REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

VMC FARMERS MULTI-PURPOSE COOPERATIVE,
Respondent.

CTA *EB* NO. 1253
(CTA Case No. 8658)

Present:

Del Rosario, P.J.,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas, *and*
Ringpis-Liban, JJ.

Promulgated:

JUN 15 2016 3:30p.m.

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RESOLUTION

BAUTISTA, J:

For resolution is petitioner's "Motion for Reconsideration (Re: Decision Promulgated 03 March 2016)" ("MR") filed on March 28, 2016; with respondent's "Comment/Opposition to Motion for Reconsideration" ("Comment") filed on April 19, 2016.

On March 3, 2016, the Court promulgated a Decision, disposing of the case as follows:

> The Second Division found that respondent was able to substantiate its claim of payment of the total amount of Php9,537,306.00 through its submission of the Payment Form (BIR Form No. 0605) and a copy of the bank deposit, reflecting

> the said amount. Hence, the Court *En Banc* finds no reversible error in the Second Division's Decision granting respondent's claim for refund.
>
> **WHEREFORE,** the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision promulgated on September 10, 2014 and the Resolution promulgated on November 13, 2014 by the Second Division are hereby **AFFIRMED.**
>
> **SO ORDERED.**

In its MR filed on March 28, 2016, petitioner avers that respondent's claim for refund must be denied for insufficiency of evidence due to its belated procurement of a Certificate of Tax Exemption ("CTE"); that the CTE is not a guarantee that respondent is transacting with members only; that respondent should have presented additional supporting documents to prove its tax-exempt status and entitlement to a tax refund; that pursuant to *Section 13 of the Joint Rules and Regulations Implementing Articles 60, 61 and 144 of Republic Act No. 9520,* all duly registered cooperatives shall apply for a CTE within sixty (60) days counted from the date of issuance of a Certificate of Registration; that the Bureau of Internal Revenue ("BIR") has forty-five (45) days from the submission of complete documents to issue the CTE; that despite issuance of the Certificate of Registration, respondent was only able to secure the CTE on November 16, 2011; that respondent failed to file its application for a CTE within sixty (60) days; and that while respondent is allowed to file an application for tax refund pertaining to internal revenue taxes prior to the issuance of the CTE, it is subject to the procedures in processing tax credits/refunds.

Petitioner also alleges that pursuant to *Revenue Regulations ("RR") No. 14-2005,* in order to be exempt from the advance payment of Value-Added Tax ("VAT"), a cooperative must also present proof that the refined sugar is indeed the property of the cooperative; that respondent should have presented its Official List of Members, Sales Invoices and *Quedans* as proof that it transacted with members only; that tax refunds are construed *strictissimi juris* against the person claiming it; that respondent failed to present proof that it was the actual producer of the sugar; and that respondent failed to overcome the presumption that taxes collected are in accordance with laws and regulations.

On April 19, 2016, respondent filed its Comment, in which it claims that petitioner's assertion that respondent is not engaged in the purchase of sugarcane produced by non-members is a negative assertion which must be proven by petitioner; that the List of Members of the Cooperative, Sales Invoices and *Quedans* are not required by *The Cooperative Code* or the *1997 National Internal Revenue Code* ("NIRC") for the issuance of Authorization Allowing Release of Refined Sugar ("AARR"); that the said requirement was only found in *RR No. 13-2008,* which was already repealed by the *Joint Rules and Regulations of the BIR and the Cooperative Development Authority ("CDA");* that when the Revenue District Officer issued the AARRs, it is presumed that respondent met all the requirement for release thereof; that respondent suffered losses in the payment of Advance VAT which was erroneously collected; and that the rest of the arguments of petitioner is a mere rehash of those passed upon by the Court.

After a careful reading of the arguments raised by petitioner, the Court *En Banc* finds no merit in her MR, being a mere reiteration of the allegations in her Petition for Review filed on December 18, 2014, neither did it raise any new argument that would merit reconsideration of the assailed Decision.

WHEREFORE, petitioner's "Motion for Reconsideration (Re: Decision Promulgated 03 March 2016)" is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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

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** Associate Justice
(On Leave) **AMELIA R. COTANGCO-MANALASTAS** Associate Justice	**MA. BELEN M. RINGPIS-LIBAN** Associate Justice