

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

**COMMISSIONER OF
INTERNAL REVENUE,**

Petitioner,

CTA EB No. 1547

(CTA Case Nos. 8305, 8322,
8348 & 8408)

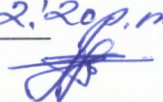
Present:

Del Rosario, P.J.,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban, and
Manahan, JJ.

- versus -

MANULIFE DATA SERVICES, INC.,
Respondent.

Promulgated:

SEP 22 2017 2:20 p.m.


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RESOLUTION

CASTAÑEDA, JR., J.:

For resolution of the Court *En Banc* is petitioner's **Motion for Reconsideration (of the Decision dated July 05, 2017)**¹ filed on August 3, 2017, with respondent's **Comment/Opposition (Re. Motion for Reconsideration dated 03 August 2017)**² filed on August 15, 2017. *jc*

¹ Court *En Banc*'s Docket, pp. 120-124.

² *Id.*, pp. 128-131.

The aforementioned Motion seeks reconsideration of the Decision of the Court *En Banc* promulgated on July 5, 2017,³ (“assailed Decision”) affirming the judgment of the First Division (“Court in Division”) of this Court in CTA Case Nos. 8305, 8322, 8348 and 8408. The dispositive portion of the assailed Decision reads:

“**WHEREFORE**, the present Petition for Review is **DENIED** for lack of merit.

SO ORDERED.”

Petitioner moves for reconsideration of the assailed Decision on the sole ground that:⁴

“Respondent failed to fully substantiate its claim for refund of alleged unutilized input VAT on purchases of goods and services attributable to its zero-rated sales.”

On the other hand, respondent, in its Comment/Opposition submits that the petitioner’s Motion for Reconsideration, like his Petition for Review, makes no enumeration of the exhibits purportedly non-compliant with the substantiation requirements, and makes no demonstration of how its relief might follow from the fact if established.⁵ Respondent also claims that Section 2, Rule 37 of the Rules of Court demands that a motion for reconsideration must specify the conclusions and findings by (sic) the court unsupported by evidence, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.⁶ According to respondent, petitioner’s failure to specify the error, and demonstrate its bearing to the award renders petitioner’s Motion for Reconsideration *pro forma*.⁷

Petitioner’s Motion for Reconsideration lacks merit.

A careful review of the case records and the arguments raised by petitioner in his Motion for Reconsideration reveals that the arguments relied upon are mere reiterations of the matters which have already been thoroughly discussed and passed upon by the Court *En Banc* in the assailed Decision. Petitioner failed to raise any new or substantial matter or any *re*

³ *Id.*, pp. 96-111.

⁴ *Id.*, p. 120.

⁵ *Id.*, p. 129.

⁶ *Id.*, pp. 129-130.

⁷ *Id.*, p. 130.

compelling reason that will justify reversal or even modification of the Court *En Banc*'s findings.

Moreover, as correctly observed by respondent, petitioner's Motion for Reconsideration is *pro forma*.

Sections 1 and 2, Rule 37 of the Rules of Court, in part, provides:

“SEC. 1. *Grounds of and Period for Filing Motion for New Trial or Reconsideration.* — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

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Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.

SEC. 2. *Contents of Motion for New Trial or Reconsideration and Notice Thereof.* — The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.

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A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.

A *pro forma* motion for new trial or reconsideration shall not toll the reglementary period of appeal.” (Emphases supplied) *Je*

In *Coquilla v. Commission on Elections*,⁸ the Supreme Court enumerated the instances when a motion for reconsideration is considered *pro forma*, as follows:

1. it was a second motion for reconsideration;
2. **it did not comply with the rule that the motion must specify the findings and conclusions alleged to be contrary to law or not supported by evidence;**
3. it failed to substantiate the alleged errors;
4. it merely alleged that the decision in question was contrary to law; and
5. the adverse party was not given notice thereof.

Further, in *Luzon Stevedoring Co., Inc. et. al. v. Court of Industrial Relations*,⁹ the Supreme Court held that “it is not enough that a motion [for reconsideration] should state what part of the decision is contrary to law or the evidence; it should also point out why they are so, as claimed by the movant.”

In the present case, while petitioner’s Motion had pointed out portions of the Court *En Banc*’s findings in the assailed Decision to which he “respectfully begs to disagree”,¹⁰ petitioner nonetheless failed to specifically state whether such portions of the assailed Decision are not supported by evidence or are contrary to law, as required by Sections 1 and 2, Rule 37 of the Rules of Court. Notably, petitioner’s Motion failed to make any express reference to the testimonial or documentary evidence on record or to the provisions of law alleged to be contrary to the portions of the Court *En Banc*’s findings in the assailed Decision to which he does not agree with. In fact, after stating that he respectfully disagrees with certain portions of the assailed Decision, he just went on to reiterate matters which have already been thoroughly discussed and passed upon by the Court *En Banc* in the assailed Decision and nothing more. Simply put, petitioner made no genuine effort in his Motion to explain why the Court *En Banc* erred in its Decision.

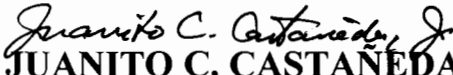
WHEREFORE, petitioner’s Motion for Reconsideration is **DENIED**, for lack of merit.

SO ORDERED. 

⁸ G.R. No. 151914, July 31, 2002, 385 SCRA 614.

⁹ G.R. No. L-16682, July 26, 1963, 8 SCRA 454.

¹⁰ Court *En Banc*’s Docket, p. 121.


JUANITO C. CASTAÑEDA, JR.
Associate Justice

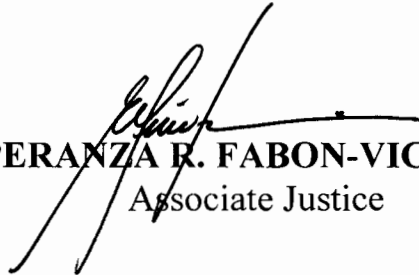
WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


LOVELL R. BAUTISTA
Associate Justice


ERLINDA P. UY
Associate Justice


CAESAR A. CASANOVA
Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice

(On Leave)
CIELITO N. MINDARO-GRULLA
Associate Justice

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice