REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

ANAPI MULTI-PURPOSE COOPERATIVE, *Petitioner,*	**CTA Case No. 9399** Members:
-versus-	**CASTAÑEDA, JR.**, *Chairperson, and* **MANAHAN**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, BIR REGIONAL DIRECTOR, REGION 12, BACOLOD CITY, *Respondents.*	Promulgated: APR 22 2019 3:00 pm

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RESOLUTION

MANAHAN, *J.:*

This resolves respondent's *Motion for Reconsideration Re: Decision dated 21 January 2019*, filed on February 6, 2019, with petitioner's *Comment (to Motion for Reconsideration Re: Decision dated 21 January 2019)*, posted on March 15, 2019, and received by the Court on March 21, 2019.

Respondent seeks reconsideration of the Decision dated January 21, 2019, which disposed of the case, as follows:

> **WHEREFORE**, the instant Petition for Review is **GRANTED**. The assessment for deficiency value-added tax, expanded withholding tax, ad valorem and compromise penalties for taxable year 2005 amounting to Php37,082,748.19 are hereby **CANCELLED**.
>
> **SO ORDERED**.

In his motion, respondent argues that to be exempt from the payment of Value-added tax (VAT) upon removal of refined sugar, a cooperative must own or produce the sugar cane which was milled in the refinery. Respondent asserts that petitioner was neither the producer nor the owner of the raw sugar cane it delivered to the sugar refinery; that petitioner misrepresented itself to be the owner of the raw sugar cane it delivered to the sugar central to enable its members to enjoy the benefit of its tax exemption; and, that not being the owner or producer of the sugar cane, petitioner is liable for VAT on its sale of refined sugar.

Respondent also argues that petitioner did not present any evidence to refute the assessment for Expanded Withholding Tax (EWT), thus, said assessment must stand.

In its Comment, petitioner states that it was able to prove that it is a tax-exempt agricultural cooperative when it was issued a tax exemption ruling. As a tax-exempt cooperative, it is not required to pay VAT for refined sugar withdrawn from the refinery. Instead it is required to secure the corresponding Authorization Allowing Release of Refined Sugar (AARRS) prior to the withdrawal of the refined sugar. The AARRS is issued upon the presentation of the sugar quedan that must be in the name of the cooperative. Petitioner states that all the refined sugar withdrawals for the year 2005 were covered by their corresponding AARRS. Petitioner argues that the BIR's allegations that the cooperative was not the owner of the refined sugar withdrawn are mere allegations without any proof to support. Petitioner stresses that the issuance of the AARRS was made in a regular manner and in compliance with the requirements as provided by law.

With respect to the assessment for EWT, petitioner states that the said assessment has already been cancelled by the Commissioner of Internal Revenue (CIR) in his Decision dated June 21, 2016.

The motion is denied.

The Court reiterates that the assessment against petitioner is bereft of factual basis.

First, the assessment makes mention of "BIR data" from which the amount of 191,963.30 LKG of sugar was derived. Based on this amount of withdrawn sugar, the BIR computed the alleged deficiency VAT. However, respondent did not attach nor show the breakdown of this alleged 191,963.30 LKG of sugar. Neither did respondent explain how he computed this total amount.

Second, respondent failed to show the alleged Listing of Official Warehouse Receipt Quedan which would supposedly show that petitioner is not the owner or producer of the subject withdrawn sugar.

Contrast this with the AARRS issued by the BIR to petitioner and which petitioner submitted into evidence. Respondent's own witness testified that before the AARRS is issued, the BIR requires the submission of the sugar quedans, in petitioner's name, together with other requirements. On the other hand, respondent failed to show any evidence which would prove that the sugar withdrawals were not owned or produced by petitioner.

Based on the foregoing, the assessments have no factual basis nor sufficient supporting evidence, and must therefore be cancelled.

As to the assessment for EWT, it is reiterated that the same has already been cancelled in the CIR's Decision dated June 21, 2016.

WHEREFORE, respondent's *Motion for Reconsideration Re: Decision dated 21 January 2019* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice