024, with petitioner Siemens Aktiengesellschaft's (**petitioner**'s/**Siemens AG**'s) "Comment (To: [MR] filed by [CIR] dated 15 May 2024)"[2] (**Comment**) filed on 11 June 2024.

Respondent seeks the reversal and setting aside of this Court's Decision[3] promulgated on 24 April 2024 (**assailed Decision**) in the above-captioned case. The assailed Decision granted the instant Petition for Review[4] and ordered respondent to refund or issue a tax credit certificate (**TCC**) in favor of petitioner in the total amount of ₱41,456,894.68, representing the erroneously paid capital gains tax (**CGT**).

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[1] Division Docket, Volume III, pp. 1600-1604.
[2] Id., pp. 1607-1615.
[3] Id., pp. 1577-1599.
[4] Filed on 02 March 2022, id., Volume I, pp. 7-735, with exhibits.

In the assailed Decision[5], this Court held that petitioner sufficiently proved the erroneous payment of CGT on the sale of its shares of stock in Siemens Power Operations, Inc. (**SPO**) to Siemens Gas and Power GmbH & Co. KG (**Siemens GmbH**). As the records show, petitioner is exempted from paying the same pursuant to the Agreement between the Republic of the Philippines and the Federal Republic of Germany for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital (**RP-Germany Tax Treaty**).

In the instant MR[6], respondent reiterates that petitioner's refund claim is still under administrative investigation, and a refund cannot be granted until this process is completed. Respondent once again asserts that petitioner should have exhausted all administrative remedies before seeking this Court's intervention. He or she insists that refund claims are strictly construed against the taxpayer. Since taxes are considered the lifeblood of the nation, statutes granting exemptions are interpreted strictly against the grantee and liberally in favor of the government.

In its Comment[7], petitioner submits that respondent does not raise any ground to warrant a reversal of the assailed Decision nor pinpoint any reversible error in granting its claim for the refund of erroneously paid CGT on the sale of its shares in SPO to Siemens GmbH (now known as Siemens Energy Global GmbH & Co. KG).

Petitioner essentially contends that: (1) respondent erred in arguing that a decision on the administrative claim is a condition *sine qua non* for filing a judicial claim for refund under Section 229[8] of the National Internal Revenue Code (**NIRC**) of 1997, as amended; (2) respondent failed to demonstrate any reversible error by this Court in ruling that it is entitled to a refund, despite the well-settled rule that tax refunds are considered tax exemptions and, therefore, strictly construed against the person or entity claiming the exemption; and, (3) respondent's MR is *pro forma* and was filed solely to unduly delay a fully substantiated refund claim.

We rule below. γ

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5 Supra at note 3.
6 Supra at note 1.
7 Supra at note 2.
8 **SEC. 229**. *Recovery of Tax Erroneously or Illegally Collected.*

At the outset, the Court finds no new arguments that could merit a different actions from the Court. It should be emphasized that respondent's arguments in the instant MR are nearly a *word for word* reiteration of those presented in his or her Memorandum[9], particularly regarding the supposed need to first complete the administrative investigation before petitioner may file a judicial claim for refund and be declared entitled to it. As the records clearly show, the Court has already addressed respondent's arguments and issues.

Consequently, respondent failed to specify the findings or conclusions in the judgment that are not supported by evidence or contrary to law. Hence, the instant MR should be dismissed outright for being *pro forma*.

Section 1, Rule 37 of the 2019 Amendments to the 1997 Rules of Civil Procedure[10] provides the grounds of and period for filing an MR, and Section 2 thereof elaborates on the contents of an MR, *viz*:

> ...
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> RULE 37
> New Trial or Reconsideration
>
> **Sec. 1.** *Grounds of and Period for Filing Motion for New Trial or Reconsideration.* — **Within the period for taking an appeal**, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:
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> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
>
> (b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.
>
> **Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.**

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9 Division Docket, Volume III, pp. 1540-1545.
10 A.M. No. 19-10-20-SC.

> **Sec. 2.** *Contents of Motion for New Trial or Reconsideration and Notice Thereof.* — The motion shall be made **in writing stating the ground or grounds therefor**, a written notice of which shall be served by the movant on the adverse party.
>
> A motion for new trial shall be proved in the manner provided for proof of motion. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.
>
> **A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.**
>
> **A *pro forma* motion for new trial or reconsideration shall not toll the reglementary period of appeal.**[11]
>
> ...

Relative to the foregoing, Section 6, Rule 15 of the Revised Rules of the Court of Tax Appeals[12] (**RRCTA**), likewise provides:

> ...
>
> **SEC. 6.** *Contents of Motion for Reconsideration or New Trial and Notice.* — The motion shall be **in writing stating its grounds**, a written notice of which shall be served by the movant on the adverse party.
>
> A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in subparagraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by counter-affidavits. A motion for the cause mentioned in subparagraph (b) of the preceding section shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.

11 Emphasis supplied and italics in the original text.

12 A.M. No. 05-11-07-CTA.

> **A motion for reconsideration or new trial that does not comply with the foregoing provisions shall be deemed *pro forma*, which shall not toll the reglementary period for appeal.**[13]
>
> ...

From the foregoing, a party adversely affected by a decision of the Court may, within the period for taking an appeal, move for reconsideration thereof on the following grounds: (1) the damages awarded are excessive; (2) the evidence is insufficient to justify the decision; or, (3) the decision is contrary to law. Perforce, an MR interrupts the running of the period to appeal, unless the motion is deemed *pro forma*.

In the case of *Philippine National Bank v. Hon. Jose G. Paneda, et al.*[14] (**Philippine National Bank**), the Supreme Court had the opportunity to discuss what makes a motion *pro forma*, to wit:

> ...
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> The Court is guided by the rulings in *Coquilla v. Commission on Elections*, to wit:
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> ... **The mere reiteration in a motion for reconsideration of the issues raised by the parties and passed upon by the court does not make a motion *pro forma***; otherwise, the movant's remedy would not be a reconsideration of the decision but a new trial or some other remedy. But, as we have held in another case:
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> > **Among the ends to which a motion for reconsideration is addressed, one is precisely to convince the court that its ruling is erroneous and improper, contrary to the law or the evidence; and in doing so, the movant has to dwell of necessity upon the issues passed upon by the court.** If a motion for reconsideration may not discuss these issues, the consequence would be that after a decision is rendered, the losing party would be confined to filing only motions for reopening and new trial.
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> **Indeed, in the cases where a motion for reconsideration was held to be *pro forma*, the motion was so held because (1) it was a second motion for reconsideration, or (2) it did not comply with the rule that the motion must specify the findings and conclusions alleged to be contrary to law or not supported by**

[13] Emphasis supplied and italics in the original text.
[14] G.R. No. 149236, 14 February 2007; citing *Teodulo M. Coquilla v. The Hon. Commission on Elections, et al.*, G.R. No. 151914, 31 July 2002.

> **<u>the evidence</u>, or (3) it failed to substantiate the alleged errors, or (4) it merely alleged that the decision in question was contrary to law, or (5) the adverse party was not given notice thereof. ...**[15]
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> ...

Even prior to *Philippine National Bank*, the Supreme Court already expounded on the subject in *Marina Properties Corporation v. Court of Appeals, et al.*[16], thus:

> ...
>
> Under our rules of procedure, a party adversely affected by a decision of a trial court may move for reconsideration thereof on the following grounds: (a) the damages awarded are excessive; (b) the evidence is insufficient to justify the decision; or (c) the decision is contrary to law. A motion for reconsideration interrupts the running of the period to appeal, unless the motion is *pro forma*. This is now expressly set forth in the last paragraph of Section 2, Rule 37, 1997 Rules of Civil Procedure.
>
> A motion for reconsideration based on the foregoing grounds is deemed *pro forma* if the same does not specify the findings or conclusions in the judgment which are not supported by the evidence or contrary to law, making express reference to the pertinent evidence or legal provisions. It is settled that although a motion for reconsideration may merely reiterate issues already passed upon by the court, that by itself does not make it *pro forma* and is immaterial because what is essential is compliance with the requisites of the Rules. ...
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> ...
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> **Where the circumstances of a case do not show an intent on the part of the pleader to merely delay the proceedings, and <u>his motion reveals a *bona fide* effort to present additional matters or to reiterate his arguments in a different light</u>, the courts should be slow to declare the same outright as *pro forma*.** The doctrine relating to *pro forma* motions has a direct bearing upon the movant's valuable right to appeal. It would be in the interest of justice to accord the appellate court the opportunity to review the decision of the trial court on the merits than to abort the appeal by declaring the motion *pro forma*, such that the period to appeal was not interrupted and had consequently lapsed.[17]
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> ...

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[15] Citation omitted, emphasis and italics in the original text and underscoring supplied.
[16] G.R. No. 125447, 14 August 1998.
[17] Citations omitted, emphasis and underscoring supplied.

On the contrary, the Court finds that the instant MR did not reveal a "*bona fide* effort to present additional matters", neither did it reiterate respondent's arguments in a different light. Instead, there is nothing new that serves to persuade a reasonable judicial mind to change its decision.

Since the instant MR merely reiterates the arguments from respondent's Memorandum[18] without providing any relevant explanation of its merits in relation to the assailed Decision, the Court must conclude that it fails to specifically identify any findings or conclusions in the assailed Decision that are unsupported by evidence or contrary to law. Furthermore, it offers no additional reasons to substantiate its grounds. In accordance with established guidelines, respondent's MR is, therefore, *pro forma*.

WHEREFORE, in view of the foregoing, respondent's Motion for Reconsideration, filed on 15 May 2024, is hereby **DENIED** for lack of merit and for being *pro forma*.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice

18 Supra at note 9.