REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

PHILIPPINE AIRLINES, INC.,
Respondent.

CTA *EB* NO. 2559
(CTA Case Nos. 7670, 7818, 7869, 7954, 8034)

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COMMISSIONER OF CUSTOMS,
Petitioner,

-versus-

PHILIPPINE AIRLINES, INC.,
Respondent.

CTA *EB* NO. 2577
(CTA Case Nos. 7670, 7818, 7869, 7954, 8034)

Members:

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

Promulgated:
OCT 02 2024 2:23 pm

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RESOLUTION

CUI-DAVID, J.:

Before the Court *En Banc* are the following:

1. Petitioner Commissioner of Internal Revenue (**CIR**)'s ***Motion for Reconsideration (Re: Decision promulgated 13 March 2024)*** filed on April 2, 2024, with respondent Philippine Airlines, Inc.'s (**PAL**)

Comment/Opposition (On the CIR's Motion for Reconsideration dated 25 March 2024 and COC's Motion for Reconsideration dated 03 April 2024) filed on May 14, 2024, and

2. Petitioner Commissioner of Customs (**COC**)'s ***Motion for Reconsideration (of the March 13, 2023 Decision)*** filed on April 3, 2024, with the same respondent's *Comment/Opposition (On the CIR's Motion for Reconsideration dated 25 March 2024, and COC's Motion for Reconsideration dated 03 April 2024).*

The *Motions for Reconsideration* seek the reversal of the *Decision* of this Court promulgated on March 13, 2024, with the following dispositive portion:

> **WHEREFORE**, in light of the foregoing, the *Petition for Review* filed by the Commissioner of Internal Revenue in CTA EB No. 2559 and the *Petition for Review* filed by the Commissioner of Customs in CTA *EB* No. 2577 are **DENIED** for lack of merit.
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> Accordingly, the assailed *Decision* dated March 9, 2021, and the Resolution dated October 27, 2021, of the Court's Third Division in CTA Case Nos. 7670, 7818, 7869, 7954, and 8034 are **AFFIRMED.**
>
> **SO ORDERED.**

In his *Motion*, petitioner CIR argues that the Authority to Release Imported Goods (**ATRIG**) and the Air Transportation Office (**ATO**) certifications are *insufficient* to prove that the imported Jet A-1 aviation fuel "was used for [respondent's] transport and non-transport operations."[1]

As in his *Petition for Review*, the CIR reiterates that relying on the certifications issued by the ATO is improper, given that it is the Department of Energy (**DOE**) that is officially tasked with determining whether the total supply is enough for the total demand. According to the CIR, the Civil Aviation Authority of the Philippines (**CAAP**) "has nothing to do with monitoring fuel supply and demand." The testimony of Ms. Glendalyn P. Dela Cruz, Senior Science Research Specialist of the DOE, likewise supports the Bureau of Internal Revenue (**BIR**)'s protestation that aviation fuel was locally available in sufficient

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[1] *Id.*, pp. 3 and 8.

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quantity, quality, and price. Thus, the CIR argues that the PAL was not able to prove that the imported Jet A-1 fuel was not locally available in reasonable quality, quantity, and price.

In his *Motion*, petitioner COC reiterates his arguments in his Petition for Review. Accordingly, COC argues that the excise tax on imported articles under Section 131(a) of the National Internal Revenue Code (**NIRC**) of 1997, as amended, is a customs law under the Bureau of Customs' (**BOC**) jurisdiction, citing *Caltex (Phils.), Inc. v. CIR.* According to the COC, customs law includes all laws and regulations the BOC enforces and covers not only taxes imposed by the Tariffs and Customs Code of the Philippines (**TCCP**)[2] but also all taxes imposed by the NIRC and special laws entrusted to the BOC, including Section 131(a) of the NIRC of 1997, as amended.

Procedurally, the COC also argues that PAL deviated from the protest and appeal procedures established under Sections 2308 to 2313 and 2402 of the TCCP, as it filed claims for refund involving the same taxes with the BIR while the protests were pending before the Collector of Customs. The COC cites *Nestle Philippines v. Court of Appeals*,[3] which, according to the COC, confirms that refund claims of import taxes are to be filed with him.

As to the validity of BIR Ruling No. 001-2003, the COC argues that PAL cannot assail its validity via the *Petitions for Review* it filed before the Court in Division as said ruling has attained finality for PAL's failure to appeal before the Secretary of Finance (**SOF**).

In the determination of whether aviation fuel was locally available in reasonable quantity, the COC ascribes error to the Court anew in its exclusion of fuel imported by local oil companies in computing total local available supply as the term used in Section 13 of Presidential Decree (**PD**) No. 1590 is "'locally available,' plain and simple, without any distinction as to the source of the goods in question."[4] The COC likewise questions the applicability of *Philippine Airlines, Inc. v. CIR.*[5] Essentially reiterating his *Petition for Review*, the COC suggests that the case only dealt with the scope of Letter of Instruction (**LOI**) No. 1483, which withdrew PAL's tax exemption on

[2] Now the Customs Modernization and Tariff Act ("**CMTA**").
[3] G.R. No. 134114, July 6, 2001.
[4] *Id.*, par. 63.
[5] G.R. No. 198759, July 1, 2013, 713 PHIL 134-160.

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purchases of "domestic petroleum products" for its domestic operations.

Further, the COC also argues that the CAAP Certifications have no probative value as it is not the CAAP's function to determine the local availability of aviation fuel that the DOE table is inaccurate since it combines domestic and international demand data without providing specific data on domestic demand only and that the DOE Table does not likewise indicate the specific dates of production and importation.

The COC argues that PAL failed to prove that aviation fuel was not available at reasonable prices as it only presented price quotations from Petron and Shell without presenting any representatives of the said oil companies. Accordingly, the COC argues that these price quotations are hearsay.[6] The COC further contends that, even if these price quotations will be considered, the fact that the imported prices are lower than the price quotations does not render the local prices unreasonable.[7] The COC states that in the Comparative Tables presented by PAL, there were multiple periods wherein Shell and Petron's prices were even cheaper than PAL's importations.[8]

On the other hand, in its Comment, PAL argues that (1) the Court has jurisdiction over the subject matter as excise tax is governed by the NIRC of 1997, as amended, (2) that there is no forum shopping as it availed of only one judicial remedy, (3) the Court has jurisdiction to rule over the validity of BIR Ruling No. 001-2003 as such falls under "other matters arising under the Tax Code," and (4) it sufficiently proved that aviation fuel was not locally available in reasonable quantity during the subject importation dates.

THE COURT'S RULING

The instant *Motions* are bereft of merit.

At the onset, We note that a review of petitioners' *Motions for Reconsideration* reveals that the arguments presented are mere reiterations of those raised in their *Petitions for Review*,

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[6] *Id.*, pars. 70-71.
[7] *Id.*, pars. 72-76.
[8] *Id.*, par. 77.

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which have already been thoroughly considered, addressed, and resolved by this Court in the assailed *Decision*.

It is well-settled that a motion for reconsideration containing a mere reiteration or rehash of grounds and arguments that have already been considered, weighed, passed upon, and resolved by the court before the *Decision* sought to be reconsidered is rendered does not need a new judicial determination.[9] Therefore, there is no necessity to discuss and rule again on these grounds since this would be a useless formality of ritual invariably involving merely a reiteration of the reasons for rejecting the arguments advanced by the movant already set forth in the judgment.[10]

In *Shangri-La International Hotel Management v. Developers Group of Companies, Inc.*,[11] the Supreme Court declared that it is incumbent upon the movant to convince the Court that certain findings or conclusions are contrary to law, to wit:

> "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."

It is already settled that if the issues raised in the motion for reconsideration are mere reiterations of those that have already been passed upon and adjudged as unmeritorious by the Court, these cannot be regarded as substantial and no

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[9] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005; *Madeleine Mendoza-Ong v. Hon. Sandiganbayan, et al.*, G.R. Nos. 146368-69 (Resolution), October 18, 2004.
[10] *People v. Agacer*, G.R. No. 177751 (Resolution), January 7, 2013 citing *People v. Larrañaga*, G.R. Nos. 138874-75, July 21, 2005 and *Ortigas Land Co. Ltd. Partnership v. Judge Velasco*, G.R. No. 109645 (Resolution), March 4, 1996.
[11] *Shangri-la International Hotel Management, Ltd. v. Developers Group of Companies, Inc.*, G.R. No. 159938 (Resolution), January 22, 2007.

longer require another full-blown discussion. Any further discourse will only be unnecessary and repetitive.[12]

Accordingly, the Court *En Banc* finds no compelling reason to reverse or modify its ruling in the assailed *Decision*.

WHEREFORE, in light of the foregoing, petitioner Commissioner of Internal Revenue's ***Motion for Reconsideration (Re: Decision promulgated 13 March 2024)*** and petitioner COC's ***Motion for Reconsideration (of the March 13, 2023 Decision)*** are **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

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

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[12] *Social Justice Society Officers v. Lim*, G.R. Nos. 187836 & 187916 (Resolution), March 10, 2015, 755 PHIL 323-335.

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MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

ON LEAVE
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice