REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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NIPPON EXPRESS PHILIPPINES CORPORATION,
Petitioner,

-versus-

HON. CAESAR R. DULAY - In his capacity as the Commissioner of Internal Revenue,
Respondent.

CTA *EB* NO. 2442
(CTA Case No. 9873)

Present:

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

Promulgated:

DEC 27 2022 3:51 p.m.

x- -x

RESOLUTION

MANAHAN, J.:

This resolves petitioner's **Motion for Reconsideration (Re: Decision dated 23 June 2022)**[1] filed on July 22, 2022, without respondent's comment[2] despite due notice,[3] which prays for the reconsideration and setting aside of this Court's *Decision* dated June 23, 2022 and the rendition of a new judgment granting its claims for refund.

Petitioner argues that this Court erred in affirming the Court in Division's Decision and Resolution denying outrightly its claim for refund despite its presentation that the grant thereof is expressly authorized by the supporting facts, law as well as pertinent jurisprudence on the matter.

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[1] *Rollo*, CTA EB No. 2442, pp. 109-120.
[2] *Id.*, Records Verification dated
[3] *Id.*, Resolution dated

Petitioner insists that it was able to submit relevant documentation to flesh-out its claim for refund.

Petitioner also argues that this Court erred in simply discounting the findings of the Independent Certified Public Accountant (ICPA) who conducted an exhaustive evaluation of its claim for refund/tax credit.

Petitioner further avers that the case of *Milagros Ilao-Quianay and Sergio Ilao, as Joint Administrator of the Intestate Estate of Simplicio Ilao, and Ambrosia Ilao v. Rodolfo Mapile* (*Ilao-Quianay* case),[4] is inapplicable in the instant case as its factual antecedents are different from the instant case.

Before addressing the substantive merits of the case, this Court shall first determine whether the instant motion is filed on time.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> "SECTION 1. *Who may and when to file motion.*- Any aggrieved party may seek a reconsideration or new trial of any decision, resolution, or order of the Court. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

The records of the case reveal that petitioner personally received the assailed *Decision* dated June 23, 2022 on July 7, 2022[5]. In accordance with the abovementioned provision of the RRCTA, petitioner had fifteen (15) days from July 7, 2022 or until July 22, 2022 within which to file its motion for reconsideration. Thus, the filing of the instant Motion for Reconsideration on July 22, 2022 was on time.

Going now to the motion proper, petitioner raised the following issues, to wit:

1. The Court in Division committed a reversible error by denying its claim for refund considering that such was expressly authorized by the facts of the

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[4] G.R. No. 154087, October 25, 2005.
[5] *Rollo*, Notice of Decision dated June 23, 2022, p. 94.

law and jurisprudence, and that it substantiated its claim by presenting documentary requirements relative to such claim for refund; and

2. The Court in Division committed another reversible error for completely disregarding the authoritative findings and opinion of the ICPA which examined in details its documentary evidence

After a long hard look at the arguments embodied in this motion, the Court concludes that they are mere reiteration or rehash without any new factual or evidentiary findings nor legal supports.

In *Social Justice Society (SJS) Officers, et al. v. Alfredo S. Lim, in his capacity as Mayor of the City of Manila,*[6] the Supreme Court ruled:

> The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motion.
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> As succinctly put by then Chief Justice Andres R. Narvasa in *Ortigas and Co. Ltd. Partnership v. Judge Velasco* on the effect and disposition of a motion for reconsideration:
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>> 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

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[6] G.R. Nos. 187836 & 187916, March 10, 2015.

> 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.

Petitioner argues that *Ilao-Quianay* case is inapplicable in the instant case considering that in the said case there were two expert witnesses who provided conflicting testimonies, hence, they were disregarded unlike in the instant case wherein petitioner alleges that the findings remain clear, convincing, and unsullied.

This Court would like to emphasize the findings of the Court in Division, without being repetitive, that the proposed Php82,887,514.85 tax refund recommended by the ICPA was **based only on his validation of the supporting sales invoices and/or official receipts pertaining to petitioner's vatable purchases and their corresponding input taxes only** and such was not considered because there were no official receipts and invoices pertaining to petitioner's zero-rated sales that were submitted by petitioner which requires further validation. The Philippine Economic Zone Authority's (PEZA's) Certificates and Certification of Non-Registration of Company of petitioner's customers were the only documents validated by the ICPA to determine if petitioner's customers were subject to zero-rated sales.

It should be noted that the citation of the *Ilao-Quianay* case in the Assailed Decision is for this Court to show how the courts uses the work of supposed expert witnesses on the basis of jurisprudential pronouncement and the RRCTA. Thus, the Court in Division did not err in their ruling.

In fine, there being no new issues or arguments raised in the instant motion, this Court finds no compelling reason to disturb or overturn the Assailed Decision.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (Re: Decision promulgated 23 June 2022)* is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

Ma. Belen S. L
MA. BELEN M. RINGPIS-LIBAN
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

(on leave)
CORAZON G. FERRER-FLORES
Associate Justice