REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

OCEANAGOLD (PHILIPPINES), INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2815
(CTA Case Nos. 10103 & 10183)

Present:

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

Promulgated:

NOV 05 2025 11:12 a.m.

x- -x

RESOLUTION

ANGELES, *J.*:

For resolution is petitioner's *Motion for Reconsideration (of the Decision dated January 3, 2025)* ("Motion") personally filed on January 27, 2025, and electronically filed on January 28, 2025, with respondent's *Comment/Opposition (Re: Petitioner's Motion for Reconsideration dated 27 January 2025)* personally filed on April 15, 2025 and electronically filed on April 16, 2025.

On January 3, 2025, the Court rendered its *Decision* denying the *Petition for Review* filed by petitioner. The dispositive portion states:

> **WHEREFORE**, the instant Petition for Review is **DENIED** for lack of merit. The *Decision dated June 1, 2023* and *Resolution dated October 13, 2023* in CTA Case Nos. 10103 & 10183 are **AFFIRMED**.

SO ORDERED.[1]

On January 27, 2025, petitioner filed the instant *Motion*. Petitioner prays: (1) that the *Decision* dated January 3, 2025 be reconsidered and the *Petition for Review* be granted; and (2) that the Court render judgment declaring petitioner entitled to a refund or issuance of a tax credit certificate in the amount of ₱142,240,851.58, representing excise taxes erroneously paid and illegally collected for the period July to December 2017, and ordering respondent to grant said refund or tax credit.[2]

On April 15, 2025, respondent filed its *Comment/Opposition (Re: Petitioner's Motion for Reconsideration dated 27 January 2025)*.[3]

Petitioner's arguments

Petitioner argues that the court erred in ruling that the recovery period ended five (5) years from October 11, 2005 or on October 11, 2010. It contends that the approval of its Partial Declaration of Mining Feasibility ("PDMF") does not constitute the start of commercial production, and that the definition of "Commercial Production" under its Financial or Technical Assistance Agreement ("FTAA") should prevail over that provided in Department of Environment and Natural Resources ("DENR") Administrative Order No. ("DAO") 96-40.

Petitioner further invokes the principle of non-impairment of contracts, asserting its applicability to the FTAA. Even assuming *arguendo* that DAO 96-40 applies, both the FTAA and DAO 96-40 require actual production of sufficient quantities before commercial production can commence. Thus, petitioner maintains that recovery cannot begin without "actual" commercial production.

Respondent's arguments

In his *Comment/Opposition*, respondent argued that the Court already correctly ruled that the beginning of commercial production is reckoned from October 11, 2005, the date stated in petitioner's feasibility study and the approval of its PDMF, which came earlier than petitioner's own declaration of April 1, 2013. Thus, the Court properly concluded that the recovery period ended on October 11, 2010, and no refund is due for excise taxes paid in 2017. Respondent emphasized

[1] *En Banc Docket*, pp. 81-91.
[2] *Id.*, pp. 107-122.
[3] *Id.*, pp. 125-133.

that the Court in Division correctly applied DAO 96-40 and established that there was no erroneous or illegal collection of taxes from petitioner.

Respondent further contended that tax refunds are in the nature of tax exemptions, which must be strictly construed against the taxpayer and proven by clear and unequivocal evidence. Since petitioner failed to establish that it was entitled to a tax exemption during the recovery period, its claim for refund cannot prosper. Citing the principle that taxes are the lifeblood of the government, respondent maintained that refunds deplete government resources and must only be granted upon strict compliance with the law. Accordingly, respondent prays that petitioner's *Motion for Reconsideration* should be denied for lack of merit.

Ruling of the Court

Petitioner received the *Decision* on January 15, 2025.[4] Thus, petitioner had fifteen (15) days,[5] or until January 30, 2025 within which to file his motion for reconsideration. On January 27, 2025, petitioner filed the instant *Motion*. As such, the same was timely filed.

After a careful evaluation of both petitioner's and respondent's arguments, the Court denies the instant *Motion*.

In the present *Motion*, petitioner reiterates that the approval of its Partial Declaration of Mining Feasibility (PDMF) does not mark the commencement of commercial production. It asserts that the definition of "Commercial Production" under its FTAA should prevail over that found in DAO 96-40, and invokes the principle of non-impairment of contracts to shield the FTAA from the application of DAO 96-40. Petitioner further argues that recovery cannot begin absent actual commercial production of sufficient quantity of minerals. Consequently, it maintains that the recovery period should be reckoned only from April 1, 2013, and not from October 11, 2005, thereby entitling it to a refund or tax credit of excise taxes paid in 2017.

We find that petitioner is, in effect, urging the Court *En Banc* to disregard the date of commercial operations stated in its feasibility study and to instead rely solely on actual production during operations. This stance, however, runs counter to the plain terms of DAO No. 96-40, which categorically provides that the reckoning point of commercial production is the date indicated in the feasibility study,

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[4] *Id.*, p. 80.
[5] Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals.

where such date is earlier than the one declared by the contractor. The rule is clear and leaves no room for ambiguity.

The Court emphasizes that petitioner's arguments are a mere rehash of its positions previously raised in the *Petition for Review* dated November 22, 2023, as well as extensively argued in its pleadings before the Court in Division. Both the Court in Division and the Court *En Banc* have already passed upon and resolved these very issues in their *Decisions* dated June 1, 2023 and January 3, 2025[6] respectively, applying DAO 96-40 in determining the commencement of commercial production. The Court finds no new matters or compelling arguments that would warrant a reversal or modification of its prior rulings.

It bears noting that in *Ortigas & Company Limited Partnership v. Velasco*,[7] the Supreme Court categorically held that:

> **The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant**; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. **It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial** (Sec. 14, Art. VIII, Constitution); **i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment**, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc. (Emphasis supplied)

Corollarily, in *Shangri-la International Hotel Management, Ltd. v. Developers Group of Companies, Inc.*,[8] the Supreme Court held that a motion for reconsideration which fails to raise any new ground must be denied, to wit:

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[6] *En Banc Docket*, pp. 6-36 and pp. 81-91.
[7] G.R. Nos. 109645 & 112564, March 4, 1996.
[8] G.R. No. 159938, January 22, 2007.

> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.

Considering the foregoing, the Court finds that the instant *Motion* merely reiterates arguments that have already been squarely addressed and resolved in the assailed Decision. Petitioner has failed to present any new or substantial ground sufficient to warrant a reversal or modification of the Court's prior ruling. Accordingly, the Court finds no cogent reason to disturb its earlier *Decision* denying petitioner's claim for refund.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* dated January 27, 2025 is hereby **DENIED** for lack of merit.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

Corazon G. Ferrer-Flores

CORAZON G. FERRER-FLORES
Associate Justice