REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

FLUOR DANIEL, INC.,
Respondent.

CTA *EB* NO. 2567
(CTA Case No. 9267)

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
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RESOLUTION

CUI-DAVID, J.:

This resolves petitioner's *Motion for Reconsideration (Re: Decision dated 01 June 2023)*[1] filed on June 20, 2023, with respondent's *Comment*[2] *(Re: Petitioner's Motion for Reconsideration)* filed on August 15, 2023.

Petitioner seeks reconsideration of the Decision[3] promulgated on June 1, 2023 (assailed Decision), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **DENIED** for lack of merit. Accordingly, the Decision dated May 28, 2021 and Resolution dated December 11, 2021 of the Court's Third Division in CTA Case No. 9267 are **AFFIRMED**.

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[1] *En Banc (EB)* Docket, pp. 125-138.
[2] *EB* Docket, pp. 143-155.
[3] *EB* Docket, pp. 95-118.

SO ORDERED.

In asking for a reconsideration, petitioner claims that:

I. THE HONORABLE COURT *EN BANC* ERRED IN RULING THAT THE ASSESSMENT ISSUED AGAINST RESPONDENT IS IN VIOLATION OF THE RIGHT TO DUE PROCESS RENDERING THE ASSESSMENT VOID.

II. THE HONORABLE COURT *EN BANC* ERRED IN RULING THAT THE ASSESSMENT AGAINST RESPONDENT LACK LEGAL AND FACTUAL BASIS.

By way of *Comment*, respondent submits that the grounds relied upon by petitioner to reverse the assailed Decision are the same arguments raised in his *Petition for Review* before this Court. For respondent, these arguments deserve scant consideration as they had already been judiciously considered and passed upon by both this Court in the assailed Decision and the Court in Division in its appealed Decision and Resolution.

Nonetheless, respondent counters that petitioner's move for reconsideration is devoid of any legal and factual basis and should be denied for lack of merit based on the following grounds:

1. Petitioner violated respondent's right to due process when he issued the Formal Letter of Demand (FLD) and Final Assessment Notice (FAN) without taking into consideration the legal and factual issues raised by respondent in its protest to the Preliminary Assessment Notice (PAN);

2. Petitioner cannot assess deficiency value-added tax (VAT) against respondent for a transaction outside the scope of petitioner's Letter of Authority (LOA);

3. Petitioner has no legal basis to deduct the "input tax carry-over" from respondent's input tax credits; and,

4. Petitioner has no basis to assess compromise penalties against respondent.

Petitioner's *motion* must fail.

Indeed, all the arguments raised by petitioner in his *Motion for Reconsideration* merely mimic the same flawed assertions in his *Petition for Review*, all of which have been determined and passed upon, first by the Court in Division and subsequently on appeal by the Court *En Banc*. Petitioner failed to advance any new or substantial reason to justify a departure from the previous conclusion and findings of the Court.

WHEREFORE, there being no new matters and issues raised that will merit a reconsideration, let alone a modification of the assailed Decision dated June 1, 2023, petitioner's *Motion for Reconsideration (Re: Decision dated 01 June 2023)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

We Concur:

(I reiterate my Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

x--x

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice